Clean Grid Alliance's Response to the Illinois Power Agency's Request for Public Comments on its Draft 2022 LTRRP Plan

ATTACHMENT A: PROPOSED REPLACEMENT LANGUAGE

RENEWABLE RESOURCES

ILLINOIS POWER AGENCY

2022 Long-Term Renewable Resources Procurement Plan

Draft Plan for Public Comment

January 13, 2022

Prepared in accordance with the
Illinois Power Agency Act (20 ILCS 3855), and the Illinois Public Utilities Act (220 ILCS 5).

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Appendices are available separately at:
https://www2.illinois.gov/sites/ipa/Pages/2022-LTRRPP-Appendices.aspx

1. Introduction

This document constitutes the draft for public comment of the 2022 Revised Long-Term Renewable Resources Procurement Plan ("draft 2022 Long-Term Plan," or "Plan") of the Illinois Power Agency ("IPA" or "Agency").

This Plan reflects substantial changes made to the Illinois Renewable Portfolio Standard ("Illinois RPS" or "RPS") through the enactment of Public Act 102-0662 (colloquially known as the "Climate and Equitable Jobs Act") on September 15, 2021. The Plan also presents certain updates that the Agency had previously proposed in a draft Second Revised Long-Term Plan, which the Agency withdrew from public comments after the enactment of Public Act 102-0662. This Plan will cover the renewable energy procurement and programmatic activities conducted by the Agency over the next two years.

1.1. Background

The Initial Long-Term Renewable Resources Procurement Plan ("Initial Plan") was developed by the IPA pursuant to the provisions of Sections 1-56(b) and 1-75(c) of the Illinois Power Agency Act ("Act" or "IPA Act"), and Section 16-111.5 of the Public Utilities Act ("PUA"). That Initial Plan[1] was developed under authority established through Public Act 99-0906 ("P.A. 99-0906"), enacted December 7, 2016 (effective June 1, 2017), which substantially revised the Illinois Renewable Portfolio Standard ("Illinois RPS" or "RPS"). The Initial Plan was approved by the Commission on April 3, 2018 in Docket No. 17-0838 and covered the Agency's renewable energy resources procurement and programmatic activities for the following two years. The Agency published the final Initial Plan on August 6, 2018.

Section 16-111.5(b)(5)(ii)(B) of the PUA provides that "[the Agency] shall review, and may revise, the plan at least every 2 years thereafter." That subparagraph further provides that "[t]o the extent practicable, the Agency shall review and propose any revisions to the long-term renewable energy resources procurement plan in conjunction with the Agency's other planning and approval processes conducted under this Section." The first Long-Term Plan update process was undertaken by the Agency in 2019 starting with stakeholder feedback opportunities, and on August 15, 2019, a draft Revised Plan was released for public comment concurrently with the IPA's release of its draft 2020 Electricity Procurement Plan. The Revised Plan was filed for Commission approval on October 21, 2019 and reflected the Agency's consideration of comments received.

Under Section 16-111.5(b)(5)(ii)(C) of the PUA, the Commission then had 120 days to review the Revised Plan and enter its Order confirming or modifying the Plan. The Commission approved that Plan on February 18, 2020 and the Agency published a final version ("First Revised Plan") on April 20, 2020. The Agency subsequently petitioned the Commission to reopen the First Revised Plan to provide modifications addressing pressing RPS budget issues on March 3, 2021. The Commission approved those modifications on May 27, 2021 and the Agency filed a First Revised Plan on Reopening in conformance with that Order on June 7, 2021.

Following that two-year plan updating cycle, the Agency then again conducted stakeholder feedback opportunities and released a draft Second Revised Long-Term Plan on August 16, 2021 for public

[1] The Initial Plan is available at https://www2.illinois.gov/sites/ipa/Documents/2019ProcurementPlan/Long%20Term%20Renewable%20Resources%20Procurement%20Plan%20%288-6-18%29.pdf.

comment (concurrent with the release of the draft 2022 Electricity Procurement Plan). However, before comments on that Plan were due, in early September of 2021 the General Assembly passed comprehensive energy legislation in the form of amendments to Senate Bill 2408. That legislation was signed by the Governor, and became effective, on September 15, 2021 as Public Act 102-0662. That Act contained a provision that within 120 days, after its effective date, "the Agency shall release for comment a revision to the long-term renewable resources procurement plan, updating elements of the most recently approved plan as needed to comply with this amendatory Act of the 102nd General Assembly, and any long-term renewable resources procurement plan update published by the Agency but not yet approved by the Illinois Commerce Commission shall be withdrawn for public comment." As a result, the Agency withdrew the draft Second Revised Plan and began the process of preparing this draft 2022 Long-Term Plan. The Agency issued requests for stakeholder feedback in November 2021 and released this draft 2022 Long-Term Plan on January 13, 2022.

1.2. Evolution of Long-Term Plans

The Initial Plan addressed the Agency's proposed set of programs and competitive procurements to acquire renewable energy credits ("RECs") for RPS compliance obligations applicable to three Illinois electric utilities: Ameren Illinois Company ("Ameren Illinois"), Commonwealth Edison Company ("ComEd"), and MidAmerican Energy Company ("MidAmerican"). The Initial Plan also described how the Agency would develop and implement the Illinois Solar for All ("ILSFA") Program, which utilizes a combination of funds held by the Agency in the Renewable Energy Resources Fund ("RERF") and funds supplied by the utilities from ratepayer collections, to support the development of photovoltaic ("PV") resources, along with job training opportunities (supported separately) to benefit low-income households and environmental justice communities across the State of Illinois. The First Revised Plan updated those programs and procurements where applicable.

The First Revised Plan covered the Agency's proposals for procurements and program activity to be conducted during calendar years 2020 and 2021. As discussed throughout that Plan, absent legislative changes, RPS budget limitations would constrain the ability of the Agency to conduct additional procurements or expand program capacity for its Adjustable Block Program. That concern proved accurate, and the Agency was unable to open additional blocks of capacity for the Adjustable Block Program beyond those envisioned through the Initial Plan. However, Public Act 102-0662 required opening new blocks of Adjustable Block Program capacity prior to the approval of a new Long-Term Plan by December 14, 2021. That Act also mandated that the Agency hold procurements for RECs from new utility-scale wind, solar, and brownfield site photovoltaic projects prior to this Plan's approval; Those procurements are scheduled to occur by May 2022.

Public Act 102-0662 contains significant changes to the RPS. Key changes include:

- New "40% by 2030" and "50% by 2040" RPS goals, including a new target of 45 million RECs from new wind and solar projects delivered annually by 2030.
- An increase of the rate used for collections from ratepayers of funding, and changes to accounting procedures to provide more flexibility for the timing of expenditures.
- Changes to REC procurements conducted to support new utility-scale wind and solar projects through incorporating Indexed REC pricing.
- A large customer self-direct program that allows very large electric customer to directly procure REC from new utility-scale wind and solar projects and reduce their RPS compliance costs.

- Changes to the Adjustable Block Program to create three new categories of projects for projects located at public schools, community-driven community solar, and projects from equity eligible contractors.
- Changes to the Illinois Solar for All Program including dedicated support for projects that promote energy sovereignty.
- Expansion, reinforcement, and codification of consumer protection standards applicable to transactions under IPA programs.
- New diversity, equity, and inclusion requirements on the renewable energy industry, including the implementation of an Equity Accountability System for Agency's renewable energy programs and procurements.
- Labor requirements, including prevailing wage requirements, applicable to the Agency's renewable energy programs and procurements.

This draft 2022 Long-Term Plan describes how the Agency proposes to implement these and other new provisions. The Plan also includes certain proposals previously contained in the withdrawn Second Revised Plan that the Agency believes would improve programs and procurements.

The Agency has restructured this Plan compared to previous versions. This includes new chapters and reorganized sections within chapters. Therefore, section references to previous plans are likely not applicable to this draft 2022 Long-Term Plan.

After the approval of this 2022 Long-Term Plan, the Agency will next update the Long-Term Plan starting in 2023 for approval in 2024 to cover activities for 2024 and 2025.

1.3. First Revised Plan Accomplishments

Subsequent to the approval of the First Revised Plan by the Commission on February 21, 2020, the following milestones occurred:

- Block capacity for the Adjustable Block Program filled (by March 2020 for Large Distributed Generation; December 2020 for Small Distributed Generation).
- The third program year of the Illinois Solar for All Program opened in June 2020. Project applications filled the available funding for the non-profit/public facilities and low-income community solar sub-programs, while project applications in the distributed generation sub-program continued to not meet program goals. The fourth year of the program opened in June 2021.
- A new-wind forward procurement (1 million RECs annually from new utility-scale wind projects) was conducted in March 2021. No projects were selected.

Additionally, many program materials were updated (including Marketing Guidelines, Disclosure Forms, the Adjustable Block Program Guidebook, and individual program websites) and the Agency has conducted numerous stakeholder feedback and comment processes.

The ongoing COVID-19 global pandemic significantly contributed to delays in project completions in 2020 and 2021. Nonetheless, as of the release of this draft 2022 Long-Term Plan, 90% of Distributed Generation projects and 53% of Community Solar projects from initial Adjustable Block Program blocks have been energized and processed for REC payments.

1.4. Plan Organization

This draft 2022 Long-Term Plan contains 10 chapters.

Chapter 1 is the Introduction, which contains a brief overview of the Plan and a set of action items the Agency requests the Commission expressly adopt as part of its approval of this Revised Plan.

Chapter 2 provides an overview of the statutory requirements governing this Plan contained in the Illinois Power Agency Act and the Public Utilities Act, including a historical overview of the Illinois RPS's development and evolution and an outline of the significant changes in Illinois law resulting from the enactment of Public Act 102-0662.

Chapter 3 contains calculations of RPS targets, summaries of RPS portfolios, and summaries of RPS budgets.

Chapter 4 discusses the eligibility of RECs for use in the Illinois RPS. Specifically, it addresses two requirements of the RPS: eligibility of RECs from facilities in adjacent states, and the requirement that RECs cannot be procured from facilities that recover their costs through regulated rates.

Chapter 5 describes the competitive procurement process and the procurements the Agency plans to conduct for the delivery of RECs from new utility-scale wind and solar projects and brownfield site photovoltaic projects.

Chapter 6 describes the new large customer self-direct program to be implemented by the Agency. This program does not feature the procurement of RECs by the Agency on behalf of the utilities, but instead authorizes a credit for certain qualifying REC purchases through long-term contracts by large electric customers.

Chapter 7 describes the Adjustable Block Program, which includes details on the following: the structure of the blocks; program categories; REC prices; the application process; payment terms; the process for approving vendors and designees; project specifications; delivery requirements; and more. This chapter consolidates chapters 6 and 7 in the previous plans, which separately considered provisions related to distributed generation and community solar. Considerations related to consumer protections are now contained in a new Chapter 9.

Chapter 8 describes the Illinois Solar for All Program including the program funding and design, customer terms, conditions, and eligibility, and the approach for designating environmental justice communities.

Chapter 9 describes how the Agency implements consumer protection standards. Public Act 102-0662 created new statutory provisions related to consumer protections in IPA programs, and this chapter codifies the Agency's approach to implementing those requirements.

Chapter 10 describes the Agency's commitment to diversity, equity, and inclusion in the renewable energy industry through the implementation of the Equity Accountability System, conducting a racial disparity study, and development of an Energy Workforce Equity Database.

1.5. Action Plan

In this Revised Plan, the IPA recommends the following items for ICC action as part of the Plan's approval:

1. Approve the RPS targets, and budget estimates for Ameren Illinois, ComEd, and MidAmerican for the delivery years 2022-2023 through 2023-2024 contained in Chapter 3, and additionally stipulate that Ameren Illinois, ComEd, and MidAmerican will provide updated load forecasts and budget data to the Agency on a biannual basis (each spring and fall) to allow the Agency to update those numbers.
2. Approve the continuation of the Agency's approach for considering and weighting the public interest criteria related to facilities located in adjacent states that is contained in Chapter 4.
3. Approve the proposed procurements contained in Chapter 5 including the changes to the procurement process to incorporate the indexed-REC approach.
4. Approve the design of the large customer self-direct program contained in Chapter 6 including the process for determining the program size, application process, and bill crediting methodology.
5. Approve the continuation of the basic design of the Adjustable Block Program contained in Chapter 7, and approve updates to block design, program categories, schedule of REC prices, and program terms and conditions.
6. Approve the continuation of the basic design and terms and conditions of the Illinois Solar for All Program contained in Chapter 8, as well as the updates proposed in this 200 Long-Term Plan.
7. Approve the consumer protection standards contained in Chapter 9.
8. Approve the Agency's approach to minimum equity standards contained in Chapter 10.

The Illinois Power Agency respectfully publishes this draft 2022 Long-Term Renewable Resources Procurement Plan and invites interested parties to submit comments on this Plan by February 28, 2022. While interested parties may comment on any portion of this draft Plan, the Agency has highlighted in bold certain items and proposals for which it is particularly interested in receiving comments on.

2. Statutory Requirements of the Plan

This Chapter of the IPA's Long-Term Renewable Resources Procurement Plan ("Long-Term Renewables Plan" or "Plan") describes the statutory requirements applicable to the Long-Term Renewables Plan, with a particular focus on changes made through Public Act 102-0662 (colloquially known as the "Climate & Equitable Jobs Act"), which took effect on September 15, 2021 beginning the 120-day deadline for the publication of this Plan. While not inclusive of all such requirements, this Chapter attempts to outline primary requirements while directing readers to individual Sections and Chapters in which the Agency's implementation approach to satisfying those requirements is explained in detail.

A Statutory Compliance Index, Appendix A, provides a complete cross-index of statutory requirements and the specific sections of this Revised Plan that address each requirement identified.

2.1. Renewable Energy Resource Procurement Prior to Public Act 99-0906

The Agency has been producing procurement plans addressing renewable energy resource procurements since 2008 and conducting renewable energy resource procurements since 2009, and it is helpful to understand the background of the Illinois Renewable Portfolio Standard's ("RPS") RPS's original structure and implementation challenges in understanding the changes made through Public Acts 99-0906 and now 102-0662.

Prior to P.A. 99-0906 (colloquially known as the "Future Energy Jobs Act"), the Illinois RPS effectively had three compliance mechanisms depending on a customer's supply source: eligible retail customer procurements, Alternative Retail Electric Supplier ("ARES") compliance, and hourly pricing customer compliance payments. Below is an outline of the pre-P.A. 99-0906 RPS, provided for background; please note that the structure outlined in Section 2.1 below no longer governs RPS implementation and compliance in Illinois.

2.1.1. Original RPS—Eligible Retail Customer Load

Of the three former RPS compliance mechanisms, the compliance pathway that looked most like the present RPS was that which applied to "eligible retail customers," or those customers still taking default supply service from their electric utility (ComEd and Ameren Illinois, and starting in 2015, MidAmerican). The Agency's annual procurement plans (developed primarily to propose procurements intended to meet the energy, capacity, and other standard wholesale product requirements of eligible retail customers) were required to also include procurement proposals intended to meet annually-climbing, percentage-based renewable energy resource targets. As with block energy procured by the Agency, the applicable utility served as the counterparty to resulting contracts.

Sub-targets were also introduced to the overall procurement volumes: of the renewable energy resources procured, 75% were required to come from wind, 6% from photovoltaics, and 1% from distributed generation. Prior to June 1, 2011, resources from Illinois were expressly prioritized (looking to adjoining states if none were available in-state, and then elsewhere); after June 1, 2011, the RPS required looking to Illinois and adjoining states together as a first priority, and then elsewhere. Funds available for use under RPS contracts were subject to a rate impact cap—a fixed bill impact cap percentage (2.015% of 2007 rates), which was then applied to eligible retail customer load to produce a renewable resources procurement budget.

This system may have worked more effectively had Illinois not experienced significant volatility in the size of its eligible retail customer load. Upon the establishment of the IPA in 2007, however, the General Assembly required that electric utilities execute relatively long-term energy supply contracts (known as the "swap contracts") to serve eligible retail customer load. In the years that followed, energy prices plummeted in the wholesale market, yet these swap agreements served to inflate the default supply rate well above that which could be offered by a competitive supplier. From 2011 to 2013, significant populations of default supply customers switched to ARES service, often through opt-out municipal aggregation,[2] and eligible retail customer load dwindled, causing a corresponding decline in the annual available renewable resources budget.

As part of its 2009 Annual Procurement Plan, the Agency proposed, and the Commission approved, a procurement for "bundled" (energy and REC) long-term contracts from renewable energy suppliers (known as the Long-Term Power Purchase Agreements, or "LTPPAs"). The LTPPA contracts were executed through a 2010 procurement event, with winning suppliers receiving 20-year bundled contracts to help meet future years' RPS targets. While this procurement helped facilitate significant new renewable energy development in Illinois (especially in the form of wind projects), it also provided a floor of annual payment obligations under the renewable resources budget for future years.

As the annual renewable resources budget declined due to customer load moving to ARES supply, not only was funding unavailable to conduct additional renewable energy resource procurements, but funding was also no longer available to meet the full commitments of the LTPPAs described above. As a result, for two years ComEd's LTPPAs were "curtailed" (payment was not made through the renewable resources budget for the full expected output). Due to the unpredictability of available budgets in future years, the Agency's annual procurement plans after the 2010 LTPPAs proposed only[3] the procurement of one-year contracts to meet each upcoming delivery year's renewable energy resource obligations. As obtaining financing for developing new facilities generally required revenue certainty over a long period, this short-term focus left the prior RPS as an ineffective (or "broken") tool for facilitating the development of new renewable energy generation.

2.1.2. Original RPS—Hourly Pricing Customers

Beginning with the 2010 delivery year through June 1, 2017, Section 1-75(c)(5) of the Act required that the applicable electric utility apply "the lesser of the maximum alternative compliance payment rate or the most recent estimated alternative compliance payment rate for its service territory for the corresponding compliance period" to hourly pricing customers. Those funds were held by the electric utility and utilized to supplement to the Agency's annual procurement planning process. Because contracts with distributed generation systems required contracts of at least 5 years, the IPA used these hourly Alternative Compliance Payments ("ACPs") to serve as the funding source for procurements supporting DG development, including DG procurements approved in the IPA's 2017 Annual Procurement Plan.

[2] Under Section 1-92 of the Act, municipalities, whether individually or in a coalition with others, may aggregate residential and small commercial electric loads and leverage economies of scale to negotiate favorable electric supply rates for those customers.

[3] The lone exception to this was the procurement of statutorily mandated five-year distributed generation procurements using alternative compliance payments.

As discussed in detail in Chapter 3, even accounting for payments still to be made under those DG procurements, some balance of prior-collected hourly ACPs remains for REC procurements.

2.1.3. Original RPS—ARES Compliance

Lastly, the ARES RPS compliance mechanism, adopted in 2009, was more complex. Under Section 16-115D of the Public Utilities Act, each ARES carried a percentage-based renewable portfolio standard requirement similar to the Section 1-75(c) requirement as a percentage of its sales, but could satisfy its obligation by making alternative compliance payments at a rate reflecting that rate paid by eligible retail customers for no less than 50% of its obligation. For the remaining 50% of its obligation, the ARES could either make additional alternative compliance payments and/or self-procure RECs from a broad geographic footprint.

With ARES competing with one another for customers (and against default supply service), this paradigm created an incentive for an ARES to comply at the lowest cost possible.[4] Thus, alternative compliance payments were generally made for the minimum 50% amount, and the self-procurement obligation was not structured to lead to the development of new renewable energy generation.

Alternative compliance payments were deposited into the IPA-administered Renewable Energy Resources Fund. Due to statutory constraints, leveraging this fund for procurements carried significant challenges, as the IPA outlined in detail its 2015 Supplemental Photovoltaic Procurement Plan. In addition as a special state fund, the RERF could always be—and indeed was—subject to the risks of borrowing and transfers. Given these risks, and given the State's inability to enact a budget from July 1, 2015 until August 31, 2017 (thereby leaving the IPA without appropriation authority to make payments under contracts regardless of actual funds available), the State of Illinois was an unattractive counterparty for REC delivery contracts.

With the majority of Illinois electric load being served by ARES,[5] this stood as no small problem—while the RPS technically covered most of the electricity delivered in the state, very little new renewable generation was able to be developed through it. Significant amounts were being paid into the RERF each year to support renewable energy development, yet the money was unable to be effectively leveraged for that purpose. While ARES were procuring millions of RECs in aggregate each year, the incentive structure facing those suppliers made it highly unlikely that those RECs would be sourced from anything other than the lowest-priced seller: generally, facilities already built and financed, and potentially from projects in vertically integrated states with costs already being fully recovered through rates. Hence, parties seeking changes to this system often characterized the Illinois RPS as a "broken RPS," and one that would require a comprehensive legislative overhaul to be properly fixed.

2.2. Public Act 99-0906

The Agency's initial obligation to develop a Long-Term Renewable Resources Procurement Plan for managing RPS implementation stems from requirements included in Public Act 99-0906. P.A. 99-0906 was passed by both the Illinois House and Senate during the last days of the 99th General

[4] To the extent that a customer sought a more environmentally friendly product, the ARES could always offer a "green" product including 100% of megawatt-hours matched with renewable energy credits, disconnected from any RPS compliance obligation.

[5] See, e.g., https://www.icc.illinois.gov/downloads/public/2017%20ORMD%20Section%2020-110%20report.pdf.

Assembly on December 1, 2016, and was signed into law on December 7, 2016, with an effective date of June 1, 2017.

P.A. 99-0906's changes to the RPS were intended to address many of the challenges outlined above, especially to ensure that the RPS collections could be effectively leveraged to support new renewable energy project development.

2.2.1. P.A. 99-0906—Overview

In addition to the requirement that the Agency develop its Long-Term Renewable Resources Procurement Plan and implement the programs and procurement discussed herein, P.A. 99-0906 also contained other significant reforms to Illinois energy law. Among those reforms included the establishment of a zero emission standard requiring the Agency to develop a Zero Emission Standard Procurement Plan for the procurement of zero emission credits from select at-risk zero emission (i.e., nuclear) generating facilities;[6] revisions to the state's energy efficiency portfolio standard found in Article VIII of the Public Utilities Act (220 ILCS 5), including the elimination of the statutory pathway by which incremental energy efficiency programs were included in the IPA's annual procurement plans;[7] additional financial assistance for low-income ratepayers;[8] bill crediting for the energy production associated with subscriptions to community renewable generation;[9] and a smart inverter rebate for behind-the-meter generating facilities.[10]

2.2.2. Changes to the RPS through P.A. 99-0906

Public Act 99-0906 ushered in several changes to the RPS, including the introduction of new concepts, terms, and prescriptive requirements. Several of these concepts are discussed below, in the subsections later in this chapter, and in the Chapters that follow. Where applicable, the status of these changes under P.A. 102-0662's new RPS framework are also noted.

2.2.2.1. P.A. 99-0906—RPS Funding

P.A. 99-0906 constituted a comprehensive overhaul of the state's renewable energy portfolio standard, elements of which can be found in Sections 1-56 and 1-75(c) of the IPA Act and Section 16-115D of the PUA. Under the prior Illinois RPS, compliance and planning depended on how a customer's supply requirements were met, with three separate compliance mechanisms for default utility supply service, hourly-pricing customers, and load served by Alternative Retail Electric Suppliers. Changes to the Illinois RPS through P.A. 99-0906 fully transitioned the state's RPS to a streamlined, centralized planning and procurement process, with both RPS targets and available

[6] The Agency's Zero Emission Standard Procurement Plan, developed pursuant to new Section 1-75(d-5) of the Act, was filed with the Commission on July 31, 2017 and was approved by the Commission on September 11, 2017. See ICC Docket No. 17-0333.

[7] See 220 ILCS 5/16-111.5B.

[8] See 220 ILCS 5/8-103B(c) (requiring ComEd and Ameren Illinois to allocate $25 million and $8.5 million, respectively, annually for low-income energy efficiency programs); 305 ILCS 20/18(c)(5), (5.5), (7) (authorizing Percentage of Income Payment Plan ("PIPP") qualified customers to receive credits under a utility's Arrearage Reduction Program, and creating a new Supplemental Arrearage Reduction Program for utility customers who cannot join the PIPP due to timing or funding constraints); 220 ILCS 5/16-108.10 (creating new $10 million annual funding stream over five years for low-income assistance programs for ComEd customers).

[9] See 220 ILCS 5/16-107.5(*l*).

[10] See 220 ILCS 5/16-107.6.

budgets determined based on an electric utility's load for all retail customers[11] and funding collected through a delivery services charge.

While the rate impact cap found under Section 1-75(c)(1)(E) of the IPA Act technically remained the same under Public Act 99-0906 – 2.015% of 2007 rates – budgets available to support renewable energy projects increased significantly, as that rate impact cap applied now to *all* retail sales instead of only eligible retail customer load. In prior years, the annual RPS budget managed by the Agency could range from $30 million to $100 million, with the Agency having little visibility in advance as to what future years' budgets would be due to the issues outlined above in Section 2.1.1. Through Public Act 99-0906, by 2019, annual RPS budgets stabilized in the range of $220 million to $230 million per year, not considering prior-collected ACPs. This increased level of funding was essential to meet the more aggressive targets found in the revised Illinois RPS, specifically targets related to ensuring that RECs were being procured from new wind and photovoltaic projects that may never have been developed but for the availability of funding through REC delivery contracts.

As discussed later in this Chapter and especially across Chapter 3, Public Act 102-0662 further increased these budgets and now allows for collections to be leveraged across multiple delivery years, such that prior years' collections can now be utilized meet future years' expenses.

2.2.2.2. P.A. 99-0906—Focus on RECs

P.A. 99-0906 demonstrated a shift in focus from compliance through the procurement of "renewable energy resources"—which may be either 1) a renewable energy credit associated with a megawatt-hour ("MWh") of generation, or 2) that REC plus the associated generation—to compliance through the purchase and retirement of "renewable energy credits."[12] This change makes intuitive sense; the purchase of energy is not addressed through this planning process, and the Agency's planning for any energy purchases can only be for utility default supply customers (i.e., eligible retail customers) through the development of a separate procurement plan (which focuses on a shorter timeframe than many of the REC contracts envisioned in the revised RPS).

That framework continues under P.A. 102-0662, with RPS goal progress measured through the procurement of RECs rather than renewable energy resources. The IPA's 2022 Long-Term Plan thus continues to only concern REC procurements, and not the procurement of energy or capacity from projects facilitated by this Plan's proposals.

2.2.2.3. P.A. 99-0906—RPS Targets and Goals

P.A. 99-0906 continued with a "25% by 2025" RPS trajectory that had previously been contained in Section 1-75(c) since its enactment in 2008—meaning that 25% of eligible load should be met by RECs procured by the Agency by the year 2025—but just as funds to support REC procurements were now to be collected from all retail customers, that goal was likewise applied to all retail customer load. A higher priority requirement was minimum procurement quantities of RECs from "new" wind

[11] For MidAmerican, the IPA understands that Section 1-75(c)'s renewable energy procurement targets are generally applied to the supply procured for MidAmerican's jurisdictional eligible retail customers and not all retail sales in its service territory.

[12] See, e.g., 20 ILCS 3855/1-75(c)(1)(B), (C). The law continues to recognize that "renewable energy resources" may be used to satisfy the RPS, but focuses this Plan only on the procurement of "renewable energy credits" (which, standing alone, also may constitute "renewable energy resources").

and photovoltaic projects;[13] those quantitative REC delivery targets from "new" projects found in Section 1-75(c)(1)(C) operated as follows:

By the end of the 2020 delivery year (May 31, 2021):

- At least 2,000,000 renewable energy credits for each delivery year shall come from new wind projects; and
- At least 2,000,000 renewable energy credits for each delivery year shall come from new photovoltaic projects.

By the end of the 2025 delivery year (May 31, 2026):

- At least 3,000,000 renewable energy credits for each delivery year shall come from new wind projects; and
- At least 3,000,000 renewable energy credits for each delivery year shall come from new photovoltaic projects.

By the end of the 2030 delivery year (May 31, 2031):

- At least 4,000,000 renewable energy credits for each delivery year shall come from new wind projects; and
- At least 4,000,000 renewable energy credits for each delivery year shall come from new photovoltaic projects.

For the "new photovoltaic project" requirement, at least 50% needed to be procured from solar photovoltaic projects using the Adjustable Block Program (used to support distributed generation and community solar, as discussed further below), at least 40% from utility-scale solar projects, and at least 2% from non-community solar brownfield site photovoltaic projects.

These concepts still govern RPS compliance under P.A. 102-0662, but with more aggressive goals and targets. As also discussed later in this Chapter and across Chapter 3, Public Act 102-0662 has now introduced a "40% by 2030" RPS goal, while targeting the delivery of 45,000,000 RECs from new wind and new photovoltaic projects by the end of the 2030 delivery year.

2.2.2.4. P.A. 99-0906: Community Renewable Generation

P.A. 99-0906 introduced the concept of a "community renewable generation project" to Illinois law. As defined by the IPA Act,[14] this is an electric generating facility that:

> (1) is powered by wind, solar thermal energy, photovoltaic cells or panels, biodiesel, crops and untreated and unadulterated organic waste biomass, tree waste, and hydropower that does not involve new construction or significant expansion of hydropower dams;
>
> (2) is interconnected at the distribution system level of an electric utility as defined in this Section, a municipal utility as defined in this Section that owns or operates electric

[13] P.A. 99-0906 introduced the standard of a "new" project as being a project not energized before effective date of that Act (June 1, 2017). In many cases, that standard still applies to the definition of "new" projects, even after the enactment of P.A. 102-0662.

[14] See 20 ILCS 3855/1-10.

distribution facilities, a public utility as defined in Section 3-105 of the Public Utilities Act, or an electric cooperative, as defined in Section 3-119 of the Public Utilities Act;

(3) credits the value of electricity generated by the facility to the subscribers of the facility; and

(4) is limited in nameplate capacity[15] to less than or equal to 2,000 kilowatts.

A subscriber's subscription to such a facility is an "interest" in that facility "expressed in kilowatts" which is sized primarily to offset part or all of the subscriber's electricity usage, and may not constitute more than 40% of the facility's nameplate capacity.[16] Through subscription, the subscriber receives a bill credit for each kilowatt hour produced by that project commensurate with the subscriber's subscription size via net metering, similar to (although not necessarily valued exactly commensurate with) if that share of project was sited behind the customer's meter.

Photovoltaic community renewable generating projects are frequently described herein (as well as in Sections 1-10 and 1-56(b) of the IPA Act) as "community solar" projects, and to ensure that such projects are developed, community solar projects have distinct minimum REC procurement targets in the Illinois RPS. Those RECs are procured through proposed community solar projects applying to the Adjustable Block Program, described below.

While Public Act 99-0906 supported only one category of community solar projects in the Adjustable Block Program, through Public Act 102-0662, the Adjustable Block Program now supports two separate categories of community solar projects (more traditional community solar projects—which tend to be large-scale and transactional—and "community-driven" community solar projects).

2.2.2.5. P.A. 99-0906: The Adjustable Block Program

P.A. 99-0906 required the development and ongoing operation of an "adjustable block program" ("ABP"). Used to facilitate the development of new community solar and distributed photovoltaic generation projects, the Adjustable Block Program must feature a "transparent schedule of prices and quantities" for RECs "to enable the photovoltaic market to scale up and for renewable energy credit prices to adjust at a predictable rate over time."[17] This pricing approach represented a significant shift in the state's approach to procuring renewable energy; prior to the enactment of P.A. 99-0906, past efforts to procure renewable energy resources focused on competitive sealed bidding, pay-as-bid procurement events. Most bidder and supplier information, including resulting contract prices and quantities for winning bidders, was considered confidential. While these competitive procurement elements continued to be utilized for other activities under the Illinois RPS, the Adjustable Block Program provided open application to a program featuring price transparency utilizing administratively-set REC prices established through this Long-Term Plan approval process.

P.A. 99-0906 provided the following delineation for categories of projects supported under the ABP:

(1) At least 25% from distributed renewable energy generation devices with a nameplate capacity of no more than 10 kilowatts ("Small DG");

[15] "Nameplate capacity" is defined in the law as the aggregate inverter nameplate capacity in kilowatts AC. 20 ILCS 3855/1-10.

[16] 20 ILCS 3855/1-10.

[17] 20 ILCS 3855/1-75(c)(1)(K).

(2) At least 25% from distributed renewable energy generation devices with a nameplate capacity of more than 10 kilowatts and no more than 2,000 kilowatts ("Large DG");[18]
(3) At least 25% from photovoltaic community renewable generation projects ("Community Solar").
(4) The remaining 25% shall be allocated as specified by the Agency in the long-term renewable resources procurement plan.[19]

Projects successfully participating in these categories prior to the enactment of P.A. 102-0662 received a 15-year REC delivery contract with a counterparty utility, with that revenue received by the applicant offsetting the project's development costs. Under P.A. 99-0906, those contracts all featured some form of prepayment of the revenues due back to the applicant/Seller: full payment upon energization in the case of Small DG projects; and 20% upon energization with the remaining 80% paid ratably over the next 4 years in the case of Large DG and community solar projects.

The Illinois RPS post-P.A. 102-0662 maintains the basic structure of the Adjustable Block Program, but features several modifications to categories (from three project categories to six project categories), permissible project sizes, and REC delivery contract payment structure and terms. Those changes are discussed later in this Chapter.

2.2.2.6. P.A. 99-0906: The Illinois Solar for All Program

Similar to the Adjustable Block Program, the Illinois Solar for All ("ILSFA") Program was established as a solar incentive program intending to incent low-income, non-profit, and public facility participation in solar photovoltaic projects—whether as a system owner, community solar project subscriber, or system host—through revenue provided by REC delivery contracts. Reflecting the additional incentive necessary to ensure low-income participation, ILSFA REC prices generally exhibit a premium above those used for the Adjustable Block Program, with the Agency also having the ability to offer full contract prepayment or otherwise relax (or enhance) requirements in recognition of the unique challenges facing low-income project development. As introduced under P.A. 99-0906, funding for the Illinois Solar for All Program came from a combination of funds collected under Section 16-108(k) collections (i.e., those used to support RPS activities more generally) and funds in the IPA-administered Renewable Energy Resources Fund. As a result of this dual funding mechanism, ILSFA REC delivery contracts could feature a counterparty Buyer that was either an Illinois electric utility or the State of Illinois itself.

As established under P.A. 99-0906, the ILSFA Program featured four subprograms generally matched to the project or customer type eligible to participate:

- Low-Income Distributed Generation Incentive Program
- Low-income Community Solar Project Initiative
- Non-Profit and Public Facility Incentive Program
- Low-Income Community Solar Pilot Project Program

Unlike the Adjustable Block Program, which operated with block sizes supporting defined quantities of new installed solar capacity, the Illinois Solar for All Program featured no hard targets or goals for

[18] The Agency may create sub-categories within this category to account for the differences between projects for small commercial customers, large commercial customers, and public or non-profit customers.

[19] 20 ILCS 3855/1-75(c)(1)(K).

the quantity of RECs to be procured. Instead, it operated (and continues to operate) with annual program year budgets for each subprogram.

Changes to the Illinois Solar for All Program through P.A. 102-0662 include the elimination of one subprogram and the introduction of another, a significant increase in the annual utility-collected funding used to support the ILSFA Program, and dedicated participation in select subprograms for project structures demonstrating "energy sovereignty."

2.2.2.7. P.A. 99-0906: Competitive Procurements

As referenced above, P.A. 99-0906 maintained elements of the competitive, confidential, "pay-as-bid" procurement structure for certain RPS implementation activities—specifically, for awarding REC delivery contracts used to support new utility-scale wind, utility-scale photovoltaic, and brownfield site photovoltaic projects. Proposed projects qualified through meeting project maturity requirements, paying required fees, and posting required collateral, and then offered proposed a proposed quantity and REC price (or "bid") with the lowest-priced bids selected to meet predetermined procurement quantities.

P.A. 99-0906 defined projects larger than 2 MW in size as "utility-scale" (this threshold is now 5 MW under P.A. 102-0662), although economies of scale generally resulted in supported projects being much larger than that minimum. Quantitative new project targets in the Illinois RPS required that at least 40% of RECs used to meet new solar photovoltaic targets be derived from utility-scale solar projects and 2% from brownfield site projects; for new wind project targets, the entirety was to be sourced from utility-scale projects.

To meet these targets, P.A. 99-0906 required that the IPA conduct "initial forward procurements" prior to the approval of its Initial Long-Term Renewable Resources Procurement Plan. Those procurements were intended to bring 1,000,000 RECs each of utility-scale wind and utility-scale solar under contract, with additional procurements proposed through the IPA's Long-Term Renewable Resources Procurement Plan. Proposed projects were subject to locational requirements generally described in Section 1-75(c)(1)(*I*) of the Act and outlined in practice through this Plan; under these requirements, projects in Illinois were eligible and those in adjacent states may be eligible, but only if certain public interest criteria were satisfied.

Public Act 102-0662 provides a similar structure for supporting utility-scale and brownfield site photovoltaic projects, with utility-scale project REC procurement events also scheduled to be conducted prior to this Plan's approval (within 240 days of the effective date of P.A. 102-0662) and additional procurements proposed through this Plan. P.A. 102-0662 also maintains the general competitive procurement framework previously used to select proposed projects, but with a) the ability to consider additional factors as part of bid evaluation (such as progress on equity initiatives or project locational benefits for communities transitioning from closed power plants) and b) REC delivery contracts featuring an indexed REC pricing structure (a REC price that floats upward or downward based on assumed energy revenues for the facility).

2.2.3. The Long-Term Renewable Resources Procurement Plan

Public Act 99-0906 required the Illinois Power Agency to outline a new procurement plan – the Long-Term Renewables Procurement Plan – containing proposals for implementing these new programs and procurements, and for the management of these increased funds for meeting more aggressive

RPS targets and goals. This separate, renewable energy-focused planning process was a departure from past practice under the Illinois RPS; previously, Illinois law required that renewable energy resource procurements used to meet the requirements of Section 1-75(c) of the IPA Act be proposed through the Agency's annual procurement plan developed pursuant to Section 16-111.5 of the PUA.

The Long-Term Renewable Resources Procurement Plan—prepared pursuant to Section 16-111.5(b)(5) of the PUA—was initially prepared in 2017, was approved by the ICC in 2018, was required to be revised at least every two years, and "shall include procurement programs and competitive procurement events necessary to meet the goals" set forth in Section 1-75(c) of the IPA Act. That original Long-Term Renewable Resources Procurement Plan or "Initial Plan" was developed over the summer of 2017, published for comment on September 29, 2017, filed with the Illinois Commerce Commission for approval on December 4, 2017, and approved by the Commission on April 3, 2018 through ICC Docket No. 17-0838. As that plan is required by law to be updated at least every two years, a First Revised Long-Term Renewable Resources Procurement Plan was approved by the Commission on February 18, 2020 through Docket No. 19-0995. The Agency published its draft Second Revised Long-Term Plan on August 16, 2021 but withdrew the draft in accordance with the passage of Public Act 102-0662 as required by that Act's revisions to Section 1-75(c)(1)(A) of the IPA Act. Under those same revisions, this Plan is now required to be published within 120 days of the effective date of P.A. 102-0662 (by January 13, 2022). Updates to the Long-Term Plan will continue on a biannual basis.

2.3. RPS Implementation: 2017-2021

The IPA conducted a variety of program and procurement activities under the structure required by P.A. 99-0906; this Section serves to outline certain successes and challenges observed from RPS implementation under that RPS structure, as those successes and challenges informed many of the statutory changes found in Public Act 102-0662 which serve to shape this Plan.

2.3.1. Successes and Challenges

For successes, Section 1-75(c)(1)(C) introduced quantitative new photovoltaic project and new wind project targets into Illinois law; those targets were 2,000,000 RECs delivered annually from each category by 2020, 3,000,000 RECs delivered annually from each category by 2025, and 4,000,000 RECs delivered annually by 2030. For photovoltaic projects, 50% of the photovoltaic project total was required to be sourced from Adjustable Block Program projects, with 40% from utility-scale projects and 2% from brownfield site photovoltaic projects.

Those new project targets were somewhat easily met. The "first phase" of the Adjustable Block Program concluded by late 2020 with all three project categories having been filled, and thus accepted project applications met or exceeded the quantities required to meet that 2020 delivery year target of 1,000,000 RECs delivered annually. Through procurements conducted by the conclusion of calendar year 2019, RECs under contract from utility-scale photovoltaic projects exceeded 2025 and 2030 targets, while those from utility-scale wind and brownfield site photovoltaic projects exceeded 2020 targets.

Changes to the Illinois RPS from P.A. 99-0906 resulted in an unprecedented wave of new renewable energy development in Illinois—and, specifically, new solar development. Prior to P.A. 99-0906's enactment, Illinois was estimated to have approximately 70-80 MW of photovoltaic projects installed statewide. The Adjustable Block Program alone has now supported nearly 700 MW of new solar

distributed generation and community solar, with over 20,000 Illinois residents and businesses availing themselves of the support provided by this program. Competitive procurements have supported another over 1300 MW of new utility-scale solar projects, and nearly 700 MW of new utility-scale wind. All but one project has been located in Illinois itself, ensuring that economic development, energy diversification, and certain environmental benefits generally connect back to those Illinois residents and businesses who financially support these initiatives. The Illinois Solar for All Program has observed robust participation in three of the four subprograms provided for by P.A. 99-0906.

These successes have not come without significant challenges. As outlined in Chapter 3, even with thousands of megawatts of additional new solar and wind project development, Illinois remains on pace to fall well short of the "25% by 2025" trajectory envisioned through P.A. 99-0906's revised RPS. Meeting 25% of retail sales through REC procurements requires approximately 30 million RECs to be delivered annually; doing so through RECs from new projects (especially with a large portion of new distributed generation and community solar projects) would require a significantly larger RPS budget than that authorized through P.A. 99-0906. The IPA also held two utility-scale wind procurements in 2019 and 2021 that featured no winning bidders, with post-procurement comments from potential participants seeking modification to the fixed-price REC procurement structure traditionally used in IPA procurements.

In late 2020, the Agency also released a revised RPS budget analysis indicating that project development delays caused by COVID-19, combined with the front-loaded contract payment structure present in ABP contracts and the inability to roll prior collections forward to meet future years' expenses under Section 16-108(k) of the PUA, would not only freeze additional program and procurement activity, but also place projects already in receipt of REC delivery contracts at risk of reduced payments. As structured under P.A. 99-0906, the Illinois RPS would eventually stimulate additional renewable energy project development, but only in fits and starts and only after prior REC delivery contract obligations were fully satisfied.

Additional concerns were raised regarding the significant gulf between Adjustable Block Program REC prices and those resultant from competitive procurement events used to support new utility-scale project development, as well as the lack of progress in meeting percentage-based RPS goals. Through Resolution No. 153, the Illinois Legislative Audit Commission directed the Auditor General to "conduct a performance audit of the Illinois renewable portfolio standard and the Illinois Power Agency's management of the Renewable Energy Credit procurement process and Adjustable Block Grant Program." The Auditor General's Office's report was published on May 11, 2021, and concluded with one recommendation, with which the Agency agreed:

> The Illinois Power Agency should continue to work to meet the renewable energy percentage-based procurement goals required by 20 ILCS 3855/1-75(c)(1)(B).[20]

The Agency had proposed a procurement strategy in its Initial Long-Term Plan to attempt to meet the percentage-based procurement goals of Section 1-75(c)(1)(B) of the IPA Act through year-over-year "spot procurements" intended to procure RECs from built and existing projects that qualified for the Illinois RPS. That procurement approach was rejected by the Commission in Docket No. 17-0838, with instruction that any available budget instead be focused on procurements intended to

[20] The full Auditor General's report can be found here: https://www.auditor.illinois.gov/Audit-Reports/Performance-Special-Multi/Performance-Audits/2021_Releases/21-IPA-Future-Energy-Jobs-Act-Perf-Full.pdf.

facilitate the development of new projects. So long as the development of new projects was prioritized over technical percentage-based RPS compliance – and thus REC prices reflected the incentive needed to facilitate new project development, and not the price of RECs sold in liquid markets from already-built and financed renewable energy projects – existing RPS budgets would always remain insufficient for meeting a "25% by 2025" requirement.

In addition to these quantitative REC and budget concerns, critiques were also put forward regarding certain qualitative aspects of how the clean energy economy developed in Illinois. While the opening of the Adjustable Block Program facilitated many times more community solar project applications than could be supported through the Program – which itself resulted in challenges through utilization of a random selection process for project selection, and the disconnect between that project selection process and priority in utility interconnection queues – community solar projects were generally large and transactional, built to maximum size in agrarian areas to leverage low land costs and economies of scale. This was not the more localized, community-driven model that some advocates had envisioned. Labor interests voiced concern about whether fair wages were paid to those employed to meet the growing number of solar installations located in the state.

Perhaps most importantly, advocates and others shared repeated concerns over whether implementation of the RPS under P.A. 99-0906 created an equitable distribution of the benefits of the growing clean energy economy, especially regarding those employed in project development work. While P.A. 99-0906 contained open-ended qualitative statements and legislative findings about ensuring the equitable distribution of benefits from Illinois's clean energy economy, actual program and project qualification requirements (outside of the low income-focused Illinois Solar for All Program) focused more on ensuring that the Illinois RPS resulted in new project development—and not on where within the state those projects were developed, who was employed to work on those projects, and who ultimately received benefits from those projects. Without firm requirements in place, loose qualitative and directional statements proved insufficient for driving desired outcomes.

The approach taken through P.A. 99-0906 to RPS implementation was nonetheless a meaningful shift in the state's renewable energy requirements: prior to 2017, the state's approach could have been understood as governed by the logic that statutory RPS compliance should be achieved at "the lowest total cost over time, taking into account any benefits of price stability,"[21] as these criteria governed the Agency's annual procurement plan. The Illinois RPS as modified by P.A. 99-0906 thus represented a significant step forward because it drove large volumes of new renewable energy project development. But, to many, another step was needed to ensure that state-administered funds used to support new renewable energy project development were leveraged in a more targeted, socially-beneficial manner.

2.3.2. Legislative Proposals

Dating back to 2019, multiple bills were introduced that sought to address these and other challenges. Significant energy bills introduced included the following:[22]

- HB 804/SB 1718 (the "Clean Energy Jobs Act")
- HB 1734/SB 311 (the "Downstate Energy Affordability Act")

[21] See 220 ILCS 5/16-111.5(d)(4).

[22] The content of these proposals is not reviewed here, but copies of proposed legislation can be found on the Illinois General Assembly's website (www.ilga.gov).

- HB 2640/SB 1601 (the "Path to 100 Act")
- HB 3446/SB 529 (the "Coal to Solar and Energy Storage Act")
- HB 1472/SB 1100 (the "Climate Union Jobs Act")
- HB 4074/SB 2896 (the "Consumers and Climate First Act")

While the Illinois General Assembly convened only intermittently after the COVID-19 pandemic emerged in 2020, Senate-organized working groups met across the spring of 2020 and were followed by working groups organized by the Governor's Office across the summer and fall of 2020. Additional House and Senate legislative working groups were convened across April and May of 2021, with interested stakeholders working diligently toward compromise legislation borrowing elements from each of the above-listed bills. Drafts of omnibus energy bills incorporating elements of these and other proposals were produced by legislative staff across the final week of the General Assembly's Spring 2021 session. That session concluded on May 31, 2021 without meaningful legislative advancement, despite significant progress in negotiations.

Additional negotiations occurred across the summer of 2021, culminating in the introduction and passage of amended Senate Bill 2408 by the Illinois House on September 9, 2021 and the Illinois Senate on September 13, 2021. This bill, known colloquially as the Climate and Equitable Jobs Act, was signed into law by Illinois Governor J.B. Pritzker on September 15, 2021 (establishing its effective date, which then informs many deadlines stemming from the legislation) as Public Act 102-0662.

2.4. Public Act 102-0662: The Climate and Equitable Jobs Act

Public Act 102-0662 constitutes a significant reshaping of energy law in Illinois—and not only with respect to the Illinois RPS. In addition to the revisions discussed within this Plan, P.A. 102-0662 also creates a policy target for the State of Illinois of 100% clean energy by 2050; offers a decarbonization schedule for the closure of fossil-based electric generating facilities; introduces additional support for at-risk nuclear plants through the procurement of carbon mitigation credits; provides financial support for communities faced with generating facility closures; establishes significant financial support for the clean energy workforce; establishes beneficial electrification, electric vehicle, and energy storage initiatives; contains numerous ethics and ratemaking reforms applicable to Illinois electric utilities; and addresses a litany of other issues too numerous to recount here.

With respect to the Illinois RPS and those activities governed by and proposed through this Plan, changes found in Public Act 102-0662 generally take three forms. The first is volume: through changes to Section 1-75(c)(1)(E), annual collections under the Illinois RPS are projected to total over $580 million, versus the ~$230 million previously collected. Through changes to Section 16-108(k) of the Public Utilities Act, prior years' collections can now be rolled over to meet future years' expenses, allowing for more budget to be leveraged than under P.A. 99-0906's structure. Utility collections used to support the Illinois Solar for All Program grow from ~$11 million annually to up to $50 million annually.

Those volumetric changes can also be found in the REC procurement goals and targets in Section 1-75(c)(1)(B) and (C) of the Act. Section 1-75(c)(1)(B)'s prior "25% by 2025" RPS standard has been replaced by more aggressive "40% by 2030" and "50% by 2040" requirements. Section 1-75(c)(1)(C)'s prior targets of 8,000,000 RECs delivered annually from new projects by 2030 is now an ambitious 45,000,000 REC procurement target. The scale of the Illinois RPS has grown considerably through P.A. 102-0662.

A second category of changes are qualitative changes, through which existing activities already conducted under P.A. 99-0906's structure will continue, but with qualitative considerations offering a different form to or process for that work. One key example of this is the Adjustable Block Program: that program previously featured three categories of projects (Small DG, Large DG, and Community solar), but changes to Section 1-75(c)(1)(K) now transition the ABP to six categories (with the addition of Public Schools, Community-Driven Community Solar, and Equitable Eligible Contractor categories), demonstrating more attention paid to the qualitative attributes of projects supported by or applicants to the program. Given its role in establishing requirements for funding eligibility, the IPA had previously exercised consumer protection oversight for solar transactions in Illinois benefitting from state-administered incentive funding; that consumer protection role is now memorialized and expanded through changes to Section 1-75(c)(1)(M) of the Act.

New labor requirements also fit this description. Under Section 1-75(c)(7), P.A. 99-0906 required all new photovoltaic projects and distributed generation projects to be installed by "qualified persons." As modified by P.A. 102-0662, that "qualified person" requirement remains, but is now accompanied by Section 1-75(c)(1)(Q)'s prevailing wage requirements for most new Adjustable Block Program projects and both prevailing wage and project-labor agreement requirements for new utility scale and brownfield site photovoltaic projects.

The largest qualitative changes concern new diversity, equity, and inclusion requirements. P.A. 99-0906 provided aspirational statements, such as that RPS programs and procurements "shall provide employment opportunities for all segments of the population and workforce, including minority-owned and female-owned business enterprises."[23] P.A. 102-0662 distills those aspirational statements down to specific requirements of participants: new Section 1-75(c-10) of the Act establishes minimum equity standards under which "at least 10% of the project workforce for each entity participating . . . must be done by [sic] equity eligible persons or equity eligible contractors." That percentage rises to 30% by 2030 under a schedule established by the Agency. For competitive procurements, Section 1-75(c-10)(3) requires that "the Agency shall develop bid application requirements and a bid evaluation methodology for ensuring that utilization of equity eligible contractors . . . is optimized," constituting a potentially significant shift from evaluating qualified bids based only on price. Other new diversity, equity, and inclusion provisions require compliance reporting by Approved Vendors, Agency diversity reporting, and the development of a disparity study.

A third category of changes is scope; P.A. 102-0662 authorizes new activities that the Agency had not previously conducted. Of these, two are particularly noteworthy. First, the IPA is set to conduct a pair of procurements pursuant to new Section 1-75(c-5) of the Act intended to support the development of new utility-scale photovoltaic projects coupled with storage "at or adjacent to the sites of electric generating facilities that burn or burned coal as their primary fuel source." These "coal to solar" procurements operate with statutorily established REC prices, maximum procurement quantities, project location requirements, and REC delivery timelines—thus functioning more akin to an application process than open-ended competitive procurements traditionally undertaken by the Agency. While these "coal-to-solar" procurements are not proposed through this Plan (and the first will be undertaken during this Plan's consideration), and the mechanism for funding payments under this contract is distinct from that which funds general RPS activities, RECs procured by

[23] 20 ILCS 3855/1-75(c)(7).

counterparty utilities under these coal-to-solar procurements "may be included or counted for purposes of compliance with the amounts of renewable energy credits required to be procured pursuant to subsection (c) of this Section to the extent that there are otherwise shortfalls in compliance with such requirements."[24]

Second, new Section 1-75(c)(1)(R) of the Act requires that the Agency "establish a self-direct renewable portfolio standard compliance program for eligible self-direct customers that purchase renewable energy credits from utility-scale wind and solar projects through long-term agreements for purchase of renewable energy credits." Under this self-direct program, by virtue of entering into qualifying long-term agreements for the purchase of RECs from new utility-scale wind or solar projects, select customers become eligible for a credit back for certain bill charges levied to support the Illinois RPS pursuant to Section 16-108(k) of the PUA, with the level of that credit dependent on expenses resultant from utility-scale contracts entered into under the RPS after that customer's successful application to the self-direct program. While this self-direct program bears some similarity with Section 16-115D of the PUA's previous RPS compliance regime for alternative retail electric suppliers, ARES compliance within that regime was overseen by the ICC rather than the IPA and ultimately sunset through P.A. 99-0906's changes to Section 16-115D.

This is just an exemplary overview of changes brought on by Public Act 102-0662, and new requirements are discussed in more detail through the Chapters ahead. As with prior Long-Term Plans, the following sections of this Chapter 2 provide an overview of specific legal requirements applicable to this Plan, with updates in content and new sections offered to reflect changes present in P.A. 102-0662.

2.5. Long-Term Renewable Resources Procurement Plan

As outlined above, Illinois law requires that the IPA develop a Long-Term Renewable Resources Procurement Plan to guide implementation of its renewable energy programs and procurements. The Initial Plan was f approved by the Commission on April 3, 2018 through Docket No. 17-0838 and a First Revised Long-Term Renewable Resources Procurement Plan was approved by the Commission on February 18, 2020 through Docket No. 19-0995. This draft 2022 Long-Term Plan has been prepared and published pursuant to Section 1-75(c)(1)(A) of the IPA Act, as modified by Public Act 102-0662, and Section 16-111.5(b)(5) of the PUA.

2.5.1. Plan Requirements

While Illinois law lacks any single list of required elements for the Plan, both Section 16-111.5(b) of the PUA and Sections 1-56 and 1-75 of the IPA Act contain discrete requirements for various elements of this Plan.

2.5.1.1. Section 16-111.5(b) Requirements

Section 16-111.5(b)(5) of the PUA provides that "[t]he Agency shall prepare a long-term renewable resources procurement plan for the procurement of renewable energy credits under Sections 1-56 and 1-75 of the Illinois Power Agency Act for delivery beginning in the 2017 delivery year,"[25] with "delivery year" defined as "the consecutive 12-month period beginning June 1 of a given year and

[24] 20 ILCS 3855/1-75(c-5)(1).

[25] 220 ILCS 5/16-111.5(b)(5).

ending May 31 of the following year."[26] The PUA also contains certain discrete requirements for what the Plan must contain or what the Commission must approve.

First, the Plan must "[i]dentify the procurement programs and competitive procurement events consistent with the applicable requirements of the Illinois Power Agency Act and shall be designed to achieve the goals set forth in subsection (c) of Section 1-75 of that Act."[27] While the term "competitive procurement event" is not defined in either the IPA Act or the PUA, the IPA understands the term "competitive procurement event" to be an element of, if not commensurate with, a "competitive procurement process" or "competitive bid process," which the PUA describes as subject to the requirements of Section 16-111.5(e)-(i) where applicable (i.e., conducted in a manner consistent with the Agency's prior competitive procurements).[28] The term "program" presumably refers to the programs specifically referenced in Section 1-56(b) and Sections 1-75(c)(1)(K) and (N) of the IPA Act. This Revised Plan's specific procurement programs and procurement events designed to meet the goals of Section 1-75(c) can be found in Chapters 4 through 10.

Second, the Plan must "[i]nclude a schedule for procurements for renewable energy credits from utility-scale wind projects, utility-scale solar projects, and brownfield site photovoltaic projects consistent with subparagraph (G) of paragraph (1) of subsection (c) of Section 1-75 of the Illinois Power Agency Act."[29] This subparagraph concerns the quantitative procurement targets for RECs from new solar and wind facilities found in Section 1-75(c), and the schedule for those procurements can be found in Chapter 5.

Third, the Plan must "[i]dentify the process whereby the Agency will submit to the Commission for review and approval the proposed contracts to implement the programs required by such plan."[30] Both REC delivery contracts and the IPA's program administrator contracts[31] must be approved by the Commission prior to execution.[32] The IPA's process for submitting contracts to the Commission for review and approval can be found in Chapters 7 and 8 of the Plan; it does not meaningfully differ from that which was proposed in the Initial Plan and First Revised Plan. As this requirement concerns only "the programs required by such plan," this requirement does not impact the contract development process for the competitive procurements described in Chapter 5, although Commission approval is also required prior to the execution of contracts for competitive procurements under the process described in Section 16-111.5(e)-(i).

Through changes enacted through P.A. 102-0662, Section 16-111.5(b)(5)(ii)(D) also now requires that the Commission "approve or modify the Agency's proposal for minimum equity standards" developed pursuant to Section 1-75(c-10) of the IPA Act, and "consider any analysis performed by

[26] 20 ILCS 3855/1-10.

[27] 220 ILCS 5/16-111.5(b)(5)(ii)(B)(aa).

[28] 220 ILCS 5/16-111.5(b)(5)(iii).

[29] 220 ILCS 5/16-111.5(b)(5)(ii)(B)(bb).

[30] 220 ILCS 5/16-111.5(b)(5)(ii)(B)(cc).

[31] For the Agency's third-party program administrators, Section 16-111.5(b)(5)(iii) provides that "[t]hird parties shall not begin implementing any programs or receive any payment under this Section until the Commission has approved the contract or contracts under the process authorized by the Commission in item (D) of subparagraph (ii) of paragraph (5) of this subsection (b) and the third party and the Agency or utility, as applicable, have executed the contract."

[32] In its Order approving the Initial Plan, the Commission held that under Section 16-111.5(b)(5)(iii)'s requirements, "it must review the individual [REC delivery] contracts between the utilities and Approved Vendors and "not just a master contract, although "a master contract that is updated by a confirmation agreement providing the batch details regarding seller, buyer, price, term, project location, etc. is a reasonable approach." Docket No. 17-0838, Final Order dated April 3, 2018 at 116.

the Agency in developing its proposal, including past performance, availability of equity eligible contractors, and availability of equity eligible persons at the time the long-term renewable resources procurement plan is approved." The Agency's proposed approach to minimum equity standards and Section 1-75(c-10) implementation can be found in Chapter 10.

2.5.1.2. Section 1-75 Requirements

Section 1-75 of the IPA Act contains the most robust set of requirements for the long-term plan; those include the following:

First, the Plan must "attempt to meet the goals for procurement of renewable energy credits to meet at least the following overall percentages: 13% by the 2017 delivery year; increasing by at least 1.5% each delivery year thereafter to at least 25% by the 2025 delivery year; increasing by at least 3% each delivery year thereafter to at least 40% by the 2030 delivery year, and continuing at no less than 40% for each delivery year thereafter" with an additional goal of 50% by delivery year 2040."[33] These percentages are described as a portion of each utility's "load for all retail customers," which includes load served by alternative retail electric suppliers. The law also provides that "in the event of a conflict between these goals and the new wind and new photovoltaic procurement requirements …the long-term plan shall prioritize compliance with the new wind and new photovoltaic procurement requirements described in items (i) through (iii) of subparagraph (C) of this paragraph (1) over the annual percentage targets described in this subparagraph (B)."[34]

In Docket No. 17-0838, the Commission's Order approving the Initial Plan determined that any procurements originally proposed to meet annual percentage-based renewable energy credit procurement goals should be cancelled to avoid any potential conflicts with meeting "statutory long-term new build requirements."[35] Public Act 102-0662 appears to have memorialized that Commission directive, with Section 1-75(c)(1)(B) now instructing that "[t]he Agency shall not comply with the annual percentage targets described in this subparagraph (B) by procuring renewable energy credits that are unlikely to lead to the development of new renewable resources." This new language would appear to bar the Agency from proposing RPS procurement approaches like the IPA's prior-proposed "spot procurements," which sought to fill RPS compliance gaps through one-year contracts for the delivery of RECs from existing projects. Further discussion about progress toward these RPS goals is covered in Chapter 3.

Second, the Plan "shall include the procurement of renewable energy credits in amounts equal to at least" the new wind and new photovoltaics targets found in Section 1-75(c)(1)(C) of the IPA Act. These targets are 10,000,000 RECs delivered annually by the end of the 2021 delivery year, increasing ratably to reach 45,000,000 RECs delivered annually by the end of the 2030 delivery year. Of that amount, the Agency shall attempt to procure "45% from wind projects and 55% from photovoltaic projects."

Within the category of "new photovoltaic projects," 50% of photovoltaic RECs are to be procured through the Adjustable Block Program (and thus from distributed generation or community solar projects), 47% from utility-scale (above 5 MW) photovoltaic projects, 3% from brownfield site

[33] 20 ILCS 3855/1-75(c)(1)(B).

[34] Id.

[35] Docket No. 17-0838, Final Order dated April 3, 2018 at 42.

photovoltaic projects that are not community renewable generation projects. To ensure success in meeting this brownfield site photovoltaic procurement requirement, Section 1-75(c)(1)(C)(i) also now directs the Long-Term Plan to "consider other approaches, in addition to competitive procurements, that can be used to procure renewable energy credits from brownfield site photovoltaic projects." Further discussion of these quantitative new build targets, including a discussion of progress made toward meeting these targets to date, can be found in Chapter 3, while the IPA's proposed approach to brownfield site photovoltaic procurements can be found in Chapter 5.

Third, the law requires that, to the extent that annual RPS spending budgets[36] for each utility become a binding constraint, the Plan "shall prioritize compliance with the requirements of this subsection (c) regarding renewable energy credits" in the manner discussed in Section 1-75(c)(1)(F), which features the following priority ranking:

> (i) renewable energy credits under existing contractual obligations as of June 1, 2021;
>
> (ii) funding for the Illinois Solar for All Program as described in Section 1-75(c)(1)(O);
>
> (iii) renewable energy credits necessary to comply with the new wind and new photovoltaic procurement requirements in Section 1-75(c)(1)(C); and
>
> (iv) renewable energy credits necessary to meet the remaining requirements of Section 1-75(c) (including the percentage-based delivery year goals in Section 1-75(c)(1)(B)).[37]

This statutory language and related considerations were placed at issue in the Reopening of Docket No. 19-0995, the proceeding for Commission approval of the Revised Long-Term Plan. Through the IPA's March 3, 2021 Petition on Reopening, the Agency sought for the Commission to approve a regime under which REC delivery contract payments would possibly be subject to deferral should expenses exceed collections for an upcoming delivery year, as the IPA then expected this would be the case for two of the three utilities in the 2021-22 delivery year. Relying in part on Section 1-75(c)(1)(F), the IPA argued that REC delivery contracts pre-dating Public Act 99-0906's passage and Illinois Solar for All contracts should be exempted from any payment deferrals, as those contracts feature statutory priority. In its May 27, 2021 Order on Reopening, the Commission agreed.[38]

The IPA is very optimistic that through changes found in Section 16-108(k) of the PUA and Section 1-75(c)(1)(E) of the IPA Act this prioritization becomes a less acute concern in future years. Specifically, the changes to these sections of the PUA and IPA Act under P.A. 102-0662 allow for prior years' collections to meet future years expenses on a first-in, first-out basis across a five-year period and more than double the size of the budget available to support RPS activities. However, as separate language in Section 1-75(c)(1)(C)(ii) of the Act directs the IPA to "continue to procure renewable energy credits until that budget is exhausted" even if goals and targets are met, the statutory directive from Public Act 102-0662 appears to be to maximize RPS expenses to the greatest extent possible. The Agency's approach to establishing what budgets are available for upcoming delivery years and how those budget projections inform procurement quantities can be found in Chapter 3.

[36] The statutory cost cap and resulting budgets for RPS spending, directed in Section 1-75(c)(1)(E) of the Act, are discussed in more detail in Chapter 3 of this 2022 Long-Term Plan.

[37] 20 ILCS 3855/1-75(c)(1)(F).

[38] See Docket No. 19-0995, Order on Reopening dated May 27, 2021 at 26-28.

Fourth, the law requires that renewable energy credits procured under the Initial Forward Procurements[39] shall be included in the Agency's long-term plan and shall apply to Section 1-75(c)'s goals.[40] While not so expressly stated in the law, the Agency assumes that RECs procured under activities envisioned under Section 1-75(c)(1)(G)(iii) (Subsequent Forward Procurements within 240 days of the effective date of P.A. 102-0662) and (iv) (ABP reopening within 90 days of the effective date of P.A. 102-0662) are likewise required to be included in this Plan's accounting of progress toward RPS goals and targets. The results of the Initial Forward Procurements, conducted in three events from August 2017 through April 2018, are reflected in the Agency's target procurement quantities found in Chapter 3 of this 2022 Long-Term Plan; the Agency will update Chapter 3's tables related to RECs under contract for Adjustable Block Program reopening and subsequent forward procurements when that data becomes available.

Fifth, in transitioning to the new Indexed REC price structure for competitive procurements – under which REC prices rise as assumed energy revenues fall through a reduction in wholesale energy prices, and vice versa – Section 1-75(c)(1)(G)(v)(4) allows for the Agency to "consider the institution of a price collar on REC prices paid under indexed renewable energy credit procurements establishing floor and ceiling REC prices applicable to indexed REC contract prices." Any proposed Indexed REC price collars are required to be filed by the Agency within its Long-Term Plan; this issue is discussed further in Chapter 5.

Sixth, the Plan must describe in detail how each "public interest factor" enumerated in Section 1-75(c)(1)(I) "shall be considered and weighted for facilities located in states adjacent to Illinois" in determining whether those facilities' RECs may be considered "eligible" to satisfy the Illinois RPS. The Agency's approach for applying these criteria can be found in Chapter 4; while generally similar to that published in prior plans, it also addresses new statutory language related to qualifying RECs associated with electricity transmitted to high-voltage direct current converter stations introduced through Public Act 102-0662.

Seventh, pursuant to Section 1-75(c)(1)(J), the Plan shall provide that renewable energy credits previously purchased from generating systems previously understood not to be rate-based for a state-regulated entity, but which end up being so rate-based, shall be made up through a procurement conducted in the Agency's next procurement event and funded through amounts returned under the terms of the REC delivery contract. This connects back to a statutory requirement that "renewable energy credits shall not be eligible to be counted toward" RPS targets "if they are sourced from a generating unit whose costs were being recovered through rates regulated by this State or any other state or states on or after January 1, 2017."[41] It appears that this could be accomplished through an adjustment in procurement volumes for subsequent procurement events, and the IPA commits to make any such adjustments. To date, the IPA is unaware of any instances for which this provision (which is reflected in all program and procurement contracts) has needed to be enforced.[42]

[39] The Initial Forward Procurements are those conducted under Section 1-75(c)(1)(G)(i) and (ii) of the IPA Act.

[40] 20 ILCS 3855/1-75(c)(1)(G)(i)-(ii).

[41] 20 ILCS 3855/1-75(c)(1)(J).

[42] The Agency understands that P.A. 102-0662's edits to Section 1-75(c)(1)(J) concerning HVDC converter stations are merely clarifying edits, and not intended to create any exception to this subparagraph's prohibition against utilizing RECs from rate-based projects.

Eighth, the Plan "shall include an Adjustable Block program for the procurement of renewable energy credits from new photovoltaic projects that are distributed renewable energy generation devices or new photovoltaic community renewable generation projects."[43] A detailed description of the Agency's Adjustable Block Program can be found in Chapter 7; that Program now features six project categories rather than three, with a transition to an annual block structure also required by P.A. 102-0662's changes. Statutory text establishing each of the new project categories also provides discrete requirements for Plan content:

- For the Public Schools category, the "proposed quantities or blocks, pricing, and contract terms" are to be included along with "the renewable energy credit price" and "payment terms," with those terms designed to "make it feasible and affordable for public schools to install photovoltaic distributed renewable energy devices."
- For the community-driven community solar project category, "the Agency shall develop selection criteria for projects participating in this category" and define "terms and guidance" for this selection criteria through the Plan.
- For the Equity Eligible Contractor category, the capital advancement structure (through which applicant projects may receive payment for anticipated REC delivery revenues predating project energization), including "[t]he amount or percentage of advanced capital" and how that advancement structure is informed by an applicant's demonstration of need, is to be established through the Plan.

Ninth, pursuant to Section 1-75(c)(1)(M) of the Act, the Long-Term Plan shall also include "the Adjustable Block program terms, conditions, and requirements, including the prices to be paid for renewable energy credits, where applicable, and requirements applicable to participating entities and project applications." These "terms, conditions, and requirements" must also now include a robust new statutory list of consumer protection requirements—although many of these requirements mirror the approach that the Agency has taken to program implementation since the Adjustable Block Program's initial development. The Agency's proposed approach for implementing these consumer protection requirements can be found in Chapter 9.

Tenth, under Section 1-75(c)(1)(N), the Plan "may consider whether community renewable generation projects utilizing technologies other than photovoltaics should be supported through State-administered incentive funding, and may issue requests for information to gauge market demand." The Agency's prior efforts in this regard demonstrated scant interest in non-solar community renewable generation project development (at least without significantly higher REC prices),[44] but with statutory changes to the definition of community renewable generation projects found in Section 1-10 of the IPA Act raising the minimum size of participating projects from 2 MW to 5 MW, the Agency is curious whether this change could spark renewed interest. Additional discussion can be found in Chapter 7.

Eleventh, the Long-Term Plan must define "procedures established by the Agency" through which project labor agreements, now required for new utility-scale wind and solar and brownfield site photovoltaic projects participating in IPA procurements pursuant to Section 1-75(c)(1)(Q)(2) of the

[43] 20 ILCS 3855/1-75(c)(1)(K).

[44] More information about the community renewable generation procurement can be found here: https://www.ipa-energyrfp.com/2019-community-renewable-generation-program-forward-procurement-aic-and-comed.

Act, "shall be filed with the Director."[45] This project labor agreement requirement is described in more detail within Chapter 5 discussing competitive procurements.

Twelfth, through new Section 1-75(c)(1)(R) of the Act, the Agency must now "establish a self-direct renewable portfolio standard compliance program for eligible self-direct customers that purchase renewable energy credits from utility-scale wind and solar projects through long-term agreements for purchase of renewable energy credits" through its Long-Term Plan. As the establishment of an entirely new program requires the development of significant amount of new Plan content, the Agency has devoted an entire chapter to this new large customer RPS self-direct program; that content can be found in Chapter 6. Under that Chapter's proposals, applications for this new self-direct program are scheduled to be taken across early 2023 with program participation formally beginning for accepted applicants on June 1, 2023.[46]

Lastly, and certainly not least, many of the Agency's new diversity, equity, and inclusion requirements are statutorily required to be addressed through the Agency's Long-Term Plan. These include the "schedule of percentage increases to the minimum equity standards" to increase those standards from 10% to 30%, and "requirements for ensuring that competitive procurement processes, including utility-scale solar, utility-scale wind, and brownfield site photovoltaic projects" advance equity goals, including through "bid application requirements" and "bid evaluation methodology" in competitive procurements.[47] Under Section 1-75(c-10), the Agency's next revised Long-Term Plan will also require significant new data reporting and potentially revisions to its equity accountability system.

The Agency's approach for implementing numerous other requirements found in Section 1-75 of the IPA Act must also be included in the Long-Term Plan by implication. While too voluminous to list here, the Agency invites interested parties to provide comments on this draft Long-Term Plan should this Plan fail to adequately address any applicable requirement.

2.5.1.3. Illinois Solar for All Requirements

As discussed further below, in recognition that "the State should encourage . . . investment in renewable energy resources, including, but not limited to, photovoltaic distributed generation, which should benefit all citizens of the State, including low-income households," Section 1-56 of the IPA Act required the creation of "the Illinois Solar for All Program, which provides incentives for low-income distributed generation and community solar projects [. . .] to bring photovoltaics to low-income communities in this State."[48] In so doing, the Agency must "include a description of its proposed approach to the design, administration, implementation and evaluation of the Illinois Solar for All Program" in the Plan and "propose the Illinois Solar for All Program terms, conditions, and requirements,"[49] including REC prices (which may be through a formula).

[45] 20 ILCS 3855/-175(c)(1)(Q)(2).

[46] See 20 ILCS 3855/1-75(c)(1)(R).

[47] 20 ILCS 3855/1-75(c-10).

[48] 20 ILCS 3855/1-56(b)(2).

[49] 20 ILCS 3855/1-56(b)(4).

The Illinois Solar for All Program began accepting project applications on May 15, 2019. A more comprehensive description of the Agency's Illinois Solar for All Program, including any revisions made thereto, can be found in Chapter 8.

In addition to describing what the Illinois Solar for All Program is and how it will be administered, the law also requires that, should the IPA hire a third-party program administrator (or administrators) to assist with the administration of the Illinois Solar for All Program, the Plan shall identify how often that administrator must report to the Agency and the Commission (provided that interval is at least quarterly). The Plan shall also provide for an independent evaluation of the program.

The Plan must also ensure that the Illinois Solar for All program is funded. Specifically, Section 1-75(c)(1)(O) of the Act now provides that the Plan "shall allocate up to $50,000,000 per delivery year to fund the programs, and the plan shall determine the amount of funding to be apportioned to the programs identified in subsection (b) of Section 1-56 of this Act." The IPA understands that the intention of this language in Section 1-75(c)(1)(O) is this "up to $50,000,000" is additive to whatever may be allocated in a given year through the RERF.

Notwithstanding the language discussed in the paragraph above, the law also requires that "[f]or the delivery years beginning June 1, 2021, June 1, 2024, June 1, 2027, and June 1, 2030 and [*sic*] additional $10,000,000 shall be provided to the Department of Commerce and Economic Opportunity to implement the workforce development programs and reporting as outlined in Section 16-108.12 of the Public Utilities Act."[50] This constitutes a change from the regime in place prior to the enactment of P.A. 102-0662, which allocated those funds to ComEd for workforce development programs.

Additional Illinois Solar for All requirements to be outlined in this Plan include the specific level of job trainee required to be used on ILSFA projects; a report on the "progress and barriers to participation of small and emerging businesses in the Illinois Solar for All Program"; consideration of "additional program and contract requirements to ensure faithful compliance by applicants benefiting from preferences for projects designated to promote energy sovereignty"; reporting on efforts to encourage "cross-participation" between the ABP and ILSFA programs; if warranted, additional ILSFA programs that target distinct market segments and "incentives targeted to increase the uptake of non-photovoltaic technologies by low-income customers, including energy storage paired with photovoltaics"; and a determination as to whether "individual subprograms of the Illinois Solar for All Program are better served by a different or separate Program Administrator" from the ABP Program Administrator. Additionally, the Agency must include a plan for the following:

> (A) actions to refer customers from the Illinois Solar for All Program to electric and natural gas income-qualified energy efficiency programs, and vice versa, with the goal of increasing participation in both of these programs;
>
> (B) effective procedures for data sharing, as needed, to effectuate referrals between the Illinois Solar for All Program and both electric and natural gas income-qualified energy efficiency programs, including sharing customer information directly with the utilities, as needed and appropriate; and

[50] 20 ILCS 3855/1-75(c)(1)(O). See also Docket No. 17-0332, in which ComEd's Workforce Development Implementation Plan was approved.

(C) efforts to identify any existing deferred maintenance programs for which prospective Solar for All Program customers may be eligible and to connect such customers to those programs.

These and other items are addressed in Chapter 8 of the Plan.

2.5.2. Items Not Included in Long-Term Renewable Resource Procurement Plan

While the Plan sets forth the IPA's proposed approach to meeting the state's renewable energy resource procurement targets, it is not the sole mechanism for facilitating the development of renewable energy in Illinois or providing value for the environmental attributes of electricity generation. Thus, many items that may be of interest to readers of this Revised Plan are not directly addressed in this Plan, and below is a non-exhaustive list of those items not addressed in the Plan:

- Contracts or tariffs for the sale of energy from renewable energy generating facilities, whether through bilateral contracts, wholesale market sales, community renewable generation bill crediting, or net metering;
- Previously effective renewable energy resource procurement obligations applicable to alternative retail electric suppliers under Section 16-115D of the PUA;
- The procurement of zero emission credits from zero emission facilities under Section 1-75(d-5) of the IPA Act, or carbon mitigation credits from carbon-free energy resources under Section 1-75(d-10) of the IPA Act;
- Workforce development plans produced by a utility pursuant to Section 16-108.12 of the PUA;
- Renewable energy generating device installer certification requirements developed pursuant to Section 16-128A of the PUA;
- Tariff filings or modifications for the collection of funds used by utilities to pay for renewable energy credit, zero emission credit, and carbon mitigation credit delivery contracts;
- Specific renewable energy generating projects, proposals, or sites, including any municipal, county, or state permitting (e.g., actions by Agencies other than the IPA) required;
- "Green" or "clean energy" retail supply products marketed and sold by alternative retail electric suppliers;
- Requirements and processes for the interconnection of new renewable energy generating facilities, including projects facilitated by IPA-administered programs and procurements;
- Broader decarbonization plans, including the closure of Illinois fossil-based energy facilities;
- Energy storage workshops led by the Illinois Commerce Commission;
- Integrated grid planning processes, or other attempts to modify the electric distribution system;
- Beneficial electrification initiatives, electric vehicle incentives, or electric vehicle infrastructure policy;
- Renewable energy access plan development.

These issues may indeed be of significant interest to the Agency, and in some cases, their presence or resolution informed decisions made in this Revised Plan. However, as they do not fall within the scope and jurisdiction of what the IPA may propose and the Commission may approve as part of this Revised Plan, specific proposals related to the above-listed topics are not made within this document.

2.5.3. 2022 Long-Term Plan Development and Approval

A draft Second Revised Long-Term Plan was published on Monday August 16, 2021 (within two years of its First Revised Plan's publishing), but ultimately withdrawn under direction provided by Section 1-75(c)(1)(A) of the Act through P.A. 102-0662. Instead, given that P.A. 102-0662's changes in state law were sufficiently extensive to require the development of an entirely new Plan, this Plan was required to be developed and published within 120 days of the effective date of P.A. 102-0662—by January 13, 2022. Under the requirements of Section 16-111.5(b)(5)(ii) of the PUA, affected utilities and interested parties are allowed 45 days to provide comment, resulting in a comment deadline of Monday, February 28, 2022.[51]

During the comment period, the Agency is also required to hold public hearings for receiving public comment on the Plan in the service territory of each affected utility. Given the uncertainty around the ongoing COVID-19 global health pandemic, the Agency will be conducting those public hearings virtually. Those public hearings will be held on February 18, 2022 for all three affected utility service territories.

Pursuant to Section 16-111.5(b)(5)(ii), the IPA may revise this draft 2022 Long-Term Plan based upon the comments received by the February 28, 2022 deadline and shall file the plan with the Commission for review and approval within 21 days, or by March 21, 2022.

The Commission's approval of the filed 2022 Long-Term Plan will take the form of a docketed proceeding conducted pursuant to the Commission's Rules of Practice.[52] Within 14 days of the filing of the Revised Plan, parties taking issue with the plan may file an objection with the Commission; assuming the IPA files its 2022 Long-Term Plan on March 21, 2022, that objection deadline will be April 4, 2022.[53]

The Commission will have 120 days from the IPA's filing to issue a Final Order approving the plan with any modifications; this deadline will fall on July 19, 2022, assuming a filing date of March 21, 2022.[54]

2.5.4. Plan Updates

While the Agency's long-term renewable resources procurement plan features a "long-term" focus, many elements informing future program and procurement decisions—technological progress, marketplace changes, the success or failure of work undertaken under a prior-approved approach—were unknowable at the time of the Initial Plan's publishing and are still unknowable as of today.

As described above, the PUA provides that the Agency "shall review, and may revise, the plan at least every 2 years" after the Initial Plan, and "shall review and propose any revisions to the long-term renewable energy resources procurement plan in conjunction with the Agency's other Section 16-111.5 planning and approval processes."[55] At present, and absent a statutory change through new legislation, the Agency tentatively plans for its next revisions to its Long-Term Renewable Resources

[51] Forty-five days from the date of publication of this draft 2021 Long-Term Plan is February 27, 2022, which falls on a Sunday. Pursuant to the Statute on Statutes, the deadline for comments will be February 28, 2022.

[52] 83 Ill. Adm. Code 200.

[53] 220 ILCS 5/16-111.5(b)(5)(ii)(C).

[54] Id.

[55] 220 ILCS 5/16-111.5(b)(5)(ii)(B).

Procurement Plan to be proposed in 2023, as part of the development and approval process of the IPA's 2024 annual procurement plan.

The PUA also requires that "the Commission shall hold an informal hearing for the purpose of receiving comments on the prior year's procurement process and any recommendations for change" on or before July 1 of each year.[56] This has taken the form of written recommendations, technical or substantive, being submitted to the Commission and posted publicly on the Commission's website.[57]

2.6. The RPS and Percentage-Based Goals of the RPS

The Illinois RPS is similar to other state renewable portfolio standards, which require that a certain percentage of electricity sales be met with a climbing percentage of renewable energy or renewable energy credit procurement. For Illinois, this total is now 40% by 2030, climbing to 50% by 2040."[58]

2.6.1. Load Applicable to RPS Goals

Prior to P.A. 99-0906, only "eligible retail customer" load—meaning load associated with utility default supply customers, and not customers taking supply through alternative retail electric suppliers or through hourly pricing—was subject to this requirement. Changes to the RPS arising from the enactment of P.A. 99-0906 transitioned renewable goals applicable only to "eligible retail customer" load to goals applicable to "all load for retail customers" by the 2019 delivery year, and P.A. 102-0662 maintains that approach.

Certain exceptions exist to this load calculation. Under Section 1-75(c)(1)(H), if an ARES owned one or more renewable generating facilities that were not wind or photovoltaic as of December 31, 2015, then that ARES may elect "to supply its retail customers with renewable energy credits from the facility or facilities" so long as those facilities continued to be owned by that ARES. This self-procurement from ARES-owned facilities thus serves to reduce the statutory renewable energy resource obligation by the amount of RECs self-procured.[59] Similarly, successful customer participation through the self-direct RPS compliance program found in Section 1-75(c)(1)(R) of the Act should result in that retail customer load no longer being subject to RPS procurement requirements.

Further discussion of how these percentage-based multipliers apply to retail customer load to create actual REC procurement targets is presented in Chapter 3. As now expressly required under Section 1-75(c)(1)(B), "[t]he Agency shall not comply with the annual percentage targets described in this subparagraph (B) by procuring renewable energy credits that are unlikely to lead to the development of new renewable resources."[60]

Notably, these requirements only apply to load served by Illinois' major electric distribution utilities: ComEd, Ameren Illinois, and that portion of MidAmerican load for which the IPA conducts

[56] 220 ILCS 5/16-111.5(b)(5)(vi). Information about the Commission's most recent informal hearing can be found here: https://www.icc.illinois.gov/programs/Electricity-Procurement-Process-for-Plan-Years-Beginning-June-2021.

[57] For example, see: https://www.icc.illinois.gov/workshops/Electricity-Procurement-Process-for-Plan-Years-Beginning-June-2019.

[58] 20 ILCS 3855/1-75(c)(1)(B).

[59] For the 2021-2022 delivery year, see the following report on the RECs supplied under this provision: https://www2.illinois.gov/sites/ipa/Documents/2021-2022%20Delivery%20Year%20ARES%20REC%20Report.pdf. Tables describing progress toward RPS goals found in Chapter 3 account for these RECs.

[60] 20 ILCS 3855/1-75(c)(1)(B).

procurements. The Illinois RPS goals do not apply to load served by municipal electric utilities, rural electric cooperatives, or Mt. Carmel Public Utility Company, and those entities do not have renewable energy procurement obligations under Illinois law.

2.6.2. Eligible Projects for the Illinois RPS

Not all renewable energy generating facilities are eligible to sell RECs into the Illinois RPS. Changes made through P.A. 99-0906 significantly narrowed the universe of facilities capable of generating RECs which qualify for the RPS, and those changes were largely kept intact through P.A. 102-0662. Specific criteria applicable to RECs or facilities producing those RECs are discussed further below.

2.6.2.1. Eligible Generating Technologies

The Illinois Power Agency Act's definition of "renewable energy resource" as set forth in Section 1-10 provides that the underlying energy must be generated "from wind, solar thermal energy, photovoltaic cells and panels, biodiesel, anaerobic digestion, crops and untreated and unadulterated organic waste biomass, and hydropower that does not involve new construction or significant expansion of hydropower dams, waste heat to power systems, or qualified combined heat and power systems" as well as "landfill gas produced in the State." The IPA understands that only those generating technologies delineated in the definition may qualify.[61] Through P.A. 102-6662, this definition now also expressly includes "high voltage direct current renewable energy credits and the associated energy converted to alternating current by a high voltage direct current converter station to the extent that: (1) the generator of such renewable energy resource contracted with a third party to transmit the energy over the high voltage direct current transmission facilities, and (2) the third-party contracting for delivery of renewable energy resources over the high voltage direct current transmission facilities have ownership rights over the unretired associated high voltage direct current renewable energy credit."[62]

The Act also sets forth certain generating technologies categorically incapable of producing RECs eligible for the Illinois RPS, which include "the incineration or burning of tires, garbage, general household, institutional, and commercial waste, industrial lunchroom or office waste, landscape waste, railroad crossties, utility poles, or construction or demolition debris, other than untreated and unadulterated waste wood."[63]

These requirements are merely threshold requirements for the Illinois RPS; specific programs, such as the Adjustable Block Program, and specific outlined procurement targets may carry additional limitations on eligible generating technology.

2.6.2.2. Eligible Projects—Locational

Under the regime introduced by P.A. 99-0906 through Section 1-75(c)(1)(I), a generating facility's RECs are no longer prioritized based on location; instead, the facility either qualifies for the Illinois RPS, or it does not. Outside of language specific to RECs associated with electricity transmitted to

[61] The Agency understands that hydropower facilities featuring new turbines added to existing non-hydropower dams would not be eligible to participate as these facilities would constitute a newly constructed "hydropower" dam, and would thus be prohibited under Section 1-10 of the IPA Act's limitation of eligible hydropower only to "hydropower that does not involve new construction or significant expansion of hydropower dams."

[62] 20 ILCS 3855/1-10.

[63] Id.

qualifying Illinois-based high voltage direct current converter stations, this approach was maintained through P.A. 102-0662.

Section 1-75(c)(1)(I) provides that the Plan must be designed "to maximize the State's interest in the health, safety, and welfare of its residents, including but not limited to minimizing sulfur dioxide, nitrogen oxide, particulate matter and other pollution that adversely affects public health in this State, increasing fuel and resource diversity in this State, enhancing the reliability and resiliency of the electricity distribution system in this State, meeting goals to limit carbon dioxide emissions under federal or State law, and contributing to a cleaner and healthier environment for the citizens of this State." While the statute determines that a facility located in-state provides those benefits at a sufficient level, the Agency also "may qualify renewable energy credits from facilities located in states adjacent to Illinois if the generator demonstrates and the Agency determines that the operation of such facility or facilities will help promote the State's interest in the health, safety, and welfare of its residents" based on this public interest criteria. As the law provides no discussion of potentially qualifying facilities located in states not "adjacent to Illinois," facilities located in those states cannot produce RECs for satisfying the Illinois RPS.

The Agency's discussion of how to apply these criteria to adjacent state facilities, as well as a listing of which states are considered "adjacent" to Illinois, can be found in Chapter 4.

2.6.2.3. Eligible Projects—Cost Recovery

Through Section 1-75(c)(1)(J), RECs from "a generating unit whose costs were being recovered through rates regulated by this State or any other state or states on or after January 1, 2017" are also considered non-compliant with the Illinois RPS. The statute's stated rationale behind this prohibition is to "promote the competitive development of renewable energy resources in furtherance of the State's interest in the health, safety, and welfare of its residents."

In application, the Agency understands this limitation does not apply to municipal utilities or rural cooperatives that effectively serve as vertically-integrated utilities (as even insofar as they can achieve full cost recovery for the development of renewable energy generating facilities through rates, their rates are in most cases still not regulated by "this state or any other state or states"),[64] but would still apply to *non-electric* utilities (e.g., water, gas, telecommunications) regulated by the Illinois Commerce Commission or by another state for which rate recovery could be sought for a photovoltaic system participating in the Illinois RPS.

The law also offers more punitive consequences if a non-regulated rate facility becomes a regulated rate facility after the execution of an Illinois RPS contract. In such a situation, the contract must be terminated and "the supplier of the credits must return 110% of all payments received under the contract," with those payments then being used for the procurement of additional RECs from new wind or photovoltaic generation in the Agency's next procurement event.[65] Since the passage of P.A. 99-0906, contracts developed for the Agency's programs and procurements have contained provisions reflecting this penalty.

The Agency's approach to these issues is discussed in Chapter 4.

[64] 20 ILCS 3855/1-75(c)(1)(J).

[65] Id.

2.6.2.4. Installer & Labor Requirements

Certain facilities seeking to participate in the RPS are also subject to an installer qualification requirement. Specifically, RECs from "new photovoltaic projects or new distributed renewable energy generation devices [. . .] must be procured from devices installed by a qualified person in compliance with the requirements of Section 16-128A of the Public Utilities Act and any rules or regulations adopted thereunder."[66]

In Docket No. 17-0268, the Illinois Commerce Commission adopted its Title 83, Part 461 administrative rules for the installation of new utility-scale photovoltaic generating projects under Section 16-128A of the PUA. In that proceeding, the Commission adopted the following definition for the term "qualified person" for new utility-scale solar installations:

> *"Qualified person" means a person who performs installations on behalf of the certificate holder and who has completed at least one of the following programs requiring lab or field work and received a certification of satisfactory completion: an apprenticeship as a journeyman electrician from a USDOL-registered or an applicable state-agency-registered electrical apprenticeship and training program; a North American Board of Certified Energy Practitioners (NABCEP) distributed generation technology certification program; an electrical training program for in-house employees established and administered by an electric utility regulated by the Commission; or an Associate in Applied Science degree from an Illinois Community College Board-approved community college program in solar generation technology.*[67]

The Part 461 rules also provide a definition of the term "install":

> *"Install" means to perform the electrical wiring and connections necessary to interconnect the new solar project with the electric utility's transmission or distribution system at the point of interconnection between the project and the utility. "Install" in this Part specifically does not mean:*
>
> - *Electrical wiring and connections to interconnect the new solar project performed by utility workers;*
> - *Electrical wiring and connections internal to the new solar project performed by the manufacturer;*
> - *The on-site construction and installation of a solar panel or a collector substation; or*
> - *Tasks relating to construction, planning and project management performed by individuals such as an inspector, management planner, consultant, project designer, or contractor for the project or their employees.*

[66] 20 ILCS 3855/1-75(c)(7). The "qualified person" requirement is expressly not applicable to the Illinois Solar for All Program (see 20 ILCS 3855/1-56(b)(2), final paragraph), although installers of ILSFA projects must, under state law, still have ICC certification under Part 468 as Distributed Generation Installers.

[67] 83 Ill. Adm. Code § 461.10.

Definitions of these terms were initially approved by the Commission in a Second Notice Order on August 25, 2017 and approved with modification by the state's Joint Committee on Administrative Rules ("JCAR") on October 24, 2017 with an effective date of October 26, 2017.

Any parties seeking to develop new photovoltaic projects in Illinois should be aware of the Commission's Part 461 rules (governing installers of utility-scale photovoltaics) and Part 468 rules (governing distributed generation installers) and certification process more generally. The definition of "Qualified person"[68] may preclude the inclusion of self-installed new photovoltaic projects in the Adjustable Block Program (unless the self-installer meets the "qualified person" definition).

Through the addition of new Section 1-75(c)(1)(Q)(1) of the Act under P.A. 102-0662, most new projects supported under the Illinois RPS must also now meet Prevailing Wage Act requirements including, but not limited to, providing prevailing wage to workers engaged in the construction of new renewable energy facilities. Exceptions to these requirements exist for "houses of worship" where aggregated co-located project capacity would not exceed 100 kilowatts and "projects that serve single-family or multi-family residential buildings." Section 1-75(c)(1)(G)(iv)(ii) provided an additional exemption for previously-waitlisted Large DG ABP projects in the ABP reopening prior to the publication of this Plan. Additional information on the IPA's approach to ensuring Prevailing Wage Act compliance can be found in Chapter 7.

Under Section 1-75(c)(1)(Q)(2) of the Act, new utility-scale wind, utility-scale solar, and brownfield site photovoltaic produced RECs must also "be from facilities built by general contractors that must enter into a project labor agreement, as defined by this Act, prior to construction." That project labor agreement must be filed with the Agency Director and must "provide the names, addresses, and occupations of the owner of the plant and the individuals representing the labor organization employees participating in the project labor agreement consistent with the Project Labor Agreements Act," as well as specifying "the terms and conditions as defined by this Act." Additional information on the submission of project labor agreements for projects participating in the IPA's competitive procurements can be found in Chapter 5.

2.6.3. Compliance Mechanism: RECs vs. "Renewable Energy Resources"

An additional change to the Illinois RPS originally made through P.A. 99-0906 and maintained through P.A. 102-0662 was a focus on the use of only RECs as the compliance mechanism for meeting Illinois renewable energy procurement targets. Prior to P.A. 99-0906, Section 1-75(c) required renewable energy procurement targets to be met through the procurement of "renewable energy resources"—either a REC, or the REC and its underlying energy. While most IPA procurement activities focused only on the procurement of RECs, the 2010 long-term power purchase agreements are 20-year contracts for the delivery of a "bundled" REC and energy product.

Rather than using the term "renewable energy resources," Section 1-75(c)(1)(B) requires that the Plan "shall include the goals for procurement of renewable energy credits"[69] to meet the statute's targets. Focusing only on "RECs" makes intuitive sense: while the IPA now conducts renewable energy planning and procurement processes to meet goals and targets applicable to all retail

[68] For the definition of "qualified person" under Part 468, please see 83 Ill. Adm. Code § 468.20, http://www.ilga.gov/commission/jcar/admincode/083/083004680000200R.html.

[69] Emphasis added.

customer load,[70] its energy procurements still focus only on eligible retail customer load—thus creating a disconnect between the universes of supply requirements served by these two exercises.

Over time, the IPA has become aware of concerns held by developers of utility-scale renewable energy projects that there may be a shallow market for long-term bilateral energy off-take agreements for geographically-qualifying new projects, which developers believe are necessary for providing the revenue certainty required for financing new facility construction. The Agency understands that these concerns informed new changes to the REC pricing structure for projects supported under competitive procurements found in Section 1-75(c)(1)(G)(v) of the Act, with a shift to an Indexed REC pricing structure under which, as wholesale energy prices fall, REC prices rise commensurately—and vice versa. By allowing bidders to bid in a "strike price" reflecting both required REC and energy revenues, the Agency understands that this model—if interpreted and implemented in a manner faithful to the spirit of ensuring that project developers are made whole at that strike price—will functionally serve the same end as a bundled REC and energy contract for developers of new utility-scale wind and solar projects and their financiers. This new Indexed REC price structure is described in more detail in Chapter 5.

2.6.4. RPS Funding and Rate Impact Cap

The procurement of renewable energy credits is limited by an annual procurement budget established through a rate impact cap. Specifically, "the total of renewable energy resources procured under the procurement plan for any single year . . . shall be reduced for all retail customers based on the amount necessary to limit the annual estimated average net increase due to the costs of these resources included in the amounts paid by eligible retail customers in connection with electric service to no more than 4.25% of the amount paid per kilowatthour by those customers during the year ending May 31, 2009."[71] This amount then "shall be applied to the actual amount of kilowatthours of electricity delivered, or applicable portion of such amount [. . .] by the electric utility in the delivery year immediately prior to the procurement to all retail customers in its service territory." This produces an annual REC procurement budget for the "costs of those resources" in a given year.[72]

Through the budgets established under the rate impact cap and the associated tariffs for the collection of funds, the applicable electric utility "shall be entitled to recover all of its costs associated with the procurement of renewable energy credits" under the Plan, including "associated reasonable expenses for implementing the procurement programs, including, but not limited to, the costs of administering and evaluating the Adjustable Block program."[73] As a result, annual procurement budgets based only on REC costs would be inaccurate, and some estimate of associated administrative expenses must be included and taken into account.

[70] Specifically, the IPA's long-term renewable resources procurement plan shall include renewable resource procurement for 100% of retail customer load beginning with the delivery year beginning June 1, 2019, after procuring for an increasing portion of retail customer load for the prior two delivery years. See 20 ILCS 3855/1-75(c)(1)(B).

[71] 20 ILCS 3855/1-75(c)(1)(E).

[72] The exception referenced above in Section 1-75(c)(1)(H) serves to reduce available budgets, as "the charges that would otherwise be applicable to the retail customers of the alternative retail electric supplier . . . shall be reduced by the ratio of the quantity of renewable energy credits supplied by the alternative retail electric supplier compared to that supplier's target renewable energy credit quantity." Similarly, bill crediting under Section 1-75(c)(1)(R)'s large customer self-direct RPS compliance program serves to reduce available budgets as well.

[73] 20 ILCS 3855/1-75(c)(6).

Through changes introduced by P.A. 102-0662, Section 16-108(k) of the PUA now require utility tariffs, which authorize funding collection for the RPS, to allow for a given delivery year's unspent budget amounts to be "rolled over" for later delivery years' expenditures. Rather than requiring the refund of any unspent amounts, Section 16-108(k) now provides that RPS collections in a given year "may be spent by the utility for the procurement of renewable resources over any of the following 5 delivery years," with first priority in expenditure assigned to "money collected in earlier delivery years that has not yet been returned to customers." Relatedly, additional changes to Section 16-108(k) ensure that any amounts eligible for refund "shall be reduced by an amount equal to the payment obligations required by any contracts entered into by an electric utility . . . even if such payments have not yet been made and regardless of the delivery year in which those payment obligations were incurred." The Agency believes that these new safeguards should help ensure that the full amount of collections authorized under Section 1-75(c)(1)(E) are ultimately leveraged to support new renewable energy project development and should help address the RPS budget "cliff" problems experienced across 2021. Further discussion of how these changes impact the Agency's annual estimates of RPS budgets can be found in Chapter 3.

2.7. Quantitative New Build Targets of the RPS

Section 1-75(c)(1)(B) of the IPA Act provides percentage-based umbrella goals for RECs required to be procured based on a percentage of applicable retail customer load. But within those umbrella requirements more specific requirements must also be met—and indeed prioritized above those percentage-based goals.

One such requirement is the procurement of RECs from "new wind projects" and "new photovoltaic projects" found in Section 1-75(c)(1)(C). Rather than expressed as a percentage of load, these requirements are expressed on a quantitative basis (i.e., a statutorily-defined minimum number of RECs delivered annually) while still counting toward the overall renewables percentage-based procurement goals.

2.7.1. Quantitative Procurement Requirements

As modified by P.A. 102-0662, Section 1-75(c)(1)(C)(i) establishes aggressive new targets for the quantity of RECs procured from "new" solar and wind projects: "10,000,000 renewable energy credits delivered annually by the end of the 2021 delivery year, and increasing ratably to reach 45,000,000 renewable energy credits delivered annually from new wind and solar projects by the end of delivery year 2030." The relative proportions of those amounts are 45% from wind projects and 55% from photovoltaic projects. Of the photovoltaic project portion, the Agency shall procure "at least 50%" from the Adjustable Block Program, "at least 47%" from utility-scale solar projects, and "at least 3%" from non-community solar brownfield site photovoltaic projects.

Consistent with RPS implementation across 2017-2021, the Agency interprets this "at least 50%" concept to be in terms of RECs (as opposed to budget or installed capacity), and out of the quantitative target amounts listed in the law—and not necessarily 50% of the overall number of RECs procured. In Docket No. 17-0838 approving the IPA's Initial Long-Term Plan, the Illinois Commerce Commission authorized utility-scale photovoltaic procurements resulting in significantly more utility-scale photovoltaic RECs under contract than the Adjustable Block Program could possibly sustain given budget limitations, further reinforcing that these proportions are intended to establish minimum amounts of totals rather than proportionate overall percentages.

The Agency has made meaningful progress toward meeting these totals through prior RPS procurement activity from "new" projects, with millions of RECs already under contract to be delivered annually from new wind and new photovoltaic projects. Further discussion of this progress can be found in Chapter 3 of this Plan, while the Agency's discussion of competitive procurements for meeting these targets can be found in Chapter 5.

2.7.2. "New wind project" and "new photovoltaic project" Definition

The statute provides definitions of a "new wind project" and a "new photovoltaic project." A "new photovoltaic project" is a "photovoltaic renewable energy facilit[y] that [is] energized after June 1, 2017."[74] Projects developed under Section 1-56 of the IPA Act (i.e., supplemental photovoltaic and Illinois Solar for All projects) are not eligible to meet quantitative "new photovoltaic project" targets.[75]

The definition of a "new wind project" was revised through P.A. 102-0662. Previously, Section 1-75(c)(1)(C)(iii) defined new wind projects" as "wind renewable energy facilities that are energized after June 1, 2017 for the delivery year commencing June 1, 2017 <u>or within 3 years after the date the Commission approves contracts for subsequent delivery y</u>ears."[76] Through P.A. 102-0662, the underlined phrasing of "within 3 years after the date…" has been stricken from statute, thus no longer establishing a minimum delivery timeline requirement for a project to be considered "new". The IPA thus now understands that the "new wind project" definition essentially mirrors the "new photovoltaic project" definition, with the "for the delivery year commencing June 1, 2017" remaining within that definition referring to each delivery year thereafter as well (as, otherwise, there would be no applicable definition for a "new wind project").

Both definitions raise the question of what constitutes a facility being "energized." Unlike interconnection, where official approval is required and associated forms are produced and executed on a specific date, "energized" is more nebulous and, unfortunately, not defined through the law. Faced with a similar quandary in developing its Supplemental Photovoltaic Procurement Plan, the Agency settled on a definition of "energized" as being "the date by which the System has been turned on for a period of 24 consecutive hours and is operational for purposes of generating electricity regardless of whether the system has registered with a REC tracking system." Parties could then substantiate a system's energization through a certification accompanied by the submission of various forms establishing a system's energization timeline. The Agency notes that unlike the Supplemental Photovoltaic Procurement process, in which payment for RECs was made after REC generation and only upon delivery and invoice to the Agency, the Adjustable Block Program and the Illinois Solar for All Program feature prepayment for some, or all, of the RECs from a system upon energization. Therefore, as discussed in Chapters 7 and 8, consideration is also given to a system being registered in a tracking system to generate RECs in addition to the date on which interconnection to the utility was approved.

2.7.3. Forward Procurements Conducted Outside of This Plan

Independent of (and, in some cases, prior to) the development of the Initial Plan, P.A. 99-0906 required the IPA to conduct "initial forward procurements" of RECs from "from new utility-scale wind

[74] 20 ILCS 3855/1-75(c)(1)(C)(iii).

[75] Id.

[76] 20 ILCS 3855/1-75(c)(1)(C). (Emphasis added.)

projects" and "from new utility-scale solar projects and brownfield site photovoltaic projects."[77] Conducted through competitive procurement processes subject to applicable requirements of Section 16-111.5 of the PUA, the Initial Forward Procurement sought 15-year REC delivery contracts set to begin delivery on June 1, 2019 at the earliest and—initially—June 1, 2021 at the latest (that deadline has since been extended to June 1, 2022 through Public Act 101-0113 in the case of certain development risks). For both wind and solar, the targeted overall REC procurement quantities were 1,000,000 RECs delivered annually from each generating technology, with a single wind procurement event required to take place within 160 days of June 1, 2017 and the solar procurement potentially conducted across multiple procurement events up to one year from June 1, 2017.[78]

In a similar manner, Section 1-75(c)(1)(G)(iii) requires that the Agency "conduct at least one subsequent forward procurement for renewable energy credits from new utility-scale wind projects, new utility-scale solar projects, and new brownfield site photovoltaic projects within 240 days" after the effective date of P.A. 102-0662. The statutory requirement for completion of this procurement event is May 13, 2022—well before the Commission's deadline for approval of this Plan. The procurement quantity for this "subsequent forward procurement" is "quantities necessary to meet the requirements of subparagraph (C) of this paragraph (1) through the delivery year beginning June 1, 2021," which requires certain interpretive decisions around what REC quantities are required from which project categories through this subsequent forward procurement event to meet Section 1-75(c)(1)(C)'s "10,000,000 renewable energy credits delivered annually by the end of the 2021 delivery year" target quantity. As those decisions establishing procurement quantities for this procurement cannot be made through this Plan from a timing standpoint, they are outside of the scope of the Plan.

Section 1-75(c)(1)(G)(i) and (ii) of the Act expressly provides that RECs procured through the Initial Forward Procurement "shall be included in the Agency's Long-Term Renewable Resources Procurement Plan and shall apply to all renewable energy goals"[79] found in Section 1-75(c) of the IPA Act, including the quantitative "new wind" and "new photovoltaic" targets discussed above. While not expressly stated, the same must be true for those procurement events conducted pursuant to Section 1-75(c)(1)(G)(iii), as those procurements are required to be sized so as to meet Section 1-75(c)(1)(C)'s requirements. The Agency's actual procurement quantities for the initial forward procurements, and proposed procurement quantities for this pre-Plan/post-P.A. 102-0662 subsequent forward procurement event, are reflected in Chapter 5.

New Section 1-75(c-5) of the Act also requires the Agency to "conduct procurement events . . . of renewable energy credits from new renewable energy facilities to be installed at or adjacent to the sites of electric generating facilities that, as of January 1, 2016, burned coal as their primary fuel source" and meet other specified criteria (including the development of on-site storage projects). While this "coal-to-solar" procurement is not covered by this Long-Term Plan, RECs procured by Illinois electric utilities serving more than 300,000 customers through REC delivery contracts resulting from coal-to-solar procurements "may be included or counted for purposes of compliance with the amounts of renewable energy credits required to be procured" pursuant to Section 1-75(c) "to the extent that there are otherwise shortfalls in compliance with such requirements." Additional

[77] 20 ILCS 3855/1-75(c)(1)(G)(i), (ii).

[78] Id.

[79] Id.

information about the coal-to-solar procurement process can be found on the IPA Procurement Administrator's website: https://www.ipa-energyrfp.com/coal-to-solar/.

2.7.4. Competitive Procurements Proposed Through This Plan

To meet the aggressive targets set forth by Section 1-75(c)(1)(C) of the Act for wind, utility-scale solar, and brownfield site photovoltaic projects, additional procurement events will need to be scheduled in the years ahead.

RECs under contract from Subsequent Forward Procurements are included in tables found in Chapter 3, while further discussion of competitive procurement events including any proposed Subsequent Forward Procurements can be found in Chapter 5.

2.7.4.1. Indexed REC Price Structure

Changes to Section 1-75(c)(1)(G)(v) of the Act enacted through P.A. 102-0662 now require that "for all competitive procurements and any procurements of renewable energy credit [*sic*] from new utility-scale wind and new utility-scale photovoltaic projects," an Indexed REC price structure must be used. Under this structure, bidders offer a "strike price" defined as "a contract price for energy and renewable energy credits," akin to an all-in price for RECs and energy. Under the Indexed REC pricing structure, a resulting REC price constitutes "the difference resulting from subtracting the strike price from the index price for that settlement period," with the index price representing "the real-time energy settlement price at the applicable Illinois trading hub." If the difference in this equation results in a positive number, then the Buyer pays that amount per REC to the Seller. However, if that difference results in a negative number, then the Seller owes that amount per REC back to the Buyer.

Thus, if real-time energy settlements yielded a $40 energy settlement price, the resulting REC price under a contract featuring a $45 strike price would be $5 per REC for that settlement period. However, if real-time energy settlements yielded a $50 energy settlement price, a $45 strike price would result in a $5 per REC payment from Seller (the bidder in competitive procurements) back to the Buyer (the counterparty electric utility). To ensure that prices remain predictable and affordable, the Agency may also propose a price collar through this Plan to place boundaries around REC price volatility.

The Agency understands this new Indexed REC pricing approach to offer revenue certainty back to renewable energy project developers in a manner that functions similarly to a bundled fixed price REC + energy off-take agreement. In times when energy revenues are low, REC prices are high; in times when energy revenues are high, REC prices adjust downward accordingly. The end result is revenue certainty regardless of wholesale energy market conditions, hopefully solving financing and development barriers for entities seeking to develop new utility-scale wind and utility-scale solar projects under the Illinois RPS.

Additional discussion of the Indexed REC price structure is presented in Chapter 5.

2.7.4.2. Bid Evaluation in Competitive Procurements

P.A. 102-0662 includes two new provisions that may impact bid evaluation in competitive procurement events. Section 1-75(c)(1)(P) requires the Agency to develop "a method to optimize procurement of renewable energy credits from proposed utility-scale projects that are located in

communities eligible to receive Energy Transition Community Grants pursuant to Section 10-20 of the Energy Community Reinvestment Act." Under the Energy Community Reinvestment Act, communities eligible to receive Energy Transition Community Grants must meet one or more of the following criteria:

> (1) the area contains a fossil fuel or nuclear power plant that was retired from service or has significantly reduced service within 6 years before the application for designation or will be retired or have service significantly reduced within 6 years following the application for designation;
>
> (2) the area contains a coal mine that was closed or had operations significantly reduced within 6 years before the application for designation or is anticipated to be closed or have operations significantly reduced within 6 years following the application for designation; or
>
> (3) the area contains a nuclear power plant that was decommissioned, but continued storing nuclear waste before the effective date of this Act.

If the need to optimize selection of projects in Energy Transition Community Grant eligible communities "conflicts with other provisions of law," or if the IPA determines that compliance "would be unreasonably costly or administratively impractical," the Agency may a) propose alternative approaches to achieve the same ends or b) seek an exemption from this requirement from the ICC, presumably through this Plan approval process. Additional discussion of this Energy Transition Community Grant optimization requirement can be found in Chapter 5.

Section 1-75(c-10)(3) requires that, through this Plan, the Agency "develop requirements for ensuring that competitive procurement processes, including utility-scale solar, utility-scale wind, and brownfield site photovoltaic projects, advance the equity goals" of subsection (c-10). To comply with this Section 1-75(c-10)(3) objective, the Agency must "develop bid application requirements and a bid evaluation methodology for ensuring that utilization of equity eligible contractors . . . is optimized." Application requirements may include requiring "that winning or successful applicants for utility-scale projects are or will partner with equity eligible contractors," while bid evaluation may require "giving preference to bids through which a higher portion of contract value flows to equity eligible contractors." Additional discussion of competitive procurements can be found in Chapter 5, while the Agency's approach to implementation of subsection (c-10) can be found in Chapter 10.

2.7.4.3. Alternatives for Brownfield Site Photovoltaic Projects

Section 1-75(c)(1)(C)(i) now authorizes the Agency to "consider other approaches, in addition to competitive procurements, that can be used to procure renewable energy credits from brownfield site photovoltaic projects." The Agency understands this language to allow for a shift away from competitive procurements and to an alternative structure – whether through a fixed-price, open-enrollment program akin to the Adjustable Block Program; an application process with qualitative criteria utilized to score projects similar to how community-driven community solar operates; or something else altogether – to award REC delivery contracts to proposed brownfield site photovoltaic projects. Further discussion of this language is found in Chapter 5; for purposes of this first Plan developed pursuant to P.A. 102-0662, and especially in light of the changes offered through the shift to an Indexed REC pricing structure, this Plan proposes continued utilization of competitive procurements for supporting brownfield site photovoltaic projects. Future plans may then evaluate

the success of the competitive procurement approach relative to "other approaches" and propose modifications to this model.

2.8. Adjustable Block Program & Community Renewable Generation

As referenced above, at least 50% of the quantitative new photovoltaic project target found in Section 1-75(c)(1)(C) of the IPA Act shall be procured "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"—i.e., using the Adjustable Block Program.

2.8.1. Adjustable Block Program

At its core, the Adjustable Block Program is perhaps most notable for what it is not: it is not a "competitive procurement event" using "pay as bid" pricing with selection of bids based on price, as discussed in the Section above. Nor is it a project selection process through which the winning bidder is determined by public interest criteria, such as those set forth in Section 1-75(c)(1)(I) or used in the selection of winning bids under the Zero Emission Standard found in Section 1-75(d-5) or under the Carbon Mitigation Credit procurement found in Section 1-75(d-10) of the Act.

Instead, the Adjustable Block Program provides "a transparent annual schedule of prices and quantities to enable the photovoltaic market to scale up and for renewable energy credit prices to adjust at a predictable rate over time."[80] Stated differently, a party seeking a REC contract—such as a photovoltaic distributed generation or community solar project developer—knows the REC price in advance and generally when and how that price may change.

The law sets forth other requirements of the Adjustable Block Program: it must include "a single block of nameplate capacity, a price for renewable energy credits within that block, and the terms and conditions for securing a spot on a waitlist once the block is fully committed or reserved."[81] Each block constitutes a quantity of nameplate capacity with a REC price[82] attached to that block. Through changes made via P.A. 102-0662, transitions between blocks now occur on an annual basis, rather than through one block opening automatically at a different price after the prior block's capacity is filled.

Thus, "for each category" (of which there are now six) and "for each delivery year," the Agency is required to determine "the amount of generation capacity in each block, and the purchase price for each block"—with those blocks priced and sized to ensure that Section 1-75(c)'s REC procurement goals are met.

Pursuant to Section 1-75(c)(1)(G)(iv) of the Act as modified by P.A. 102-0662, the Adjustable Block Program reopened for REC delivery contract awards and the receipt of new project applications on December 14, 2021—90 days after the effective date of P.A. 102-0662. Decisions made for ABP reopening occurred outside of this Planning process and are not outlined here. To the extent those decisions are memorialized as program requirements on a going-forward basis, those requirements are further discussed in Chapter 7.

[80] 20 ILCS 3855/1-75(c)(1)(K).

[81] Id.

[82] Prices can be a set value, or established as the product of a formula.

2.8.1.1. Adjustable Block Program—Projects

Even with six separate project categories, the Adjustable Block Program broadly supports only two project types: photovoltaic distributed renewable energy generation devices (i.e., solar DG), and photovoltaic community renewable generation projects (i.e., community solar[83]).

Under Illinois law, a photovoltaic distributed renewable energy generation device must be:

(1) Powered by photovoltaics;
(2) interconnected at the distribution system level of either an electric utility as defined in this Section, a municipal utility as defined in this Section that owns or operates electric distribution facilities, or a rural electric cooperative as defined in Section 3-119 of the Public Utilities Act (and thus, must be located in Illinois to be interconnected to such an entity); and
(3) located on the customer side of the customer's electric meter and is primarily used to offset that customer's electricity load.[84]

Under Illinois law, a photovoltaic community renewable generation project is a generation facility that:

(1) is powered by photovoltaics;
(2) is interconnected at the distribution system level of an electric utility as defined in this Section, a municipal utility as defined in this Section that owns or operates electric distribution facilities, a public utility as defined in Section 3-105 of the Public Utilities Act, or an electric cooperative, as defined in Section 3-119 of the Public Utilities Act (and thus, must be located in Illinois to be interconnected to such an entity);
(3) credits the value of electricity generated by the facility to the subscribers of the facility; and
(4) is limited in nameplate capacity to less than or equal to 5,000 kilowatts.[85]

Only new projects—those "energized on or after June 1, 2017"—are eligible for the Adjustable Block Program.

More specifically, in terms of what project types participate at what level within the Adjustable Block Program, the ABP now provides for six separate project categories at the following levels:

(1) At least 20% from distributed renewable energy generation devices with a nameplate capacity of no more than 25 kilowatts;
(2) At least 20% from distributed renewable energy generation devices with a nameplate capacity of more than 25 kilowatts and no more than 5,000 kilowatts;[86]

[83] There are other forms of community solar recognized by Illinois law, including (A) properties owned or leased by multiple customers that contribute to the operation of an eligible renewable electrical generating facility, and (B) individual units, apartments, or properties located in a single building that are owned or leased by multiple customers and collectively served by a common eligible renewable electrical generating facility. 220 ILCS 5/16-107.5(l)(1). These forms of community solar are not eligible for the Adjustable Block Program.

[84] 20 ILCS 3855/1-10.

[85] Id.

[86] The Agency may create sub-categories within this category to account for the differences between projects for small commercial customers, large commercial customers, and public or non-profit customers.

(3) At least 30% from photovoltaic community renewable generation projects;[87]
(4) At least 15% from distributed renewable generation devices or photovoltaic community renewable generation projects installed at public schools;[88]
(5) At least 5% from community-driven community solar projects intended to provide more direct and tangible connection and benefits to the communities which they serve or in which they operate and, additionally, to increase the variety of community solar locations, models, and options in Illinois;
(6) At least 10% from distributed renewable energy devices with a nameplate capacity under 5,000 kilowatts or photovoltaic community renewable generation projects submitted by applicants that are equity eligible contractors.[89]

Over time, the Agency shall propose to increase the percentage in the equity eligible contractor category to 40% based on factors including the number of equity eligible contractors and capacity used in that category in previous delivery years. That 40% is achieved through a commensurate reduction in the percentage shares applicable to other categories.

Should any given category not be fully subscribed within a given year, the Agency is now required to redistribute that capacity by giving priority to those categories featuring waitlisted projects. The REC price applicable to those projects supported by redistributed capacity is required by law to the price applicable to that subsequent year (and not the prior year in which waitlisted projects may have originally applied).

Additional information on project qualification for these categories, including definitions and criteria applicable to "public schools," "community-driven community solar," and "equity eligible contractors," can be found in Chapter 7. That Chapter also outlines what selection criteria will be applied to select community-driven community solar projects.

The law also provides that the Adjustable Block Program shall ensure that RECs are procured from "projects in diverse locations and are not concentrated in a few geographic areas."[90] The Agency has spent time reviewing the geographic distribution of projects supported thus far through the Adjustable Block Program and has found that the Program generally features very strong geographic diversity. Some exceptions certainly exist – for instance, while community solar projects facilitated through the program look well-dispersed on a map of the state, development has almost exclusively occurred in less populated rural areas featuring lower land cost – but the IPA has generally been pleased with the degree to which the tens of thousands of projects supported to date through the Adjustable Block Program more broadly demonstrate geographic diversity.

Moving forward, the Agency commits to continue monitoring the locations of proposed and completed projects. The Agency publishes a map on its Adjustable Block Program website providing

[87] This category shall open "[s]tarting in the third delivery year after the effective date of this amendatory Act of the 102nd General Assembly or earlier if the Agency determines there is additional capacity needed for to meet previous delivery year requirements." 20 ILCS 3855/1-75(c)(1)(K)(iii).

[88] The Agency may also create subcategories within this category to account for the differences between project size or location, and projects located within environmental justice communities or within Organizational Units that fall within Tier 1 or Tier 2 shall be given priority.

[89] 20 ILCS 3855/1-75(c)(1)(K).

[90] 20 ILCS 3855 1/75(c)(1)(K).

a visual display of project location by zip code.[91] Further discussion of the geographic diversity of Adjustable Block Program projects is found in Chapter 7.

2.8.1.2. Adjustable Block Program—Contracts

Section 1-75(c)(1)(L) sets forth certain requirements applicable to REC delivery contracts entered into through the Adjustable Block Program, with those requirements having been modified extensively through P.A. 102-0662. In accordance with changes in law and depending on ABP category, the delivery term for a REC delivery contract may now be 15 years or 20 years in length. As the Buyer counterparty, payment for RECs is made by (and RECs are delivered to) the applicable electric utility (which must then retire the RECs), and payment must occur according to the following schedule:

- For DG systems of no more than 25 kW, the full contract value "shall be paid in full, based on the estimated generation during the first 15 years of operation" upon verification by the Program Administrator of energization.[92] The contract length (delivery term) of these contracts is 15 years.[93]
- For both large DG systems (more than 25 kW but less than 5MW) and community-driven community solar projects, 15% of the contract value shall be paid upon verification of energization by the program administrator, with the remaining portion "paid ratably over the subsequent 6-year period. The contract length (delivery term) of these contracts is likewise 15 years.[94]
- For both the non-community driven (traditional) community solar projects and public school projects, "the renewable energy credit delivery contract length shall be 20 years and shall be paid over the delivery term, not to exceed during each delivery year the contract price multiplied by the estimated annual renewable energy credit generation amount."[95] This "paid-upon-delivery" structure resembles utility-scale contracts more so than prior ABP contracts.
- For the equity eligible contractor category, the payment terms applicable to the category in which the system would otherwise fall generally apply. For example, a Small DG system participating in the equity equitable contractor block would receive a 15-year REC delivery contract with full payment upon energization. However, contracts under the equity eligible contractor category may also feature a payment structure through which "applicant firms are advanced capital disbursed after contract execution but before the contracted project's energization" based on a demonstration of qualification or need.[96] This capital advancement would not serve to increase the overall contract value, but would allow prepayment of a share of expected contract revenues to assist with predevelopment activities. Qualification

[91] See: https://illinoisabp.com/project-map/.

[92] 20 ILCS 3855/1-75(c)(1)(L)(ii). The Agency understands this provision to mean that a system of exactly 25 kW in size would be included in this category.

[93] All prepayment remains subject to the amounts collected by the utilities under its Section 16-108(k) tariffs, however, and other available funds (such as alternative compliance payments). (See Section 1-75(c)(1)(L)(vii)).

[94] 20 ILCS 3855/1-75(c)(1)(L)(iii).

[95] 20 ILCS 3855/1-75(c)(1)(L)(iv).

[96] 20 ILCS 3855/1-75(c)(1)(K)(vi).

requirements for pre-energization capital and the amount or percentage of pre-energization capital available to qualified applicants is outlined in Chapter 7.

Prepayment poses unique challenges. While RECs are required to be delivered when generated to meet annual utility compliance obligations, prepayment reduces the incentive to actually deliver RECs. On this point, the law requires that each contract "shall include provisions to ensure the delivery of the estimated quantity of renewable energy credits and ongoing collateral requirements and other provisions deemed appropriate by the Agency."[97]

This Plan's proposed approach to Adjustable Block Program contracts generally, as well as to the clawback provisions, collateral requirements and other contract elements intended to ensure REC delivery, can be found in Chapter 7.

2.8.1.3. Adjustable Block Program—Midstream Changes

Unlike a competitive procurement process, through which changes in market conditions may be reflected in bidders' bids, the Adjustable Block Program requires that the Agency project future market conditions through establishing annual block sizes and prices.

The law envisions these changes occurring in two ways: first, the Agency "may periodically review its prior decisions establishing the amount of generation capacity in each block, and the purchase price for each block, and may propose, on an expedited basis, changes to these previously set values" subject to the Section 16-111.5 plan revision process.[98]

Second, "[p]rogram modifications to any block price that do not deviate from the Commission's approved value by more than 10% shall take effect immediately and are not subject to Commission review and approval."[99] To prevent the requirement that the Agency seek formal administrative approval for large modifications from being effectively ignored, the Agency believes this threshold should be understood as a 10% change based on the last formally approved (i.e., through revision of the Plan via Commission's Section 16-111.5 approval process) price for that particular annual block.

Section 1-75(c)(1)(M) of the Act requires that the Agency "consider stakeholder feedback when making adjustments to the Adjustable Block design" and "notify stakeholders in advance of any planned change." Likewise, the law requires that "[t]he Agency and its consultant or consultants shall monitor block activity, share program activity with stakeholders and conduct quarterly meetings to discuss program activity and market conditions." In implementing the program, the Agency has to date attempted to seek stakeholder feedback for the development of key program requirements or new forms and documents; such documents are published on the program website (www.illinoisabp.com) and new requirements are incorporated into the Adjustable Block Program Guidebook.[100] The program website also features a program dashboard updated daily to provide stakeholders with daily data on block activity,[101] project information spreadsheets to provide

[97] 20 ILCS 3855/1-75(c)(1)(L)(v).

[98] 20 ILCS 3855/1-75(c)(1)(K).

[99] 20 ILCS 3855/1-75(c)(1)(M).

[100] Both the presently effective Guidebook and prior editions of the Guidebook can be found here: http://illinoisabp.com/program-guidebook.

[101] The Adjustable Block Program dashboard can be found here: https://illinoisabp.com/block-capacity-dashboard-2/.

increased transparency about photovoltaic projects supported through the Adjustable Block Program,[102] and a map of projects supported through the program to date.[103]

2.8.1.4. Adjustable Block Program—Consumer Protection

In its Initial Plan, the Agency proposed and the Commission approved several consumer protection measures constituting terms, conditions, and requirements for the receipt of state-administered incentive funds under the Adjustable Block Program and Illinois Solar for All Program. The Agency then developed an Approved Vendor registration and approval process, standardized disclosure forms, a standardized program brochure, minimum contract requirements, and marketing requirements across 2017 and 2018, with those items updated periodically since.

Revisions made to Section 1-75(c)(1)(M) of the Act now memorialize, reinforce, and expand the Agency's consumer protection responsibilities. In addition to those items proposed through this Long-Term Plan or developed thereafter, these new-to-statute terms, conditions, and requirements include the following:

> (i) A registration process for entities seeking to qualify for program-administered incentive funding and baseline qualifications for vendor approval, with a list of approved entities on each program's website. The agency may also revoke a vendor's ability to receive program-administered incentive funding upon a determination that the vendor failed to comply with contract terms, the law, or other program requirements.
>
> (ii) Program requirements and minimum contract terms to ensure projects are properly installed and produce their expected amounts of energy, including on-site inspections and photo documentation. The Agency may require repairs, alterations, or additions to remedy any material deficiencies discovered, and bar Approved Vendors with a disproportionately high number of deficient systems from program participation.
>
> (iii) Standardized disclosures to a customer prior to that customer's execution of a contract for the development of a distributed generation system or a subscription to a community solar project.
>
> (iv) Establishment of Consumer Complaints Centers to accept complaints connected with the programs and a public database of complaints.
>
> (v) An annual written report to the ICC documenting the frequency and nature of complaints and any enforcement actions taken in response to those complaints.
>
> (vi) Regular meetings with the Office of the Attorney General, the ICC, consumer protection groups, and other interested stakeholders regarding consumer protection matters.
>
> (vii) Referrals of complaints to the Office of the Attorney General, the Illinois Commerce Commission, or local, State, or federal law enforcement where appropriate.

As the requirement to establish these consumer protection items applies to the "program administrators for both the Adjustable Block program and the Illinois Solar for All Program," the Agency understands these items to be minimum statutory consumer protection requirements

[102] Project application disclosure information can be found here: http://illinoisabp.com/project-information-disclosure-process.

[103] The ABP project map can be found here: https://illinoisabp.com/project-map/.

applicable to the Illinois Solar for All Program as well. The additional requirements found in Section 1-56(b) for ILSFA projects, sites, applicants, and customers create consumer protection requirements for the Illinois Solar for All Program beyond those applicable to the ABP.

2.8.2. Community Renewable Generation Projects

Section 1-75(c)(1)(N) as modified by P.A. 102-0662 requires that the Agency "establish the terms, conditions, and program requirements for photovoltaic community renewable generation projects 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."[104] While only community solar projects are supported through the Adjustable Block Program, Section 1-75(c)(1)(N) allows the IPA to "consider whether community renewable generation projects utilizing technologies other than photovoltaics should be supported through State-administered incentive funding" and the Agency "may issue requests for information to gauge market demand."

Additional considerations applicable to community renewable generation projects and subscriptions are outlined below.

2.8.2.1. Portability and Transferability of Subscriptions

Section 1-75(c)(1)(N) provides that "subscriptions" to community renewable generation projects must be portable (i.e., retained by the subscriber even if the subscriber relocates within the same utility service territory) and transferable (i.e., a subscriber may assign or sell subscriptions to another person within the same utility service territory).

During the implementation of the Adjustable Block Program, some entities have raised questions regarding the scope of the portability and transferability of community solar subscriptions. It seems clear that the law did not envision completely unconditional portability or transferability: if a resident holding a community solar subscription were to move from a large house to a small apartment, the resultant drop in energy consumption may necessitate downsizing the subscription. Likewise, a transferee may be an unworkable recipient of an existing subscriber's community solar subscription for many reasons, from being legally ineligible (outside of that utility's service territory) to posing a more significant non-payment risk than the transferor. At the same time, allowing unbounded Approved Vendor-imposed restrictions on portability or transferability could defeat the spirit of the law's requirement that subscriptions be portable and transferable.

Through revisions to Section 1-75(c)(1)(N) provided by P.A. 102-0662, the law clarifies that these concepts shall be "subject to reasonable limitations." As additional projects energize and begin to cycle through subscribers, the Agency hopes to learn more about what considerations should inform the parameters of portability and transferability requirements.

2.8.2.2. Opt-Out Municipal Aggregation

Certain stakeholders have raised the question of whether community renewable generation project subscriptions (specifically, community solar subscriptions) may be eligible for execution via opt-out municipal aggregation authorized under Section 1-92 of the IPA Act. Under opt-out municipal

[104] 20 ILCS 3855/1-75(c)(1)(N).

aggregation, municipalities (after passing authorizing referenda) may aggregate their residential and small commercial customer load and contract with an alternative retail electric supplier to supply those customers with "energy and related services" at a negotiated supply rate unless that customer expressly chooses to "opt-out" of the transaction.

For the IPA, in its role as the entity charged with administering the Adjustable Block Program and Illinois Solar for Program, this raises, at minimum, two questions:

First, is the enrollment of a customer into a subscription for a community solar project without their direct authorization or consent (i.e., on an "opt-out" basis) legally authorized by Section 1-92 of the IPA Act's governmental aggregation provisions?

Second, even if legally authorized, would that relieve Approved Vendors from program-related responsibilities with respect to individual subscribers, including the requirement that each customer complete a disclosure form acknowledging participation in the program?

As to the first question, the IPA is highly skeptical that opt-out municipal aggregation could legally cover community solar subscriptions, which were not contemplated anywhere in Illinois law when Section 1-92 was enacted via Public Act 96-0176 in 2009 (and notes that countless implementation issues would be raised under such an approach).[105] However, only the second of these questions falls within the scope of this Plan. On that question, the Agency's disclosure form requirements discussed above, and now expressly required under changes to Section 1-75(c)(1)(M) of the Act, are fundamental to subscribers receiving standardized information. Those requirements constitute the backbone of the Agency's efforts to deliver uniform content about the rights and obligations under a ratepayer-funded program to everyday citizens. That standardized information and express acknowledgment by a subscriber is an essential form of education that must be provided to each individual participant to produce a transparent, positive experience in IPA programs. Thus, even if some colorable argument could be made that community solar subscribers could be enrolled without each individual subscriber providing direct consent to a given subscription, the Agency would not waive its program-specific consumer protection requirements—including its standardized brochure and the receipt and execution of a disclosure form.

In Docket No. 19-0995, the Illinois Commerce Commission agreed, determining that any community solar subscription aggregation program (if legally possible) for a project participating in the ABP or ILSFA would be required to ensure that every individual subscriber receives and executes an individualized standard disclosure form.[106] The Commission likewise agreed with the Agency that the question of whether opt-out municipal aggregation for community solar subscriptions is legally authorized under Section 1-92 of the IPA Act is an issue outside the scope of Plan approval, finding that "this proceeding is not the forum for the Commission to decide the legality of opt-out municipal aggregation for community solar subscriptions, as numerous interested stakeholders - such as the many municipalities that might be interested and the private brokers that might assist them in soliciting bids - would not be on notice that the issue is being decided."[107]

[105] Any community renewable generation project that does not participate in an IPA-administered program or procurement may freely operate outside of this Revised Plan's requirements. However, given the Agency's express statutory role (separate from its role administering renewable resources programs under this Plan) assisting governmental aggregation programs under Section 1-92(g) of the Act, the Agency's perspective should carry advisory authority.

[106] Docket No. 19-0995, Final Order dated Feb. 18, 2020 at 7.

[107] Id.

2.9. Illinois Solar for All Program

As described in Section 1-56(b) of the IPA Act, the Illinois Solar for All Program "provides incentives for low-income distributed generation and community solar projects, and other associated approved expenditures" in order "to bring photovoltaics to low-income communities in this State in a manner that maximizes the development of new photovoltaic generating facilities, to create a long-term, low-income solar marketplace throughout this State, to integrate, through interaction with stakeholders, with existing energy efficiency initiatives, and to minimize administrative costs." Further, the program shall be "designed to grow the low-income solar market."[108]

The Program shall also "maximize efficiencies and synergies available through coordination with similar initiatives, including the Adjustable Block program . . . energy efficiency programs, job training programs, and community action agencies." The Agency shall strive to ensure that support is provided to "projects across the breadth of low-income and environmental justice communities in Illinois, including both urban and rural communities," and "not concentrated in a few communities" or excluding any "particular low-income or environmental justice communities."

A statutory overview of the Illinois Solar for All Program (which began accepting project applications on May 15, 2019), as well as the individual sub-programs under the Illinois Solar for All banner, is below.

2.9.1. Illinois Solar for All—Overview

At its core, the Illinois Solar for All Program is an incentive program—through more generous REC prices, the Illinois Solar for All Program incents low-income (as well as non-profit and public facility) participation in solar photovoltaic projects, whether as a system owner, community solar project subscriber, or system host. Those RECs are retired by the counterparty Buyer (either the Agency or a utility) to satisfy Section 1-75(c) compliance obligations just as with the other procurements and programs described above, while the additional premium helps grow the low-income solar marketplace and ensure more equitable access to the benefits of clean energy. Thus, structurally, the law envisions the Solar for All Program's incentive being offered through contracts for the delivery of RECs at a premium price, supplying the higher incentive necessary to ensure low-income participation. The Agency also may offer full contract prepayment or otherwise relax (or enhance) requirements in recognition of the unique challenges facing low-income project development.

While the program features no hard targets or goals for the quantity of RECs procured, it does feature defined funding sources. First, Illinois Solar for All is funded through the Renewable Energy Resources Fund. At the time of publishing this draft Plan, the current balance of the RERF is presently just over $29 million, with an additional $108.5 million remaining transferred to the state's General Revenue Fund ($98.5 million) and Health Insurance Reserve Fund ($10 million) for liquidity purposes. The IPA considers any contractual obligations from the RERF pre-dating Illinois Solar for All (specifically, Supplemental Photovoltaic Procurement contracts) to be senior to any new obligations entered into through the Illinois Solar for All Program,[109] and approximately $4.5 million

[108] 20 ILCS 3855/1-56(b)(2).

[109] This appears to be the intent evident in Section 1-56(b) as well, as that section prefaces the percentage-based allocation of RERF funds with the qualifier "monies available in the Illinois Power Agency Renewable Energy Resources Fund and <u>not otherwise committed to contracts executed under subsection (i) of this Section</u>." (emphasis added)

in such prior obligations remain outstanding.[110] State law requires that the remaining $108 million be transferred back into the RERF within 60 months of its transfer[111] ($88.5 remaining from the August 2017 transfer, $10 million from the January 2020 transfer, and $10 million from the March 2020 transfer), but no additional alternative compliance payments are due to be made into the RERF.

Second, Illinois Solar for All is funded through a portion of funds collected by the utilities under their Section 16-108(k) RPS tariffs for purchases made under Section 1-75(c) of the IPA Act. Under Section 1-75(c)(1)(O) as revised by P.A. 102-0662, the Plan "shall allocate up to $50,000,000 per delivery year to fund the programs, and the plan shall determine the amount of funding to be apportioned to the programs." This $50 million cap constitutes a nearly five-fold increase from the utility collections previously authorized to support the ILSFA Program. For the delivery years beginning June 1, 2021, June 1, 2022, and June 1, 2023, that total amount may be reached by averaging, such that a lower budget in an earlier year could be made up for through a larger budget in a later year. Every three years, an additional $10,000,000 shall also be provided to DCEO to implement workforce development programs authorized under Section 16-108.12 of the PUA; this also constitutes a change, as that funding had previously been allocated to ComEd for those programs (and on four-year intervals).

Under the Illinois Solar for All Program, payments "shall be in exchange for all renewable energy credits generated by the system during the first 15 years of operation and shall be structured to overcome barriers to participation in the solar market by the low-income community."[112] The contract "may pay for such renewable energy credits through an upfront payment per installed kilowatt of nameplate capacity paid once the device is interconnected at the distribution system level of the interconnecting utility and verified as energized," giving the Agency flexibility in proposing contract structures.[113]

The counterparty to Illinois Solar for All contracts executed using RERF funds is the Agency, while the counterparty to contracts executed using utility funds is the applicable utility.

While the Act does not require an annual RERF budgetary allocation to ILSFA, the Agency continues to propose to allocate funds and consider project applications based on "program years," which track the same period of time as energy delivery years (June 1st of one year to May 31st of the following year). The Agency's proposed budget allocations by program year are described in detail in Chapter 8.

In addition to payments for REC delivery contracts, the law provides that "[t]he Agency shall direct up to 5% of the funds available under the Illinois Solar for All Program to community-based groups and other qualifying organizations to assist in community-driven education efforts related to the Illinois Solar for All Program." Authorized grassroots education activities include "general energy education, job training program outreach efforts," and other activities but "shall not be used to support the marketing by solar project development firms and organizations, unless such education provides equal opportunities for all applicable firms and organizations."[114] Notably, for grassroots

[110] Supplemental Photovoltaic Procurement contracts were for the delivery of RECs for 5 years, with payment for RECs made upon delivery; the procurement's original budget was $30 million.

[111] 30 ILCS 105/5h.5(b).

[112] 20 ILCS 3855/1-56(b)(3).

[113] Id.

[114] Id.

education efforts this amount is not based only on the balance of the RERF; it is instead "up to 5% of the funds available under the Illinois Solar for All Program," and thus also inclusive of any Section 1-75(c) or 16-108(k) funds. In implementation, the Agency has decided to award grassroots education contracts through a competitive RFP process, with those entities serving as subcontractors to the Agency's Illinois Solar for All Program Administrator and performing grassroots education activities under that master contract.[115]

In addition to grassroots education, "costs associated with procuring experts, consultants, and the program administrator . . . and related incremental costs, costs related to income verification and facilitating customer participation in the program, and costs related to the evaluation of the Illinois Solar for All Program" may be paid out of the RERF.[116]

2.9.2. Illinois Solar for All—Sub-programs

Illinois Solar for All is designed to support specific defined project types, and to this end, Illinois Solar for All features four sub-programs with percentage-based funds allocations applicable to each. As clarified through P.A. 102-0662, these percentages apply to both support from the RERF and from utility collections, although these allocations are merely initial percentages and may be altered "if the Agency, after receiving input through a stakeholder process," determines that any individual sub-program has not been adequately subscribed to fully utilize ILSFA funds.

For the purposes of this Plan subsection, an individual sub-program may be referred to as a "program" (as is done within Section 1-56(b)(2) of the Act) or a "sub-program" (which is more intuitive, as these programs are programs *within* the Illinois Solar for All Program). Regardless of verbiage, each constitutes an initiative operating inside the Illinois Solar for All Program structure and is subject to its general requirements, including Approved Vendor qualification requirements, but with separate program year budgets and project application requirements

In addition to these four sub-programs, the Agency or a party may propose additional sub-programs through this Long-Term Plan. Such new programs "may target market segments not specified above and may also include incentives targeted to increase the uptake of nonphotovoltaic technologies by low-income customers, including energy storage paired with photovoltaics"—but only if "the Commission determines that the Illinois Solar for All Program would provide greater benefits to the public health and well-being of low-income residents through also supporting that additional program versus supporting programs already authorized."

Through P.A. 102-0662, the Low-Income Community Solar Pilot Project Program was struck from Section 1-56(b) (previously subparagraph (D)), while a new Low-Income Large Multifamily Solar Incentive Program took its place (within subparagraph (E)). REC delivery contracts, program requirements, and statutory requirements applicable to projects having successfully participated under subparagraph (D) remain in effect, but the Agency may no longer conduct additional Low-Income Community Solar Pilot Project procurements.

[115] More information on the Illinois Solar for All grassroots education process can be found here: https://www.illinoissfa.com/grassroots-education and in Section 8.15.5.

[116] 20 ILCS 3855/1-56(b)(3).

2.9.2.1. Low-Income Single-Family and Small Multifamily Solar Incentive

The Low-Income Single-Family and Small Multifamily Solar Incentive sub-program "provide[s] incentives to low-income customers, either directly or through solar providers, to increase the participation of low-income households in photovoltaic on-site distributed generation at residential buildings containing one to 4 units."[117] Used for this sub-program and others, the term "solar provider" has no definition in the statute; to allow the market to determine appropriate models, the Agency has determined that "solar providers" can refer to any entity which has a contractual relationship with the low-income customer in connection with the underlying photovoltaic system (whether in the form of purchase, leasing, installation, aggregation, or financing).

The law also requires that "an administrator shall facilitate partnering the companies that install solar panels with entities that provide solar panel installation job training."[118] The IPA understands this to mean its third-party Program Administrator engaging in such facilitation, and this is presently part of the ILSFA Program Administrator's scope of work.

The IPA Act also includes a provision that "[c]ontracts entered into under this paragraph may be entered into with an entity that will develop and administer the program."[119] It is unclear how the administrator could leverage state funds for this use, and at present, all such contracts will be entered into between Approved Vendors (Sellers) and the State of Illinois or a participating utility (Buyers).

Through P.A. 102-0662, this sub-program also now contains extensive support for projects that demonstrate energy sovereignty (see Section 2.9.3.3 below), which is intended to support "ownership of projects by low-income households, not-for-profit organizations providing services to low-income households, affordable housing owners, community cooperatives, or community-based limited liability companies providing services to low-income households" that "ensure that local people have control of the project and reap benefits from the project over and above energy bill savings." Program and contract requirements may be developed to ensure faithful compliance with these objectives by entities benefitting from additional energy sovereignty support (whether through reserved program capacity or higher REC prices). Additional discussion of energy sovereignty can be found below, in Chapter 8, and in Appendix G.

The Agency shall also "make every effort" to ensure that ABP solar providers can "easily participate in this program." According to Section 1-56(b)(2)(A)(ii) such efforts could include "utilizing similar or the same application systems and processes, similar or the same forms and formats of communication, and providing active outreach to companies participating in one program but not the other." The Agency's proposed strategies for encouraging increased participation in the two low-income distributed generation sub-programs can be found in Chapter 8.

Along with the Low-Income Large Multifamily Solar Incentive Program, these two sub-programs are allocated 35% of available funds.

[117] 20 ILCS 3855/1-56(b)(2)(A).

[118] Id.

[119] Id.

2.9.2.2. Low-Income Community Solar Project Initiative

Through the Low-Income Community Solar Project Initiative, "[i]ncentives shall be offered to low-income customers, either directly or through developers, to increase the participation of low-income subscribers of community solar projects."[120] Again, the term "developer" is undefined in the law. As community solar project subscriptions may be actively marketed by entities other than the photovoltaic project "developers," no guidance is provided as to whether this phrasing is intended to include all entities marketing such subscriptions or only the project's actual developer.

The program requires that each participating project's developer "shall identify its partnership with community stakeholders regarding the location, development, and participation in the project."[121] Undefined in this phrasing is what constitutes a "community stakeholder," or whether the project itself must include "community stakeholders" from the community in which the project is located (presumably so), the community of any subscribers (unclear), or both (also unclear).

Pre-P.A. 102-0662 statutory language stating that "[i]ncentives should also be offered to community solar projects that are 100% low-income subscriber owned, which includes low-income households, not-for-profit organizations, and affordable housing owners" has been struck from the law and replaced by energy sovereignty language found elsewhere Section 1-56(b)(2);[122] the Agency's approach to energy sovereignty under the ILSFA Program is discussed more extensively below, in Chapter 8, and in Appendix G.

The law also provides that "[c]ontracts entered into under this paragraph may be entered into with developers,"[123] which the IPA has interpreted to mean that a project developer, upon a sufficient showing of low-income participation, may qualify for a contract award.

This sub-program is allocated 40% of available funding.

2.9.2.3. Incentives for Non-profits and Public Facilities

The third Illinois Solar for All sub-program provides that funding "shall be used to support on-site photovoltaic distributed renewable energy generation devices to serve the load associated with not-for-profit customers and to support photovoltaic distributed renewable energy generation that uses photovoltaic technology to serve the load associated with public sector customers taking service at public buildings."[124] Stated differently, the program operates similarly to the first sub-program—an incentive for on-site DG through a higher-priced REC contract—only with different eligibility requirements (not-for-profit customers and public sector customers taking service at public buildings).

This limited statutory guidance raises the question of whether all non-profits and all public sector entities may qualify for the sub-program, or whether some nexus with the broader "low-income" intent of Illinois Solar for All is required. As discussed further in Chapter 8, the IPA believes that

[120] 20 ILCS 3855/1-56(b)(2)(B).

[121] Id.

[122] Id.

[123] Id.

[124] 20 ILCS 3855/1-56(b)(2)(C).

some level of community involvement may be required to maintain consistency with the spirit of the law.[125]

This sub-program also combines referenced elements of each of the prior programs, stating that "[c]ontracts may be entered into with an entity that will develop and administer the program or with developers,"[126] which carries similar challenges to those referenced above.

This sub-program is allocated 25% of available funding.

2.9.2.4. Low-Income Large Multifamily Solar Incentive

The fourth sub-program, now outlined through subparagraph (E) to Section 1-56(b), is the Low-Income Multifamily Solar Incentive. This sub-program provides incentive funding "to low-income customers, either directly or through solar providers, to increase the participation of low-income households in photovoltaic on-site distributed generation at residential buildings with 5 or more units." This new sub-program in one sense replaces the Low-Income Community Solar Pilot Project program previously offered under subparagraph (D), but can also be viewed as an expansion of the previous Low-Income Distributed Generation Incentive program—with that program now split into two separate sub-programs for residential projects (one single family/small multifamily; one large multifamily).

Additional requirements applicable to this new multifamily building subprogram include job trainee, energy sovereignty, and environmental justice community requirements discussed further below.

Along with the Low-Income Single Family and Small Multifamily Solar Incentive Program outlined in subparagraph (A), these two sub-programs are allocated 35% of available funds.

2.9.3. Illinois Solar for All—Additional Requirements

Section 1-56(b) also provides that, under Illinois Solar for All, "[e]ach contract that provides for the installation of solar facilities shall provide that the solar facilities will produce energy and economic benefits, at a level determined by the Agency to be reasonable, for the participating low income customer."[127] The Agency believes that this requirement is in part met through the premium attached to the REC price under Illinois Solar for All (and "energy benefits" for community solar and distributed generation projects are already handled though bill crediting and net metering provisions over which the Agency lacks jurisdiction), and provides support for consumer protections to ensure that low income customers indeed receive benefits in entering into contractual arrangements with installers, project developers, aggregators, or other intermediaries. Those specific requirements are discussed in more detail in Chapter 8 and 9.

Illinois Solar for All contracts must also "ensure the wholesale market value of the energy is credited to participating low-income customers or organizations,"[128] which, again, is an issue handled through net metering, but can be emphasized in resulting contracts. Contracts must also ensure that "tangible economic benefits flow directly to program participants, except in the case of low-income multi-

[125] More information on what is presently required from qualifying non-profits and public facilities can be found here: https://www.illinoissfa.com/programs/nonprofit-organizations-and-public-agencies.

[126] Id.

[127] 20 ILCS 3855/1-56(b)(2).

[128] Id.

family housing where the low-income customer does not directly pay for energy."[129] While the law does not define "tangible economic benefit" (or, for that matter, a "program participant"), the Agency will continue to require, consistent with the Commission Order approving the Initial Plan,[130] that ongoing annualized payments by the customer (if any) must be less than 50% of the annual first year estimated production and/or utility default service net metering value to be received by the customer. The tangible benefits language also provides further reason to ensure that marketing practices are standardized such that low-income customers receive clear, standardized information about the benefits to be expected from an Illinois Solar for All project.

The law also directs that priority to be given to projects that "demonstrate meaningful involvement of low-income community members in designing the initial proposal."[131] Here again, the law provides no definition of "meaningful involvement" nor does it define a "low-income community member," and it is unclear whether this would be distinct from an "environmental justice community" or what constitutes a community "member." The law further provides that "[a]cceptable proposals to implement projects must demonstrate the applicant's ability to conduct initial community outreach, education, and recruitment of low-income participants in the community;" again, the term "participants in the community" is undefined and entirely unclear, but the Agency does understand this language as providing that entities seeking to market installations or community solar subscriptions using Illinois Solar for All contracts must, at a minimum, be certified by the Agency and possess some baseline level of demonstrated competency. The Agency's approach to vendor certification through its Approved Vendor process is discussed further in Chapters 7 and 8.

2.9.3.1. Environmental Justice Communities

All four sub-programs also contain "a goal . . . that a minimum of 25% of the incentives for this program be allocated to community photovoltaic projects in environmental justice communities."[132] Through changes to Illinois law made by P.A. 102-0662, other programs and state agencies now rely on this "environmental justice community" definition for their determinations of program and funding eligibility.

The Agency's definition offered to the term "environmental justice community" is discussed further in Chapter 8 and, at present, is described more comprehensively on the Illinois Solar for All website, which allows for users to search qualification status by address.[133]

2.9.3.2. Trainee Requirements

As growing the low-income solar market involves more than just REC delivery contracts making photovoltaics more affordable, the law also requires that projects "include job training opportunities if available," and provides that such job training opportunities should occur through coordination with the job training programs proposed in the Workforce Development Plan produced through Section 16-108.12 of the PUA and through the Energy Transition Act.

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[129] Id.

[130] Docket No. 17-0838, Final Order dated April 3, 2018 at 150-151.

[131] 20 ILCS 3855/1-56(b)(2).

[132] 20 ILCS 3855/1-56(b)(2)(A), (B), (C), and (E).

[133] See: https://www.illinoissfa.com/environmental-justice-communities.

Through P.A. 102-0662, Section 1-56(b)(2) now requires that, for all sub-programs, "the specific level of trainee usage" is to be determined through the Long-Term Plan. Previously, a baseline minimum level of trainee usage applied only to the Low-Income Distributed Generation subprogram; through this change the IPA understands Section 1-56(b)(2) to now require minimum trainee usage levels for all four sub-programs (with the availability for waivers where appropriate), and not only for the subprogram referenced within subparagraph (A) (the scope of which has itself now changed).

The Agency's approach to encouraging that projects use job trainees to help build the low-income solar marketplace is discussed further in Chapter 8.

2.9.3.3. Energy Sovereignty

New language found throughout Section 1-56(b)(2) is intended to encourage participation from more project proposals which demonstrate "energy sovereignty", which is not defined by the statute. Express language requiring support for projects that facilitate energy sovereignty can be found in subparagraphs (A), (B), and (E); for subparagraph (C), language about necessary safeguards through program and contract requirements is included, but not specific language about providing support for projects demonstrating energy sovereignty (and from a public policy perspective, the energy sovereignty concept would appear to be a less acute concern for non-profits and public facilities).

As the Agency understands it, the primary objective in providing dedicated support for projects that promote energy sovereignty is to ensure wealth-building for low-income communities. It allows program participants to access project benefits above and beyond the financial savings and other direct benefits that more detached participation may offer to low-income Illinois residents. Section 1-56(b)(2) envisions two primary means for promoting energy sovereignty: 1) dedicated portions of a sub-program budget reserved for projects that promote energy sovereignty; and 2) heightened incentive levels (i.e., higher REC prices) for projects that promote energy sovereignty. Given the full prepayment model used for ILSFA REC delivery contracts coupled with the reality that accomplishing energy sovereignty may entail confirmation of progress well after the project's energization, certain subparagraphs within Section 1-56(b)(2) also expressly reference "additional program and contract requirements to ensure faithful compliance" with energy sovereignty standards.

Appendix G contains an analysis of the energy sovereignty concept, including what businesses models could be utilized to accomplish energy sovereignty and how those and other models may work within individual ILSFA sub-programs. For this draft Plan, the Agency is interested in stakeholder feedback on how these concepts can be best reduced to more discrete project application requirements. Additional discussion of energy sovereignty requirements for Illinois Solar for All sub-programs can be found in Chapter 8.

2.9.3.4. Small and Emerging Businesses

P.A. 102-0662 introduced new language into Section 1-56(b)(2) encouraging the Agency to "make every effort to ensure that small and emerging businesses, particularly those located in low-income and environmental justice communities, are able to participate in the Illinois Solar for All Program." This language provides no definition for what constitutes a "small" or "emerging" business, but does list activities that would constitute such efforts: proactive support from the program administrator; different or preferred access to subprograms and administrator-identified customers or grassroots

education provider-identified customers, and different incentive levels. This Plan's approach to supporting small and emerging businesses under Illinois Solar for All can be found in Chapter 8.

This new language contains a reporting requirement, through which the IPA "shall report on progress and barriers to participation of small and emerging businesses in the Illinois Solar for All Program at least once a year." That report must be made available on the IPA's website and included with the Long-Term Plan in applicable years.

2.9.4. Illinois Solar for All—Third-party Program Administrator

To assist the Agency in its administration of the Illinois Solar for All Program, Section 1-56(b)(5) permits the Agency to retain a third-party program administrator (or administrators) through an RFQ/RFP solicitation and competitive bid process. The selection criteria and requirements must include, but are not limited to, "experience in administering low-income energy programs and overseeing statewide clean energy or energy efficiency services."

Through revisions to Section 1-56(b)(2)(5), Illinois law now provides that the Illinois Solar for All program administrator "may be, but need not be, the same administrator as for the Adjustable Block Program." Through this Plan the Agency shall also determine "if individual subprograms of the Illinois Solar for All Program are better served by a different or separate Program Administrator." As a public body, however, retention of any such new or different Program Administrators could only be accomplished through a process otherwise consistent with state law.

In addition to the day-to-day administration of the Illinois Solar for All Program (which includes review and approval of Approved Vendor and project applications, development and enforcement of program requirements, development of program materials and communications, interfacing with potential applicants, and related activities), the Program Administrator's responsibilities now also include the following:

- Facilitating placement for graduates of Illinois-based renewable energy-specific job training programs, including the Clean Jobs Workforce Network Program and the Illinois Climate Works Pre-apprenticeship Program administered by the DCEO Department of Commerce and programs administered under Section 16-108.12 of the Public Utilities Act;
- Developing a web-based clearinghouse for information available to both job training program graduates and firms participating, directly or indirectly, in Illinois solar incentive programs;
- Coordinating its activities with entities implementing electric and natural gas income-qualified energy efficiency programs, including customer referrals to and from such programs, and connecting prospective low-income solar customers with any existing deferred maintenance programs where applicable.

In September 2018, after the conclusion of its RFQ and RFP process, the Agency contracted with Elevate Energy ("Elevate") to serve as the third-party program administrator for the Illinois Solar for All Program.

2.9.5. Illinois Solar for All—Referrals

New paragraph (8) of Section 1-56(b) requires that, as part of the IPA's Long-Term Plan development and update, the Agency develop plans for three additional sets of referral activities:

(A) Actions to refer customers from the Illinois Solar for All Program to electric and natural gas income-qualified energy efficiency programs, and vice versa, with the goal of increasing participation in both programs;
(B) Effective procedures for data sharing, as needed, to effectuate referrals between the Illinois Solar for All Program and both electric and natural gas income-qualified energy efficiency programs, including sharing customer information directly with the utilities, as needed and appropriate; and
(C) Efforts to identify any existing deferred maintenance programs for which prospective Solar for All Program customers may be eligible and connect prospective customers for whom deferred maintenance is or may be a barrier to solar installation to those programs.

The Agency's proposals for these activities can be found in Chapter 8.

2.10. Diversity, Equity, and Inclusion Requirements

Public Act 102-0662 created new requirements and authorities for the IPA designed to ensure "priority access to the clean energy economy for businesses and workers from communities that have been excluded from economic opportunities in the energy sector, have been subject to disproportionate levels of pollution, and have disproportionately experienced negative public health outcomes." To advance that objective, Section 1-75 now includes five new subparagraphs.

The first element of the diversity and equity framework, Section 1-75(c-10), directs the Agency to develop an equity accountability system, which shall include: minimum equity standards applicable to all applicants to the Agency's renewably energy procurements; the Equity Eligible Contractor category within the ABP (see Chapter 10); and "equity prioritization for noncompetitive procurements" that advance the equity goals of the Act. All applicants for the Agency's renewable energy procurements must meet a new minimum equity standard, defined in the law as "at least 10% of the project workforce for each entity" qualifying as equity eligible persons. The law requires that this percentage increase to a statewide average of 30% by 2030, with the annual increase in that interim determined by the Agency in this plan. The law prohibits participation in Agency procurement programs by an approved vendor or designee that failed to meet the minimum equity standard in the prior delivery year, and Section 1-75(c-30) provides explicit authority for the Agency to deny participation or withhold certification as an approved vendor or designee to enforce this standard.

Section 1-75(c-10) does not define "renewable energy procurements" as used in this section but does specify that the 10% minimum equity standard applies to "each entity participating in a procurement program outlined in this subsection (c-10)." Other requirements under this subsection, such as an annual compliance plan, are only required from "each entity participating in a procurement program of subsection (c) of this Section," and Section 1-75(c-30) provides that the penalty for non-compliance with (c-10) shall be to "deny the entity's ability to participate in procurement programs in subsection (c)." The Agency therefore interprets this section as only applying to those renewable energy procurement programs established through Section 1-75(c) of the Act, not to include the Illinois Solar for All Program.

For competitive procurements, Section 1-75(c-10)(3) requires that the Agency "develop requirements for ensuring that competitive procurement processes, including utility-scale solar, utility-scale wind, and brownfield site photovoltaic projects, advance the equity goals" of the new provisions of the Act. Specifically, the Agency shall, through this Long-Term Plan, create "bid application requirements and a bid evaluation methodology" to ensure that applicants engage equity eligible contractors and to optimize the amount of contract value flowing to equity eligible

contractors. Further details on this process may be found in Chapter 5. The law provides that the 10% minimum equity standard and other equity accountability requirements in Section 1-75(c-10) also apply to entities participating in competitive procurements "to the extent practicable." The Agency understands this to mean that bidders in competitive procurements will be required to file compliance plans in a similar manner to Approved Vendors. As the concept of designees as used in the Adjustable Block Program (to identify entities working with an approved vendor on customer-facing activities such as sale, marketing, and installation) does not translate to the process of developing utility-scale projects, the entity that is the bidder for the project will be responsible for the submittal of the compliance plan.

Section 1-75(1)(c-10)(4) creates several new requirements to be included in each revision to the long-term renewable resources procurement plan, which can be seen in full detail in Chapter 10, all of which provide the infrastructure to facilitate and monitor the success of the equity accountability system. These include:

1. A mechanism for measuring and reporting project workforce profiles at the approved vendor or designee level;
2. Training, guidance, and other support for approved vendors, designees, eligible contractors, and other stakeholders related to the EEC category within ABP and the percentage minimum equity standards;
3. An application process for a waiver of the minimum equity standard, which the Agency shall grant only in "rare circumstances" where the applicant provides evidence of "significant efforts" toward meeting the standard. Waivers are project-specific and only valid for a single delivery year.

The second pillar of the equity provisions of P.A. 102-0662 empowers the Agency to proactively assess and attempt to ameliorate existing racial discrimination or disparities in access to and rates of participation in the clean energy economy. Section 1-75(1)(c-15)(2) directs the Agency to publish a report assessing the efficacy of the equity accountability system set out in subsection (c-10) one year after that system is implemented. The Agency subsequently must commission and publish a racial disparity study to "measure the presence and impact of discrimination on minority businesses and workers in Illinois' clean energy economy" as a whole. This study is to be conducted in collaboration with other relevant state agencies, including the Department of Commerce and Economic Opportunity and the Department of Labor.

As implied by the required studies in subsection (c-15), P.A. 102-0662 explicitly recognizes that "data collection, data analysis, and reporting are critical to ensure that the benefits of the clean energy economy … are equitably distributed across the State" in Section 1-75(1)(c-20). The third pillar of the new diversity and equity framework directs the Agency to "collect data from program applicants in order to track and improve equitable distribution of benefits across Illinois communities for all procurements the Agency conducts." Specifically, the law requires that the Agency collect demographic and geographic data, including racial and ethnic identity, from program applicants and participants regarding their employees, contractors, and subcontractors. Notably, the agency must collect this information from each entity "awarded contracts under any Agency-administered program," which is a wider universe of entities than those subject to the minimum equity standards, as that is limited to programs in Section 1-75(c). The Agency understands this distinction to require that the Agency collect demographic and geographic data from applicants to the ILSFA Program as well. That data shall be aggregated and published annually, ensuring transparency and public accountability.

Finally, Section 1-75(c-25) establishes the fourth pillar of the diversity and equity framework: an Energy Workforce Equity Database. This Database, to be created in consultation with the Department of Commerce and Economic Opportunity, will facilitate the engagement of equity eligible contractors and persons on clean energy projects by serving as an easy to use, publicly available, and "searchable database of suppliers, vendors, and subcontractors for clean energy industries." This subsection also directs the Agency to "create an easily accessible, public facing online tool using the database information," which the Agency understands to be a separate resource from the Energy Workforce Equity Database, as its content is laid out in a separate subparagraph.

This online tool shall include a broader set of capabilities and information, including:

1. "a map of environmental justice and equity investment eligible communities;
2. job postings and recruiting opportunities;
3. a means by which recruiting clean energy companies can find and interact with current or former participants of clean energy workforce training programs;
4. information on workforce training service providers and training opportunities;
5. renewable energy company diversity reporting;
6. a list of equity eligible contractors;
7. reporting on outcomes of the workforce programs of the Energy Transition Act; and
8. information about the Jobs and Environmental Justice Grant Program, the Clean Energy Jobs and Justice Fund, and other sources of capital."

The law does not provide a specific timeline for the Energy Workforce Equity Database or the related online tool. The Agency will collaborate with DCEO to develop these resources in an expeditious manner.

2.11. Self-direct Renewable Portfolio Standard Compliance Program

Also added through P.A. 102-0662 is subparagraph (R) of Section 1-75(c)(1); under this new subparagraph, the IPA must "establish a self-direct renewable portfolio standard compliance program for eligible self-direct customers that purchase renewable energy credits from utility-scale wind and solar projects through long-term agreements." Chapter 6 outlines requirements applicable to this new self-direct program, and a brief overview of the program can be found below.

This new self-direct program has three main components of eligibility for successful participation: customer requirements; project requirements applicable to the renewable energy project from which that customer retires RECs or has RECs retired on its behalf; and contract requirements applicable to the contract through which the customer receives those RECs.

A qualifying self-direct customer must be a retail customer of an Illinois electric utility with a peak demand of at least 10,000 kilowatts. Thus, this program is intended to provide self-direct RPS benefits back to only large customers, although customers with the same corporate parents may aggregate account demands to meet this 10,000-kilowatt threshold.

That customer must have a contract for the delivery of RECs with a renewable energy project. That project must be a "new" utility-scale wind or utility-scale solar project which meets the locational requirements of Section 1-75(c)(1)(*I*) of the Act (or that were otherwise in place at the time of the contract's execution). If those contracts were entered into after the effective date of Public Act 102-0662, that project must also meet applicable labor and diversity, equity, and inclusion requirements that would otherwise be applicable to new utility-scale wind and utility-scale solar projects.

Certain requirements also apply to the contract instrument itself—mainly, that it must be a long-term contract, which Section 1-75(c)(1)(R)(2) defines as "at least 10 years" in length, and that it must "be equivalent in volume to at least 40% of the eligible self-direct customer's usage, determined annually by the eligible self-direct customer's usage during the previous delivery year, measured to the nearest megawatt-hour." This volumetric requirement may be met through multiple contracts with qualifying new utility-scale wind or solar projects

The benefit back to a customer successfully participating in the self-direct program is a reduction in charges levied (or "credit") to support the RPS pursuant Section 16-108(k) of the PUA. That credit is calculated as "the anticipated cost of renewable energy credit deliveries under contracts for new utility-scale wind and new utility-scale solar entered for each delivery year after the large energy customer begins retiring eligible new utility scale renewable energy credits for self-compliance." Thus, Section 1-75(c)(1)(R) lacks a known, discrete credit level back to qualifying self-direct customers (as the cost of contracts in future years is not yet knowable and will change over time as additional contract obligations are added), and what credit level applies for that customer is dependent on the customer's first year of participation (as "each delivery year after the large energy customer begins retiring…" depends on which year that applicant was approved for program participation).

For RPS goals, targets, and budgets, Section 1-75(c)(1)(R)(3) provides that each REC procured pursuant to the self-direct program "shall reduce the total volume of renewable energy credits the Agency is otherwise required to procure from new utility-scale projects" on behalf of contracting utilities where the eligible self-direct customer is located." Additionally, the "reduction in the volumetric charges collected pursuant to Section 16-108 of the Public Utilities Act for approved eligible self-direct customers" reduces the available RPS budget—although the amount of that reduction is dependent on the level of the credit back to approved customers, and as outlined above, those credit amounts will vary over time.

More information about this new self-direct program, including initial analysis on the potential program size, can be found in Chapter 6. The self-direct RPS compliance program is scheduled to begin receiving initial applications in February 2023, with customer participation beginning June 1, 2023.

3. REC Portfolio, RPS Goals, Targets, and Budgets

3.1. Background

Illinois originally established the state's Renewable Portfolio Standard in 2007 through Public Act 95-0481, which became effective on June 1, 2008. The annual percentage goals set for the RPS were relative to the "eligible retail load," which was defined as residential and small commercial customers that received fixed-price bundled service from their utility rather than service from an ARES. Beginning with the 2008-2009 delivery year, the procurement of renewable energy resources for Illinois RPS compliance started with at least 2% of the "eligible retail load" with a targeted increase to 25% by the 2025-2026 delivery year. Surcharges were assessed to those default supply customers (and only those customers) to support renewable energy resource procurements intended to meet these RPS goals.

In 2009, Public Act 96-0033 added Section 16-115D to the Public Utilities Act, which created separate RPS obligations for ARES. ARES compliance was based on the total metered electricity delivered by the ARES to retail customers in Illinois, but with very different compliance mechanisms as explained in Section 2.1.3 above – namely, the payment of Alternative Compliance Payments and the self-procurement/retirement of RECs from a broad geographic footprint.

In 2017, Public Act 99-0906 significantly revised the RPS goals by phasing out the ARES compliance obligations over a two-year period ending on May 31, 2019 and established goals for the entire retail customer load in Illinois (see Appendix B, Section 2.2.2.3 for more information). Just as goals now applied to all retail customer load, so did the applicable funding mechanism – non-bypassable charges began being levied to all retail customers, regardless of supply source, to support RPS activities intended to meet RPS goals now applicable to all retail customer load. Likewise, these revisions also consolidated the RPS into a single, centralized planning mechanism for procurements and programs as described in this New Plan.

In 2021, with the enactment of Public Act 102-0662 on September 15, 2021, the Illinois RPS was further revised and expanded through changes including new RPS goals increasing by 3% each year after the 2025-2026 delivery year (by which "25% by 2025" would be reached) to reach 40% by the 2030-2031 delivery year and a further goal to reach 50% by the 2040-2041 delivery year. These percentages reflect the amount of RECs required to be procured for a given delivery year as a percentage of delivery year load: thus, if statewide retail customer load in 2040 is 120 million MWh, then under a 50% RPS goal, 60 million RECs would need to be procured for annual delivery to meet this goal. P.A. 102-0662 also enacted substantial changes to specific quantitative targets for new wind and solar – 45 million RECs delivered annually by 2030 from new wind and solar projects – and a significant expansion of RPS budgets, including additional flexibility around rolling over prior years' collections to meet future years' expenses.

As the utilities serve as the counterparty Buyers to RECs under REC delivery contracts (with those REC purchases then funded through non-bypassable charges to those utilities' ratepayers), this compliance is also assessed at the utility level. The resulting analysis includes a determination of what quantity of RECs presently is, and ultimately needs to be, under contract to meet the applicable RPS percentage goal of each utility's retail customer load. Many of the graphs and tables herein outline RPS progress by RECs under contract for Commonwealth Edison Company, Ameren Illinois, and MidAmerican Energy Company.

As used in this brief explanation and throughout this Plan, the Agency considers a "goal" to be an overall percentage of load to be procured in the form of RECs for a given year based upon that year's mandated RPS requirement.[134] By contrast, a "target" is the number of RECs for a specific procurement event or program based upon a specific goal or numerical mandate.

The Tables and Figures contained in this chapter will be updated by the Agency on a quarterly basis after the approval of this 2022 Long-Term Plan and will be published on the Agency's website. As Plan approval by the Illinois Commerce Commission is expected in July 2022, the Agency expects the first update to be published by October 2022.

3.2. REC Portfolio

For the planning and development of the various procurements and programs under this draft 2022 Long-Term Plan, it is necessary to aggregate the utility level portfolios of all existing RECs under contract, which includes all expected RECs under the Adjustable Block Program and all expected RECs under contract through competitive procurements, into a single, statewide portfolio of RECs. The statewide portfolio can then be examined against REC goals and targets mandated in the Act to estimate gaps that need to be filled through future procurement of RECs.

The following sections examine existing REC portfolios and the resulting statewide REC Portfolio after accounting for expected deliveries of RECs resulting from REC delivery contracts executed to date.

3.2.1. Existing REC Portfolios – RECs Already Under Contract

Figure 3 1 and Table 3 1 show the aggregated statewide portfolio and the existing REC portfolio of each utility as of December 2021. This includes RECs from the following categories:

- RECs procured under the Long-Term Power Purchase Agreements (LTPPAs") entered into in 2010 (20 year contracts);
- RECs procured under the Distributed Generation procurement events conducted by the IPA in 2015, 2016, and 2017 (5-year contracts that, in some cases, expire during the period outlined below);
- RECs procured under the initial forward procurements and the procurement events conducted to date by the IPA pursuant to the Initial Plan;
- RECs procured and under contract resulting from the Adjustable Block Program and the Illinois Solar for All Program as of December 2021. For this draft 2022 Long-Term Plan, this amount does not include RECs from the blocks of capacity that opened in December 2021. The Agency will update these quantities for the version of this Plan to be filed for ICC approval in March of 2022 to reflect RECs expected to be delivered under contracts approved by the ICC between the release of this draft Plan and the filing of the Plan with the ICC.

As discussed further below, the Total RECs under contract has declined slightly relative to the IPA's April 20, 2020 Final First Revised Plan, as this figure now accounts for project attrition (i.e., projects under REC delivery contracts not planning to be developed, or otherwise not planning to perform under REC delivery contracts) from projects receiving REC delivery contracts under the IPA's Forward Procurement events.

[134] For example, the RPS "goal" for the 2022-2023 delivery year is 19% of the retail load.

The utilities' existing REC portfolios can be assembled to produce the Statewide REC Portfolio presented in Figure 3 1. This Figure provides an overview of the volume of RECs presently expected to be delivered to meet the various RPS goals and targets mandated in the Act. Table 3 1 provides a breakdown of the Statewide REC Portfolio by utility and by technology. Data used to generate these figures are provided in Appendix B to this Plan.

Figure 3-1: Current Statewide REC Portfolio (By Expected Delivery Year)

Table 3-1: Current REC Portfolio by Utility (By Expected Delivery Year)

	ComEd		Ameren		MidAmerican	
Delivery Year	**Total Wind RECs**	**Total Solar RECs**	**Total Wind RECs**	**Total Solar RECs**	**Total Wind RECs**	**Total Solar RECs**
2020-21	810,680	211,603	1,747,320	493,567	2,409	868
2021-22	1,202,387	586,425	2,686,725	1,457,542	6,816	7,335
2022-23	1,202,387	1,066,999	2,686,725	2,610,625	6,816	12,125
2023-24	1,202,387	1,066,661	2,686,725	2,605,265	6,816	12,125
2024-25	1,202,387	1,066,652	2,686,725	2,605,190	6,816	12,125
2025-26	1,202,387	1,066,640	2,686,725	2,605,121	6,816	12,125
2026-27	1,202,387	1,066,630	2,686,725	2,605,042	6,816	12,125
2027-28	1,202,387	1,066,615	2,686,725	2,604,971	6,816	12,125
2028-29	1,202,387	1,066,606	2,686,725	2,604,897	6,816	12,125
2029-30	1,202,387	1,066,591	2,686,725	2,604,825	6,816	12,125
2030-31	1,202,387	1,066,583	2,686,725	2,604,754	6,816	12,125

As outlined above, these Figures do not account for the additional procurements or program capacity proposed in this and future Long-Term Plans (as well as RECs from the Adjustable Block Program blocks that opened in December 2021 and the procurement volumes from the Subsequent Forward Procurement for new utility-scale wind, solar, and brownfield site solar RECs scheduled for the Spring of 2022). Consequently, these Figures do not constitute the IPA's projections of progress toward RPS goals in upcoming delivery years; they merely reflect the Statewide REC Portfolio given REC delivery contracts presently in place as of the release of this draft 2022 Long-Term Plan and serve as a baseline against which to consider future procurement volumes.

As available annual RPS budgets have increased significantly through P.A. 102-0662's changes to Section 1-75(c)(1)(E) of the IPA Act (increasing the statutory rate impact cap) and Section 16-108(k) of the PUA (allowing for prior years' collections to be rolled over to meet future years' expenses over a 5-year period on a "first in, first out" basis), additional funds are now available to support additional procurement activity toward making more substantial progress to meeting this goal. The IPA is thus proposing additional program activity and procurement events that would serve to significantly increase the balance of RECs under contract in future delivery years to meet RPS targets and goals. Section 3.4.6 below provides an overview of how the REC portfolio (and associated budget impacts) would change as a result of these proposed activities.

3.3. RPS Goals and Targets

The initial steps in development of the draft 2022 Long-Term Plan involves calculation of the annual REC targets and goals and the quantities of RECs to be procured to fill the identified gaps. In the prior Section, a statewide current REC portfolio was presented. The REC quantities in that portfolio will be used in conjunction with the REC targets and goals outlined in this Section to estimate REC "gaps" that need to be filled to meet statutory RPS goals and targets.

The volume of RECs that need to be procured through the Agency's procurements and programs can be viewed in two ways. First, as the "Target REC Gap" which is the quantity needed to meet the specific quantitative targets found in Section 1-75(c)(1)(C) of the Act (e.g., 45 million RECs from new wind and solar by 2030); and second, as the "Goal REC Gap" which is quantity needed to meet the annual percentage based goals found in Section 1-75(c)(1)(B) of the Act (which could include RECs that are not from "new" wind or solar, such as RECs delivered under the LTPPAs). As described below, the Target REC Gap has only two milestone check-ins under statute, a 2020-2021 delivery year target (10 million RECs delivered annually) and a 2030-2031 delivery year target (45 million RECs delivered annually). In contrast, as Section 1-75(c)(1)(B) assigns specific percentage increases off of a baseline to each individual delivery year, the Goal REC Gap can be calculated on an annual basis.

3.3.1. RPS Goals

RPS annual goals are expressed as percentages in Section 1-75(c)(1)(B) of the Act. To determine the number of RECs required to meet the goals (the "Overall RPS Target"), the delivery year RPS goal is applied to the reference year applicable retail customer load ("Applicable Load") as shown in equation (1).

(1) Delivery Year Overall RPS Target = Delivery Year RPS Goal * Reference Year Applicable Load

This Chapter contains calculations of REC Portfolio, RPS goals and targets, and summaries of RPS budgets for delivery years 2021-2022 through 2026-2027. Additional details are available in Appendix B.

Through changes to the RPS made via P.A. 99-0906, the annual RPS percentage goal is applied to the total retail electricity load rather than the "eligible retail load." These goals were further extended by P.A. 102-0662 to increase by 3% after the 2025-2026 delivery year.

Table 3-2: Annual RPS Goals

Delivery Year	Goal (% of total retail electricity sales)
2021-2022	19.0%
2022-2023	20.5%
2023-2024	22.0%
2024-2025	23.5%
2025-2026	25.0%
2026-2027	28.0%
2027-2028	31.0%
2028-2029	34.0%
2029-2030	37.0%
2030-2031	40.0%

As a result of the funding challenges that constrained RPS activities in previous years, meeting the current RPS goals of the IPA Act would require procuring approximately 17 million additional RECs for the 2022-2023 delivery year and increasing to the forecasted procurement of an additional 40 million RECs for the 2031-2032 delivery year. Achieving these goals would require a substantial increase in new renewable energy generation under contract, likely requiring well over 10,000 MW of new renewable energy generation.

This 2022 Long-Term Plan presents the start of a ramping up of procurement and program activities to get back on track towards meeting these annual percentage goals. However, given the present gaps, it will take several years of procurements to be on that procurement trajectory, with additional time required for project development and construction for these REC delivery goals to be achieved.

3.3.2. RPS Targets

As amended by P.A. 102-0662, Section 1-75(c)(1)(C) of the Act now requires the procurement of RECs "from new projects" in an amount equal to at least "10,000,000 renewable energy credits delivered annually by the end of the 2021 delivery year, and increasing ratably to reach 45,000,000 renewable energy credits delivered annually from new wind and solar projects by the end of delivery year 2030" such that the percentage-based RPS goals outlined above "are met entirely by procurements of renewable energy credits from new wind and photovoltaic projects."[135]

Of the target amount 45% is required to be procured from wind projects and 55% from photovoltaic projects. Of the amount to be procured from photovoltaic projects, 50% is to be procured through the Adjustable Block Program, 47% from utility-scale solar projects, and 3% from brownfield site

[135] 20 ILCS 3855/1-75(c)(1)(C)(i).

photovoltaic projects.[136] These percentages are minimums of a whole, thus creating individual targets within broader targets, which may be exceeded in given categories even if doing so leaves overall proportions aligned differently from those percentages. Table 3 3 summarizes these targets by resource type.

Table 3-3: New Wind and Solar Targets

Resource Category	2020-2021 Target	2030-2031 Target
New Wind	**4,500,000**	**20,250,000**
New Solar	**5,500,000**	**24,750,000**
Adjustable Block Program	*2,750,000*	*12,375,000*
Utility-Scale Solar	*2,585,000*	*11,632,500*
Brownfield Site Solar	*165,000*	*742,500*
Total	**10,000,000**	**45,000,000**

3.3.3. Applicable Retail Customer Load Used to Calculate RPS Goals

Based on forecasts received from the utilities, Table 3 4 shows the forecasted retail customer load subject to RPS compliance through the 2030-2031 delivery year.[137]

Table 3-4: Forecast Retail Customer Load Applicable to the Compliance Year (MWH)

Compliance Year	Ameren	ComEd	MidAmerican
2020-2021	35,620,835	84,760,183	471,451
2021-2022	35,458,611	83,931,773	533,051
2022-2023	35,074,493	84,697,302	530,533
2023-2024	34,924,843	85,136,939	530,949
2024-2025	34,518,654	85,134,247	530,479
2025-2026	34,329,725	84,907,691	530,299
2026-2027	34,329,725	85,035,977	530,381
2027-2028	34,329,725	85,385,509	530,798
2028-2029	34,329,725	85,957,787	531,105
2029-2030	34,329,725	86,103,305	531,451
2030-2031	34,329,725	86,473,068	531,835

For the forecast quantity used for the 2022-2023 delivery year, the Ameren Illinois load declined 0.04% from the forecast numbers included in the First Revised Plan; for ComEd, it declined by 0.03%; and for MidAmerican it increased by 2.01%. These small changes in forecasted load will have a corresponding minor impact on estimated annual RPS goals and budget collections. The impact of variations in load forecasts is discussed further in Section 3.4.8.

[136] Id.

[137] As customary, in support of the IPA procurement processes, in the fall of 2021 the utilities and provided the actual and forecast loads used in this draft 2022 Long-Term Plan.

The retail customer load serves as the denominator in calculating RPS Goals. In other words, if retail load were 100,000,000 MWH in a year where the goal was 25%, then the REC Goal would be 25% of 100,000,000 or 25,000,000 RECs delivered annually. If 10,000,000 RECs had been procured for that year, then the resulting Goal REC Gap would be 15,000,000 RECs.

Over time, the Large Customer Self-Direct Program described in Chapter 6 will also serve to reduce that denominator, as Section 1-75(c)(1)(R)(2)(vii) states that "[e]ach renewable energy credit procured pursuant to this subparagraph (R) by a self-direct customer shall reduce the total volume of renewable energy credits the Agency is otherwise required to procure from new utility-scale projects pursuant to subparagraph (C) of paragraph (1) of this subsection (c) on behalf of contracting utilities where the eligible self-direct customer is located." While this portion of the Self-Direct Program statute addresses only Section 1-75(c)(1)(C)'s targets, because Section 1-75(c)(1)(C)'s quantitative targets are a subset of Section 1-75(c)(1)(B)'s percentage-based goals, the IPA understands that any reduction in targets and load resultant from self-direct customer REC retirements would also necessitate an adjustment percentage-based REC Goal progress. As those Self-Direct Program-related adjustments have not yet been established or determined, no adjustments have been made for this draft 2022 Long-Term Plan. The Agency will update applicable figures in tables in the future as that information becomes available.

3.3.4. Overall REC Procurement Targets and Goals – REC Gap

The overall number of RECs needed to be procured for each year to meet annual Goal REC Gap is simply the difference between the RPS Target RECs from Table 3 5 and the total number of current RECs in the Statewide REC Portfolio as shown in Figure 3 1. RECs currently under contract come from several sources. First, RECs from Long-Term Power Purchase Agreements ("LTPPAs") for utility-scale wind and solar from a procurement conducted in 2010; second, RECs from utility-scale wind, solar, and brownfield site photovoltaics from forward procurements conducted in 2018 through 2019; and third, IPA Programs which include RECs from the initial blocks of the Adjustable Block Program and RECs from the Illinois Solar for All Program. For additional information on the LTPPAs and forward procurements, please see Chapter 5. For additional information on the Adjustable Block Program and Illinois Solar for All, please see Chapters 7 and 8, respectively. Please note that the table below reflects the timing of expected *deliveries* from existing contracts resultant from procurement activity already conducted, and not procurement event dates; REC deliveries may lag REC delivery contract execution by 1-5 years depending on project size and complexity.

Table 3-5: Statewide Overall Goal REC Gap[138]

Delivery Year	2010 LTPPAs	Legacy DG	2017-2019 Forward Procurements	2019-2021 Adjustable Block Program	Overall RPS Target RECs	Goal REC Gap
2020-21	1,861,725	3,273	730,000.00	651,381	21,149,182	17,882,736
2021-22	1,861,725	21,732	2,983,670.57	1,080,102	22,785,453	16,838,223
2022-23	1,861,725	5,613	4,571,148.57	1,147,190	24,661,977	17,076,301
2023-24	1,861,725		4,571,148.57	1,147,105	26,530,401	18,950,422
2024-25	1,861,725		4,571,148.57	1,147,021	28,243,094	20,663,200
2025-26	1,861,725		4,571,148.57	1,146,940	29,941,929	22,362,115
2026-27	1,861,725		4,571,148.57	1,146,851	33,570,903	25,991,179
2027-28	1,861,725		4,571,148.57	1,146,765	37,276,270	29,696,631
2028-29	1,861,725		4,571,148.57	1,146,682	41,078,330	33,498,774
2029-30	1,861,725		4,571,148.57	1,146,595	44,756,858	37,177,390
2030-31	1,861,725		4,571,148.57	1,146,516	48,533,851	40,954,462

Figure 3 2 below provides a visual representation of the annual Statewide RPS Goals, REC Portfolio, and REC Gap discussed in this Section.

Figure 3-2: Statewide Annual RPS Goal, REC Portfolio and REC Gap

[138] Unadjusted for RECs supplied by an ARES to their retail customers pursuant to Section 1-75(c)(1)(H)(i) of the IPA Act (see Section 3.6 for an explanation of this provision), or the Large Customer Self-Direct Program (as described in Chapter 6).

The statewide RPS Goals for 2021-2022 through 2031-2032 are shown in the table below.

Table 3-6: Statewide RPS Goals

Delivery Year	RPS Goal	Reference Year	Reference Year Load (Applicable Load) [MWh]	RECs needed to meet RPS Goal
2021-2022	19.0%	2020-2021	119,923,435	22,785,453
2022-2023	20.5%	2021-2022	120,302,328	24,661,977
2023-2024	22.0%	2022-2023	120,592,731	26,530,401
2024-2025	23.5%	2023-2024	120,183,380	28,243,094
2025-2026	25.0%	2024-2025	119,767,715	29,941,929
2026-2027	28.0%	2025-2026	119,896,083	33,570,903
2027-2028	31.0%	2026-2027	120,246,032	37,276,270
2028-2029	34.0%	2027-2028	120,818,617	41,078,330
2029-2030	37.0%	2028-2029	120,964,481	44,756,858
2030-2031	40.0%	2029-2030	121,334,628	48,533,851
2031-2032	40.0%	2030-2031	121,773,218	48,709,287

3.3.5. Procurement Targets to Meet Specific Wind-Solar Requirement and Overall RPS Targets

Section 1-75(c)(1)(C)(i) of the Act requires that, to the extent possible, the overall quantity of RECs procured to meet the RPS goals should include at least a 45% from new wind projects and 55% from new photovoltaic projects. Of the portion that is from photovoltaic projects, 50% should be from the Adjustable Block Program, 47% from new utility-scale solar, and 3% from brownfield site photovoltaic projects.[139] Table 3 7 below shows that the portfolio of expected REC deliveries portioned by RECs from wind and photovoltaic projects. This table represents RECs under contract from procurements and programs conducted as of the date of the release of this draft 2022 Long-Term Plan.

[139] 20 ILCS 3855/1-75(c)(1)(C)(i).

Table 3-7: Projected Deliveries of Statewide Wind and Solar RECs in the Current Portfolio[140]

Delivery Year	Solar RECs	Wind RECs	Combined Wind and Solar RECs
2021-2022	2,051,302	3,895,928	5,947,230
2022-2023	3,689,749	3,895,928	7,585,677
2023-2024	3,684,051	3,895,928	7,579,979
2024-2025	3,683,967	3,895,928	7,579,895
2025-2026	3,683,886	3,895,928	7,579,814
2026-2027	3,683,797	3,895,928	7,579,725

This table indicates that the balance of RECs currently in the portfolio is slightly out of balance with the goals of the Act; however, this table does not reflect RECs from the reopening of the Adjustable Block Program in December of 2021 or the upcoming Spring 2022 Subsequent Forward Procurement for RECs from utility-scale wind, solar, and brownfield site photovoltaic projects. Additionally, because Section 1-75(c)(1)(C)(iii) provides that "no renewable energy credits from contracts entered into before June 1, 2021 shall be used to calculate whether the Agency has procured the correct proportion of new wind and new solar contracts," the balance of wind RECs versus solar RECs is best assessed on a forward-looking basis.

This Chapter's quantities of RECs under contract from utility-scale procurements held in 2017 and 2018 have been updated from the Initial and Revised Long-Term Plans to account for project attrition (i.e., projects receiving REC delivery contracts not being successfully developed under the terms of those contracts). While four wind projects and six utility-scale solar projects have begun delivery, other projects have not yet been energized. Five solar projects have requested energization extensions that will take them into 2022-2023 delivery year, and four solar projects and two wind projects have been removed from the REC portfolio due to project attrition.

Table 3 8 summarizes in aggregate the status of anticipated annual REC deliveries from utility-scale projects, setting aside that projects may begin initial deliveries in different delivery years. The quantities listed are the aggregate annual contracted amounts.

[140] These totals reflect quantities from the LTPPAs, which do not count towards Section 1-75(c)(1)(C)(v)'s targets for RECs from new wind and solar, as well as RECs from the Adjustable Block Program and the Illinois Solar for All Program.

Table 3-8: 2017-2019 Forward Procurement REC Portfolio Status

Status	Solar RECs[141]	Wind RECs	Total RECs
Delivering RECs	1,238,936	2,065,519	3,304,455
Extensions Granted	1,266,693		1,266,693
Total Expected Annual RECs	**2,505,629**	**2,065,519**	**4,571,148**
Removed[142]	548,702	879,234	1,427,936
Attrition Rate	18%	30%	24%

In comparison to these utility-scale project attrition rates, the attrition rate for the Adjustable Block Program has been lower, at approximately 1.2% of contracted Small DG projects, 9.8% of contracted Large DG projects, and 7.2% of contracted community solar projects. However, the sample size for utility-scale solar projects is small and causes for attrition may be project specific, and thus may not necessarily indicative of attrition rates for projects in future procurements. Additionally, the Agency is hopeful that the shift to an Indexed REC pricing model as required under Section 1-75(c)(1)(G)(v) of the Act will reduce the development risk to new utility-scale projects, as those changes should help ensure revenue certainty for projects receiving REC delivery contracts.

3.4. RPS Budget

3.4.1. Statewide Goals and Allocation of Cost and RECs from RPS Procurements to Each Utility

The specific numerical targets included in the Act—for instance, the 10,000,000 RECs from new wind and new photovoltaics by the 2021 delivery year—are *statewide* targets which do not specify individualized REC targets for each utility. Since the passage of P.A. 99-0906, the Agency has procured RECs through its competitive procurements based on statewide RPS targets rather than individual targets by utility, such that an overall target quantity is published and projects are selected up to that overall target quantity. Contract quantities stemming from those procurements were then assigned to each of the three participating utilities based on an RPS Budget-weighted basis, meaning that an individual utility-scale solar or wind project may have three REC delivery contracts (one with each of Ameren Illinois, ComEd, and MidAmerican) for load-weighted delivery quantities.

In a corresponding manner, the cost of purchasing RECs associated with RPS procurements is allocated to each utility through REC procurement contracts specific to the applicable utility (and independent of supplier performance under other utilities' contracts), based on each utility's Renewable Portfolio Standard Budget ("RPS Budget") – which is also based on load.

[141] Includes RECs from brownfield site photovoltaic projects.

[142] "Removed" indicates RECs that were procured in the 2017 and 2018 procurements but will not be delivered because of the projects not meeting energization deadlines and thus have been removed from the RPS REC Portfolio.

Table 3 9 shows the proposed allocation across each of the three utilities based on each utility's cost cap rate and eligible load.[143]

Table 3-9: Utility REC Cost Allocations

Utility	Reference Year Forecasted Delivered Volume [MWh][144]	Cost Cap Rate[145] [$/MWh]	RPS Budget for 2022-2023 Delivery Year [$][146]	Allocation Based on RPS Budget for 2022-2023 Delivery Year [%]
Ameren Illinois	35,074,493	4.5755	160,483,343	27.318%
ComEd	84,697,302	5.0248	425,587,002	72.445%
MidAmerican[147]	530,533	2.625	1,392,649	0.237%

Under this allocation, for every $1,000,000 of expenditures made to procure RECs, $273,190 and associated REC contracts would be allocated to Ameren Illinois, $724,450 and associated REC contracts to ComEd, and $2,370 and associated REC contracts to MidAmerican.

For this draft 2022 Long-Term Plan, the Agency proposes to continue conducting the procurement of RECs based on statewide RPS goals and targets which, due to changes in load forecasts and the presence of new RECs under contract, have been updated from those contained in prior Plans. These values will also be updated in future iterations of the Plan to reflect the implementation of the Large Customer Self-Direct Program described in Chapter 6.

3.4.2. Cost Cap and Cost Recovery Provisions

The IPA's procurement of RECs on behalf of Illinois electric utilities is subject to monetary limitations in the form of a cost cap that limits the annual average net increase to all eligible retail customers to 4.25% of the amount paid per kilowatthour by eligible retail customers during the year ending May 31, 2009.[148] The cost cap rate, in dollars per megawatt-hour, is provided in Table 3 2. This rate was increased by Public Act 102-0662 from the 2.015% of 2007 eligible retail rates statutorily authorized in the past. The combination of the different baseline year and increased percentage results in significant increases in funding collected each year, ranging from a 211% increase for MidAmerican, to a 253% for Ameren, and 266% for ComEd.

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[143] This allocation method was initially developed to allocate the RECs from the August 31, 2017 Initial Forward Procurement and was based on the RPS Budget for 2020-2021, which uses the prior year delivered volumes as reference. The 2019-2020 reference delivery year was used because it will be the first year when all load, including that served by ARES, will be under the IPA's REC procurements, thus making the resulting RPS Budget a better representation of future RPS Budgets. As shown in Table 3 9 the allocation to each utility is based on the utility's share of the 2022-2023 delivery year RPS Budget. As noted in Chapter 6, the same allocation will generally be used for the Adjustable Block Program contract awards.

[144] The 2021-2022 delivery year is the reference year for the 2022-2023 delivery year.

[145] The Cost Cap Rate for each utility is defined in Section 1-75(c)(1)(E) of the Act as 4.25% of the amount paid per kilowatthour by eligible retail customers during the year ending May 31, 2009, which results in a cost cap rate of 0.45755 c/kWh for Ameren, 0.50248 c/kWh for ComEd, and 0.26250 c/kWh for MidAmerican.

[146] Beginning with the 2019-2020 delivery year, the RPS Budget for each utility is calculated by multiplying the values of the preceding two columns of the table, as specified by Section 1-75(c)(1)(F) of the Act ("To arrive at a maximum dollar amount of renewable energy resources to be procured for the particular delivery year, the resulting per kilowatthour amount shall be applied to the actual amount of kilowatthours of electricity delivered […] by the electric utility in the delivery year immediately prior to the procurement to all retail customers in its service territory.").

[147] The methodology to determine MidAmerican's Applicable load is explained in Section 3.7.

[148] 20 ILCS 3855/1-75(c)(1)(E).

Each utility is entitled to recover the costs of the RECs procured to meet the RPS compliance requirements, subject to the cost cap limitations, along with "the reasonable costs that the utility incurs as part of the procurement process and to implement and comply with plans and processes approved by the Commission."[149]

In addition to changing the cost cap, Public Act 102-0662 made two significant changes to how funds collected by the utilities are accounted for. First, the previous reconciliation provision from Public Act 99-0906 that required a reconciliation of collections and expenses (e.g., a refund to customers of unspent funds) after four years (June 1, 2021), and then on an annual basis thereafter, was replaced with new language in Section 16-108(k) of the PUA that allows for collections from customers to be available for meeting RPS expenses for the five years following collection:

> *Money collected from customers for the procurement of renewable energy resources in a given delivery year may be spent by the utility for the procurement of renewable resources over any of the following 5 delivery years after which unspent money shall be credited back to retail customers. The electric utility shall spend all money collected in earlier delivery years that has not yet been returned to customers, first, before spending money collected in later delivery years.*

Second, that Section 16-1085(k) of the PUA was also modified to provide that any future reconciliation amounts shall be reduced to account for contractual obligations entered into by the utilities but not yet paid:

> *The amount of excess funds eligible to be credited back to retail customers shall be reduced by an amount equal to the payment obligations required by any contracts entered into by an electric utility under contracts described in subsection (b) of Section 1-56 and subsection (c) of Section 1-75 of the Illinois Power Agency Act, even if such payments have not yet been made and regardless of the delivery year in which those payment obligations were incurred. Notwithstanding anything to the contrary, including in tariffs authorized by this subsection (k) in effect before the effective date of this amendatory Act of the 102nd General Assembly, all unspent funds as of May 31, 2021, excluding any funds credited to customers during any utility billing cycle that commences prior to the effective date of this amendatory Act of the 102nd General Assembly, shall remain in the utility account and shall on a first in, first out basis be used toward utility payment obligations under contracts described in subsection (b) of Section 1-56 and subsection (c) of Section 1-75 of the Illinois Power Agency Act.*

Prior to the enactment of Public Act 102-0662, language found in Section 16-018(k) of the PUA requiring annual reconciliation of collections and expenditures after June 1, 2021 proved unduly constraining, as expenses rolled forward into future years (especially due to project energization delays) while collections could not be rolled forward to meet those expenses. This phenomenon limited available budgets prevent the Agency from opening additional blocks of the Adjustable Block Program or conducting additional utility-scale procurements. The COVID-19 global health pandemic further exacerbated this problem, as many expenditures that had been projected to occur prior to June 1, 2021 were pushed out well beyond that date due to resultant project development delays,

[149] 220 ILCS 5/16-108(k).

resulting in the potential for a significant refund of unexpended—but contractually committed—RPS funds

This left the Agency with an available RPS budget too small to meet contracted RPS expenses. As a result, the IPA petitioned the ICC to reopen Docket No. 19-0995 approving the Agency's First Revised Plan to clarify the process by which payment deferrals on REC delivery contracts would occur. While the Commission approved that process in May of 2021, the enactment of Public Act 102-0662 rendered this payment reduction/deferral issue moot through significantly increasing RPS funding in addition to the two new accounting provisions outlined above.

Utilities are able to recover all of their costs—whether associated with RECs previously procured through prior-executed contracts, procured through the Initial Forward Procurements, procured through other competitive procurements, or procured through the other programs resulting from the implementation of the IPA's long-term renewable resource procurement plans[150]—through tariffs applicable to all of the utilities' customers. With the enactment of Public Act 102-0662, ComEd and Ameren filed revised tariffs to implement these revised rate collection levels and those tariffs took effect in January of 2022. Tariff revisions by MidAmerican are pending.

3.4.3. RPS Compliance Procurement Priorities

The Act provides guidelines for prioritizing REC procurements in the event that the cost cap limitations conflict with the RPS goals and targets such that the IPA cannot procure sufficient additional quantities of RECs to meet goals or targets.[151] Under Section 1-75(c)(1)(F) of the IPA Act, these priorities regarding the procurement of RECs take the following order, arranged based on descending priority:

- RECs procured under existing contracts (as of June 1, 2021);
- RECs procured with funding for the Illinois Solar for All Program;
- RECs procured to comply with the new wind and solar photovoltaic procurement requirements (including the Adjustable Block Program);
- RECs procured to meet the remaining RPS targets (Goal REC Gap).

In contrast to the situation where the cost cap conflicts with RPS Goals and Targets, Section 1-75(c)(1)(C)(ii) directs that even if goals and targets are met, funds shall continue to be spent:

> *In any given delivery year, if forecasted expenses are less than the maximum budget available under subparagraph (E) of this paragraph (1) the Agency shall continue to procure new renewable energy credits until that budget is exhausted in the manner outlined in item (i) of this subparagraph (C).*

Subparagraph (E) sets the budget for each year based on a calculation of each utility's prior year MWH volume of sales and the 4.25% rate cap (as discussed in Section 3.4.2). The available funds are also impacted by additional considerations in including the ability of funds to be available for five years after collection and the reserve of utility-held alternative compliance payments (ACPs") (see Sections 3.4.2 and 3.5). Item (i) of subparagraph (C) establishes targets of 10 million RECs for 2021 and 45 million RECs for 2030 respectively, as well as the split between solar and wind as described

[150] This is true for those expenses for which the utility is the counterparty; for the Illinois Solar for All Program, the State of Illinois is the counterparty to REC delivery contracts paid using the Renewable Energy Resources Fund.

[151] 20 ILCS 3855/1-75(c)(1)(F).

in Section 3.3.5. Thus, the Agency understands that Section 1-75(c)(1)(C)(ii) directs the Agency to maximize procurement volumes where possible.

However, REC contracts carry uncertainty about when payments will commence because of the varying development times of renewable energy projects as well as payment schedules that span multiple years. As a result, the Agency must analyze not only what funds are available in a given delivery year, but also what budget may need to be reserved for future delivery years. As a simplified example, if forecasted expenses for a year are $10 million less than the budget available for the year, but due to prior conducted procurements and programs the projected budget for the following year compared to expenses relies on that $10 million being rolled over into that next delivery year to fully cover projected expenses, it would not make sense to conduct additional procurement activities in the current delivery year to create $10 million in new commitments, as those funds would be needed for that future delivery year. Analyzing RPS budget availability requires being cognizant of the cascading impacts of commitments on future delivery years.

As shown in Table 3 11 and Table 3 12, the Agency has considered the budget impacts of:

- Procurements and programs to date (REC quantities and payment obligations under existing contracts);
- Funding allocations to the Illinois Solar for All Program;
- Procurements and Adjustable Block Program blocks and REC prices proposed in this Plan; and
- Estimates of activities in subsequent delivery years that would be proposed in subsequent Long-Term Plans to meet the 45 million RECs by 2030 target.

Taking these budget impacts into account, through most of the upcoming decade the Agency projects that the available funding left in each year will be approximately equivalent to one year of collections. However, that amount declines over time. This modeling also suggests that the oldest funds available for use would never be more than two years old, and thus funds are highly unlikely to be subject to reconciliation due to not having been used across the five years following collection.

At present, budget impacts resultant from the change to an indexed REC price procurement model for competitive procurements are unpredictable. The Adjustable Block Program REC prices used for this budget analysis are the REC prices proposed in this Plan; those may change as a result of decisions made in the proceeding approving the Plan (let alone in future years' Plans). Thus, a very large error band must be applied to any budget forecasts given this inherent uncertainty. For this Plan. the Agency is proposing quantities for competitive procurements and Adjustable Block Program block sizes that will put it on a path to having procured 45 million RECs delivered annually from new projects by the 2030 delivery year.

As the Agency gains more information about future RPS budget impacts over the next 18 months of program and procurement activities, the next Long-Term Plan will consider whether those procurement quantities could be increased.

3.4.4. RPS Budget and Cost Cap

As described in Section 3.4.2, the Act imposes monetary limitations on the RPS in the form of a cost cap that limits the annual average net increase in rates to retail customers. The cost cap rate, in cents per kilowatt-hour, is unique to each utility and is provided in Table 3 9. The cents per kilowatt-hour

rate is applied to the actual electricity (expressed in kilowatt-hours) delivered in the delivery year immediately prior to determine a maximum dollar amount which constitutes the RPS Budget for the delivery year. Specifically, the Act states that:

> *Notwithstanding the requirements of this subsection (c), the total of renewable energy resources procured under the procurement plan for any single year shall be subject to the limitations of this subparagraph (E). Suchprocurement shall be reduced for all retail customers based on the amount necessary to limit the annualestimated average net increase due to the costs of these resources included in the amounts paid by eligible retailcustomers in connection with electric service to no more than 4.25% of the amount paid per kilowatthour by those customers during the year ending May 31, 2009. To arrive at a maximum dollar amount of renewable energy resources to be procuredfor the particular delivery year, the resulting per kilowatthour amount shall be applied to the actual amountof kilowatthours of electricity delivered, or applicable portion of such amount as specified in paragraph (1) of this subsection (c), as applicable, by the electric utility in the delivery year immediately prior to the procurement to all retail customers in its serviceterritory. The calculations required by this subparagraph shall be made only once for each delivery year at thetime that the renewable energy resources are procured. Once the determination as to the amount of renewable energy resources to procure is made based on the calculations set forth in this subparagraph (E) and the contracts procuring those amounts are executed, no subsequent rate impact determinations shall be made and noadjustments to those contract amounts shall be allowed. All costs incurred under such contracts shall be fully recoverable by the electric utility as provided in this Section.*[152]

A utility's annual RPS Budget is calculated as shown in equation (2).

(2) Annual RPS Budget ($/Year) = Prior Year Delivered Electricity (MWh) * Cost Cap Rate ($/MWh)

A utility's delivery year remaining available net RPS Budget ("Available Net RPS Budget") is determined by subtracting from the utility's total RPS Budget the direct financial obligations associated with existing REC contracts ("Contracted REC Spend"), the balance associated with unfilled Adjustable Block Program block capacity, ("Scheduled REC Spend"), and indirect costs: (i) allocation to fund the Illinois Solar for All Program, (ii) allocation to fund job training programs, and (iii) set aside for administrative expenses ("Set Asides Allocation"), as shown in equation (3).

(3) Delivery Year Available Net RPS Budget = Annual RPS Budget (equation 2) + Unexpended RPS Budget from Prior Year[153] + Utility-held ACP balances – Contracted REC Spend – Scheduled REC Spend – - Illinois Solar for All Allocation – Set Asides Allocation

[152] 20 ILCS 3855/1-75(c)(1)(E).

[153] Unexpended budget funds from prior years are subject to a rolling five-year first-in/first-out accounting system. Funds collected in a given year and not spent after five years are subject to reconciliation. However, any reconciliation amount that could be refunded to ratepayers is also reduced by an amount equal to the outstanding contracted payment obligations of the utility.

For the purpose of establishing funds available for REC purchases, as explained in the following Section, the Available Net RPS Budget amount will be adjusted prior to any procurement to account for rollover unspent funds from prior years, and utility-held Alternative Compliance Payments.

3.4.5. Non-REC Expenses

In addition to direct expenditures on RECs, RPS budgets also feature allocations for several additional purposes. First, pursuant to Section 1-75(c)(1)(O) of the Act, up to $50,000,000 each year will be allocated to the Illinois Solar for All Program.[154] Second, also pursuant to Section 1-75(c)(1)(O), in each of the delivery years 2021-2022, 2024-2025, and 2027-2028, $10,000,000 of ComEd's RPS Budget will be allocated to the Department of Commerce and Economic Opportunity to fund solar job training programs pursuant to Section 16-108.12 of the PUA.

Third, a reasonable amount of each budget will be set aside for administrative expenses (including, but not limited to, expenses related to development of Plan updates, the management of procurements and programs, Adjustable Block Program Administrator expenses not covered by fees charged to participants, and fees charged by tracking systems for the retirement of RECs). The IPA proposes to set aside 2% of the budget for these administrative expenses, and will refine this amount as more information becomes available. Table 3 10 shows the annual RPS funds to be allocated to each of these Set Asides.

Table 3-10: Statewide RPS Budget Set Asides ($)

Delivery Year	Illinois Solar for All	Job Training (DCEO Budget)	Administrative Expenses (2% of Annual RPS Budget)	Total Set Asides
2021-2022	50,000,000	10,000,000	$9,294,757	69,294,757
2022-2023	50,000,000		$11,749,260	61,749,260
2023-2024	50,000,000		$11,779,769	61,779,769
2024-2025	50,000,000	10,000,000	$11,742,303	71,742,303
2025-2026	50,000,000		$11,702,237	61,702,237
2026-2027	50,000,000		$11,715,134	61,715,134

3.4.6. Expenses and Available RPS Budgets

The aggregation of Expenses and RPS Budgets at a statewide level provides an important tool for planning and implementing the various procurements and programs under this 2022 Long-Term Plan.

Table 3 11 presents a statewide view of expected expenses. This includes:

- Legacy expenses from the 2010 Long-Term Power Purchase Agreements;
- Legacy expenses from the Forward Procurements conducted in 2017-2019;
- Legacy expenses from the Adjustable Block Program from 2019-2021;

[154] Prior to the enactment of Public Act 102-0662 the annual allocation to the Illinois Solar for All Program was the greater of 5% or $10 million of the utility RPS budget. This increase is discussed in more detail in Section 8.4.3.

- Projected expenses from the in progress Adjustable Block Program for Blocks that opened in December 2021, as well as the 2022-2023 and 2023-2034 Program Year Blocks described in Chapter 7;
- Projected expenses for RECs from Utility-scale Wind, Utility-Solar, and Brownfield Photovoltaic Projects from the Spring 2022 Subsequent Forward Procurement and the procurements proposed in Chapter 5;
- Projected expenses for future blocks of the Adjustable Block Program and competitive procurements to be conducted in 2024 through 2030 to meet the 45 million new RECs target; and
- Set asides as described in Section 3.4.5.

The projected expenses from the Adjustable Block Program assume that blocks fill every year and that projects are energized (and thus start receiving payments) by their respective energization deadlines. The expenses are based on the REC prices presented in Chapter 7 and are assumed to decline 4% each subsequent year (and for the December 2021 Blocks, the published REC prices[155]). As discussed in Section 7.3.2, block sizes for the Adjustable Block Program are based on a standard capacity factor for different program categories rather than category specific capacity factors to translate REC quantities into MW sizes. For the purpose of the budget model presented here, REC quantities and their associated expenses use category specific capacity factors.

Utility-scale projects are assumed to begin REC deliveries three years after the procurement date. The assumed REC price for utility-scale projects is the REC price from the Agency's last procurement for that resource type. With the implementation of a new indexed REC price procurement approach, it is very likely that the REC prices resulting from these procurements may vary from those prices and furthermore, will change year to year based on changes in wholesale energy prices. As the Agency prefers not to suggest indicative prices for future procurements, these prices will serve as a proxy until more detailed pricing information is available after the completion of future procurement events.

[155] See: https://illinoisabp.com/wp-content/uploads/2021/11/Illinois-ABP-12.14.21-Reopening-REC-Prices.pdf.

Table 3-11: Projected RPS Expenses ($ millions)

	Legacy Programs			In Progress		Proposed in This Plan		Potential Future Activities		Set Asides	Total
Delivery Year	LTPPAs	2019-2020 ABP	2017-2019 Foreword Procurements	2021 ABP Blocks	Subsequent Forward Procurement (Wind, Solar, & Brownfield)	2022-2023 ABP	2022-2023 Wind, Solar, & Brownfield Forward Procurements	2024-2030 ABP	2024-2030 Wind, Solar, & Brownfield Forward Procurements	Solar for All, Job Training, Admin. Expenses	Total Expenses
2020-2021	$30.80	$233.30	$2.90	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$15.50	$282.50
2021-2022	$29.00	$222.70	$6.10	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$69.30	$327.20
2022-2023	$27.90	$178.60	$9.30	$151.60	$0.00	$0.00	$0.00	$0.00	$0.00	$61.70	$429.20
2023-2024	$22.00	$164.40	$19.10	$29.40	$0.00	$234.50	$0.00	$0.00	$0.00	$61.80	$531.10
2024-2025	$20.50	$138.50	$24.70	$50.80	$0.00	$276.90	$0.00	$0.00	$0.00	$71.70	$583.10
2025-2026	$15.60	$67.00	$24.70	$50.80	$24.60	$109.60	$0.00	$215.90	$0.00	$61.70	$569.90
2026-2027	$14.40	$4.80	$24.70	$50.70	$24.60	$106.90	$13.50	$267.40	$0.00	$61.70	$568.80
2027-2028	$10.10	$0.00	$24.70	$50.70	$24.60	$106.90	$26.50	$314.80	$0.00	$71.80	$630.10
2028-2029	$8.00	$0.00	$24.70	$50.70	$24.60	$106.90	$26.50	$360.30	$13.00	$61.80	$676.50
2029-2030	$4.50	$0.00	$24.70	$50.80	$24.60	$107.00	$26.50	$404.00	$26.00	$61.80	$729.90
2030-2031	$4.50	$0.00	$24.70	$28.70	$24.60	$106.90	$26.50	$446.50	$38.90	$71.90	$773.20

For each delivery year, Table 3 12 takes a calculation of expected RPS collections based on the load data listed in Table 3 4 and the RPS collection rates listed in Table 3 9 and the expenses from Table 3 11 and calculates for each year and expected beginning and ending balance. The 2020-2021 delivery year starting balance includes utility-held ACP as well as funds collected but not spent in delivery years 2017-2018 through 2019-2020.

Table 3-12: RPS Funds and Expenditures ($ millions)[156]

Delivery Year	Delivery Year Starting Balance	RPS Collections	Total Funds Available	Total Expenditures	Delivery Year Ending Balance
2020-2021	$481.20	$225.20	$706.40	$282.50	$423.90
2021-2022	$423.90	$464.70	$888.60	$327.20	$561.50
2022-2023	$561.50	$587.50	$1,148.90	$429.20	$719.70
2023-2024	$719.70	$589.00	$1,308.70	$531.10	$777.60
2024-2025	$777.60	$587.10	$1,364.70	$583.10	$781.60
2025-2026	$781.60	$585.10	$1,366.70	$569.90	$796.80
2026-2027	$796.80	$585.80	$1,382.60	$568.80	$813.80
2027-2028	$813.80	$587.50	$1,401.30	$630.10	$771.20
2028-2029	$771.20	$590.40	$1,361.60	$676.50	$685.00
2029-2030	$685.00	$591.10	$1,276.20	$729.90	$546.30
2030-2031	$546.30	$593.00	$1,139.30	$773.20	$366.10

Figure 3 3 illustrates year by year spending by type (legacy, in progress, proposed in this Plan, potential future, set asides) compared to year-to-year budget availability.

Figure 3-3: RPS Expenditures Compared to Annual Available Funds

[156] Breakdowns of the information presented in Table 3 11 and Table 3 12 by each utility, and information on the breakdown of expenses by program/resource type can be found in Appendix B.

Based on this forecast of revenue and expenses, the IPA projects that sufficient funding will be available to support both the proposals contained in this Plan and similar levels of program activity and procurements for the balance of the decade. Under this analysis, the delivery year starting balances never exceed two years of funding collections which indicates that funds spent in any given delivery year are funds collected that year or the previous year. Again, however, future budget impacts carry significant uncertainty.

As previously committed to through the First Revised Plan, the Agency will in seek to have under contract projects with likely annual expenditures equaling no more than 95% of expected available funds for any given delivery year to guard against the potential payment reduction of existing contracts.

3.4.7. Budget Uncertainty Due to Unknowns in Project Energization Timelines

One challenge the Agency has faced in understanding pending budget impacts is that project energization and REC deliveries—and thus resultant budget impacts—are not scheduled to begin at a fixed point. Instead, supported projects may become energized at any point over a period of time, whether immediately upon program application, closer to the contractual deadline for first deliveries, or later still due to extensions. This creates challenges into budget visibility in part because Adjustable Block Program projects carry large budget impacts upon energization: 15% of contract value for distributed generation projects above 25 kW up to 5,000 kW ("Large DG") and Community-Driven Community Solar; 100% of contract value for distribution generation up to 25 kW ("Small DG").[157] Because payment only commences upon project energization, the Agency cannot have certainty about when funds for specific projects will begin to be spent.

This dynamic has proven to be a significant challenge in modeling budgets for present and future delivery years. Thankfully, this challenge has been mitigated by the changes to Section 16-108(k) of the PUA, including the ability for funds to be available for five years following collection (and utilized on a "first-in, first-out" basis) and walling off from reconciliation contractual obligations entered into but not yet paid. The timing of when a project is energized and thus starts receiving payments for RECs is now a less critical concern, as funds collected in prior years may now meet future years' expenses even when those expenses are moderately delayed. However, the lumpiness of first payments could still create future constraints from a cash flow perspective. As indicated in Section 3.5, flexibility with the use of utility-held ACPs creates a relief to that potential pressure.

3.4.8. Budget Uncertainty Due to Annual Load Variations

The annual RPS Budget used in this draft 2022 Long-Term Plan has been developed using base case load forecasts provided by the utilities and each utility's statutory cost cap. These load forecasts are driven by a number of factors, which include but are not limited to weather, economics, demographics, assumed demand response, and energy efficiency. Changes to any of the assumptions will result in actual load deviating from forecasted load. Examples include changes in weather patterns, changes in energy efficiency adoption rates, and changes to economic conditions. In practice, the annual RPS Budget for a delivery year will depend on the actual reference year load for

[157] Adjustable Block Program projects in the Traditional Community Solar and Public Schools categories pay for RECs over the life of the contract and are this structured more similarly to utility-scale REC delivery contracts.

each utility, which will likely deviate from the forecasted loads provided by the utilities—although in which direction that deviation will occur is impossible to know until that delivery year.

To see how deviations from the Base Case load forecasts may affect available RPS budgets, the IPA conducted a comparative analysis of the RPS Budget based on the Base Case, High Case, and Low Case. Load forecast data for Ameren Illinois and ComEd were used for this analysis. The RPS Budget for each utility, for each load case, is based on the product of the Applicable Load for a given year and the cost cap rate shown in Figure 3-8.[158] For each utility, the impact of the High Case and Low Case is the difference between the RPS budget for each case and the RPS Budget for the Base Case. The total is the sum of the differences for these utilities.

Figure 3-4: Effect on RPS Budget of Annual Load Variations to the Utilities' Load Forecast

As shown in Figure 3 4 above, the impact of the low load forecast on the RPS Budget ranges from a reduction compared to the base case RPS Budgets of approximately $5.1 million in delivery year 2021-2022 to a reduction of approximately $16 million in delivery year 2025-2026. Alternatively, the impact of the high load forecast on the RPS Budget ranges from an increase compared to the base case RPS Budgets of approximately $7 million in delivery year 2021-2022 to an increase of approximately $16.7 million in delivery year 2025-2026. This constitutes a +/- 2 to 3.5% error band on annual RPS collections.

The Agency notes that the scale of load forecast uncertainty increases the further out the forecasts are made, which is logical because factors such as economic indicators and climate/weather are compounded and inherently difficult to predict. That increasing uncertainty underscores the need for careful consideration as the Agency considers the impact of procurements and programs on future year budgets.

3.5. Alternative Compliance Payment Funds Held by the Utilities

As of January 13, 2022, Ameren Illinois held $12,959,933 and ComEd held $25,124,996of alternative compliance payments collected from retail customers that took service under electric utilities' hourly

[158] The load data for the Base Case, High Case, and Low Case for Ameren and ComEd was provided by the utilities as part of their data submissions for this Second Revised Plan.

pricing tariff or tariffs ("HACP"). These funds are in part committed to fund the REC purchases from the 2015 through 2017 Distributed Generation procurements conducted by the Agency, which featured five-year REC delivery contracts with payment upon delivery (and not prepayment).[159] Under the ICC's Order on Reopening in Docket No. 19-0995, REC delivery contracts resulting from those Distributed Generation procurements are not subject to payment deferral for the 2021-22 delivery year.

As of January 13, 2022, the remaining balance of uncommitted hourly alternative compliance payments—those not set aside to fund the Distributed Generation procurements—is $12,959,933 for Ameren Illinois, and $24,259,385.66 for ComEd.

Also, as of January 13, 2022, Ameren Illinois held $23,519,406, ComEd held $42,745,956, and MidAmerican held $13,556 of alternative compliance payment funds collected from ARES since June 1, 2017 ("ARES ACP")[160] as shown in Table 3-22.

The Tables below summarize the balances of these Alternative Compliance Payments.

Table 3-13: Balance of HACP as of January 13, 2022 ($)

Ameren	ComEd	MidAmerican
12,959,933	25,124,996	-

Table 3-14: Available ACPs ($)

ACP	Ameren	ComEd	MidAmerican	All Utilities
Uncommitted HACP	12,959,933	22,249,927	-	35,209,860
ARES ACP	23,519,409	42,745,956	13,556	66,278,931
Total Available ACPs	36,479,342	64,995,883	13,556	101,488,791

In its First Revised Plan, the Agency proposed, and the ICC accepted, that the utility held ACPs should be used in each delivery year *after* the use of funds collected pursuant to Section 16-108(k) for both Forward Procurements and the Adjustable Block Program, providing the Agency with a reserve balance of funds through which it could cover expenditures in excess of Section 16-108(k) collections. This approach was necessary to minimize the risk of payment deferrals in the 2021-2022 delivery year and the two years directly thereafter, during which the Available Net RPS Budget had been projected to be negative, meaning that absent this change to the use of utility-held ACPs, contractual expenditures would need to be pulled back (under curtailment clauses in the REC contracts) from what was committed in order to bring the Available Net RPS Budget for the delivery

[159] 2016 and 2017 Distributed Generation procurements for MidAmerican were funded out of MidAmerican's Renewable Energy Resources budget, as MidAmerican does not have any Hourly Alternative Compliance Payments.

[160] Section 16-115D of the PUA provides that while "[t]hrough May 31, 2017, all alternative compliance payments by alternative retail electric suppliers shall be deposited in the Illinois Power Agency Renewable Energy Resources Fund," "beginning with the delivery year commencing June 1, 2017, all alternative compliance payments by alternative retail electric suppliers shall be remitted to the applicable electric utility" and not deposited into the RERF. (220 ILCS 5/16-115D(d)(4), (4.5).) See also 83 Ill Adm. Code Part 455. ComEd's balance reflects interest earned on the ARES ACP funds held by ComEd, while Ameren Illinois' and MidAmerican's do not.

year to zero. With the delays in project energization created by the COVID-19 pandemic, it appeared in 2021 that even with the use of utility-held ACPs such contract curtailment could occur and as discussed elsewhere in this Plan the IPA petitioned the ICC to reopen the First Revised Plan to address this issue.

While the enactment of Public Act 102-0662 has alleviated those concerns, the full budgetary impact of the changes to the RPS are not fully known or understood. As a result, for this draft 2022 Long-Term Plan, the Agency recommends maintaining the approach of holding utility-held ACPs in reserve. The Agency will consider alternative uses of utility-held ACPs to maximize their impact on increasing RPS activities in its next Long-Term Plan.

3.6. Section 1-75(c)(1)(H)(i) ARES Option to Supply RECs for their Retail Customers

Section 1-75(c)(1)(H) of the Act provides an exception to the phase-out of ARES RPS obligations described in Section 3.1. Under this exception, an ARES may use self-supplied RECs to meet a portion (and possibly all) of the REC procurement requirements applicable to its load. To do so, the ARES had to first make an informational filing to the ICC within 45 days of the effective date of Public Act 99-0906 (i.e., within 45 days of June 1, 2017), indicating that it owned a generating facility or facilities as of December 31, 2015, that produced RECs eligible to meet the RPS, provided that those facilities were not powered by wind or solar photovoltaics.

The amount of RECs that can be supplied by ARES-owned/ generation is subject to several limitations. Specifically, the Act provides that:

> *For the delivery year beginning June 1, 2018, the maximum amount of renewable energy credits to be supplied by an alternative retail electric supplier under this subparagraph (H) shall be 68% multiplied by 25% multiplied by 14.5% multiplied by the amount of metered electricity (megawatt-hours) delivered by the alternative retail electric supplier to Illinois retail customers during the delivery year ending May 31, 2016.*
>
> *For delivery years beginning June 1, 2019 and each year thereafter, the maximum amount of renewable energy credits to be supplied by an alternative retail electric supplier under this subparagraph (H) shall be 68% multiplied by 50% multiplied by 16% multiplied by the amount of metered electricity (megawatt-hours) delivered by the alternative retail electric supplier to Illinois retail customers during the delivery year ending May 31, 2016, provided that the 16% value shall increase by 1.5% each delivery year thereafter to 25% by the delivery year beginning June 1, 2025, and thereafter the 25% value shall apply to each delivery year.* [161]

The Act limits the total amount of RECs that can be supplied by all ARES through owned generation:

> *For each delivery year, the total amount of renewable energy credits supplied by all alternative retail electric suppliers shall not exceed 9% of the Illinois target renewable energy credit quantity. The Illinois target renewable energy credit quantity for the delivery year beginning June 1, 2018 is 14.5% multiplied by the total amount of metered electricity (megawatt-hours) delivered in the delivery year immediately preceding that delivery year, provided that the 14.5% shall increase by 1.5% each delivery year*

[161] Id.

> *thereafter to 25% by the delivery year beginning June 1, 2025, and thereafter the 25% value shall apply to each delivery year.*[162]

To account for this self-supply by the ARES, the Act requires that charges applicable to retail customers of that ARES be reduced by the ratio of the RECs supplied by the ARES to the ARES's RPS target. Specifically, the Act states that:

> *If the requirements set forth in items (i) through (iii) of this subparagraph (H) are met, the charges that would otherwise be applicable to the retail customers of the alternative retail electric supplier under paragraph (6) of this subsection (c) for the applicable delivery year shall be reduced by the ratio of the quantity of renewable energy credits supplied by the alternative retail electric supplier compared to that supplier's target renewable energy credit quantity. The supplier's target renewable energy credit quantity for the delivery year beginning June 1, 2018 is 14.5% multiplied by the total amount of metered electricity (megawatt-hours) delivered by the alternative retail supplier in that delivery year, provided that the 14.5% shall increase by 1.5% each delivery year thereafter to 25% by the delivery year beginning June 1, 2025, and thereafter the 25% value shall apply to each delivery year.*[163]

The ARES must also notify the Agency and the applicable utility by February 28 of each year of its election to supply RECs to its retail customers and include the amount of RECs to be supplied. By April 1 of each year, the IPA posts a report to its website outlining on the aggregate number of RECs being supplied by the ARES for the upcoming delivery year under this provision, starting June 1.[164] This quantity is accounted for as RECs from "other technologies" (i.e., other than wind or solar) and reduces the overall RPS Target for that delivery year. Those targets are shown (unadjusted) in Table 3 6.

One ARES informational filing, covering an eligible ARES-owned generation facility located outside of Illinois, was submitted on a confidential basis to the ICC by the deadline of July 15, 2017.

3.7. MidAmerican Volumes

While procurement plans are required to be prepared annually for Ameren Illinois and ComEd, Section 16-111.5(a) of the PUA states that "[a] small multi-jurisdictional electric utility . . . may elect to procure power and energy for all or a portion of its eligible Illinois retail customers" in accordance with the planning and procurement provisions found in the IPA Act. On April 9, 2015, MidAmerican first formally notified the IPA of its intent to procure power and energy for a portion of its eligible retail customer load through the IPA through its participation. That portion is essentially the incremental load that is not forecasted to be supplied in Illinois by what MidAmerican, a vertically-integrated utility in Iowa that owns generation there (as well as a share of the Quad Cities nuclear plant in Cordova, IL), assigns to Illinois as its jurisdictional generation. Each year since, MidAmerican has remained a part of that process to meet the remaining "portion" of its load.

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[162] Id.

[163] Id.

[164] For the 2021-2022 delivery year, see: https://www2.illinois.gov/sites/ipa/Documents/2021-2022%20Delivery%20Year%20ARES%20REC%20Report.pdf. The amount of RECS expected to be supplied is 1,704,547.

MidAmerican's status as a multi-jurisdictional utility that uses its own generating resources to meet a portion of its Illinois load creates a unique situation for RPS compliance. Unlike Ameren Illinois and ComEd, for which all retail load is subject to the RPS goals and targets (subject to limited exceptions outlined above), the MidAmerican load for which the RPS goals and targets are applicable has traditionally been only that load that is subject to the IPA's annual planning and procurement process for conventional power. As mentioned above, that amount has been the forecast load in excess of MidAmerican's Illinois-allocated generation in any given delivery year, which has generally been only 25-35% of its total jurisdictional load.[165]

As a significantly smaller Illinois utility to begin with, and with only a portion of its load applicable to the Illinois RPS, the MidAmerican share of Illinois RPS and Zero Emission standard contracts has often been only a fraction of that allocated to ComEd and Ameren Illinois.

3.7.1. Initial Change to MidAmerican's Load Forecast Methodology

In 2018, MidAmerican proposed and the Commission approved a change in approach to forecast MidAmerican's generation used for electricity procurement.[166] This change caused a sudden and significant reduction of the load subject to the IPA electricity procurement process, as seen in Table 3 15 below.

Table 3-15: MidAmerican Applicable Load and RPS Budget before and after Change in Forecast Approach

Compliance Delivery Year	Reference Delivery Year	Applicable Load Before Change [MWh][167]	Applicable Load After Change [MWh][168]	RPS Budget Before Change [$]	RPS Budget After Change [$]
2020-2021	2019-2020	616,844	0	765,812	0
2021-2022	2020-2021	527,768	0	655,224	0
2022-2023	2021-2022	519,093	126	644,454	156
2023-2024	2022-2023	509,457	400	632,491	497
2024-2025	2023-2024	390,919	644	485,326	800
2025-2026	2024-2025	372,831	929	462,870	1,153

In the 2019 Electricity Procurement Plan,[169] the IPA explained the change in approach to forecast MidAmerican's generation:

[165] The Commission specified this approach for the procurement of renewable resources to meet the RPS compliance targets applicable to MidAmerican in Docket No. 15-0541, determining that only the portion of MidAmerican's load subject to the IPA's planning and procurement process is subject to Section 1-75(c) of the Act's requirements.

[166] Docket No. 18-1564, Final Order dated November 26, 2018.

[167] Based on load volumes presented in the Initial Plan.

[168] Based on volumes provided by MidAmerican in its response submitted for the preparation of the First Revised Plan.

[169] 2019 Final Electricity Procurement Plan at 45-46 (Jan. 4, 2019).

In reviewing the load forecast and resource portfolio information supplied by MidAmerican for the 2019 Plan, the IPA notes that MidAmerican revised the methodology used for its generation supply forecast. The prior forecast methodology utilized production cost models to dispatch the Illinois Historical Resources whenever the expected cost to generate electricity is less than the expected cost of acquiring it in the market. The revised methodology is based on the utilization of MISO Unforced Capacity ("UCAP") from the baseload Illinois Historical Resources to determine the generation available to meet MidAmerican's Illinois eligible load.[170]

MidAmerican's revised methodology utilizes the full capability of each baseload generation asset, represented by the UCAP MW values as determined by MISO for each year's Planning Resource Auction. The UCAP values de-rate generating unit capabilities by considering historical forced outage rates and operating conditions under summer peak conditions. The IPA, for the 2019 Plan, recommends no changes to the determination of monthly on-peak and off-peak block energy requirements other than the replacement of generation production values with the UCAP values for each of the following baseload resources:

- *Coal resources including: Neal Unit #3, Neal Unit #4, Walter Scott Unit #3, Louisa Generating Station, and Ottumwa Generating Station.*
- *Nuclear Resources: Quad Cities Nuclear Power Station.*

The supply capability that is determined is netted against the forecast of MidAmerican Illinois load to calculate the monthly on-peak and off-peak shortfalls which will be met with energy block purchases in the IPA procurements. In determining the amount of block energy products to be procured for MidAmerican, the IPA treats the allocation of capacity and energy from MidAmerican's Illinois Historical Resources in a manner analogous to a series of standard energy blocks. This approach is consistent with the 2018 Procurement Plan approved by the Commission.

As shown in Table 3 15 above, one unintended consequence of this reduction is that it would cause the annual commitments of already procured RECs and associated spending to exceed MidAmerican's projected RPS annual budget using the prior-applied methodology for determining that budget amount. Stated differently, MidAmerican was previously assigned contracts assuming it would have ~$650,000 available to spend annually on renewable energy procurement. Upon those obligations becoming due and payments needing to be made, applying MidAmerican's new load forecasting methodology in combination with the prior approach to determining MidAmerican's RPS budget would result in MidAmerican only potentially having hundreds of dollars available for renewable energy resource procurement.

This could have left entities holding contracts with MidAmerican at risk of non-payment, as absent an alternative interpretation to calculating MidAmerican's available RPS budget, MidAmerican would not be authorized to meet those contract obligations without exceeding its statutory RPS rate impact cap. This situation could have caused some new renewable energy facilities dependent on revenue from MidAmerican's contracts to suffer losses, leaving them potentially unable to generate enough revenue to cover costs.

[170] MidAmerican allocates 10.86% of the UCAP ratings of its baseload units for Illinois Historical Generation.

3.7.2. Correcting for the Unintended Consequences of MidAmerican's Forecast Approach

As described in more detail throughout Chapter 2, a primary objective informing Public Act 99-0906's reforms to the Illinois RPS was to reduce year-over-year funding volatility that effectively paralyzed leveraging RPS funds to support the development of new renewable energy generation. While such volatility was not completely eliminated, year-over-year RPS annual budget changes for those utilities remain relatively minor, and enough stabilization was introduced to allow for the execution of the types of long-term contracts providing sufficient revenue certainty to allow developers to secure financing to develop new renewable generation. To ensure similar stability for MidAmerican's budgets, in the First Revised Plan, the IPA proposed and the Commission accepted the use of a proxy to calculate MidAmerican's Applicable Load. This proxy for applicable load is a percentage of MidAmerican's total Illinois retail load.

MidAmerican's Applicable Load for the purposes of RPS compliance (i.e., calculations of REC targets, budgets, and allocation of REC contracts in this Second Revised Plan) is to be fixed at 26.025% of MidAmerican's annual total Illinois retail load. This percentage is calculated as follows: the average of MidAmerican's applicable load from the Initial Plan for the DYs 2019-2020 through 2037-2038 is 526,880 MWh. The average of the total retail load provided by MidAmerican in their July 2019 data response for the same period is 2,024,484 MWh. The ratio of the average applicable load from the Initial Plan to the average total retail load provided by MidAmerican in its data response yields a 26.025% proxy.

Adopting this proposal produces Applicable Load volumes that are equivalent to those used in the Initial Plan, as shown on Table 3 15, which formed the basis to calculate MidAmerican's targets and budgets that supported MidAmerican's allocation of REC contracts and corresponding spending. Additionally, as can be observed in the Table below, MidAmerican's resulting Applicable Load and corresponding budget is relatively stable, year over year, helping to ensure not only that existing contracts are not curtailed, but also that the year to year volatility does not persist for MidAmerican.

As this proposal was uncontested in Docket No. 19-0995, this proposal was adopted by the Commission through its Final Order in that proceeding approving the First Revised Plan. This approach has been maintained for this 2022 Long-Term Plan.

Figure 3-5: Comparison of MidAmerican's Applicable Load Using the Generation Forecast before Change and the Proposed Proxy for Determining Applicable Load and Budget

MidAmerican's Applicable Load will be determined by using the proxy approach proposed in this Section.

4. Renewable Energy Credit Eligibility

4.1. Introduction

To be eligible for use in compliance with the Illinois RPS, RECs are required to meet a variety of eligibility requirements. First, the RECs are to be sourced from generating technologies permitted in the definition of "renewable energy resources" contained in Section 1-10 of the Act. Second, Subsections (I) and (J) of Section 1-75(c)(1) create additional eligibility criteria. Subsection (I) contains locational eligibility criteria, while subsection (J) contains criteria related to how a facility that generates RECs recovers its costs.

This Chapter discusses how the Agency interprets and implements the requirements of Subsections (I) and (J). Through P.A. 102-0662, changes were made to Section 1-75(c)(1)(I) and (J) of the Act providing support for RECs associated with electricity transmitted across qualifying high voltage direct current ("HVDC") lines and electricity transmitted to Illinois-based HVDC converter stations; those changes are discussed in Section 4.5 below.

4.2. REC Eligibility

Outside of these HVDC-related changes, P.A. 102-0662 does not otherwise change the process for determining the eligibility to participate in the Agency's competitive procurements for utility-scale projects that are located in the states adjacent to Illinois.

P.A. 99-0906 placed two new-at-the-time, conditions on RECs eligible to be used for RPS compliance.

1. A locational standard that allows for RECs from facilities located in Illinois to meet the Illinois RPS, and from facilities located in adjacent states only if those facilities meet the public interest criteria set out in Section 1-75(c)(1)(I). By implication, RECs from states further afield than the states adjacent to Illinois do not qualify for the Illinois RPS.
2. P.A. 99-0906 introduced a new standard related to how generating units recover their costs. This standard not only prohibits the use of RECs from generating units that recover their costs through state-regulated rates, but also assesses penalties for RECs from systems later found to be non-compliant.[171]

These eligibility requirements require competitive procurements conducted by the IPA to feature additional steps to verify that RECs being procured (and, in most cases, the underlying generating facilities from which they are being procured) are indeed eligible for the Illinois RPS. Additional review is now required during the bidder registration process to allow the Procurement Administrator and the Agency to verify information about proposed facilities and if facilities located in the states adjacent to Illinois meet the public interest criteria.

4.3. Adjacent State Requirement

Section 1-75(c)(1)(I) of the Act contains a locational eligibility requirement for the Illinois RPS. Enacted through P.A. 99-0906, this requirement replaced the prior locational standard under which

[171] See 20 ILCS 3855/1-75(c)(1)(J). Note that Section 1-75(c)(1)(I) references "facility" and "facilities" for the geographic standard, while Section 1-75(c)(1)(J) references "generating unit" for the cost recovery standard. Section 1-10 of the IPA Act does not specifically define "generating unit" but does define a facility as, "an electric generating unit or a co-generating unit that produces electricity along with related equipment necessary to connect the facility to an electric transmission or distribution system." The Agency understands these terms to be generally interchangeable.

renewable energy resources could come from Illinois and adjoining states, and if not available, then they could come from elsewhere.[172] By contrast, Section 1-75(c)(1)(I) permits that qualifying renewable energy credits can be generated by facilities located in Illinois, and *may* be sourced from facilities in adjacent[173] states—but *only* if these facilities can meet public interest criteria spelled out in the law. While not explicitly stated in the statute, the Agency understands that the application of the public interest criteria for only adjacent states means that renewable energy credits from generating facilities located in states that are not adjacent to Illinois (or from generating facilities in other countries) will not be eligible for the Illinois RPS.

The public interest criteria that the Agency considers include:

1. Minimizing sulfur dioxide, nitrogen oxides, particulate matter and other pollution that adversely affects public health in this State
2. Increasing fuel and resource diversity in this State
3. Enhancing the reliability and resiliency of the electricity distribution system in this State
4. Meeting goals to limit carbon dioxide emissions under federal or state law
5. Contributing to a cleaner and healthier environment for the citizens of this State

The Act specifies that the Agency "may qualify renewable energy credits from facilities located in states adjacent to Illinois <u>if the generator demonstrates</u> *and* <u>the Agency determines</u> that the operation of such facility or facilities will help promote the State's interest in the health, safety, and welfare of its residents based on the public interest criteria described above."[174]

To do so, and to "ensure that the public interest criteria are applied to the procurement and given full effect," the Plan "shall describe in detail how each public interest factor shall be considered and weighted for facilities located in states adjacent to Illinois." This Chapter provides that description.

In originally developing a methodology for considering and weighting these public interest criteria, the Agency faced certain challenges. The complex nature of an interconnected electric power grid and associated system operations (i.e., generation dispatch for economics and reliability), and how pollution flows across states, all prevented the Agency from simply quantifying and scoring facility eligibility requests using easily obtainable data. While predictions can be simulated, there is not one clear, unassailable way to determine how a renewable energy facility in an adjacent state will meet the public interest criteria.

In its Initial Plan, the Agency developed what it believes are reasonable proxies for each criterion.[175] In the Final Order approving the Initial Plan on April 3, 2018 in Docket No. 17-0838, the Commission found the Agency's methodology and assumptions for considering the eligibility of RECs sourced from adjacent states to be reasonable. That approach remained the same for the First Revised Plan approved by the ICC on February 18, 2020 in Docket No. 19-0995, and no party contested the First

[172] Former 20 ILCS 3855/1-75(c)(3), repealed June 1, 2017.

[173] For the purpose of assessing eligibility for compliance with the Illinois RPS, the Agency defines only states that have a common border as states adjacent to Illinois: Wisconsin, Iowa, Missouri, Kentucky, Indiana, and Michigan. Michigan is considered adjacent due to the border between Illinois and Michigan that exists in Lake Michigan. This is consistent with how other State Agencies interpret the federal Coastal Zone Management Act. See, for example, https://www.dnr.illinois.gov/cmp/documents/3_boundary.pdf.

[174] 20 ILCS 3855/1-75(c)(1)(I) (emphasis added).

[175] The Agency also developed a similar set of criteria for use in its Zero Emission Standard Procurement Plan ("ZES Plan") developed pursuant to Section 1-75(d-5) of the Act, which was approved by the Commission on September 11, 2017 in Docket No. 17-0333. That ZES Plan includes consideration of how to minimize sulfur dioxide, nitrogen oxide, and particulate matter emissions that would result from the potential closure of zero emission facilities (i.e., nuclear plants located in PJM or MISO).

Revised Plan's approach through that proceeding. This approach, described in more detail below, is generally unchanged in this draft Plan.

While based conceptually on the same approach used for the Agency's Zero Emission Standard ("ZES") Plan, the basis for determining compliance with the pollution and emissions public interest criteria in this Revised Plan is focused on the displacement of potential new non-renewable gas-fired generation by renewable generation that could be eligible to supply RECs to meet the Illinois RPS requirements. Among the differences from the ZES Plan scoring approach are that renewable generating facilities are likely to be intermittent rather than baseload (a defining characteristic of zero emission facilities), typically impact generation on the margin of the dispatch order, and are generally smaller in size relative to the ZES replacement generation.

To assess whether a renewable generating facility located in an adjacent state is eligible to participate in the IPA's REC procurements to meet the Illinois RPS, the Agency assigns a maximum of 20 points to each of the five public interest criteria, as described below, for a total of 100 possible points.

For a renewable energy generating facility in an adjacent state to have its RECs considered eligible for the Illinois RPS, the adjacent state facility needs to demonstrate that it can achieve a total score of at least 60 points for the Agency to approve that request. The IPA believes that this score threshold, previously affirmed by the ICC in Docket No. 17-0838, provides a balanced approach to ensuring that adjacent state facilities indeed provide sufficient benefits consistent with the law's directive. This score threshold requires a better than average score demonstrating benefits to the health, safety, and welfare of Illinois residents, but yet not too onerous to prohibit any adjacent state participation.

For this draft Plan, the Agency has reviewed and analyzed not only this scoring threshold, but also the methodology for the consideration of adjacent state facilities. After review and analysis, this scoring threshold and methodology (described further below) remains the same as presented in the Initial Plan and First Revised Plan. However, the Agency has updated the data for the inputs related to wind direction and duration used in the methodology.

The Agency also notes that there are two wind facilities in adjacent states that were the recipients of contracts from the 2010 Long-Term Renewable Resources Procurement. One in Iowa has a contract with Ameren, while one in Indiana has a contract with ComEd. As these facilities were granted contracts at a time that Illinois law viewed them as providing sufficient benefits to Illinois residents for their renewable energy resources to be used to meet the Illinois RPS, the Agency considers these two facilities to be grandfathered into this requirement.

1. Minimizing sulfur dioxide, nitrogen oxide, particulate matter and other pollution that adversely affects public health in this State

For the purposes of its Initial Plan (and maintained in this draft Plan) and the consideration of this criterion, the Agency refined and simplified the methodological approach utilized in the ZES Plan. Under the ZES Plan, emissions are associated with replacement of generation that can be located anywhere in PJM or MISO; for the purposes of this draft Plan, the Agency considers that a renewable energy facility would displace the emissions of a typical new natural gas-fired combined-cycle generation facility.

In the ZES Plan, the Agency weighted replacement generation across multiple states, in recognition that replacement generation for a large Zero Emission Facility would likely come from multiple sources (replacement generation would be a combination of changed dispatch of existing generation units as well as the potential development of new generating units). [176] The Agency simplified the weighting for this criterion to focus on comparing emissions from renewable generation to the emissions from a new natural gas-fired combined-cycle generating facility. This assumption reflects the fact that recent and anticipated additions to the resource mix in PJM and MISO will be predominantly natural gas, wind or solar[177] and natural gas is increasingly the fuel on the margin for both PJM and MISO, and thus more appropriate for comparison than, say, a baseload coal facility.[178] As discussed below, this comparison is a relevant factor in the evaluation criteria for renewable technologies that involve combustion (thus not including wind, solar, or hydro).

The emissions comparison includes sulfur dioxide (SO_2) and nitrogen oxides (NO_x) as proxies for all emissions because higher emissions of SO_2 and NO_x are generally correlated with higher emissions of PM, especially with regard to facilities that involve the combustion of solid fuels. SO_2 and NO_x are primary emission sources for the formation of $PM_{2.5}$ in ambient air away from the immediate emissions source. Larger PM (PM_{10}) is deposited nearer the source, while secondary $PM_{2.5}$ increases based on the formation of sulfates and nitrates from the SO_2 and NO_x in the atmosphere as the pollutants move away from the primary source.[179] The following table shows SO_2, NO_x, and CO_2 emissions rates of new natural gas-fired generation based upon 2019 data from the U.S. Energy Information Agency ("EIA"). [180]

Table 4-1: Natural Gas-Fired Combined-Cycle Generation Emissions Rates

Pollutant	Pounds/MWh
SO_2	0.006
NO_X	0.048
CO_2	752

The score is calculated by multiplying an emissions factor for the renewable resource facility (scaled from 0 to 1) by a wind duration/direction factor (scaled from 0 to 1) and then by 20 points to determine the number of points awarded for this criterion.

[176] Specifically, 33% of the replacement generation was assumed to be in the bidding zero emission facility's own state, and the remaining 67% of replacement generation was assumed to occur across the relevant RTO, allocated by states based on each state's share of RTO-wide generation. ZES Plan, July 31, 2017, https://www.icc.illinois.gov/downloads/public/edocket/451223.pdf, at 37.

[177] U.S. FERC, Office of Energy Policy and Innovation, Division of Energy Market Assessment, "State of the Markets 2020. A Staff Report to the Commission," March 18, 2021. "MISO Futures Report," April 2021. https://cdn.misoenergy.org/MISO%20Futures%538224.pdf. Lustig, M. and Dholakia, G., S&P Global Market Intelligence, "Outlook 2021: US planned capacity additions again led by solar, wind." 26 April 2021.

[178] See: Potomac Economics, "2020 State of the Market Report for the MISO Electricity Markets, Analytic Appendix" May 2021. https://cdn.misoenergy.org/2020%20State%20the%20Market%20Analytical%20Appendix552300.pdf.; Monitoring Analytics, LLC, "2020 State of the Market Report for PJM, Volume 2: Detailed Analysis." http://www.monitoringanalytics.com/reports/PJM_State_of_the_Market/2020/2020-som-pjm-vol2.pdf.

[179] U.S. EPA, "Particulate Matter Emissions," Report on the Environment, http://www.epa.gov/roe.

[180] Emissions rates for a natural gas turbine operating in combined cycle with a heat rate of 6,431 Btu/kWh are shown in Table 7-3 of the February 2020 U.S. EIA Report "Capital Cost and Performance Characteristic Estimates for Utility Scale Electricity Generating Technologies." The CO_2 emissions in pounds per MMBtu are 117 for CO2, 0.001 for SO_2, and for NOx 0.0075; which at the heat rate of 6,431 Btu/kWh, are 752 pounds per MWh of CO_2, 0.006 pounds per MWh of SO_2, and 0.048 pounds per MWh of NOx. See: https://www.eia.gov/analysis/studies/powerplants/capitalcost/pdf/capital_cost_AEO2020.pdf.. Typical emissions rates have not changed since 2016, although the updated report shows that the new combined cycle generating plant heat rate has improved slightly.

The emissions factor is calculated by taking one minus: the sum of the eligible renewable resource's SO_2 and NO_x emissions in pounds/MWh divided by the sum of the SO_2 and NO_x emissions from a new natural gas-fired combined-cycle generation facility in pounds/MWh.

The emissions factor for wind or solar generating facilities, which do not emit SO_2, NO_x, or Particulate Matter, would be 1.0 because those facilities would have zero in the numerator of the part of the equation that is subtracted from one. The focus of the competitive procurements covered in the draft Plan is on utility-scale wind and solar projects as well as brownfield site solar projects. Other renewable generating facilities including technologies that rely on combustion of a renewable resource are not specifically addressed in the adjacent state eligibility requirements for these competitive procurements.

The Zero Emission Standard Plan included consideration of wind direction and duration as well as the distance from Illinois to modify the emissions criteria scoring. In scoring the emissions related public interest criterion, the Agency and simplified the wind duration/direction approach compared to what was utilized in the Zero Emission Standard Plan. For this draft Plan, the IPA has updated the wind data from what was used in the Initial and First Revised Plans. Since the renewable generating facilities supplying RECs from outside of Illinois must be located in the states adjacent to Illinois (as opposed to anywhere within PJM and MISO under the Zero Emission Standard), the distance of the emission source from Illinois is less important for this Plan compared to the Zero Emission Standard, and thus is not considered in the approach adopted for this draft Plan.

The following table provides the wind duration/direction factors for each adjacent state.

Table 4-2: Wind Duration/Direction Factors

Adjacent State	Wind Direction Sectors	Wind Direction and Duration Factor[181]
Indiana	SSE, SE, ESE, E, NNE, NE, ENE	0.318
Kentucky	S, SSE, SE	0.213
Missouri	W, WSW, SW, SSW, S	0.460
Iowa	W, WNW, NW, NNW	0.253
Wisconsin	N, NNW	0.088
Michigan	NE, NNE	0.084

The wind duration factor is based on the percentage of the time the wind blows into Illinois from 16 directional sectors that form all of the directions in 360 degrees around Illinois. The wind direction and duration factors were developed based on 25 years of consistent climatological data. On average this data is relatively stable over time, although at some point in the future climate change could impact the data underlying the determination of these factors. For example, the wind blowing from Indiana would encompass seven directional sectors from which the wind blows on average 25.6 percent of the time. Thus, for example, a solar facility located in Indiana would receive 1 x 0.318 x 20 or 6.36 points. The following equation shows how this score is obtained (with the caveat that the minimum possible score is zero and cannot be a negative score):[182]

[181] Total factors exceed 1.0 because there may be more than one state represented in a given wind direction sector.

[182] See Docket No. 17-0838, Final Order dated April 3, 2018 at 21.

Figure 4-1: Pollution Score Calculation

$$Score = \left(1 - \frac{\sum_{renewable\ resource} SO_2\ and\ NO_x \left(\frac{lbs}{MWh}\right)}{\sum_{gas\ resource} SO_2\ and\ NO_x \left(\frac{lbs}{MWh}\right)}\right) \times Wind\ Duration\ /\ Direction\ Factor \times 20$$

The Agency's review of the scoring methodology for this criterion showed that the analytical approach remains valid for this draft Plan. However, the wind duration/direction factors have been updated to include 25 years of consistent data reported by the Illinois State Water Survey, Water and Atmospheric Resource Monitoring Program from 17 reporting stations located around the state for the years 1996 through 2020[183] (rather than the period 1996 through 2016 included in the Initial and First Revised Plans).

2. Increasing fuel and resource diversity in this State

Fuel and resource diversity generally refers to the use of a balanced group of generating facilities and technologies which results in reducing the risk that a specific technology could adversely impact overall system reliability. For example, PJM defines fuel diversity as: utilizing multiple resource types to meet demand such that a sufficiently diversified system is expected to provide the flexibility and adaptability to: "1) mitigate risk associated with equipment design issues or common modes of failure in similar resource types, 2) address fuel price volatility and fuel supply disruptions, and 3) reliably mitigate instabilities caused by weather and other unforeseen system shocks."[184] In effect, fuel and resource diversity can act as a hedge to help ensure a stable and reliable supply of electricity.

Any generation source that promotes more reliance on generation sources other than coal and nuclear, which in 2020 had generation shares of 17.9% and 57.8% of Illinois' total generation respectively,[185] would contribute to increasing fuel and resource diversity in Illinois. By this measure, any of the eligible renewable energy resource generating technologies would contribute to diversity in Illinois. However, if these facilities were located outside of Illinois, in the adjacent states, the full impact on the State's fuel and resource diversity would depend on whether the electricity generated by these facilities could actually be available to Illinois end-users.

Given that renewable generation accounts for only a relatively small fraction of the resource mix in Illinois (10.2% of total generation in 2020),[186] an increase of renewable generation in the region may, in theory, increase the fuel and resource diversity of Illinois. However, the Agency notes that Illinois is a net exporter of electricity, so the impact on fuel and resource diversity in Illinois may be limited for facilities located in adjacent states. While Illinois is a net exporter of electricity, that does not mean that there is no impact on Illinois from electricity generated in adjacent states, because on an hour-to-hour basis electricity may flow into, or out of, Illinois. To the extent that any electricity

[183] http://dx.doi.org/10.13012/J8MW2F2Q.

[186] Id.

[184] PJM, "PJM's Evolving Resource Mix and System Reliability," available at: http://www.pjm.com/~/media/library/reports-notices/special-reports/20170330-pjms-evolving-resource-mix-and-system-reliability.ashx.

[185] U.S. EIA, "Electric Power Monthly with data for December 2020, February 2021." The Agency notes that the share of coal declined from 38% and share of nuclear increased from 50.2% as reported in the Initial Plan. This is a net decline in the percentage of generation that comes from coal and nuclear (88.2% to 76%), which indicates that the fuel and resource diversity of the state has increased.

[196] Id.

generated outside of Illinois but consumed in the state is generated by resources other than coal or nuclear, this generation is assumed to add to the fuel and resource diversity in Illinois.

In addressing this issue for facilities located in the adjacent states, the Agency uses the location of the renewable resource facility relative to Illinois as the basis for modifying the fuel and resource diversity score. A distance factor is calculated for each facility.[187] The distance factor is based on the distance from the facility to Morris, Illinois (which is the city closest to the population weighted geographic center of Illinois,[188] and thus can serve as a reasonable proxy for the load-weighted center of the state). The factor is calculated as 1 minus the ratio of (i) the distance from the facility to Morris and (ii) 470 miles, which is roughly the furthest point in an adjacent state from Morris. Consistent with the Commission's Order in Docket No. 17-0838, the center point of the City of Morris is used for this calculation.[189] That factor is multiplied by the maximum possible 20 points to provide the score for this criterion for potentially eligible renewable resource facilities located in adjacent states. The fuel and resource diversity score formula is shown in Figure 4-2.

Additionally, consistent with the Commission's Order in Docket No. 17-0838 and the approach taken with respect to the third criterion below, a facility "that is not connected to either PJM or MISO" will receive a Fuel and Resource Diversity Score of zero.[190] Adjacent state generation facilities "within a transmission control area that have a transmission usage agreement with PJM or MISO" may still receive non-zero scores under Criteria 2 and 3, however.[191]

Figure 4-2: Fuel and Resource Diversity Score

$$Score = (1\ if\ in\ PJM/MISO,\ else\ 0)x\ \ 1 - \frac{Distance\ \ from\ \ facility\ \ to\ Morris\ ,\ \ IL\ (miles\ )}{470\ miles}) \ x\ 20$$

3. Enhancing the reliability and resiliency of the electricity distribution system in this State.

While this criterion references the "electricity distribution system" and that term is generally understood to mean the local distribution system that serves homes and businesses and not the transmission grid that transports power over longer distances (and across state lines), the Agency was originally concerned that, read literally, there would be no direct way for a facility in an adjacent state to meet this criterion because a facility in an adjacent state would have (at best) only an incidental impact on the distribution system (or more accurately systems, each operated by a different utility) within Illinois. With that in mind, the Agency has come to interpret this criterion more expansively and instead considers the impact on the grid more generally, as distribution service

[187] Because wind farms cover a large geographic area, a wind farm's distance would be based on the geographic center of the area containing turbines that are part of that wind farm.

[188] Based on the 2010 Census. See: https://www2.census.gov/geo/docs/reference/cenpop2010/CenPop2010_Mean_ST.txt.

[189] See Docket No. 17-0838, Final Order dated April 3, 2018 at 21.

[190] Id. The Commission also offered that "if a facility is not connected to PJM or MISO, it should not be allowed to participate in Illinois' RPS procurement;" the Agency believes that because such a facility would score 0 out of 20 points on Criteria 2 and 3 and given the 60 point threshold, an adjacent state facility not connected to PJM or MISO would effectively be eliminated from consideration and no further scoring adjustments must be taken to give effect to the Commission's intent.

[191] Id.

is ultimately supported by the reliability of transmission service. The scoring for this public interest criterion involves a threshold and, based on the assumption that generating facilities located closer to Illinois would have a more beneficial impact on the State's distribution system reliability and resiliency, a distance factor. The criterion can be understood to refer to the transmission systems operated by PJM and MISO. To the extent that a facility in an adjacent state is not interconnected to the PJM or MISO grid (for example, in the portions of Iowa and Missouri that are part of the Southwest Power Pool("SPP")), those facilities would not score any points for this criterion. Otherwise, a facility in an adjacent state that is in either of the PJM or MISO control areas (or "within a transmission control area that has a transmission usage agreement with PJM or MISO") would be eligible to receive points. To obtain the distance factor, the Agency uses an approach that considers proximity to Illinois and thus an increased likelihood that electricity produced will provide increased system reliability and resilience.

The scoring for this public interest criterion involves the same distance factor as is applied to the fuel and resource diversity scoring; the formula for determining this factor is shown in Figure 4-3. The Agency's review of the scoring methodology and assumptions for criteria 2 and 3 confirms that distance is the factor which can be effectively incorporated into a simplified approach to determine the relative contributions of RECs from adjacent state renewable resources to meeting these public interest criteria.

Figure 4-3: Reliability and Resiliency Score

$$Score = (1 \text{ if in PJM/MISO; else } 0) \times \left(1 - \frac{\text{Distance from facility to Morris, IL (miles)}}{470 \text{ miles}}\right) \times 20$$

4. Meeting goals to limit carbon dioxide emissions under federal or State law

At the federal level, a range of legislative and regulatory approaches have been proposed to address the carbon dioxide emissions associated with the generation of electricity using fossil fuels. On June 19, 2019, the U.S. EPA issued the Affordable Clean Energy Rule (ACE) as the replacement for the Clean Power Plan. The ACE focused on heat rate improvements at individual coal-fired power plants as a means to reduce CO_2 emissions by improving plant operating efficiency. ACE did not contain specific CO_2 emissions limits; instead, ACE provided guidelines for states to follow in limiting CO_2 emissions.[192] In January of 2021the DC Circuit Court vacated ACE.[193] As of the release of this draft Plan, mandated reductions in CO_2 emissions and clean energy standards remain a topic of debate at the federal level.

At the state level, Illinois does not have a specific law that limits carbon dioxide emissions. However, there are multiple provisions of Illinois law, such as the Zero Emission Standard and the Renewable Energy Portfolio Standard, that recognize the value of minimizing carbon dioxide emissions even if those provisions do not create explicit limits. P.A. 102-0662 also makes extensive references to the consideration of carbon emission reductions and the benefits associated with reducing these emissions. To recognize the value in reducing carbon dioxide emissions, the Agency determines the score for each renewable resource facility by adjusting the 20 points available for this criterion by a factor which reflects the ratio of the CO_2 emissions from the renewable resource to the CO_2 emissions

[192] https://www.epa.gov/stationary-sources-air-pollution/electric-utility-generating-units-repealing-clean-power-plan.

[11] See: https://www.natlawreview.com/article/dc-circuit-vacates-epa-clean-power-plan-what-s-next-power-plant-co2-regulation.

from a new natural gas-fired combined cycle generating facility, 752 pounds of CO_2 per MWh, as shown in Table 4-1 above. This is done by using the formula applied to the first emissions criterion except that the inputs are pounds of CO_2 emitted per MWh. The factor applied to the 20 points available for this public interest criterion is calculated as follows:

Figure 4-4: CO_2 Score Calculation

$$Score = \left(1 - \frac{CO_{2\,renewable\,resource}\left(\frac{lbs}{MWh}\right)}{CO_{2\,gas\,resource}\left(\frac{lbs}{MWh}\right)}\right) \times 20$$

Renewable generating facilities that do not emit any CO_2 receive the full 20 points, while renewable generating facilities that emit CO_2 receive points based on the factor multiplied by the 20 points. Because CO_2 emissions are generally considered to be a global problem (in that CO_2 emissions anywhere on the planet contribute to global warming, which then affects the health and welfare of the citizens of Illinois), wind direction, duration, and distance from Illinois's load-weighted center are not relevant for the scoring of this criterion and therefore are not included in the calculation.[194] Comparing the CO_2 emissions from each renewable resource to the emissions from the most likely alternative generation, usually a gas-fired combined-cycle plant, remains a practical means for determining the score for this criterion.

5. Contributing to a cleaner and healthier environment for the citizens of this State

This criterion is arguably the most subjective in nature, and presents unique challenges given that the Agency strives to use objective approaches to the greatest extent possible when considering the public interest criteria. The Agency believes that renewable resources inherently contribute to a cleaner and healthier environment generally (with the caveat related to emissions from renewable resources that involve combustion, discussed above) because they reduce the reliance on fossil fuels and have no safety issues associated with the containment and disposal of radioactive materials that result from nuclear generation. Under this draft Plan, the points awarded for this public interest criterion are the average of the points awarded under the first and fourth public interest criteria described above. This approach takes into account the emissions from renewable resource facilities that involve combustion and, subsequently, emissions, which would not contribute to a cleaner and healthier environment for the citizens of Illinois.

4.4. Cost Recovery Requirement

Section 1-75(c)(1)(J) of the Act contains the following provision:

> *In order to promote the competitive development of renewable energy resources in furtherance of the State's interest in the health, safety, and welfare of its residents, renewable energy credits shall not be eligible to be counted toward the renewable*

[9] The Agency notes that the Zero Emission Standard contains a different scoring methodology for CO_2 emissions, but that methodology is based upon the impacts of replacement generation and the consideration related to "minimizing carbon dioxide emissions that result from electricity consumed in Illinois" (20 ILCS 3855/1-75(d-5)(1)(C)), which is not the same standard as under consideration in qualifying adjacent-state facilities for the RPS.

> *energy requirements of this subsection (c) if they are sourced from a generating unit whose costs were being recovered through rates regulated by this State or any other state or states on or after January 1, 2017.*

Generally speaking, the Agency understands that facilities owned by a rural electric cooperative, or a municipal utility are not impacted by this criterion (as in Illinois, those entities' rates are not regulated by this *state* or any other), although the Agency notes that there are certain adjacent states which regulate some rural electric cooperative and municipal utility rates. Therefore, the Agency cannot issue a blanket approval under this provision of facilities owned by rural electric cooperatives or municipal utilities service territories in adjacent states; rather, as those facilities request eligibility, their rate recovery status will be reviewed.

The Agency also understands that this provision was primarily intended to ensure that facilities owned by a vertically integrated utility, for which REC revenues may be incidental to building and financing the facility (as that facility's costs could be recovered from ratepayers in that other state, potentially resulting in a credit or discount to those ratepayers for any REC revenues—effectively causing Illinois ratepayers to cross-subsidize those in vertically integrated states) would not be eligible. Another situation that has been brought to the Agency's attention concerns a proposed project to be developed by an Illinois non-electric utility (a gas or water utility, for instance) featuring delivery service rates that are regulated by the Illinois Commerce Commission with cost recovery then sought over the cost of the renewable energy generating facility. Regardless of whatever may have been the primary purpose informing Section 1-75(c)(1)(J)'s enactment, this situation would seem to clearly fit Section 1-75(c)(1)(J)'s prohibition: the renewable generation facility's costs would be recovered through state-regulated rates. Consequently, the IPA understands such projects' RECs as being barred from participation in the Illinois RPS (including in, say, the Adjustable Block Program) insofar as rate recovery is sought for those projects.

On the other hand, the mere presence of a Power Purchase Agreement between a facility and a separate utility whose costs are recovered in regulated rates would not trigger these criteria (nor would participation in the IPA's energy procurement events, for which regulated utilities serve as contractual counterparties, or participation in a net metering or similar energy crediting program, which would serve to disqualify the very facilities that other portions of the Illinois RPS work to support). Likewise, the Agency believes that being a Qualifying Facility under the Public Utility Regulatory Policies Act ("PURPA")[195] (and also meeting the other aspects of the requirements of the Illinois RPS), would not be disqualifying because the Qualifying Facility does not directly recover its costs through rates; rather, it is compensated for its energy at the purchasing utility's avoided cost rate.

Facilities located in adjacent states must proactively request eligibility for the utility's RPS pursuant to the public interest criteria standard explained above. Those requests to meet the public interest criteria are required to include a notarized certification, and documentation, that the facility does not have its costs recovered through regulated rates. For a distributed generation facility, simple documentation of ownership will suffice. For larger facilities, the Agency has not utilized a firm standard of documentation but believes there are multiple approaches that could be used by a requesting facility. These include, but are not limited to:

[195] 16 U.S.C. §§ 796(17), 824a-3, 824i.

- For facilities tracked in M-RETS, documentation to support the status listed in the "Facility Ownership Type" field
- A Market Based Rate authorization letter from the Federal Energy Regulatory Commission that demonstrates that the facility owner is not a utility with costs recovered through regulated rates
- Certification as a Qualifying Facility
- Use of information from other sources such as the S&P Global Intelligence Briefing Book, or the Platts UDI Directory of Electric Power Producers and Distributors

The Agency will review (in consultation with the ICC) information provided for a facility, and may, as needed, request additional information to verify a facility's status.

In addition to the screening process described above, all contracts from IPA-administered REC procurements or programs utilized since the effective date of P.A. 99-0906 contain provisions to reflect this additional requirement of Section 1-75(c)(1)(J) (and will continue to do so going forward):

> *Each contract executed to purchase renewable energy credits under this subsection (c) shall provide for the contract's termination if the costs of the generating unit supplying the renewable energy credits subsequently begin to be recovered through rates regulated by this State or any other state or states; and each contract shall further provide that, in that event, the supplier of the credits must return 110% of all payments received under the contract. Amounts returned under the requirements of this subparagraph (J) shall be retained by the utility and all of these amounts shall be used for the procurement of additional renewable energy credits from new wind or new photovoltaic resources as defined in this subsection (c). The long-term plan shall provide that these renewable energy credits shall be procured in the next procurement event.*

The Agency notes that Section 1-75(c)(1)(J) also provides a limited exception to this provision for facilities that participate in the Illinois Solar for All Program outlined in Section 1-56 of the Act:

> *Notwithstanding the limitations of this subparagraph (J), renewable energy credits sourced from generating units that are constructed, purchased, owned, or leased by an electric utility as part of an approved project, program, or pilot under Section 1-56 of this Act shall be eligible to be counted toward the renewable energy requirements of this subsection (c), regardless of how the costs of these units are recovered.*

4.5. High-Voltage Direct Current Transmission Lines and Converter Stations

P.A. 102-0662 features multiple revisions to Section 1-75(c)(1)(I) and (J) intended to support utility-scale renewable energy projects utilizing high-voltage direct current ("HVDC") transmission lines and converter stations, providing a more expansive approach to qualifying adjacent state generating facilities than previously employed under Section 1-75(c)(1)(I) when certain criteria are met.

Section 1-75(c)(1)(I) contains two changes resultant from P.A. 102-0662.

1. If (i) a new HVDC transmission line ends at a converter station located in Illinois and interconnected in the region of the PJM interconnection, (ii) was constructed using a project

labor agreement, (iii) is capable of transmitting electricity at 525 kV, (iv) does not operate as a public utility, and (v) was energized after June 1, 2023, then the RECs associated with any renewable energy transmitted over that HVDC transmission line with a verified customer in Illinois will be deemed to have been sourced from a generation facility in Illinois for purposes of RPS qualification. This would make those RECs eligible for competitive procurements conducted by the IPA, even if the underlying generating facility itself was not located in Illinois (or an adjacent state) and could not meet the scoring threshold outlined above.

At present, there are no new HVDC transmission lines with converter stations located in Illinois in operation, although there currently is a proposed project which could potentially meet the requirements.[196]

2. Revisions to Section 1-75(c)(1)(I) also clarify that the Agency may qualify RECs "associated with the electricity generated by a utility-scale wind energy facility or utility-scale photovoltaic facility and transmitted by a qualifying direct current project described in subsection (b-5) of Section 8-406 of the Public Utilities Act to a delivery point on the electric transmission grid located in this State or a state adjacent to Illinois,"[197] but only if this Chapter's public interest criteria scoring is satisfied. As that electricity must be transmitted to "a delivery point . . . located in this State or a state adjacent to Illinois," the IPA's first-blush interpretation is that this delivery point should be treated as the location of the generating facility in public interest criteria scoring, but the Agency is interested in feedback from stakeholders on the propriety of this approach.

Section 1-75(c)(1)(J) contains only one change enacted through P.A. 102-0662, now stating that "[a]s long as a generating unit or an identifiable portion of a generating unit has not had and does not have its costs recovered through rates regulated by this State or any other state, HVDC renewable energy credits[198] associated with that generating unit or identifiable portion thereof shall be eligible to be counted" under the Illinois RPS. The IPA understands this language as clarifying that, for HVDC renewable energy credits, whether the underlying generating facility has its costs recovered through state-regulated rates is what carries an RPS eligibility prohibition under subparagraph (J), but not whether the HVDC transmission line or converter station has its costs recovered through state-regulated rates.

4.6. Application Process

The eligibility of RECs from renewable energy generating facilities located in states adjacent to Illinois is not automatically granted, because the Act requires that approval comes only after "the generator demonstrates and the Agency determines" that the facility's operation meets the public

[196] The proposed SOO Green HVDC Link is a 350-mile, 2,100 MW, 525 kV underground HVDC transmission line which would run from Mason City, IA to Plano, IL along railroad rights-of-way. Subject to permitting and interconnection issues, the line is projected to begin construction in 2023 and go into operation in 2026.

[197] Section 8-406(b-5) of the PUA defines a "qualifying direct current project" as a "high voltage direct current electric service line that crosses at least one Illinois border, the Illinois portion of which is physically located within the region of the Midcontinent Independent System Operator, Inc., or its successor organization, and runs through the counties of Pike, Scott, Greene, Macoupin, Montgomery, Christian, Shelby, Cumberland, and Clark, is capable of transmitting electricity at voltages of 345kv or above, and may also include associated interconnected alternating current interconnection facilities in this State that are part of the proposed project and reasonably necessary to connect the project with other portions of the grid."

[198] Section 1-10 of the IPA Act defines "HVDC renewable energy credits" as RECs "associated with a renewable energy resource where the renewable energy resource has entered into a contract to transmit the energy associated with such renewable energy credit over high voltage direct current transmission facilities."

interest criteria discussed above.[199] That determination requires an active request (demonstration) by an interested generator. Renewable generating facilities in adjacent states may apply to the Agency for consideration for eligibility for the RPS.[200]

Shortly after the approval of its Initial Plan, the Agency developed an application form (in the form of an Excel spreadsheet) for use by owners/agents of adjacent-state facilities that wish to have RECs from those projects considered to be eligible for the Illinois RPS.[201] The information to be entered into the application form includes the generating technology (including information on emissions rates if the technology involves combustion), state where the generator is located, distance from the geographical center of Morris, IL, the Regional Transmission Organization ("RTO") where the facility is interconnected or is planned to be interconnected (e.g., PJM, MISO, SPP), and the tracking system ID (for existing facilities). The application form automatically calculates the score for the facility. In addition, the generator must also include information related to the provision limiting the recovery of costs in rates described in this chapter of the draft new Plan.

As discussed above, the Agency will continue to review and, as necessary, update the data used in the eligibility calculations on a bi-annual basis in conjunction with the new Plan update to use the most recent available inputs (and has done so for this draft new Plan, determining that minor changes are needed for the wind direction/duration factors), but a facility's determination of eligibility will be based on the data available at the time of the request for determination (in other words, a facility would not risk having its eligibility revoked at a later date if the inputs changed after the initial eligibility determination is made by the Agency).

The Agency will review applications to verify the information submitted (e.g., confirming the distance inputs), and if the facility has a score equal to or greater than 60 points (and meets the cost recovery requirement found in Section 1-75(c)(1)(J) of the Act, discussed further below), the Agency will approve the facility as eligible to produce renewable energy credits for compliance with the Illinois RPS. The Agency will inform the applicable tracking system (GATS or M-RETS) that the facility should be coded as Illinois RPS eligible.

For facilities seeking to qualify by virtue of RECs associated with electricity transmitted across qualifying HVDC lines or transmitted to an HVDC converter station in Illinois, the Agency is still assessing what demonstration is necessary for qualification. As the Agency would no longer be assessing the physical location of a project, and would instead be making determinations around RECs associated with electricity transmitted to a certain point and in a certain manner, the Agency is interested in feedback from stakeholders on how this new approach to RPS qualification can be integrated into its source-specific competitive procurement processes.

In the case of a new adjacent-state facility that is not yet operational (and thus also not registered in GATS or M-RETS), an owner may submit a request for determination of eligibility based upon the planned design of the facility. If the Agency determines that the planned facility does meet the public interest criteria, then it will grant a pre-approval of the eligibility. It is the responsibility of the facility owner to notify the IPA and the tracking system once the facility is operational to request being coded

[199] 20 ILCS 3855/1-75(c)(1)(I).

[200] An exception is made for the out-of-state facilities that have LTPPA contracts with the utilities. As discussed in Section 0, those facilities are grandfathered in and remain eligible to provide RECs for compliance with the Illinois RPS.

[201] Available at: https://www2.illinois.gov/sites/ipa/Documents/2018ProcurementPlan/IL-RPS-Adjacent-State-Facility-Determination-of-Eligibility-20180404.xls.

as eligible for the Illinois RPS in the applicable tracking system. The Agency will review final system information to verify consistency with the information submitted for the pre-approval.

5. Competitive Procurements

The Agency is charged with developing procurement plans and conducting competitive procurement processes in accordance with the requirements of Section 1-75 of the IPA Act and Section 16-111.5 of the PUA. The competitive procurement process is applicable to the events held by the Agency to obtain RECs from utility-scale wind, utility-scale solar and brownfield site photovoltaic resources. While the term "competitive procurement event" is not specifically defined in the IPA Act or the PUA, the Agency understands the term "competitive procurement event" to be an element of, or commensurate with a "competitive procurement process".

This Chapter addresses requirements applicable those competitive procurement processes, including changes to those processes necessitated by changes in Illinois law made through Public Act 102-0662. Among those changes are increases in RPS budgets and targets as outlined in Chapter 3 (and thus corresponding increases in procurement quantities from competitive procurement events), modifications to permissible bid application and evaluation requirements for supporting projects located in Energy Transition Community Grant areas and projects supporting equity eligible contractor participation, new labor requirements applicable to project development (including project labor agreements required for participating projects), and a new Indexed REC pricing approach through which REC prices float up or down based on indexed wholesale energy market prices, ensuring stable revenues across the delivery term of a REC delivery contract.

Throughout this Chapter, the competitive procurements conducted by the Agency are termed as "forward procurements," as they are procurements that have a delivery date in the future and the contract term is for multiple years.

5.1. Background - Agency Approach in Past Procurements

The procurement approach the Agency has used for prior REC procurements, including the Initial Forward Procurements and the forward procurements conducted under the Initial and First Revised Plans, stems from the approach laid out in Section 16-111.5 of the Public Utilities Act for "standard wholesale product" (i.e., block energy, capacity, etc.) procurements.

This process has traditionally included the following key provisions, although modifications to governing law through P.A. 102-0662 will result in changes from certain aspects of this approach; those modifications are discussed later in this Chapter:

- Standard contracts and credit provisions
- Sealed bids with pay-as-bid settlement
- Use of confidential benchmarks to eliminate bids not consistent with the market
- Bid selection based on price
- No post-bid negotiations
- Procurement Administrator evaluates bids and provides confidential recommendation to the Commission for approval
- Procurement Administrator provide bidder interface including training
- Uniform/standardized bid forms
- Uniform/standardized/harmonized credit requirements
- Procurement Monitor involvement

These provisions define a procurement process that has multiple stages.

- The Procurement Administrator develops draft contracts in consultation with the utilities, the Agency, the Procurement Monitor,[202] and ICC Staff.
- Draft contracts are released for public comment.
- The Procurement Administrator, the Agency, the utilities, ICC Staff and the Procurement Monitor review all comments received on the draft contract and revise the contract as needed.[203]
- Typically, the Procurement Administrator holds an informational webcast upon release of the final contracts and RFP rules.
- Submission of Proposals is in two parts:
    - Part 1 for pre-qualification – allows bidders to provide basic information and agree to the terms of the contract and the RFP rules.
    - Part 2 for registration of bidders – allows bidders to update information, make additional certifications including regarding confidentiality of bidding information, and post bid assurance collateral.
- Bids – on the bid date, bidders submit bids using a standardized bid form.
- Evaluation of Bids – the Procurement Administrator evaluates bids based on price, procurement objectives and priorities; identifies the winning bids; prepares a recommendation for the Commission. The Procurement Monitor observes the bidding and evaluation process and makes its own recommendation.[204]
- Commission decision – After review of the Procurement Administrator's and Procurement Monitor's reports and recommendations, the Commission renders a decision on the results of the procurement event.[205]
- Release of procurement results – The Procurement Administrator releases the results of the procurement event; confidential information is protected.[206]
- Contract execution with the utilities – Within three business days of Commission approval of the procurement results, utilities and winning bidders sign binding contractual arrangements using the standard form contracts.[207]

As Section 1-75(c)(1)(G)(vi) of the Act continues to require that competitive procurements "shall follow the procurement processes and procedures described in this Section and Section 16-111.5 of the Public Utilities Act to the extent practicable," the competitive procurements for RECs described in the 2022 Long-Term Plan will continue to follow this approach where not modified by new requirements of Illinois law.

[202] The Procurement Monitor is an independent consultant that works on behalf of the Commission to oversee all aspects of the procurement process. 220 ILCS 5/16-111.5(c)(2).

[203] If agreement between the Procurement Administrator and the utilities is not reached on the terms and provisions of the contracts, any disputes are resolved by the Commission. (See 220 ILCS 5/16-111.5(e)(2)).

[204] See 220 ILCS 5/16-111.5(f).

[205] See id.

[206] See 220 ILCS 5/16-111.5(h).

[207] See 220 ILCS 5/16-111.5(g).

5.2. Past REC Procurements conducted by the IPA

5.2.1. Procurements Conducted Prior to P.A. 99-0906

The Agency's pre P.A. 99-0906 competitive procurements for renewable energy resources are listed below (with the delivery quantities of RECs procured listed in some cases):[208]

- Spot Procurements for one-year delivery of RECs
  - 2009 REC procurements for Ameren Illinois and ComEd (720,000 RECs for Ameren Illinois, 1,564,360 RECs for ComEd)
  - 2010 REC procurements for Ameren Illinois and ComEd (860,860 RECs and 1,887,014 RECs for Ameren Illinois and ComEd, respectively)
  - 2011 REC procurements for Ameren Illinois and ComEd (952,145 and 2,117,054 RECs)
  - 2012 REC procurements for Ameren Illinois and ComEd (523,376 RECs and 1,335,673 RECs)
  - 2015 SREC procurements for Ameren Illinois and ComEd (30,212 SRECs and 49,770 SRECs)
  - 2016 SREC procurements for Ameren Illinois and ComEd (33,271 SRECs and 67,952 SRECs)
  - 2016 REC procurement for MidAmerican

- Procurements for multiple delivery years of RECs
  - 2010 Long-term procurements for Ameren Illinois and ComEd (20 year contracts, bundled RECs and energy, 600,000 RECs per year and 1,261,725 RECs per year, respectively)
  - 2012 "Rate Stability" procurement for Ameren Illinois and ComEd (contracts for four years and seven months) (2,053,837 RECs over the delivery term, and 2,737,110 RECs over the delivery term, respectively)
  - 2015 Supplemental Photovoltaic procurements using the RERF (5 year contracts, with provision to allow time for identification of under 25 kW systems) (21,436 SRECs per year)
  - 2015 Distributed Generation procurement for Ameren Illinois and ComEd (5 year contracts)
  - 2016 Supplemental Photovoltaic procurement using the RERF (5 year contracts, with provision to allow time for identification of under 25 kW systems) (18,354 SRECs per year)
  - 2016 Distributed Generation procurement for Ameren Illinois and ComEd and MidAmerican (5 year contracts)

[208] Announcements of these procurements that contain additional information can be found at: https://www.illinois.gov/sites/ipa/Pages/Prior_Approved_Plans.aspx. Certain REC volume information has been redacted to maintain required confidentiality in accordance with 220 ILCS 5/16-111.5(h). Please note that because initial delivery timelines vary, the "per year" numbers may not be 100% accurate for a specific calendar period.

- 2017 Distributed Generation procurements (5 year contracts, also include provision to allow time for identification of under 25 kW systems) (19,025 SRECs per year procured in Spring 2017, 8,153 SRECs per year procured in Fall 2017)

As these procurements were conducted prior to modifications in P.A. 99-0906 providing for centralized budgeting, planning, and procurements conducted by the IPA to serve all retail customer load, these procurements were generally only funded through either eligible retail customers (default supply customers) or the State of Illinois. Some of these procurements, especially the LTPPAs, still provide RECs that are used to help meet Section 1-75(c)(1)(B)'s RPS goals, although RECs from systems energized prior to June 1, 2017 cannot be utilized to meet Section 1-75(c)(1)(C)'s targets for the procurement of RECs from new projects.

5.2.2. Procurements Conducted After P.A. 99-0906

With the enactment of Public Act 99-0906, the Agency began conducting procurements to meet RPS requirements applicable to *all* retail customer sales. The first such procurements were the Initial Forward Procurements, conducted prior to the finalization of the Initial Plan.[209] After the Initial Plan's approval, the Agency conducted a series of procurements conducted under the Commission's authority granted through its Order approving that Plan in Docket No. 17-0838. Those procurements are listed below:

- 2017 and 2018 Initial Forward Procurements (15 year contracts for new utility-scale wind and new utility-scale solar, 965,000 Wind RECs and 1,000,000 Solar RECs per year procured)
- October 2018 First Subsequent Forward Procurement (15 year contracts for new utility-scale wind, 1,979,753 RECs procured)
- November 2018 Photovoltaic Forward Procurement (15 year contracts for new utility-scale solar, 2,000,000 RECs)
- July 2019 Brownfield Site Forward Procurement (15 year contracts, quantity not released due to only two projects selected)
- Second Subsequent Forward Procurement (15-year contracts for new utility-scale wind). Two procurement events, conducted October 2019 and March 2021, No bids were accepted in either procurement;
- Community Renewable Generation Procurement (15-year contracts for non-PV renewable technologies). No bids were accepted;
- Low-income Community Solar Pilot Project Procurement (15-year contracts; conducted pursuant to Section 1-56(b)(2)(D) of the Act)

The original Brownfield Site Forward Procurement was conducted in the fall of 2018 and did not feature any winning projects. In February of 2019, the Agency sought feedback[210] from stakeholders and then petitioned the Commission to reopen Docket No. 17-0838 seeking clarification for the authority to reconduct the procurement with certain modifications. Following the Commission's approval of that request, the second Brownfield Site Forward Procurement was then conducted in spring/early summer 2019 with the Commission approving the results on August 1, 2019. While the

[209] See 20 ILCS 3855/1-75(c)(1)(G)(i), (ii).

[210] See https://www2.illinois.gov/sites/ipa/Documents/2019ProcurementPlan/Brownfield-Site-Procurement-Questions-5-Feb-2019-1.pdf.

specific quantity procurement in the brownfield site procurement was not disclosed given that only two bidders were successful,[211] the procurement did exceed the then-applicable statutory target of 40,000 RECs annually by the 2020-2021 delivery year (although such RECs could begin being delivered after that date under the procurement's contracts) but did not meet the then-applicable 60,000 REC procurement target for the 2025-26 delivery year.

The Second Subsequent Forward Procurement (new utility-scale wind), Community Renewable Generation Forward Procurement (non-photovoltaic), and the Low-income Community Solar Pilot Project Procurement (part of Illinois Solar for All) were all conducted in the Fall of 2019. Both the Second Subsequent Forward Procurement and the Community Renewable Generation Forward Procurement[212] did not produce any winning bids. Consistent with the Commission's Order in Docket No. 19-0995,[213] the Agency conducted an additional procurement event for RECs from new utility-scale wind projects in the Spring of 2021; however, no bids were selected.[214]

Based on challenges outlined in comments received after the conclusion of unsuccessful new utility-scale wind procurement events – namely, the inability to obtain a bundled REC and energy contract through the IPA, the paucity of long-term energy-only off-takers for geographically-qualifying new utility-scale wind and solar projects, and the risks inherent with fixed price REC revenues against potentially volatile wholesale energy market prices – the Agency is hopeful that many of these challenges have been addressed through the shift to an Indexed REC price contract structure.[215] Further discussion of that structure is found in Section 5.7 below.

The table below provides an outline of those competitive procurements conducted between the enactment of Public Act 99-0906 and Public Act 102-0662. This includes both the statutorily required Initial Forward Procurements which were conducted prior to the approval of the Initial Long-Term Plan as well as procurements authorized in Long-Term Plans:

[211] By releasing quantity information in a procurement with two winning bidders, each bidder would be able to determine the quantity of the other's selected bid, and thus determine that other bidder's bid price.

[212] The community renewable generation forward procurement was for non-solar community renewable generation, which the Agency anecdotally understands may be a challenging technological and financial proposition given the 2 MW statutory size limit on community renewable generation projects.

[213] See Docket No. 19-0995, Final Order dated February 18, 2020 at 17-18.

[214] See https://www.ipa-energyrfp.com/2018-2019-2021-subsequent-forward-procurements/ for additional information.

[215] Comments can be found here: https://www2.illinois.gov/sites/ipa/Pages/wind-comments-2020.aspx.

Table 5-1: 2017-2021 Competitive Procurements Summary[216]

Procurement	Technology	Procurement Date	Annual REC Target	Annual RECs Procured	Annual Spend $	Status[217]
Initial Forward	Wind (utility-scale)	Summer 2017	1 million	0.965 million	3.4 million	2 projects completed
Initial Forward	Photovoltaic (utility-scale and brownfield site)	Summer 2017 and Spring 2018 (three events)	1 million	1 million	5.9 million	4 projects completed, 1 terminated
First Subsequent Forward	Wind (utility-scale)	Fall 2018	2 million	1.98 million[218]	6.41 million	2 projects completed, 2 terminated
Brownfield Site Forward[219]	Photovoltaic (brownfield site)	Fall 2018 /Summer 2019[220]	0.08 million	Quantity not disclosed	Not disclosed	1 project completed, 1 still under development
Photovoltaic Forward	Photovoltaic (utility-scale)	Fall 2018	2 million	2 million	9.28 million	2 projects completed, 4 still under development, 3 terminated
Second Subsequent Forward	Wind (utility-scale)	Fall 2019	1 million	0	0	N/A
Community Renewable Generation Program Forward	Any non-photovoltaic (with subscribers)	Fall 2019	0.05 million	0	0	N/A
Low-Income Community Solar Pilot Project[221]	Photovoltaic (with community participation / subscribers)	Fall 2019	Set on a $20 million budget	Quantity not disclosed	Not disclosed	2 projects still under development
Utility-scale Wind Forward Procurement	Wind (utility-scale)	Spring 2021	1 million	0	0	N/A

[216] 15-year REC delivery term from new generating facilities.

[217] Completed projects have begun REC deliveries; projects still under development have received extensions on their initial REC delivery dates, and terminated projects are projects that have been removed from REC delivery contracts for not having met their initial REC delivery date deadline.

[218] As allowed under the procurement rules, the marginal bidder declined an award of 0.02 million RECs which would have represented a very small portion of their RECs bid and thus was not economically feasible.

[219] The procurement had only two winning bidders therefore certain information is not disclosed per previous Commission Orders in order to maintain bidder confidentiality. By releasing quantity information in a procurement with two winning bidders, each bidder would be able to determine the quantity of the other's selected bid, and thus determine that other bidder's bid price

[220] When originally conducted in 2018, the Brownfield Site Forward Procurement did not procure any RECs and a procurement was conducted a second time in the Summer of 2019.

[221] The procurement had only two winning bidders therefore certain information is not disclosed per previous Commission Orders in order to maintain bidder confidentiality. By releasing quantity information in a procurement with two winning bidders, each bidder would be able to determine the quantity of the other's selected bid, and thus determine that other bidder's bid price

5.3. Statutory Requirements

Requirements applicable to competitive procurements conducted by the IPA can be found in Section 16-111.5 of the PUA and Section 1-75 of the IPA Act. Requirements applicable to this Plan's content are generally included in the PUA; those are outlined below.

Section 16-111.5(b)(5)(ii)(B)(aa) of the PUA requires that this Plan:

> *"Identify the procurement programs and competitive procurement events consistent with the applicable requirements of the Illinois Power Agency Act and shall be designed to achieve the goals set forth in subsection (c) of Section 1-75 of that Act."*

The "competitive procurement events" contemplated by the IPA are discussed in this Chapter, while the "procurement programs" are discussed in Chapters 7 and 8. Also specifically addressed in this chapter is the following additional provision (bb) of that subsection of the Act regarding REC procurements subsequent to the Initial Forward Procurement:

> *"Include a schedule for procurements for renewable energy credits from utility-scale wind projects, utility-scale solar projects, and brownfield site photovoltaic projects consistent with subparagraph (G) of paragraph (1) of subsection (c) of Section 1-75 of the Illinois Power Agency Act."*

Section 16-111.5(b)(5)(iii) further states that,

> *"For those renewable energy credits subject to procurement through a competitive bid process under the plan or under the initial forward procurements for wind and solar resources described in subparagraph (G) of paragraph (1) of subsection (c) of Section 1-75 of the Illinois Power Agency Act, the Agency shall follow the procurement process specified in the provisions relating to electricity procurement in subsections (e) through (i) of this Section."*

In addition, Section 16-111.5(e)-(i) includes requirements applicable to competitive procurement events, many of which are outlined in Section 5.1 above. Section 1-75(c)(1)(G)(vi) incorporates those requirements into competitive REC procurement events "to the extent practicable." The Agency has generally found those requirements practicable to include, although new changes to Section 1-75(c)(1)(G)(v), 1-75(c)(1)(P), and 1-75(c-10) of the IPA Act may require additional deviation from Section 16-111.5's procurement process. Additional discussion of changes to the competitive procurement structure necessitated by these changes in law can be found below.

The Agency has achieved generally positive results in past experience with this competitive bid process. REC delivery prices have proven competitive, thus reducing the budget impact of supporting new project development, and most procurements have resulted in targeted procurement quantities being met. However, the attrition rate for projects awarded REC delivery contracts through competitive procurements has been suboptimal—in the range of 20-25%, as compared to attrition of less than 10% across all ABP categories. The Agency is hopeful that additional changes found in P.A. 102-0662 will reduce that attrition rate further by reducing development risk and ensure that prices remain low by reducing risk premiums build into bids, while also achieving important qualitative objectives by supporting a diverse, inclusive, equitable, and fairly compensated workforce.

5.4. New Requirements under P.A. 102-0662

The increased RPS goals, procurement targets, and funding associated with Public Act 102-0662 will expand the Agency's procurement of RECs from new utility-scale wind, new utility-scale solar, and new brownfield-site photovoltaic projects. The new targets include 10 million RECs from new solar and wind projects delivered annually by the end of the 2021 delivery year and increasing ratably to reach 45 million RECs delivered annually from new wind and new solar projects by the end of the 2030 delivery year.[222]

Of that amount, 45% is targeted to be met through RECs from new wind projects, while 55% is targeted to be met through RECs from new photovoltaic projects. Then, of that amount to be procured from new photovoltaic projects, 50% is to be procured through the Adjustable Block Program, 47% from utility-scale solar projects, and 3% has to come from brownfield site photovoltaic projects.[223] This leaves a 2021 delivery year utility-scale target of at least 2.585 million RECs delivered annually from new utility-scale solar projects,[224] at least 141,000 RECs from new brownfield site photovoltaic projects,[225] and at least 4.5 million RECs from new utility-scale wind projects.[226] RECs under contract from facilities qualifying as "new" (such as those from post-P.A. 99-0906 programs and procurements) may be used to meet this 2021 10 million REC target and the 45 million REC 2030 target , but not considered for purposes of determining whether the correct proportions of RECs have been procured.

Section 1-75(c)(1)(G)(iii) directs the Agency to conduct "at least one subsequent forward procurement for renewable energy credits from new utility-scale wind projects, new utility-scale solar projects, and new brownfield site photovoltaic projects within 240 days after the effective date" of P.A. 102-0662 in an attempt to meet this 10 million REC target. This procurement will occur no later than mid-May of 2022, well before this Plan is scheduled to be approved by the ICC. To meet the 10 million REC target, the Agency developed the following annual procurement quantities (expressed in annual delivery quantities) for its subsequent forward procurement.

Table 5-2: Spring 2022 Subsequent Forward Procurement Volumes

Utility-scale Wind	2,500,000 RECs
Utility-scale Solar	2,000,000 RECs
Brownfield Site Photovoltaic	125,000 RECs[227]

The total quantity of annual REC deliveries for this subsequent forward procurement is 4,625,000 RECs. Combined with RECs expected from the December 2021 block reopening of the Adjustable Block Program (approximately 1 million RECs) and previously procured new utility-scale wind and new utility-scale photovoltaic RECs and new brownfield site photovoltaic RECs (see Table 5-3), this subsequent forward procurement should result in Section 1-75(c)(1)(C)'s 10 million REC annual

[222] 20 ILCS 3855/1-75 (c) (1) (C)(i)

[223] Id.

[224] 47% of 55% of 10 million.

[225] 3% of 55% of 10 million.

[226] 45% of 10 million.

[227] Combined with the approximately 970,000 RECs expected through Adjustable Block Program reopening, REC procurement activities authorized prior to this Plan's approval feature target quantities for new photovoltaic REC procurement (3.095 million) versus new wind REC procurement (2.5 million) at a ratio of 1.238:1. The IPA believes this ratio is acceptably close to the 55% to 45% proportion between new photovoltaic project REC procurement and new wind project REC procurement found in Section 1-75(c)(1)(C) (1.222:1).

delivery target being exceeded by RECs under contract prior to any additional program and procurement activity authorized by this Plan.

While RECs procured through Section 1-75(c)(1)(G)(iii)'s subsequent forward procurement will be included in planned quantities of RECs under contract, this Plan focuses on competitive procurements to be conducted during the 2022 and 2023 delivery years. Additionally, as the target procurement quantities derived through Section 1-75(c)(1)(C) of the Act are minimums and are now accompanied by new text stating that "if forecasted expenses are less than the maximum budget available . . . the Agency shall continue to procure new renewable energy credits until that budget is exhausted," [228] procurement quantities may not mirror statutory target minimums.

5.4.1 RPS Budgets

As described in Chapter 3, the Agency's procurement of RECs is subject to budgetary limitations determined by Section 1-75(c)(1)(E)'s rate impact cap. That cap that limits the annual average net increase paid per kilowatthour by eligible customers, thus providing a maximum RPS budget once multiplied by the prior year's retail electricity sales.

In previous REC procurements, budget limits served to limit the quantity of RECs that could be procured through competitive procurements such that actual RECs under contract fell well short of Section 1-75(c)(1)(B)'s RPS goals. However, increased funding for REC procurements brought about by PA 102-0662, including the increase in the rate cap from 2.015% of 2007 rates to 4.25% of 2009 rates as well as Section 16-108(k) of the PUA's accounting provisions that allow funds to be used over longer time periods and shield funding associated with contractual obligations from reconciliation, have dramatically impacted the RPS budgets allowing for expanded procurements of RECs from new utility-scale wind and new utility-scale solar projects. However, actual budget impacts resulting from competitive procurements are now subject to increased volatility given the Indexed REC approach now authorized under Section 1-75(c)(1)(G)(v). Nevertheless, the IPA does not believe that RPS budgets should serve to constrain procurement quantities below statutory procurement targets for the present planning period.

RPS budgets are discussed in further detail in Chapter 3.

5.4.2 Brownfield Site Photovoltaic Project Procurements

Originally established through P.A. 99-0906, P.A. 102-0662 increases the goals for the procurement of RECs from photovoltaic projects located at brownfield sites—both by increasing the minimum amount (from 2% of the solar procurement target to 3%) and by that overall solar target increasing (now 55% of 45 million RECs by 2030).

Under the definition contained in Section 1-10 of the IPA Act, brownfield sites are those sites which are regulated under the U.S. EPA's Comprehensive Environmental Response, Compensation and Liability Act of 1980; the Corrective Action Program of the Resource Conservation and Recovery Act; the Illinois EPA's Illinois Site Remediation Program; or the Illinois EPA's Illinois Solid Waste Program; or is the site of a former coal mine that has met all state and federal remediation and clean-up requirements. This allowance for siting a brownfield site photovoltaic project at a former coal mine is a new change brought on by P.A. 102-0662.

[228] 20 ILCS 3855/1-75(c)(1)(C)(ii).

To meet these more aggressive targets under this more permissive definition, Section 1-75(c)(1)(C)(i) of the Act now specifies that the Agency shall "consider other approaches, in addition to competitive procurements, that can be used to procure renewable energy credits from brownfield site photovoltaic projects and thereby help return blighted or contaminated land to productive use while enhancing public health and the well-being of Illinois residents, including those in environmental justice communities." For this 2022 Plan, the Agency proposes to conduct two brownfield site photovoltaic procurements using its traditional competitive procurement approach. However, as that approach will reflect the changes to REC pricing and procurement processes found elsewhere in P.A. 102-0662 (including the utilization of an Indexed REC price), the Agency will first observe the results of procurements using this new structure and before assessing whether other procurement approaches may be warranted. That assessment will be included in the Agency's next Long-Term Plan revision scheduled to be published in 2023 and approved by the ICC in 2024.

5.4.3 Labor, Diversity and Equity Requirements

New labor, diversity and equity provisions in the Act require the Agency to take measures that will incorporate these provisions into its competitive procurement process.

Section 1-75(c)(1)(Q)(1) of the IPA Act now provides that all new utility-scale wind, utility-scale solar and brownfield site photovoltaic projects are subject to prevailing wage requirements included in the Prevailing Wage Act, and that RECs procured after the effective date of the Act (September 15, 2021) must be from facilities that were built under a project labor agreement.[23] Projects participating in competitive procurements will be required to provide documentation that all employees, contractors, and subcontractors engaged in construction and maintenance of the facility received at least the local prevailing wage as set by the Illinois Department of Labor. Furthermore, as a result of P.A. 102-0662 and clarifications made through P.A. 102-0673, all new utility-scale wind, utility scale solar, and brownfield site photovoltaic projects participating in a competitive procurement of the IPA are considered "public works" under the Prevailing Wage Act and are thus subject to all notice and reporting requirements therein. Bids must include commitments to include payment of prevailing wage in all contracts and subcontracts for construction and maintenance related to the facility. All accepted bidders will be subject to reporting requirements throughout the life of the project as detailed in the Prevailing Wage Act.

In addition, Section 1-75(c)(1)(Q)(2) also provides that for REC procurements from new utility-scale wind, utility-scale solar, and brownfield site photovoltaic projects, such projects must be "built by general contractors that must enter into a project labor agreement," as defined by the Project Labor Agreements Act, "prior to construction." **That project labor agreement must be filed with the Director of the IPA within 30 days of the execution of the PLA**.~~; for purposes of this draft Plan, the Agency is interested in feedback about whether a project labor agreement must be filed with a bid application for eligibility purposes, or perhaps six months to one year thereafter (with a winning bidder then losing its posted collateral should it fail to provide an acceptable project labor agreement).~~

At minimum, the project labor agreement must provide "the names, addresses, and occupations of the owner of the plant and the individuals representing the labor organization employees participating in the project labor agreement consistent with the Project Labor Agreements Act." As a project labor agreement is a private agreement between a project developer and a labor organization entered into with both parties' acquiescence, and as the IPA Act does not direct the Agency to develop qualitative project labor agreement standards, the Agency does not believe that it can or

should develop minimum project labor agreement terms for that agreement to satisfy Section 1-75(c)(1)(Q)(2)'s requirements.

Other amendments to the IPA Act through Public Act 102-0662 create obligations for the Agency to "encourage participating projects to use a diverse and equitable workforce and a diverse set of contractors." Under new subparagraph (P) of Section 1-75(c)(1), the Agency must optimize the procurement of RECs from utility-scale projects located in communities eligible to receive Energy Transition Community Grants. To "optimize" procurement from those areas, the Agency proposes that bids received through competitive procurements for proposed projects located in Energy Transition Community Grant communities that meet price benchmarks and otherwise qualify would be selected first, regardless of price, prior to selecting other bids.

Section 1-75(c-10)(3) directs the Agency to develop requirements for applications and include in its bid evaluation methodology preferences for bidders that utilize a higher percentage of equity eligible contractors.[24] The Agency **will**~~is~~ consider~~ing~~ **ways to incentivize higher percentages of equity eligible contractors after it evaluates the intial performance of the Equity Accountablity System and the availability of EECs and EEPs. This will provide time for the workforce development and other programs administered by the Department of Commerce and Economic Opportunity to ramp up.** ~~whether applications should require bidders to submit a plan demonstrating compliance with the minimum equity standards that apply to the Agency's noncompetitive procurement programs under Section 1-75(c-10) (described in more detail in Chapter 10). **Based on a review of the plan submitted by a bidder, the Agency would then identify bids that demonstrate comprehensive compliance above and beyond minimum requirements and give such bids priority over other bidders that bid the same price. Also under consideration is providing a beneficial price adjustment of 10 percent for bidders whose have submitted a comprehensive compliance plan and not just a plan that meets minimum commitments.**~~

The Agency has not finalized its approach to assessing compliance with these requirements and will take into consideration draft Plan comments before finalizing its proposed methodology. In particular, the Agency is interested in feedback around the threshold for considering a compliance plan to be "comprehensive," and not just meeting minimum standards.

5.4.4 Indexed REC Pricing Requirements

Perhaps the most significant change to competitive procurements resultant from P.A. 102-0662 is the shift to an Indexed REC pricing structure. Section 1-75(c)(1)(G)(v) now requires the Agency to procure " Indexed RECs" for all future competitive REC procurements. Under an Indexed REC pricing structure, the actual REC price is determined based on the strike price submitted by bidders participating in the procurement (with that strike price used for bid selection), as outlined further below.[229]

Under Section 1-10 of the IPA Act, an Indexed REC is defined "as a tradable credit that represents the environmental attributes of one megawatt hour of energy produced from a renewable energy resource, the price of which shall be calculated by subtracting the Strike Price offered by a new utility-scale wind project or a new utility-scale photovoltaic project from the Index Price in a given settlement period."[230] The Strike Price is defined as the "contract price for energy and RECs from a new utility-scale wind project or a new utility-scale photovoltaic project." The Index Price is defined as the "real-time energy settlement priceat the applicable Illinois trading hub, such as PJM-NIHUB or

MISO-IL, for a given settlement period."[231] The settlement period will be the period of time utilized by

[229] 20 ILCS 3855/1-75(c)(1)(G)(v).

[230] 20 ILCS 3855/1-10 (emphasis added).

MISO and PJM and their successor organizations as the basis for settlement calculations in the real-time energy market (RTM).[232]

Under this model, the IPA still may evaluate competing bids on the basis of price—but on the basis of submitted Strike Price, rather than REC price. A single Strike Price is submitted by a bidder, and the resulting REC price for a settlement period is determined across the course of the contract as the difference between that bidder's Strike Price and the Index Price. As the Index Price will always be the same for all bidders, evaluating bids from lowest to highest on the basis of Strike Price is effectively the same evaluation as evaluating bids on the bases of REC price; the difference is simply that because the resulting REC price floats, the exact price (and resulting RPS budget impact) varies by settlement period.

From a bidder's standpoint, this Indexed REC approach offers clear advantages. Given the limited market for energy-alone off-take agreements in Illinois and the inability for the IPA to offer bundled PPAs, an Indexed REC price structure offers bidders the revenue certainty of a bundled contract without exposing default supply rates to potentially uneconomic hedges. From the standpoint of developing the most possible renewable energy at the lowest possible cost, this approach offers advantages back to the State of Illinois as well; if bidders receive full revenue certainty at the strike price amount, then risk premiums build into bids should be minimized, allowing for the development of more renewable energy generation at the lowest possible RPS budget impact.

As required under Section 1-75(c)(1)(G)(v)(3) of the Act, contracts must have a "minimum tenure of 20 calendar years".

5.4.5 Indexed REC Settlement

An Indexed REC Price will be calculated for each settlement period. The REC price applicable to a settlement period will be determined by subtracting the Strike Price from the Index Price for that settlement period. As required under Section 1-75(c)(1)(G)(v)(1), if the difference is a negative number, the indexed REC counterparty (i.e., the public utility) shall owe the seller the absolute value multiplied by the quantity of energy produced during that settlement period. If this difference results in a positive number, the seller shall owe the indexed REC counterparty this amount multiplied by the quantity of energy produced in the relevant settlement period. The Indexed REC Price formula is illustrated below

Indexed REC Price = Index Price (RTM Settlement Price) – Strike Price (Contract Price)

Section 1-75(c)(1)(G)(v)(2) requires that "[p]arties shall cash settle every month, summing up all settlements (both positive and negative, if applicable) for the prior month." **The hourly LMP will be the generation weighted average of the twelve 5-minute LMPs in that hour.** ~~This raises the question of what individual settlements *within* a month would constitute the "settlements . . . for the prior month."~~ ~~**Draft proposals for the Subsequent Forward Procurement using this Indexed REC structure call for hourly settlements summed up to the monthly level for monthly settlement purposes; for purposes of this draft Plan, the Agency seeks feedback on whether this constitutes the optimal approach.**~~

The example below illustrates a monthly settlement for 2 scenarios --- one in which money is owed to the seller and the other in which money is owed to the Indexed REC Counterparty.

Scenario 1 – Cash Settlement to Seller

Index Price	=	$30/MWh		
Strike Price	=	$35/MWh		
Energy Generated	=	100 MWh		
Indexed REC Price	=	30 – 35	=	-$5/MWh
Money owed to Seller	=	‖-5‖ x 100	=	$500

Scenario 2 – Cash Settlement to Indexed REC Counterparty

Index Price	=	$40MWh				
Strike Price	=	$35/MWh				
Energy Generated	=	100 MWh				
Indexed REC Price	=	40 – 35	=	$5/MWh		
Money owed to Indexed REC Counterparty			=	5 x 100	=	$500

In Scenario 1, the difference between the Index Price and the Strike Price (i.e., the Indexed REC Price) is negative (-$5/MWh) and so the absolute value of the Indexed REC Price is multiplied by the quantity of energy produced in the relevant settlement period (100 MWh), and the resulting amount ($500) is paid to the seller. In Scenario 2, the Indexed REC Price is positive ($5/MWh), and the resulting amount ($500) is paid to the Indexed REC Counterparty.

5.4.6 Forward Price Curve

To ensure funding in the annual budget for Indexed REC procurements for each year of the term of such contracts, the Act requires that the annual cost of the contract be quantified utilizing an industry-standard, third-party forward price curve for energy at the appropriate hub or load zone.[233]

The Agency will review the forward price curves that are available from third-party providers and select the price curve source that will be used in the annual cost calculations. Each forward price curve will contain a specific value of the forecasted market price of electricity for each annual delivery year of the contract. For procurement planning purposes, the impact on the annual budget for the cost of Indexed RECs for each delivery year will be determined as the expected annual contract expenditure for that year, equaling the difference between (i) the sum across all relevant contracts of the applicable strike price multiplied by the contract quantity and (ii) the sum across all relevant contracts of the forward price curve for the applicable load zone for that year multiplied by the contract quantity.

Given that the indexed price of electricity during the delivery year will not likely average to the forecasted market price of electricity for the delivery year, this calculation is simply for budget planning purposes only, and is not meant to establish an annual cost cap for utility REC purchases.

The Act requires that forward price curves be revised on an annual basis. Updated forward price curves will be released and filed with the Commission in the proceeding approving the Agency's most recent long-term renewable resources procurement plan. If the expected contract spend is higher or lower than the total quantity of contracts multiplied by the forward price curve value for that year, the forward price curve will be updated using then-currently available price forecast data, and the RPS

budget projections will be adjusted accordingly.

[233] 20 ILCS 3855/1-75(c)(1)(G)(v)(3).

5.4.7 Application of the Price Curve

To manage future budget obligations resulting from competitive procurements, Section 1-75(c)(1)(G)(v)(4) states that the Agency may consider the institution of a price collar on REC prices paid under indexed renewable energy credit procurements establishing floor and ceiling REC prices applicable to indexed REC contract prices. Any price collars utilized in competitive REC procurements "shall be proposed by the Agency through its long-term renewable resources procurement plan."

While the Agency appreciates how a price collar may offer slightly better budget stability, after consideration of the increase in the annual RPS funds collections combined with the changes to Section 16-108(k) of the Public Utilities Act that allow for the use of RPS funds over a five year period, as well as the ability to exempt from reconciliation payment obligations entered into, but not yet paid, the Agency does not believe that a price collar is necessary for upcoming competitive procurements as the Agency has these additional tools to manage year to year budget fluctuations. **Moreover, a price collar will increase the number of uncontrolled variables of a project, likely increase bid prices so as to compensate for those uncontrolled variables, and adversely impact a developers ability to obtain project financing.** ~~A price collar would reduce both upside and downside exposure to bidders, and the Agency is interested in stakeholder feedback on the price collar concept and if an introduction of a price collar could reduce risks for bidder and therefore result in lower expected bid prices.~~

5.5. Proposed Procurement Events

An assessment of what needs to be procured to meet these targets starts with an assessment of RECs under contract, and specifically RECs under contract to meet utility-scale wind and solar procurement requirements from prior procurement events.

Across competitive procurement events conducted to date, some projects have been developed, other projects are pending final energization still, while others appear to never be successfully developed under REC delivery contacts (and thus would not be contributing RECs to meet RPS targets). While four utility-scale wind projects and six utility-scale solar projects have begun delivery, other projects have not yet been energized. Five solar projects have requested energization extensions that will take them into 2022-2023 delivery year, and four solar projects and two wind projects have been removed from the REC portfolio.

Table 5-3 summarizes in aggregate the status of RECs from utility-scale projects. The quantities listed are the aggregated contracted amounts by expected annual REC deliveries. For planning purposes, the IPA assumes that projects for which extensions have been granted will be successfully developed.

Table 5-3: Utility-Scale REC Portfolio Status

Status	Solar	Wind	Total
Delivering RECs	1,238,936	2,065,519	3,304,455
Extensions Granted	1,266,693		1,266,693

Total Expected RECs	**2,505,629**	**2,065,519**	**4,571,148**
Removed[234]	548,702	879,234	1,427,936

[234] "Removed" indicates RECs that were procured in the 2017 and 2018 procurements but will not be delivered because of the projects not meeting energization deadlines and thus have been removed from the RPS REC Portfolio.

As a consequence, additional procurement events will be required to ensure that Section 1-75(c)(1)(C)'s new renewable energy project delivery targets are met.

Section 1-75(c)(1)(C) sets an initial REC procurement target for the 2021 delivery year of 10 million RECs, the bulk of which will be procured from new utility-scale wind, new utility-scale solar projects, and brownfield site photovoltaic projects in a Subsequent Forward Procurement scheduled for the Spring of 2022, prior to the approval of this 2022 Long-Term Plan. That target grows to 45 million RECs by 2030.

For purposes of this Plan, the Agency will assume that procurement quantities outlined for that procurement (as listed in Table 5-2 above) will be met, but reserves the right to adjust proposed competitive procurement quantities for future procurement events (potentially while this Plan is pending before the ICC) based on observed results from that Subsequent Forward Procurement.

5.5.1. Utility-Scale Solar and Utility-Scale Wind

As outlined above, across 2017-2019, the Agency conducted a series of forward procurement events intended to support the development of new utility-scale wind and utility-scale solar projects. Through these procurement events, approximately 3 million annual deliveries of RECs each of utility-scale wind and utility-scale solar were placed under contract. As outlined in tables above, after project attrition, the IPA expects approximately 2.5 million utility-scale solar RECs and 2 million utility-scale wind RECs to be delivered annually as a result of these procurement events.

While wind constitutes 45% of the "45 million by 2030" new build target found in Section 1-75(c)(1)(C) of the RPS, utility-scale wind appears to be the only viable means for cost-effectively developing new wind projects. As a consequence, while photovoltaics may be a larger (55%) portion of the whole, because only 47% of that photovoltaic target is to come from utility-scale solar projects, utility-scale solar constitutes a lower proportion of the minimum RPS quantities than utility-scale wind.

Minimums are not maximums, however, and as the statute a) uses "at least" in referring to those targets and b) sets up proportions within the solar percentage as proportions of a minimum amount, the IPA believes that it can exceed necessary minimums for utility-scale solar RECs if so warranted. Should the Subsequent Forward Procurement prove successful at facilitating new utility-scale solar development, then that will indeed be the case. Nevertheless, the Agency has outlined procurement targets for new utility-scale wind projects that outpace those from new utility-scale solar targets given these larger utility-scale wind targets.

5.5.2. Brownfield Site Photovoltaic

In the Initial Plan, the Agency proposed a procurement for RECs from brownfield site photovoltaic projects with a target of 80,000 RECs delivered annually. The procurement was initially held in the

fall of 2018 in conjunction with the Photovoltaic Forward Procurement and did not successfully procure any RECs. The Agency subsequently issued a request for comments from stakeholders to better understand barriers to a successful procurement and filed a motion for clarification with the ICC seeking authorization to conduct a second procurement. The Commission granted that motion on April 26, 2019.

The Agency made certain adjustments to the procurement guidelines (notably around acceptable age of documentation of eligibility) and conducted another procurement on July 26, 2019. On August 1,

2019, the Commission approved the results, which resulted in exceeding the at-that-time statutory target of 40,000 RECs delivered annually by 2020-2021.

The IPA intends to use a price-based competitive approach for the procurement of brownfield site photovoltaic RECs conducted pursuant to this Plan. While Section 1-75(c)(1)(C) requires that the Agency "consider other approaches, in addition to competitive procurements, that can be used to procure renewable energy credits from brownfield site photovoltaic projects,"[235] proposing an alternative approach now may be premature. The Agency expects that the use of Indexed REC pricing and a more expansive definition of brownfield site photovoltaic projects will address the problem of unmet targets. If these changes do not address the barriers affecting brownfield site photovoltaic REC procurements, the Agency will determine whether an alternative procurement approach should be implemented as part of its next Plan.

Under this 2022 Plan, the Agency proposes to conduct one brownfield site photovoltaic procurement annually for the next two years, at quantities intended to keep pace with 2030 brownfield site photovoltaic target.

5.5.3. Non-Photovoltaic Community Renewable Generation

In the Initial Plan, the Agency proposed a Community Renewable Generation Program Forward Procurement (see Section 5.8.4 of the Initial Plan). This Community Renewable Generation Program Forward Procurement was intended create an opportunity for non-photovoltaic community generation projects to be developed. That procurement was conducted in December 2019 and did not yield any selected bids. In Docket No. 19-0995 approving the First Revised Plan, no party sought for an additional community renewable generation procurement to be conducted.

Since that time, Section 1-75(c)(1)(N) of the Act has been revised to no longer mandate a Community Renewable Generation Program. In its present form, subparagraph (N) now states that, through this Plan, the Agency "may consider whether community renewable generation projects utilizing technologies other than photovoltaics should be supported through State-administered incentive funding, and may issue requests for information to gauge market demand."

The Agency appreciates the potential opportunities for additional community renewable generation procurements to expand the range and diversity of renewable energy resources in Illinois, and notes that changes in maximum community renewable generation project size (from 2 MW to 5 MW) may warrant a formal Request for Information being issued between this Plan and the Agency's next Plan developed across the Summer of 2023. **For this draft Plan, the Agency seeks stakeholder feedback regarding whether issuing a Request for Information about market interest in non-PV community renewable energy generation development may be warranted.**

5.6. Proposed Schedule for Competitive Procurements

Section 1-75(c)(1)(C) of the Act establishes a 2021 delivery year target of 10 million RECs delivered annually from new wind and solar projects. That target increases ratably to 45 million RECs delivered annually from new wind and new solar projects by the end of the 2030 delivery year.

The Agency understands the phrase "increasing ratably" to mean that the IPA should generally strive to procure an equal incremental amount of RECs each year, from 2022 to 2030, until the 2030

[235] 20 ILCS 3855/1-75 (c)(1)(C)(i)

delivery year target of 45 million RECs is met. Based on RECs under contract and those expected to be under contract (from the May 2022 competitive procurements and the December 2021 blocks from the Adjustable Block Program – which will total at least 10 million RECs delivered annually to meet the 2021 target, and the Agency will use 10 million RECs as the baseline quantity in determining a trajectory), the Agency would need to procure contracts for 3,888,889 RECs delivered annually each year starting in the 2022-2023 delivery year to meet that target. Of that total, 72.5% would be required from competitive procurements, or 2,819,445 RECs delivered annually through each year's new REC delivery contracts (with the remaining balance from the Adjustable Block Program). Further informed by the proportion of RECs required within each category under Section 1-75(c)(1)(C), this results in annual (rounded) procurement quantities of 1,750,000 utility-scale wind RECs, 1,000,000 utility-scale solar RECs, and 65,000 brownfield site photovoltaic RECs for each year's competitive procurement events.

Section 1-75(c)(1)(C)(ii) also requires that the if "if forecasted expenses are less than the maximum budget available under subparagraph (E) of this paragraph (1), the Agency shall continue to procure new renewable energy credits until that budget is exhausted." In the case of competitive procurements for RECs from new utility-scale projects, however, "continuing to procure" is a more fraught alternative: contract obligations are paid upon delivery, meaning that procurement quantities now carry budget obligations 20+ years into the future and preclude additional program and procurement activity from being conducted. Further, making too cavalier of an increase in competitive procurement event quantities may reduce the competitiveness of individual procurement events, thus risking a negative impact on resulting prices (and resulting budget impacts). Lastly, as the IPA has yet to observe results from the new Indexed REC price structure and how possible volatility from that structure risks future years' budgets, it has elected to pursue more conservative procurement quantities.

Therefore, in addition to the Subsequent Forward Procurement to be held in the Spring of 2022, the Agency is proposing to conduct the following competitive procurements during the 2022 and 2023 calendar years at quantities developed to meet Section 1-75(c)(1)(C)'s statutory delivery year REC targets. Targets may be adjusted upward based on results observed through the Subsequent Forward Procurement Event; as that procurement's results will be known before the Commission's approval of this Plan, the IPA may propose those changes during the proceeding before the Commission seeking approval of this Plan.

Table 5-4: Proposed Procurements

Procurement	Technology	Procurement Date	Annual REC Target
Wind Forward Procurement	Wind (utility-scale)	Fall 2022	1,750,000
Solar Forward Procurement	Solar (utility-scale)	Fall 2022	1,000,000
Brownfield Site Photovoltaic	Photovoltaic (brownfield)	Fall 2022	65,000
Wind Forward Procurement	Wind (utility-scale)	Summer 2023	1,750,000
Solar Forward Procurement	Solar (utility-scale)	Summer 2023	1,000,000
Brownfield Site Photovoltaic	Photovoltaic (brownfield)	Summer 2023	65,000

With this 2022 Long-Term Plan being approved in July 2022, the Agency expects to conduct the 2022 procurements late in the calendar year to allow for time to implement any changes to the

procurement requirements resulting from the approval of this plan. For 2023, the Agency proposes to hold the procurement in late spring or early summer—and if procurement volumes are not filled, the IPA would consider holding a subsequent procurement in late 2023. The Agency may request stakeholder feedback after a procurement event that does not meet it REC target to consider changes to the procurement requirements that could be made outside of updating this Long-Term Plan.

5.6.1. Proposed Schedule for Competitive Procurements

This draft new Plan covers the Agency's potential proposed procurements conducted during delivery years 2022 and 2023. Procurements to be conducted after the 2023 delivery year will be considered in the next revised Plan. A draft of that Plan is scheduled for release by mid-August 2023.

5.7. Contracts

For the Initial Forward Procurements and additional competitive procurements conducted pursuant to the Initial Plan, the Agency updated its REC contract used in previous competitive procurements for renewable energy credits. This update made changes to ensure that the contract was compliant with new requirements found in P.A. 99-0906, but otherwise followed the standard format of a Cover Sheet, Revisions to the Master REC Agreement, and the Master REC Agreement itself.

Through the First Revised Plan, the Agency proposed significant revisions to the REC delivery contract structure utilized in competitive procurement events, including integrating what had been three separate sections of the contract into a single, more streamlined contract instrument. This revised contract was utilized in the March 2021 Subsequent Forward Procurement, and a version of it (otherwise updated for consistency with changes in law found in P.A. 102-0662) is now being utilized for the Subsequent Forward Procurement required under Section 1-75(c)(1)(G)(iii).

As parties will have more familiarity with this comment structure by the February 28, 2022 deadline for comments on this draft Plan, the Agency is interested in additional feedback on that contract structure through the draft Plan comment process, and whether any adjustments should be made to this Plan concerning that contract.

5.7.1. Credit Requirements

To ensure that RECs under contract to satisfy a compliance requirement are indeed delivered, the Agency proposes to continue requiring collateral with contracts, with the collateral amount established as a function of contract value. While specific collateral levels are not proposed as part of this draft Plan (and have traditionally been determined through the contract development process), the Agency believes that the level of collateral must be low enough to encourage participation (especially from small businesses and other newer market entrants) and high enough to discourage suppliers from voluntarily defaulting on contracts for economic reasons.

As an initial step, to ensure that entities who participate in procurement events are committed to following through on contract performance, the IPA proposes a strict requirement for any procurements held pursuant to this draft Plan that suppliers and associated facilities who voluntarily default on contracts for economic reasons (such as choosing to sell the RECs elsewhere after making the commitment to sell them to an Illinois utility) or misrepresent their eligibility to participate in a procurement event will be barred from participation in future RPS procurements. The Agency will monitor and review this provision and will consider refinements or updates to it in future Plan revisions if necessary.

Any forfeiture of collateral by a project under a competitively procured REC contract with a utility will be considered to be returned to the Renewable Resources Budget.

5.8. Benchmarks

Prior to the revisions to the RPS contained in Public Act 99-0906, benchmarks used for renewable energy resources procurements (i.e., confidential price levels above which no bids would be accepted) were developed pursuant to a statutory provision requiring that the price paid for renewable energy resources being procured "not exceed benchmarks based on market prices for renewable energy resources in the region," and required that such benchmarks "be developed by the procurement administrator, in consultation with the Commission staff, Agency staff, and the procurement monitor" and "subject to Commission review and approval."[236]

As now modified through changes found in P.A. 102-0662, "cost-effective" means that the prices for RECs

> *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. Benchmarks shall reflect development, financing, or related costs resulting from requirements imposed through other provisions of State law, including, but not limited to, requirements in subparagraphs (P) and (Q) of this paragraph (1) and the Renewable Energy Facilities Agricultural Impact Mitigation Act. Confidential benchmarks shall be developed by the procurement administrator, in consultation with the Commission staff, Agency staff, and the procurement monitor and shall be subject to Commission review and approval. If price benchmarks for like products in the region are not available, the procurement administrator shall establish price benchmarks based on publicly available data on regional technology costs and expected current and future regional energy prices.*[237]

Changes through P.A. 102-0662 serve to clarify that a) benchmarks are "confidential" (which is separately required under Section 16-111.5 of the PUA) and b) benchmarks developed shall reflect any costs imposed by "other provisions of State law" (which the Procurement Administrator would generally otherwise seek to do).

Due to the sensitive nature of the benchmark development process and how the release of information related to the level of the benchmark could impact bidder behavior in competitive procurements, additional information will not be provided regarding the process for developing the benchmark or any range of potential benchmark prices.

By law, these benchmarks are not to be used to curtail or otherwise reduce contractual obligations entered into by or through the Agency prior to June 1, 2017.[238]

[236] 20 ILCS 3855/1-75(c)(1) repealed effective June 1, 2017.

[237] 20 ILCS 3855/1-75(c)(1)(D).

[238] Id.

6. Self-Direct Renewable Portfolio Standard Compliance Program

6.1. Introduction

Public Act 102-0662 also introduced new Section 1-75(c)(1)(R) of the IPA Act into Illinois law; this new subparagraph requires that the Illinois Power Agency "establish a self-direct renewable portfolio standard compliance program for eligible self-direct customers that purchase renewable energy credits from utility-scale wind and solar projects through long-term agreements." By law, and as described more extensively below, qualifying customers must meet certain size thresholds, while qualifying projects must be "new" projects sited in locations otherwise eligible for RPS compliance. This Chapter provides the IPA's discussion of this new self-direct program, including its proposals on items left by statute to be settled through this Long-Term plan.

6.1.1. Self-Direct Program Overview – What is a Self-Direct Program?

Since enactment of the Future Energy Jobs Act (P.A. 99-0906), RPS compliance in Illinois has been managed by the Illinois Power Agency through its administration of programs and procurements. Requirements applicable to those programs and procurements are outlined in Illinois law, with further refinements, requirements, and operationalized approaches for how to meet RPS goals and targets set forth through the IPA's biannually-developed Long-Term Renewable Resources Procurement Plan. Deliveries of renewable energy credits ("RECs") are brought under contract through the IPA's programs and procurements, with Illinois electric utilities serving as the Buyers and recipients of RECs produced by participating renewable energy projects. Funding to support the purchase of RECs is provided by Illinois electric utility ratepayers through volumetric, non-bypassable electric bill charges, with that funding providing needed revenue (and revenue certainty) back to developers of these of new renewable energy projects.

As a restructured state, electric utilities do not and cannot own these renewable energy projects (subject to limited exceptions), and do not supply electricity to support most retail customer load—most retail customer electric supply needs are instead met through competitive suppliers. Instead, those utilities receive and retire RECs associated with energy that, in many cases, is sold separately from the transfer of RECs, with the retirement of those RECs allowing for the state to measure its progress against percentage-based RPS goals (e.g., "25% by 2025," meaning that 25% of retail sales are to be met by REC retirements by 2025) or quantity-based targets (e.g., 2,000,000 RECs from new wind projects delivered annually by 2020). Progress toward meeting RPS goals has thus been measured exclusively through projects participating in IPA programs and procurements, featuring RECs purchased by, delivered to, and retired by Illinois electric utilities.

In general terms, an RPS self-direct program operates in contrast to the IPA-administered RPS activities in the following ways:

1. Under a self-direct program, RECs are received and retired by individual customers through its own purchases, rather than by the electric utility itself, thus allowing for that customer to retire those RECs and itself make environmental claims regarding the use of renewable energy.
2. As that customer is meeting RPS requirements through its own REC purchases, its portion of electricity usage is no longer included in the denominator used to track the state's broader RPS compliance.

3. As that customer is engaged in its own REC procurement activities to support RPS progress, it is credited back for or excused from some portion of non-bypassable RPS charges levied to support RPS activities.

As this RPS compliance occurs through private bilateral transactions entered into at the election of those private parties, rather than through a centralized planning process or by regulatory fiat, that RPS compliance pathway is viewed as "self-compliance" or "self-direct."

6.1.2. Prior RPS Self-Direct Programs in Illinois

Prior to the enactment of Public Act 99-0906, the Illinois RPS was met through centralized IPA planning only for those customers taking electric supply from Illinois electric utilities. For those customers taking supply from an alternative retail electric supplier, Section 16-115D of the PUA provided a different path for compliance. Each ARES—and not each individual customer—was required to satisfy a renewable portfolio standard requirement as a percentage of its electricity sales, but could satisfy its obligation by making alternative compliance payments at a rate reflecting that rate paid by default supply customers for no less than 50% of its RPS obligation. For the remaining 50% of its obligation, the ARES could either pay additional alternative compliance payments and/or self-procure RECs. Qualifying RECs needed to be sourced from facilities within the regional transmission territories of PJM Interconnection, L.L.C. ("PJM") and Midcontinent Independent System Operator, Inc. ("MISO"), a relatively broad geographic footprint, and from any qualifying renewable energy technology.

With ARES competing with one another for customers (and, for residential and small commercial customers, also competing against default supply service), this paradigm created an incentive for an ARES to comply at the lowest cost possible. Thus, alternative compliance payments were generally made for the minimum 50% amount (as the rate applicable to those ACPs reflected more expensive procurements made by the Agency to support new project development, such as through the 2010 Long-Term Power Purchase Agreements used to support new wind and solar projects), and the self-procurement obligation was not structured to lead to the development of new renewable energy generation. If RECs were available for purchase from facilities already built and financed, or from projects located in vertically-integrated states with development costs already covered by that state's ratepayers, then those RECs could be utilized for compliance.

This short-term, transactional incentive structure for ARES self-directed RPS compliance meant that very little new renewable generation was able to be developed through this compliance mechanism. Even though ARES were procuring millions of RECs in aggregate each year, the incentive structure facing those suppliers made it highly unlikely that those RECs would be sourced from anything other than the lowest-priced seller: these were generally facilities that had already been built and financed without reliance on this revenue stream, and potentially from projects in vertically integrated states with costs already being fully recovered through rates. By new contrast, supporting new development required long-term revenue certainty at REC prices likely higher than what already-constructed facilities could offer. Furthermore, the RPS budget volatility introduced by customer load switching to and from ARES supply service presented significant planning challenges, with long-term contracts needed to provide revenue certainty to new projects disfavored given the year-over-year uncertainty about the presence of funding supporting those obligations.

Public Act 99-0906 introduced a two-year sunset to this alternative ARES compliance mechanism, and by mid-2019, the entirety of RPS compliance (whether for default supply customers, ARES

customers, or hourly pricing customers) had transitioned to a centralized planning and procurement structured administered by the IPA.[239] Through new Section 1-75(c)(1)(R), Illinois law now allows for a return to self-direct structure—but with significant guardrails regarding the customer, qualifying facility, REC delivery contract, and self-direct benefit intended to ensure that participation in this self-direct program supports the spirit informing the Illinois RPS (namely, to support new renewable energy projects sited in areas that bring benefits back to Illinois residents and businesses). As the IPA believes that the challenges outlined above inform many of the requirements found in Section 1-75(c)(1)(R), this background is vital for understanding why self-direct RPS compliance in Illinois has taken this particular form.

6.2. Self-Direct Customer Eligibility

One such area where limitations on self-direct participation can be found is in which customers may qualify. By law, only "eligible self-direct customers" may qualify, and Section 1-75(c)(1)(R)(1) provides the following definitions to support

> *"Eligible self-direct customer" means any retail customers of an electric utility that serves 3,000,000 or more retail customers in the State and whose total highest 30-minute demand was more than 10,000 kilowatts, or any retail customers of an electric utility that serves less than 3,000,000 retail customers but more than 500,000 retail customers in the State and whose total highest 15-minute demand was more than 10,000 kilowatts.*

This definition offers a few key limitations: first, the customer must be a retail customer of either Commonwealth Edison company or Ameren Illinois; customers of municipal electric utilities, rural electric co-operatives, or other electric utilities (such as MidAmerican Energy Company) are ineligible. Second, the customer must be of at least a threshold size: 10,000 kilowatts of peak demand, which the IPA believes should be interpreted as non-coincident peak demand and evaluated based on customer billing information. Thus, the Illinois RPS self-direct compliance program is a *large customer* self-direct program for only customers of the largest Illinois electric utilities.

Additional requirements apply to both the renewable energy facilities with which these customers contract for RECs, as well as the REC delivery contracts executed by those customers, as discussed further in this Chapter.

6.2.1. Common Parents

Section 1-75(c)(1)(R)(1) also provides a definition of "retail customer" that allows for account aggregation in the case of common corporate parents:

> *"Retail customer" has the meaning set forth in Section 16-102 of the Public Utilities Act and multiple retail customer accounts under the same corporate parent may aggregate their account demands to meet the 10,000 kilowatt threshold. The criteria for determining whether this subparagraph is applicable to a retail customer shall be based on the 12 consecutive billing periods prior to the start of the year in which the application is filed.*

[239] One limited exception is Section 1-75(c)(1)(H)(i) of the IPA Act, which allows an ARES self-supply a finite quantity of RECs from qualifying renewable energy generating facilities owned by that ARES in exchange for a bill credit for its customers. See Section 3.6 for more information.

Thus, in the case of common corporate parents, multiple individual accounts from affiliated companies (such as individual retail branch locations from the same company) may be aggregated for purposes of meeting this size threshold, and by extension for purposes of establishing those customer accounts which may benefit from the self-direct program through a reduced RPS charge. For an individual retail account to be eligible to be aggregated under a corporate parent's application, the IPA proposes that an individual retail account entity must be a fully owned, integrated operation of the corporate parent or a subsidiary in which the corporate parent holds a controlling interest of more than 50 percent. As credits are specific to each individual electric utility, the aggregated demand must be for individual accounts within one of the utilities' service territories and cannot include individual accounts located across more than one utility service territory.

During stakeholder comments, one question that arose was whether multiple affiliated *government* accounts could be aggregated to meet this retail customer threshold. The IPA believes that, for example, the individual government buildings for a given municipality should be understood as featuring the same "corporate parent," but less obvious cases may require judgment once applications are reviewed. However, individual customer accounts assembled under an aggregation contract (such as with opt-out municipal aggregation as contemplated under Section 1-92 of the IPA Act) cannot qualify, unless those customers could separately establish a common corporate parent.

The IPA also understands that because eligibility for the self-direct program is expressly required to be based on the prior 12 billing periods, a customer lacking eligible billing history (such as a new customer or customers) could not qualify for the self-direct program until at least 12 months of qualifying billing history has been established. In practice, this may mean that new customers must wait one additional year for qualification.

6.3. Project Eligibility

To qualify, an eligible self-direct customer must hold a long-term contract for the delivery of RECs from an eligible renewable energy generating facility. Section 1-75(c)(1)(R) also provides requirements applicable to those projects. As a threshold matter, only utility-scale (above 5 MW) wind or photovoltaic projects may qualify.

6.3.1. "New" Projects

Under Section 1-75(c)(1)(R)(2)(vi) of the Act, RECs must be sourced "from new utility-scale wind projects or new utility-scale solar projects." Unlike Section 1-75(c)(1)(C)(iii), which expressly provides that "new" projects are those energized after June 1, 2017, Section 1-75(c)(1)(R) provides no definition of a "new" project. However, because the definition of a new project found in Section 1-75(c)(1)(C)(iii) is stated as broadly applying "[f]or purposes of this Section," the IPA believes that energization after June 1, 2017 is the applicable threshold for whether a project may be considered "new" for self-direct RPS compliance purposes.

6.3.2. Locational Requirements

Section 1-75(c)(1)(R)(2)(ii) provides that RECs must be sourced from a facility compliant with "the geographic requirements as set forth in subparagraph (I) of paragraph (1) of subsection (c) as interpreted through the Agency's long-term renewable resources procurement plan, *or, where applicable, the geographic requirements that governed utility-scale renewable energy credits at the time the eligible self-direct customer entered into the applicable renewable energy credit purchase*

agreement." This first half of this requirement is relatively straightforward; in Chapter 4, the IPA describes its approach to qualifying renewable energy projects located in adjacent states under Section 1-75(c)(1)(I) of the IPA Act. Those facilities must meet a threshold score based on project application, and the Agency has a predetermination process for entities seeking to understand whether certain facilities qualify. The public interest criteria that the Agency takes into consideration for this scoring are as follows:

1. Minimizing sulfur dioxide, nitrogen oxides, particulate matter and other pollution that adversely affects public health in Illinois;
2. Increasing fuel and resource diversity in Illinois;
3. Enhancing the reliability and resiliency of the electricity distribution system in Illinois;
4. Meeting goals to limit carbon dioxide emissions under federal or state law; and
5. Contributing to a cleaner and healthier environment for the citizens of Illinois.

To assess whether a renewable generating facility located in an adjacent state that provides RECs to the self-direct customer so that the self-direct customer is eligible to participate in the program, the Agency assigns a maximum of 20 points to each of the five public interest criteria for a total of 100 possible points. For a renewable energy generating facility in an adjacent state to be able to supply RECs to a self-direct customer that would qualify to participate in the program, the adjacent state facility needs to demonstrate that it can achieve a total score of at least 60 points. As this criteria and scoring has remained unchanged across the IPA's Long-Term Renewable Resources Procurement Plans published in 2017, 2019, 2021, and now in 2022, the process for determining locational facility eligibility for projects falling under Section 1-75(c)(1)(I)'s requirements should by now be known and straightforward.

Less clear is the specific point in time at which this Section 1-75(c)(1)(I) criteria applied versus a preceding location construct. While the scoring methodology and threshold score under Section 1-75(c)(1)(I)'s public criteria were not finalized until the April 3, 2018 ICC approval of the IPA's Long-Term Renewable Resources Procurement Plan, Section 1-75(c)(1)(G) of the Act required the Agency to conduct "initial forward procurements" for RECs delivered from new utility-scale wind and solar projects in advance of that criteria's finalization (including as early as the Fall of 2017). In outlining requirements applicable to projects participating in those initial forward procurements, the Agency determined the Section 1-75(c)(1)(I)'s requirements still-to-be-determined through the Long-Term Plan approval process must nevertheless apply, and thus that any participating adjacent state projects risked being excluded after receiving a contract award pending final determination of adjacent state criteria. Thus, because the Agency previously applied these criteria to REC delivery contracts executed between June 1, 2017 (the effective date of P.A. 99-0906) and April 3, 2018 (the ICC's approval of the IPA's initial Long-Term Plan, and thus the point in time at which Section 1-75(c)(1)(I)'s locational criteria was finalized), June 1, 2017 constitutes the date at which Section 1-75(c)(1)(I)'s locational criteria became effective for Section 1-75(c)(1)(R) purposes.

While no qualifying facility can have an *energization date* pre-dating June 1, 2017, it is possible that some REC supply contracts were nevertheless *executed* before June 1, 2017 for projects still under development. In this case, the precursor to Section 1-75(c)(1)(I) was the "Illinois and adjacent state" preference then found in Section 1-75(c)(1) of the IPA Act—through which, under competitive procurements, RECs from Illinois and adjacent states were given selection priority, with consideration of RECs from elsewhere only provided if procurement quantities could not be met through Illinois and adjacent state projects. The IPA thus understands that should a qualifying REC

supply contract have been entered into *before* June 1, 2017, that facility may be located anywhere within Illinois or an adjacent state, but not outside of that footprint.

6.3.3. Labor and DEI Requirements

Section 1-75(c)(1)(R)(2)(vii) requires that, for self-direct REC delivery contracts entered into after the September 15, 2021 effective date of Public Act 102-0662, "the new utility-scale wind projects or new utility-scale solar projects must comply with the requirements established in subparagraphs (P) and (Q) of paragraph (1) of this subsection (c) and subsection (c-10)."

With respect to project labor requirements found in subparagraph (Q), projects will be required to comply with both the Prevailing Wage Act and to enter into a project labor agreement, as required for utility-scale wind and solar projects under Section 1-75(c)(1)(Q)(2) of the Act. For Prevailing Wage Act compliance, customers will be required to submit certified transcripts of payroll applicable to those facilities in a manner mirroring requirements applicable to projects under development under the Adjustable Block Program, as outlined in Chapter 7. For project labor agreements, the timing for the receipt of such agreements, and the content required within such agreements, will mirror requirements applicable to utility-scale projects participating in IPA procurements as outlined in Chapter 5. Additional details on processes for submittal will be made available as the IPA develops self-direct RPS program application forms and processes.

With respect to the diversity, equity, and inclusion requirements found in subsection (c-10), projects must comply with the minimum equity standard and the associated planning and reporting requirements detailed in Chapter 10. The self-direct customer shall submit a Minimum Equity Standard Compliance Plan with its application to the program and report on compliance as part of its annual report required pursuant to Section 1-75(c)(1)(R)(3) and discussed further in Section 6.9 below. The minimum equity standard that is in place at the time of approval of the customer's participation in the self-direct program will be the percentage standard applicable to the construction of the new utility-scale wind or solar project from which that customer receives and retires RECs.

With respect to the requirements of subparagraph (P), the IPA is not aware of discrete requirements that can be ported over to subparagraph (R) for qualifying self-direct projects; however, priority in selection can be given to applications featuring projects located in Energy Transition Community Grant communities should the program receive qualified applications exceeding program size. That approach is outlined in Section 6.6.3 below.

For this draft Plan, the Agency is interested in feedback for how to better sync Section 1-75(c)(1)(R)'s application and selection processes with the requirements found in subparagraphs (P) and (Q) of Section 1-75(c), as well as subsection (c-10).

6.4. REC Delivery Contract Eligibility

Even with a qualifying customer and qualifying project, certain Section 1-75(c)(1)(R) requirements also apply to the legal instrument through which that customer receives RECs from that "new," locationally-appropriate utility-scale wind or utility-scale solar facility. Notably, that instrument need not be exclusively for RECs; bundled agreements (including, e.g., delivery of energy) may also qualify, so long as REC delivery requirements are met through those instruments. By extension, delivery to the customer may also occur through an instrument executed with an intermediary, such

as an alternative retail electric supplier; however, any instruments executed with an intermediary (i.e., not with the qualifying facility itself) must be structured to ensure that sufficient quantities of RECs will be delivered from qualifying facilities across the minimum contract term—and cannot be open-ended as to the specific source of RECs.

6.4.1. Contract Term

Mirroring the long-term REC delivery contracts provided for elsewhere throughout Section 1-75(c)(1) of the IPA Act, Section 1-75(c)(1)(R)(2)(iii) requires that RECs "be procured through long-term contracts with term lengths of at least 10 years" from qualifying facilities. The IPA understands that this requirement is intended to help ensure that qualifying facilities may not have been built but for the REC delivery contract that provided long-term revenue certainty back to that facility, and thus that the Illinois RPS self-direct program provides benefits to credit new renewable energy project development.

Section 1-75(c)(1)(R)'s requirements do not apparently require 10 years of REC deliveries from the date of application into the program; instead, only that the contract term itself is at least 10 years in length. Consequently, the IPA understands that a customer could already be receiving RECs under a qualifying REC delivery contract at the time of application to the program in 2023 with less than 10 years of deliveries remaining, and benefit from self-direct participation for the remaining years of that contract. However, the IPA believes that should any aspect of that contract have been non-compliant with self-direct program requirements, then 10 years of deliveries under compliant terms is required to meet this contract length threshold.

As discussed further in this Chapter, to demonstrate compliance with these and other requirements, applicant customers will generally need to provide the legal instrument through which RECs are required to be delivered as supporting evidence.

6.4.2. Delivery Quantity Requirement

Section 1-75(c)(1)(R)(2)(iv) requires that RECs delivered to an eligible self-direct customer from a qualifying facility or facilities "be equivalent in volume to at least 40% of the eligible self-direct customer's usage, determined annually by the eligible self-direct customer's usage during the previous delivery year, measured to the nearest megawatt-hour." Thus, if a customer used 10,000 megawatt-hours in the previous delivery year, then the contracted delivery quantity must be at least 4,000 RECs. A customer can receive and retire additional RECs from that same facility, although no additional credit is provided beyond the applicable published self-direct credit amount. If a customer fails to meet this 40% threshold, then no credit is provided, and the customer simply fails to qualify for the self-direct program.

This raises the question of whether that 40% threshold is determined annually for compliance as customer usage changes, or a one-time threshold determination for that customer's eligibility. In light of Section 1-75(c)(1)(R)(5)'s instruction that "[o]nce the Agency determines that a self-direct customer is eligible for participation in the program, the self-direct customer will remain eligible until the end of the term of the contract," and given the administrative burden of annually comparing customer usage to REC deliveries (and then possibly distinguishing between good faith non-compliance versus gaming), the IPA believes that an initial determination that the legal instrument is structured meet 40% of the customer's usage through REC deliveries will be generally sufficient. However, the Agency reserves the right to make inquiries of customers should it have reason to

believe that this threshold is consistently being missed and may take action under Section 1-75(c)(1)(R)(6) of the Act should that customer fail to provide documentation demonstrating ongoing compliance (including through required annual compliance reporting, as discussed in Section 6.9 below). Similarly, the Agency believes that eligibility should be based upon meeting the 10,000 kilowatt threshold at the time of application approval. Should the customer's demand subsequently decline below the 10,000 kilowatt threshold, that demand decline would not invalidate an approved customer's established eligibility.

6.5. Self-Direct Crediting and Accounting

As customers may already engage in any of the qualifying REC delivery contracting contemplated in Section 1-75(c)(1)(R), the benefit of self-direct RPS program participation for an eligible self-direct customer is simply a reduction in the non-bypassable charges levied by Illinois electric utilities to support RPS activities (or a "credit" against those charges). The methodology for determining those credits is outlined below.

Meanwhile, the benefit to the State of Illinois in providing the self-direct program is a reduction in the quantity of RECs required to be procured through IPA-administered utility-scale procurements, as "[e]ach renewable energy credit procured . . . by a self-direct customer shall reduce the total volume of renewable energy credits the Agency is otherwise required to procure from new utility-scale projects." Thus, while the self-direct program does result in a reduction of available RPS budgets, it also allows the Illinois RPS to recognized private sector renewable energy support through a reduction in required REC procurement quantities. Further, the requirement that contracts be at least 10 years in length reduces the year-to-year budget volatility resultant from other possible self-direct regimes.

6.5.1. Self-Direct Bill Crediting

Section 1-75(c)(1)(R)(4) authorizes a "reduction in the volumetric charges collected pursuant to Section 16-108 of the Public Utilities Act for approved eligible self-direct customers" as those customers' benefit for self-direct program participation. As this program operates as an self-direct RPS compliance program only, the IPA understands "volumetric charges collected pursuant to Section 16-108" to refer only to those charges utilized to support RPS program and procurement activities pursuant to Section 16-108(k) of the PUA, and not charges used to support the procurement of zero emission credits, carbon mitigation credits, Coal to Solar and Energy Storage Initiative Charges, or other collections and initiatives referenced in Section 16-108(k).

That reduction, or "credit," is calculated to be "equivalent to the anticipated cost of renewable energy credit deliveries under contracts for new utility-scale wind and new utility-scale solar entered for each delivery year after the large energy customer begins retiring eligible new utility scale renewable energy credits for self-compliance." Section 1-75(c)(1)(R)(4) further clarifies that the self-direct credit amount shall be "equal to the estimated portion of the cost authorized by subparagraph (E) of paragraph (1) of this subsection (c) that supported the annual procurement of utility-scale renewable energy credits in the prior delivery year using a methodology described in the long-term renewable resources procurement plan, expressed on a per kilowatthour basis."

6.5.1.1. Self-Direct Bill Crediting: Interpretive Issues

As described under this language, this calculation has multiple parts, including some contradictory elements. The credit back to that customer hinges then on the "anticipated cost of renewable energy credit deliveries under contracts for new utility-scale wind and new utility-scale solar entered for each delivery year after" that participation begins. But that credit must be must also be "the estimated portion of the cost authorized by subparagraph (E) of paragraph (1) of this subsection (c) that supported the annual procurement of utility-scale renewable energy credits in the prior delivery year." Reconciling this language is not easy, but certain framing principles emerge that the IPA believes are appropriate for implementation of the self-direct program.

First, self-direct bill crediting concerns *only* costs reflective of utility-scale wind and utility-scale solar procurements, and expressly not "costs associated with procuring renewable energy credits through existing and future contracts through the Adjustable Block Program, subsection (c-5) of this Section 1-75, and the Solar for All Program." This provides a defined universe of contract types. Second, self-direct bill crediting concerns *only* costs for contracts entered into after successful participation, and expressly not "costs associated with any contracts entered into before the delivery year in which the customer files the initial compliance report to be eligible for participation in the self-direct program." Thus, bill crediting is established through looking at utility-scale RPS contract costs for those contracts entered into after the customer's successful participation in the program.

One open question, then, is whether costs from utility-scale contracts concern those contracts entered into *directly after* the date of a customer's successful participation (which is before its first compliance report), or only beginning *with the delivery year* thereafter. Thus, if the customer begins self-direct program participation in the 2023 delivery year, utility-scale wind and solar contracts entered into within that delivery year "count" for that customer's self-direct RPS credit calculation? **The IPA is interested in parties' feedback on this topic; for present purposes, the Agency will assume that utility-scale RPS contracts utilized for crediting calculations will begin with those entered into directly after the customer begins participation.**

The next open question is whether a customer's credit level for an upcoming delivery year is based on looking backward at actual expenses resultant from eligible RPS contracts within that prior year, or forward based on anticipated expenses under those contracts for that upcoming delivery year. Here, again, statutory language can be interpreted either way, as it refers to both the "anticipated cost" of REC delivery contracts and costs "that supported" REC procurements "in the prior delivery year." Instructive text may also be found in process elements; those require that "[t]he Agency shall assist the Commission in determining the current and future costs," and that "[t]he Agency must determine the self-direct credit amount for new and existing eligible self-direct customers and submit this to the Commission in an annual compliance filing." The Commission must then "approve the self-direct credit amount by June 1, 2023 and June 1 of each delivery year thereafter."

This language, coupled with the "anticipated cost" language found elsewhere in Section 1-75(c)(1)(R)(4), appears to argue for the Agency being tasked with looking into the future for the upcoming delivery year's anticipated costs from utility-scale contracts executed after a participant's successful RPS self-direct program application and utilizing that anticipated cost for producing a self-direct crediting rate for the upcoming year. This approach requires the Agency to make assumptions about project energization timelines – costs do not begin until projects are energized and begin REC

deliveries to counterparty utilities – although prior experience with RPS implementation has now provided the IPA with more informed insights into utility-scale project energization timelines.[240]

This cost estimate is increasingly complex given that, under Section 1-75(c)(1)(G)(v) of the IPA Act, REC prices for utility-scale projects are no longer fixed; instead, those REC prices float based on wholesale energy prices. Section 1-75(c)(1)(G)(v)(3) already requires that the Agency estimate "the impact on the annual budget for the cost of indexed renewable energy credits for each delivery year" through calculating "the difference between (i) the sum across all relevant contracts of the applicable strike price multiplied by contract quantity and (ii) the sum across all relevant contracts of the forward price curve for the applicable load zone for that year multiplied by contract quantity;" this same calculation can be applied to only those contracts applicable to establishing a given self-direct crediting rate for purposes of estimating applicable costs.

6.5.1.2. Self-Direct Bill Crediting Example

Consistent with those interpretive decisions, the following is an example of how the Agency understands a self-direct crediting rate to be established. First, the self-direct customer begins "retiring eligible new utility scale renewable energy credits for self-compliance," which the Agency understands to be commensurate with a successful self-direct program application for the upcoming delivery year and the years thereafter. For illustrative purposes, assume that successful participation beginning with the 2023 delivery year (the first year of the program). For this example, the IPA thus understands that credited amounts concern a) utility-scale RPS contracts entered into beginning with the 2023 delivery year and from that point forward, and b) anticipated REC procurement costs associated with those contracts for the upcoming delivery year. Thus, the 2023 delivery year would likely not yet feature costs—but instead will feature procurement activities resulting in contracts that will *eventually produce costs*—and any self-direct crediting for the 2024 delivery year would be dependent on whether there are "anticipated costs" from those 2023 delivery year contracts for the upcoming 2024 delivery year. Similarly, self-direct crediting for the 2025 delivery year would be dependent on anticipated costs from those utility-scale contracts entered into during both the 2023 and 2024 delivery years, while self-direct crediting for the 2026 delivery year would be dependent on anticipated costs from those contracts entered into between 2023-2025. Anticipated costs would be determined through a) the Agency's estimate of by when those projects will become energized and begin delivering RECs, and b) the Agency's anticipated budget impacts from those contracts based on its forward price curve calculation under Section 1-75(c)(1)(G)(v).

One consequence of this approach is the absence of a single self-direct crediting rate: under the above example, for the 2026 delivery year, a customer with initial participation in 2023 would receive credits based on anticipated costs from REC delivery contracts entered into during the 2023-2025 time period. However, a customer with initial participation in 2024 would only receive credits based on anticipated costs for REC delivery contracts entered into during the 2024-2025 time period, as that later-selected customer has a different starting point for "each delivery year after the large

[240] Theoretically, another option would be for the Agency to reconcile a prior year's actual expenses as part of the upcoming year's crediting rate, although a) Section 1-75(c)(1)(R) does not appear to expressly contemplate any such reconciliation and b) that reconciliation would actually require a two-year lag, as the next delivery year's crediting rate would be set before the prior delivery year's actual costs will be known. Given the complexity and administrative burden of this reconciliation-based approach, the Agency believes focusing on good faith, data-driven estimates of an upcoming delivery year's applicable costs and using that cost to establish a self-direct crediting rate – with Commission approval through a compliance filing serving as an additional safeguard – better balances clarity and simplicity in calculation with the value of absolute precision.

energy customer begins retiring eligible new utility scale renewable energy credits for self-compliance." While developing successively more self-direct crediting rates year over year of the self-direct program's operation may be inelegant and administratively burdensome, this appears to be the clear intent of the General Assembly in establishing this self-direct crediting regime.

These anticipated delivery year costs would then be reduced down to a fractional amount of the amount of collections authorized under Section 1-75(c)(1)(E) of the Act. That fractional amount may be expressed as a percentage, and that percentage would then be used for a per kwh calculation of the credit due back to participating customers. Thus, if the volumetric RPS charge authorized by Section 1-75(c)(1)(E) was 1 cent per kilowatt hour, and anticipated qualifying contract costs constituted 10% of the RPS expenditures for the year, then the applicable self-direct credit would be calculated as 0.1 cents per kilowatt hour.

6.5.1.3. Self-Direct Bill Crediting: Compliance Filing

Section 1-75(c)(1)(R)(4) also requires that the IPA annually calculate the self-direct crediting amount(s) and "submit this to the Commission in an annual compliance filing," with the Commission required to "approve the self-direct credit amount by June 1, 2023 and June 1 of each delivery year thereafter." This provision raises a series of procedural questions, as outlined below.

The first question is in what proceeding the Agency should provide its compliance filing. The Agency believes that the proceeding featuring the most recently approved Long-Term Plan should be the proceeding in which a compliance filing is made. Thus, for 2023, the Agency will submit its self-direct crediting calculation within the proceeding used to approve this Long-Term Plan.

The second question concerns how the Commission is to "approve the self-direct amount," as the Commission does not traditionally "approve" a compliance filing. Instead, a compliance filing is simply made to ensure compliance with a prior Commission directive; but unless prompted by a reopening or motion, no Commission action is required. Here, the IPA believes it can best manage the tension between Commission approval and the form of a compliance filing by a) engaging stakeholders in a comment process on the self-direct crediting rate prior to making its compliance filing, b) making its compliance filing early enough to allow for any parties to challenge that filing through petition to the Commission, and c) proposing that should no party successfully contest the filing, it shall be deemed "approve[d]" by the Commission.

The third question concerns timing: while the Commission must approve a self-direct crediting amount by June 1 – the start of a delivery year – the Agency understands that this amount must be known to Illinois electric utilities well before June 1 for application within the delivery year beginning June 1. The Agency has proposed a schedule for the first year of the self-direct program later in this Chapter and is interested in feedback on whether that schedule may accommodate the utilities' bill crediting calculation needs.

For the substance of the compliance filing, the Agency will include, at minimum, the following: anticipated costs of utility-scale REC delivery contracts by delivery year in which that contract was entered into, including the anticipated volumes of REC deliveries from those projects and aggregated assumptions about price (mindful of the confidentiality of individual bid prices) and a narrative explanation of how and why those calculations were made, as well as the self-direct credit applicable to customers based on year of successful application expressed as a per kilowatt-hour value.

6.5.2. Procurement Target Adjustments

Section 1-75(c)(1)(R)(3) provides that each REC procured pursuant to the self-direct program "shall reduce the total volume of renewable energy credits the Agency is otherwise required to procure from new utility-scale projects pursuant to subparagraph (C) of paragraph (1) of this subsection (c) on behalf of contracting utilities where the eligible self-direct customer is located." The Agency will include estimates of RECs procured in connection with the self-direct program, as well as anticipated RPS budget adjustments necessitated by self-direct program bill crediting, in its analyses of RPS Goals, Targets, and Budgets produced through its Long-Term Plans and interim updates posted on its website.

6.6. Self-Direct Program Size & Selection

Section 1-75(c)(1)(R)(3) requires that the Agency shall "annually determine the amount of utility-scale renewable energy credits it will include each year from the self-direct renewable portfolio standard compliance program." In making this determination, "the Agency shall evaluate publicly available analyses and studies of the potential market size for utility-scale renewable energy long-term purchase agreements by commercial and industrial energy customers and make that report publicly available." While the Agency does not seek to establish a fixed first-year program size through this Plan's approval, it provides the following analysis and discussion for stakeholder feedback on self-direct program size and hopes for high-level Commission direction on when and how program size should be established.

6.6.1. Current Publicly Available Analyses and Studies

Publicly available analyses and studies of the potential market size for utility-scale renewable energy long-term purchase agreements by commercial and industrial energy customers include analyses of large commercial and industrial ("C&I") customer purchases of RECs or bundled renewable energy and RECs from utility-scale renewable resources through power purchase agreements ("PPAs") or virtual power purchase agreements ("VPPAs"). PPAs require the delivery of electricity sold under the agreement to the buyer, while VPPAs are financial transactions. VPPAs provide corporate buyers with flexibility in terms of the location of the renewable resource in that the renewable energy is not necessarily delivered to the buyer's specific location and allows the buyer to hedge exposure to wholesale market prices through a bundled financial transaction.

Data regarding the capacity and generation associated with large C&I PPAs and VPPAs announced or executed with utility-scale wind and solar projects are available from several sources,[241] although none of these data sources offer a comprehensive assessment of the potential size of the C&I self-direct market in Illinois specifically. Several relevant studies conducted by third parties are currently available.[242] The Agency can also utilize the latest C&I consumption and utility scale renewable generation data available from the U.S. Energy Information Administration ("EIA") to define the

[241] The relevant data sources include S&P Global Market Intelligence, https://www.spglobal.com/marketintelligence/en/ , Clean Energy Buyers Association (CEBA), "CEBA Deal Tracker", "CEBA State of the Market Report.", and Green Biz Clean Energy Deal Tracker.

[242] In determining program size, the Agency plans to review the currently available or updated studies including (i) S&P Global Market Intelligence, RRA Regulatory Focus, 2021 Corporate Renewables Outlook, April 21, 2021., (ii) J.Kobus, A.I. Nasrallah, J. Guidera, Columbia, SIPA, Center on Global Energy Policy, "The Role of Corporate Renewable Power Purchase Agreements in Supporting U.S. Wind and Solar Deployment, March 2021.", and (iii) Retail Industry Leaders Association, "Corporate Clean Electricity Procurement Index 2020: State Leadership & Rankings.", March 2020. The Agency will also review other studies that may become available.

overall size of the commercial and industrial electricity markets, as well as the amount of utility-scale wind and utility-scale solar capacity and generation in Illinois.[243]

The EIA reported that for 2020, sales of electricity to ultimate customers in Illinois for the Commercial Sector amounted to 45,915,000 MWh, down from 49,279,000 MWh in 2019, and for the Industrial Sector 39,105,000 MWh in 2020, down from 43,250,000 MWh in 2019.[244] Generation from utility-scale wind and utility-scale solar projects for 2020 was reported as 17,204,000 MWh, reflecting utility-scale wind capacity of 6,329 MW and utility-scale solar capacity of 115.7 MW. Most of this generation and the associated capacity were not supplied directly to large C&I customers under PPAs or VPPAs. More specific data is available from various sources that typically report the amount of C&I renewable contract activity in terms of capacity, which can be converted to estimated generation using historical capacity factors relevant to each technology.

However, total capacity in operation in any year does not provide an accurate indication of the likely size of the Self-Direct Customer market. Historical annual capacity additions are a better indicator of what can be expected for the number of RECs that could be procured annually through the Self-Direct RPS Compliance Program. The Retail Industry Leaders Association, based on data obtained from the Clean Energy Buyers Association, the Solar Energy Industries Association, and the American Wind Energy Association, reported that the procurement of electricity from offsite third-party utility-scale wind and utility-scale solar projects in Illinois increased from 175 MW in 2017 to 988 MW in 2020 or an annual average of 271 MW during that period.[245] Assuming a capacity factor of 30%, this would be equivalent to 712,188 RECs during each of those years.

S&P Global Market Intelligence indicated that as of early 2021 there were almost 3,300 MW of corporate renewable energy deals in place in Illinois.[246] Table 4-x provides a summary of the specific C&I renewable agreements with utility-scale wind and utility-scale solar projects in Illinois reported by S&P Global.

Table 6-1: Representative Corporate Agreements with Utility-Scale Wind and Utility-Scale Solar Projects in Illinois

Corporate Entity	Operation Date	Technology	Capacity under Agreement (MW)
Microsoft	2015	Wind	175
Verizon	2020	Wind	130
FB/Meta	2021	Wind	170
Amazon	2022	Solar	100
Amazon	2022	Wind	100
Amazon	2022	Solar	90

While this is not a complete list of the C&I renewable resource agreements with utility-scale wind and utility-scale solar projects in Illinois, it is representative of the deals in the market—which may

[243] For example, see U.S. Energy Information Administration Electric Power Monthly, November 2021, Tables 5.4.A. and 5.4.B. -- Sales of Electricity to Ultimate Customers by End-Use Sectors by State. https://www.eia.gov/electricity/monthly/current_month/november2021.pdf

[244] U.S. EIA, Electric Power Monthly, February 2021. www.eia.gov/electricity/monthly/.

[245] Retail Industry leaders Association, Corporate Clean Electricity Procurement Index 2020: State Leadership & Rankings.

[246] S&P Global Market Intelligence, "RRA Regulatory Focus, 2021 Corporate Renewables Outlook," April 21, 2021.

provide an indication of the number of RECs that could be procured through the Self-Direct RPS Compliance Program. The reported Amazon deals would produce approximately 762,120 RECs in the first full year of operations for these projects.

GreenBiz maintains an on-line blog that tracks and compiles major corporate renewable energy deals on a quarterly basis since the first quarter of 2018.[247] The information on renewable energy deals is based on corporate press releases, trade industry news alerts and media articles. Table 6-2 provides a summary of the information complied by GreenBiz through the third quarter of 2021.

Table 6-2: Major Corporate Renewable Energy Deals in Illinois Tracked by GreenBiz

Corporate Entity	Date Reported	Technology	Proposed Capacity (MW)
Bloomberg	2018	Wind	17
General Motors	2018	Wind	100
Comcast	2018	Wind	9
Salesforce	2018	Wind	80
Apple, Akamai, Etsy, Swiss Re	2018	Wind	125
Starbucks[248]	2018	Wind	14
Walmart	2018	Wind	50
Walmart	2018	Wind	123
Target	2019	Wind	79
St. Gobain	2020	Wind	120
Cargill	2020	Solar	200
FB/Meta	2020	Wind	130
Lowes	2020	Solar	250
JP Morgan Chase	2021	Wind	75
Mars, Inc.	2021	Wind	121

In 2020 a total of 700 MW of renewable energy contracts in Illinois were announced, which would produce approximately 1,839,600 RECs.

6.6.2. Establishing Program Size

The Agency plans to evaluate the studies and the data available from the sources discussed above, including updates to the studies and data, to produce an annual report which will include an assessment of the large C&I customer renewable energy market and estimates of the number of RECs expected to be available from eligible C&I customers each year. Analysis included in the report will also consider any applications from the prior year that could not be supported under that year's program size. That report will be made available by early January of each year—with the first such report to be published in January 2023—and followed by a brief stakeholder comment process. After the conclusion of that comment process, the Agency plans to announce the program size for the upcoming year delivery by February 1 of that calendar year. That program size will be published by RECs, as envisioned under the law ("The Agency shall annually determine the amount of utility-scale

[247] See www.greenbiz.com/blogs/enterprise/clean-energy-deal-tracker. Accessed 12/10/2021.

[248] Additional information for this PPA showed that the Starbucks agreement was with Enel Green Power North America, Inc.'s Hill Topper wind farm in Logan County which would supply 48,000 MWh for 340 Starbucks stores in Illinois. Smart Energy Decisions, "Starbucks reaches 100% RE in Illinois with wind power," August 9, 2019.

renewable energy credits it will include each year…"), but illustrative examples of installed capacity needed to meet those REC totals by technology will also be provided.

The Agency is also considering a Request for Information process through which potentially-interested self-direct customers could identify themselves to the Agency to help inform market size. The Agency is concerned, however, that attempting to solicit interest from individual retail customers (with which the Agency does not normally interact) may not prove fruitful and is interested in thoughts on how to most successfully engage potentially interested retail customers in feedback on this draft Plan.

6.6.3. Selecting Between Competing Applications

Section 1-75(c)(1)(R)(3) also provides that "[i]f demand for participation in the self-direct renewable portfolio standard compliance program exceeds availability, the Agency shall ensure participation is evenly split between commercial and industrial users to the extent there is sufficient demand from both customer classes." This requirement contemplates that self-direct program applications will not be reviewed and approved on a rolling basis, but instead will feature an application window during which all applications are reviewed and determinations about selection – such as application of this C&I balancing requirement – will be made at the conclusion of that window closing. As explained later in this Chapter, the Agency proposes to structure its application process in accordance with this structure.

This balancing requirement will operate to ensure that should the Agency receive more qualifying applications than program capacity can support, priority shall be offered to ensure equal participation between commercial customers and industrial customers. Thus, if program size is 100x, and the Agency has received 70x of qualifying commercial customer applications and 50x of qualifying industrial applications, then the 20x of applications not selected should be taken from the commercial customer segment.

However, this does not provide direction between how to choose between competing applications *within* those categories. Informed by stakeholder comments received, the Agency proposes the following approach to application selection should qualified applications exceed self-direct program capacity:

First, the Agency will select applications in a manner consistent with the C&I balancing requirement—thus, if less than half of the program size is met through commercial or industrial customers, then all applications within that category will be considered selected. If both categories have applications exceeding 50% of program capacity, then applications shall be selected within a category consistent with the following paragraphs.

Next, customers with the highest percentage of RECs sourced from facilities located in Energy Transition Community Grant areas will be given preference. This approach will help support communities impacted by the closure of coal mines, fossil fuel and nuclear plants and provide the commensurate employment opportunities that come from project development. This approach aligns the self-direct program with Section 1-75(c)(1)(P) of the IPA Act prioritization of support for those communities.

To next choose between any leftover competing applications within a given category (for instance, if no customer's projects are located in Energy Transition Community Grant areas), the Agency shall give priority to those applications which demonstrate the highest percentage of qualifying RECs

being retired relative to that customer's usage from the previous delivery year. Thus, a contract through which a customer's usage is entirely met through a bundled (REC + energy) PPA or PPAs would receive top priority.

Lastly, priority will be provided based on the total number of RECs planned to be procured and retired annually under the application.

Projects not selected will be placed on an ordinal waitlist ranked in accordance with the criteria above. Those projects will be required to reapply for consideration for the next program year, but once qualified, will be provided top priority in selection for that year.

6.7. Self-Direct Program Application Process

Section 1-75(c)(1)(R)(5) provides a minimum series of items required to be included on a customer's application be a self-direct customer; those are outlined below:

> (i) the customer's certification that, at the time of the customer's application, the customer qualifies to be a self-direct eligible customer, including documents demonstrating that qualification;
>
> (ii) the customer's certification that the customer has entered into or will enter into by the beginning of the applicable procurement year, one or more bilateral contracts for new wind projects or new photovoltaic projects, including supporting documentation;
>
> (iii) certification that the contract or contracts for new renewable energy resources are long-term contracts with term lengths of at least 10 years, including supporting documentation;
>
> (iv) certification of the quantities of renewable energy credits that the customer will purchase each year under such contract or contracts, including supporting documentation;
>
> (v) proof that the contract is sufficient to produce renewable energy credits to be equivalent in volume to at least 40% of the large energy customer's usage from the previous delivery year, measured to the nearest megawatt-hour; and
>
> (vi) certification that the customer intends to maintain the contract for the duration of the length of the contract.

Specific application forms will be developed by the Agency across late 2022 and early 2023, and guidance regarding acceptable supporting evidence and documentation will be provided prior to the program's opening for application. At first blush, the Agency believes that supporting documentation demonstrating (i) through (v) will include requiring a combination of customer billing information (which is already required under Section 1-75(c)(1)(R)(3)) and the underlying legal instrument through which the customer will procure RECs, with the applicant customer having the option of redacting any confidential, non-essential information. As Section 1-75(c)(1)(R)(5)(ii) contemplates situations where the customer merely "will enter into" such contracts "by the beginning of the applicable procurement year," a term sheet coupled with certification may be adequate to satisfy this requirement for initial application, but participation will be contingent on a binding REC delivery contract being provided to the Agency at least one month in advance of the start of the delivery year.

For purposes of demonstrating common corporate parent status, the Agency believes tax identification numbers constitute appropriate proof, but not the only form of acceptable proof.

Alternative proof for meeting this requirement and other requirements may be considered on a case by case basis, but in all cases must be accompanied by a certification from a senior officer from the applicant customer.

For confidential, competitively sensitive information essential to determining whether the project, customer, or contract qualifies for the program, the Agency commits to maintaining the confidentiality of that information.

6.8. Self-Direct Program Opening

Section 1-75(c)(1)(R) requires that the self-direct RPS compliance program "shall take effect in the delivery year commencing June 1, 2023." The IPA understands this to mean that customer participation will begin as of June 1, 2023, and thus that initial applications are required to be received across the months preceding that start date.

The IPA proposes the following timeline of required steps for the first year of the self-direct program:

- July 2022: ICC approval of IPA Long-Term Renewable Resources Procurement Plan
- Jan 2023: IPA publishes its analysis of self-direct program size, takes stakeholder comments
- Feb 1, 2023: IPA publishes final program size
- Feb 1, 2023: IPA publishes application forms
- Feb 15, 2023-March 15, 2023: Applications for self-direct program received
- March 15, 2023-April 15, 2023: Applications reviewed, program participation determinations made and communicated to both applicants and applicable electric utilities
- June 1, 2023: First program year commences
- March 2024: First compliance filing for determining credit rate for upcoming delivery year
- May 31, 2024: Conclusion of first program year
- July 30, 2024: Deadline for first program year compliance reports

The IPA could theoretically provide a compliance filing in early 2023 for establishing a credit rate for the 2023 delivery year. However, as that crediting rate is based on the "anticipated cost of renewable energy credit deliveries . . . entered for each delivery year after the large energy customer begins retiring eligible new utility scale renewable energy credits for self-compliance," and as no such retirements for "self-compliance" can occur until the customer's successful application to the self-direct program, that first year credit will have no value. Consequently, the IPA plans for its first compliance filing for establishing the self-direct credit rate to occur in early 2024.

6.9. Compliance Reporting

Section 1-75(c)(1)(R)(3) provides that participating self-direct customers "shall file an annual compliance report with the Agency pursuant to terms established by the Agency through its long-term renewable resources procurement plan to be eligible for participation in this program." The self-direct customers participating in the program will be required to file an annual compliance report within 60 days after the conclusion of each delivery year of the program with the Agency in order to remain eligible. This compliance report will provide updated information including:

1. The actual number of RECs retired in connection with the program for the self-direct customer over that delivery year;
2. Documented proof that the RECs supplied to the program were retired;

3. The actual energy usage at the facilities participating in the program during the previous year, based on the accounts of participating customers;
4. The total energy or RECs supplied to the self-direct customer by the renewable resource facilities under the self-direct customer's relevant contract(s) for the previous year; and
5. Any modifications or amendments to the contracts with renewable resource facilities.

Section 1-75(c)(1)(R)(6) provides that "[i]f a customer receives the self-direct credit but fails to properly procure and retire renewable energy credits as required under this subparagraph (R), the Commission, on petition from the Agency and after notice and hearing, may direct such customer's utility to recover the cost of the wrongfully received self-direct credits plus interest through an adder to charges assessed pursuant to Section 16-108 of the Public Utilities Act." Should a customer fail to submit its required annual compliance report, or should that annual compliance report not demonstrate compliance with program requirements, the IPA may petition the Commission to claw back wrongfully received self-direct credits from the non-compliant entity. Additionally, as also envisioned under Section 1-75(c)(1)(R)(6), the Agency may bar such entities from continued participation in the program.

All RECs qualifying for the program must be retired by or on behalf of the self-direct customer as verified by the appropriate REC tracking system, either PJM Generation Attribute Tracking System (PJM-GATS) or the Midwest Renewable Energy Tracking System (M-RETS).

As the first annual compliance reports will not be required to be filed with the Agency until the Summer of 2024, the Agency plans to provide additional guidance on compliance reporting closer to the date by which those reports must be filed.

7. Adjustable Block Program

7.1. Background

Sections 1-75(c)(1)(K) and (L) of the IPA Act, as established by Public Act 99-0906 (effective June 1, 2017), required the Agency to establish an Adjustable Block Program for the procurement of RECs from new photovoltaic distributed generation systems and from new photovoltaic community renewable generation projects (colloquially known as "community solar"). The Adjustable Block Program stands in contrast to the competitive procurements described in Chapter 5, in that the Program features administratively determined prices for RECs and is open on an ongoing basis, rather than featuring discrete procurement events with competitively set, pay-as-bid prices.

Prior to the adoption of the Adjustable Block Program model, the development of new photovoltaic distributed generation in Illinois had been supported in other ways. From 1999 to 2015, the Department of Commerce and Economic Opportunity ("DCEO") offered rebates for photovoltaic projects; these rebates covered up to 25%-30% of the project cost and supported over 1,100 solar PV projects with a total capacity of 13 MW.[249] The DCEO rebates were available once per year and the available budget was quickly allocated, leading to uncertainty for installers about whether their projects would or would not receive a rebate in any given year. No funds have been appropriated for the rebate program in recent years.

Additionally, the IPA conducted Supplemental Photovoltaic Procurements in 2015 and 2016 under authority granted by Section 1-56(i) of the IPA Act, and the Agency proposed and conducted Distributed Generation procurements for the utilities from 2015 through 2017 (although these procurements for the utilities were not limited to photovoltaic systems or to new systems) to meet a statutory DG procurement target in the pre-P.A. 99-0906 RPS. The previous procurements administered by the IPA featured competitive bidding for projects, and each winning bidder received a contract through which RECs delivered were paid for at the bidder's bid price. While this approach created the market efficiency inherent in competitive bidding processes, installers of projects found it difficult to sell projects when the potential REC revenue would not be known until a bid was accepted (or alternatively there would be no REC revenue if a bid was not accepted). To mitigate that challenge, the Agency allowed bidders to bid on forecasted blocks of RECs for systems below 25 kW and give developers time to identify projects using a known REC price.

7.1.1. Future Energy Jobs Act

The Adjustable Block Program, as created by Public Act 99-0906 (colloquially knowns as the Future Energy Jobs Act) was developed with the intent to address the issues inherent in the previous ways that Illinois supported the development of new photovoltaic distributed generation.

In developing the structure of the Adjustable Block Program, the Agency considered its review of the experiences of other jurisdictions (including relevant experiences from Germany, Spain, California, and particularly Massachusetts and New York[250]), what it learned from previous procurements it has administered, and the feedback it received from stakeholders. For issues that are not expressly addressed in the Act, the Agency made decisions regarding implementation that it believed would

[249] See Renewable Energy, Energy Efficiency, and Coal Resources Development Law of 1997, 20 ILCS 687/6-1 *et seq.*

[250] A summary of those other programs is available in Appendix C of the Initial Plan available at: https://www2.illinois.gov/sites/ipa/Documents/2018ProcurementPlan/LTRRPP-Filed-Appendix-C-Review-Other-Programs.pdf.

result in a cost effective and successful program, with those decisions then vetted through the Commission's Plan approval process in Docket Nos. 17-0838 and 19-0995. In some cases, opposing or variant positions taken by other litigants were ultimately agreed to by the Agency or otherwise adopted in the Commission's orders approving the Initial and Revised Long Term-Plans.

As initially designed, the Adjustable Block Program featured an approach that was open on an ongoing basis, rather than relying on specific procurement events (or rebate application windows). Participation in the program took place through entities called Approved Vendors, who submit project applications on behalf of program participants. Under P.A. 99-0906, the program also accommodated community solar project applications, so that homes and businesses that cannot place solar on their property can nonetheless participate in, and benefit from, direct access to renewable energy.

The latest program expansion, pursuant to Public Act 102-0662, also includes new program categories for community-driven community solar projects, public school projects, and projects developed by equity eligible contractors; each of these will be discussed in depth in later sections of this Chapter. The shift to an annual block structure, through which blocks open annually at a set price rather than with a new block opening upon capacity being filled, likewise constitutes a significant shift. In addition, entities participating in the Adjustable Block Program will need to comply with the provisions of the Equity Accountability System described in Chapter 10 starting with project applications on or after June 1, 2023.

The program initially opened in January 2019. Community solar blocks were quickly filled after program opening. Additionally, both the Small and Large distributed generation blocks were filled by December 2020. Funding limitations existing from December 2020 until the adoption of Public Act 102-0662 in September 2021 created long waitlists for distributed generation and community solar projects. However, the passage of Public Act 102-0662 provided sufficient funding for new project application support and required opening of new blocks by December 14, 2021.

7.1.2. 2021 Program Status and Lessons Learned

The Agency published a draft Second Revised Long-Term Renewable Resources Procurement Plan in August 2021, which featured significant discussion of the funding limitations existent at the time. Subsequently, the enactment of Public Act 102-0662, also known as the Climate and Equitable Jobs Act (colloquially known as "CEJA"), provided a resolution of the funding issue in addition to many other changes outlined in Chapter 2, and the Agency withdrew the draft Plan in accordance with direction provided through Section 1-75(c)(1)(A) of the IPA Act. Changes to the IPA Act under P.A. 102-0662 required the Agency to publish this draft 2022 Long-Term Plan within 120 days of its passage.[251] In addition to alleviating the funding limitations for the RPS, P.A. 102-0662 added new requirements for the program discussed in later sections of this Chapter.

The funding and capacity made available by Public Act 102-0662 will allow the Agency to continue developing and improving the Adjustable Block Program. The Agency will also update the program by drawing from knowledge gained from its successes and challenges to date.

There were several challenges specific to the program's Community Solar category under P.A. 99-0906. At program opening, interest from Approved Vendors in community solar was high and

[251] 20 ILCS 3855 1-75(c)(1)(A).

outpaced the capacity available for this project type. As a result, the community solar blocks did not remain open and did not go through a declining block progression as planned. After capacity was awarded through a lottery process, remaining community solar project applications (and any new applications submitted) were placed on lengthy waitlists. Additionally, the community solar projects that were developed through this block category lacked diversity – projects tended to be similarly large (2 MW), agrarian, and transactional rather than the community-based, diverse projects that were originally intended.

The Adjustable Block Program overall faced a challenge in the form of the lack of program funding across 2020 and 2021, which stemmed in part from the inability to roll over collections under Section 16-108(k) of the PUA, and was compounded by energization delays attributed to the COVID-19 global pandemic. The program could not open additional blocks of capacity to serve the market and support additional projects without a legislative fix.

Despite these challenges, the Adjustable Block Program has been successful overall, leading to the energized or planned development of over 670 MW of new solar generation in Illinois thus far. The REC targets defined in Public Act 99-0906 for the end of the 2020 delivery year – 1,000,000 delivered annually from Adjustable Block Program projects – were fully met through REC contracts, and the projects built as a result of participation in the program are generally geographically diverse, with projects spread across the state. Additionally, there are over 300 Approved Vendors available to support Illinois residents and businesses develop solar through the program.

7.1.3. Overview of Public Act 102-0662 Modifications

With Public Act 102-0662 taking effect on September 15, 2021, Adjustable Block Program will have sweeping changes, necessitating updates to program requirements. One of the primary changes will be to the program's scale resulting from budget changes to the Renewable Portfolio Standard, which is discussed in depth in Chapter 3. The Act targets approximately 12,375,000 RECs delivered annually to be procured from new Adjustable Block Program projects by 2030, necessitating perhaps up to 7000 megawatts of new distributed generation and community solar capacity.

Other key statutory or administrative updates to the program include, but are not limited to:

- Changes to the sizes applicable to Small and Large Distributed Generation categories and to the size threshold applicable to Large DG and community solar projects
- New program categories for projects located at public schools, community-driven community solar projects, and projects from Equity Eligible Contractors
- New block capacity allocations
- Updated REC prices
- Prevailing wage requirements for non-exempted projects
- Changes to contract payment terms, including a pay-upon-delivery structure for certain categories
- Updated REC Delivery Contracts
- Compliance with the Equity Accountability System

Each of these changes will be discussed in depth later in this Chapter.

7.1.4. Adjustable Block Program Reopening

Notwithstanding the changes to the Adjustable Block Program implemented through the 2022 Long-Term Plan, P.A. 102-0662 required the Agency to open blocks of capacity for the program within 90 days of enactment, by December 14, 2021.[252] This included category-specific requirements applicable to the selection of waitlisted traditional community solar projects as well as the establishment of blocks for the newly established categories of public school projects, community-driven community solar, and equity eligible contractor projects. Among other program updates, REC prices were updated, block sizes determined, and processes related to prevailing wage compliance were established.

To develop updated program requirements and application processes, the Agency requested extensive stakeholder feedback and sought to incorporate that feedback into reopening requirements, to the extent possible. Where applicable, determinations made as part of the December 2021 program reopening have been incorporated into this draft 2022 Long-Term Plan. For more information on the December 2021 opening of blocks see: https://illinoisabp.com/reopening-updates.

The available capacity of blocks opened on December 14, 2021 is listed in Table 7-1.

Table 7-1: December 2021 ABP Block Sizes

Group	Small Distributed Generation (MW AC)	Large Distributed Generation (MW AC)	Traditional Community Solar (MW AC)	Community Driven Community Solar (MW AC)	Equity Eligible Contractor (MW AC)	Public Schools (MW AC)
A	37.43	42.90	75	3	22.5	50
B	95.82	103.96	175	7	52.5	
Total	**133.25**	**146.86**	**250**	**10**	**75**	**50**

These blocks sizes apply only to the December 2021 program opening. Future block sizes are discussed below. The current status of project applications can be found at: https://illinoisabp.com/block-capacity-dashboard/.

7.2. Program Administrator

Section 1-75(c)(1)(M) of the Act authorizes the Agency to "retain one or more experts or expert consulting firms to develop, administer, implement, operate, and evaluate the Adjustable Block program." The Program Administrator selection process is expressly exempted from the Illinois Procurement Code.[253] The Agency issued a Request for Qualifications to start the process of selecting a Program Administrator for the Adjustable Block Program on January 18, 2018. The Request for Qualifications was a means to identify qualified bidders who were then invited to respond to a Request for Proposals.[254] Responses to the Request for Proposals were received on April 13, 2018.[255]

[252] 20 ILCS 3855 1-75(c)(1)(G)(iv).

[253] 20 ILCS 3855/1-75(C)(1)(M).

[254] This process generally follows the process contained in Section 1-75(a)(1)-(5) that the Agency has used to select its Procurement Administrator and Procurement Planning Consultant.

[255] The Agency also issued a separate Request for Qualifications/Request for Proposals for a dedicated Program Administrator or Administrators for the Illinois Solar for All Program.

After the evaluation of received proposals and consultation with the Staff of the Illinois Commerce Commission, the Agency selected InClime, Inc. ("InClime") to serve as the Program Administrator for the Adjustable Block Program. The Illinois Commerce Commission formally approved the execution of a contract between the IPA and InClime at its July 12, 2018 Regular Open Meeting.

On July 21, 2021 the Agency issued a new Request for Qualifications for a Program Administrator for the Adjustable Block Program.[256] This Request for Qualifications was issued in anticipation of legislation that would update and expand the Adjustable Block Program as subsequently occurred with the enactment of Public Act 102-0662 on September 15, 2021. The Agency then issued a Request for Proposals to the three qualified respondents to the Request for Proposals on October 25, 2021 and responses were due on December 20, 2021. As of the release of this draft 2022 Long-Term Plan, the Agency is reviewing the responses to the Request for Proposals and expects to have updated information on the selection process for the version of this Plan that will be filed for approval by the Commission on March 21, 2022.

The Program Administrator runs the day-to-day operations of the Adjustable Block Program. This includes, but is not limited to:

- Assisting the Agency with Approved Vendor and Designee registration and training
- Developing program requirements via the Program Guidebook, Marketing Guidelines, and other programmatic materials
- Establishing and maintaining an online portal for Approved Vendors to submit projects (including providing technical support to Approved Vendors and Designees) and collecting application fees
- Maintaining an online dashboard to show status of block capacity
- Reviewing and approving submitted projects
- Preparing contracts for Commission review and utility execution
- Ongoing monitoring of project development status
- Verifying completion of projects and the processing of approvals for payments, as well as conducting on-site inspections for quality assurance purposes
- Reviewing Annual Reports submitted by Approved Vendors
- Providing information for the public including developing a Program brand, and maintaining an online list of Approved Vendors and educational materials related to distributed generation and community solar
- Assisting in workforce development efforts to the extent feasible

For this draft 2022 Long-Term Plan, the Agency is proposing to expand the Program Administrator's role by establishing a mentorship/training program for new Approved Vendors and Designees that are minority-owned, woman-owned, veteran-owned, disability-owned or considered a small business with the goal to help those new program participants learn about program requirements and application procedures. The Program Administrator would assign a dedicated staff person to each new Approved Vendor or Designee who qualifies for this mentorship/training program to provide them technical assistance and provide introductions and connections to established entities. **The Agency welcomes stakeholder feedback on this proposal and how it can be refined.**

[256] See: https://www2.illinois.gov/sites/ipa/Documents/RFQABPProgramAdministrator2021.pdf.

The Program Administrator is authorized to charge fees to Approved Vendors for processing applications, as described in Section 7.10.3. The Program Administrator operates under a contract with the Agency and may, with approval by the Agency and acquiescence of the utility, also be reimbursed directly by the utilities for a portion of the cost of the services provided to them including, but not limited to, the preparation of contracts and review of Annual Reports.

Program Administrator costs, other than those covered by fees collected directly by the Program Administrator from Approved Vendors, are considered part of the administrative costs discussed in Chapter 3. The Program Administrator may not be an Approved Vendor.

7.3. Block Structure

7.3.1. Background – Initial Program Design, Declining Price Blocks based on Capacity

The core of the Adjustable Block Program is the concept of a "block." Prior to the passage of Public Act 102-0662, the program delineated incentives for various categories of eligible projects using blocks of generation capacity at certain prices per REC levels. The blocks were intended to create a progression from one price level to another based on the response of the market. A strong response from the market results in a rapid progression to a lower price level, for example, while a weak response could elicit an increase in incentives if determined to be necessary. As discussed further below, Public Act 102-0662 changed this from a model utilizing declining blocks based on capacity and market response to a model utilizing of annual blocks of capacity.

In the initial phase of the Adjustable Block Program, progression from one level (or "block") to another was triggered by a certain volume of proposed capacity through approved project applications, not by a time-based deadline. This deployment-based design was intended to act as a safety valve in case incentives were set at too high a level, which had been a problem in previous attempts at administratively determined prices, as incentive levels would step down automatically across blocks where participation was highest. The design can also provide long-term certainty by giving an indication of future prices and quantities to all potential market participants.

The original target for the Adjustable Block Program under P.A. 99-0906 was for 1,000,000 RECs delivered annually by the end of the 2020-2021 delivery year (i.e., May 31, 2021).[257] Using a capacity factor of 17%,[258] this resulted in approximately 666 MW of new photovoltaic generation. This amount was not intended to be a cap; if funding were available, there would have been no barrier to going beyond that level. However, as has been discussed previously in this Chapter, funding was a barrier until the passage of Public Act 102-0662.

In order to achieve 1,000,000 RECs delivered annually by May 31, 2021, the Initial Long-Term Plan featured a block structure that allocated three blocks per category to meet the then in effect statutory target for this program (i.e., 1 million RECs per year by the end of the 2020-2021 delivery year) and included a provision to allocate discretionary capacity (as discussed below) to categories through the opening of a Block 4 for each category determined to warrant additional capacity.

[257] See Chapter 3 of the Agency' Initial Long-Term Plan for more discussion of this requirement.

[258] This figure used in the Initial Plan was an assumed first-year capacity factor (relative to AC-rated nameplate capacity) for a fixed-mount photovoltaic system prior to any degradation over time.

To encourage simplicity, the Agency allocated incentives into two groups by service territory/geographic category, based upon utility load forecasts.[259]

- **Group A:** for projects located in the service territories of Ameren Illinois, MidAmerican, Mt. Carmel Public Utility, and rural electric cooperatives and municipal utilities located in MISO.
- **Group B:** for projects located in the service territories of ComEd, and rural electric cooperatives and municipal utilities located in PJM.

Incentive levels, expressed through REC prices, varied by group and were based upon the project's group and size. While the Program Administrator attempted to allocate REC delivery contracts with the electric utility in whose service territory the project was located (where applicable, as the IPA lacks authority to procure REC contracts on behalf of municipal utilities or rural electric cooperatives), in order to allocate RECs proportionately among Ameren Illinois, ComEd, and MidAmerican to meet their RPS obligations, that was not always possible.

In developing the Initial Plan, the Agency also considered creating an additional group or groups for MidAmerican, Mt. Carmel Public Utility, rural electric cooperatives, and municipal utilities. However, given their small share of the load in Illinois, the resulting group or groups would have been quite small. By consolidating them into the larger groups, block sizes became more administratively manageable, and prices became more transparent and easily understood. The assignment to Groups of projects in the service territories of Mt. Carmel Public Utility, MidAmerican, and rural electric cooperatives and municipal utilities was intended to approximately match those smaller entities to a larger utility with comparable electric rates.

Within each group, the blocks were divided by the allocations specified in Section 1-75(c)(1)(K) of the IPA Act as established by Public Act 99-0906 (and since modified through P.A. 102-0662, as described below):

- 25% for systems up to 10 kW
- 25% for systems greater than 10 kW and up to 2,000 kW
- 25% for photovoltaic community renewable generation; and
- 25% to be allocated by the Agency.

Consistent with the Commission's Order in Docket No. 17-0838, the 25% left to the Agency's discretion was be held in reserve, with a reduction in the originally proposed size of Block 3 used to account for that reduced capacity.[260] The Agency subsequently allocated that 25% of capacity to create new Block 4s for certain categories on April 3, 2019.[261]

[259] Using this methodology, the combined allocation for Ameren Illinois and MidAmerican would have been 28.53% and the allocation for ComEd would have been 71.47%. For simplicity, these were rounded to 30% and 70% for determining the size of blocks for Group A and Group B, respectively.

[260] See Docket No. 17-0838, Final Order dated April 3, 2018 at 60. That the discretionary capacity is taken only from the third block is evident from the Order's statement that it "adopts the proposal of the Joint Solar Parties to hold 25% of the Adjustable Block Program capacity by megawatt in reserve," as this detail was present in the Joint Solar Parties' proposal, as well as the Order's statement that capacity would be reserved "as outlined in the IPA's BOE."

[261] See: http://illinoisabp.com/wp-content/uploads/2019/04/Discretionary-Capacity-Rationale-4.3.19.pdf.

7.3.2. Transition to Annual Blocks

As described above, in the Initial Long-Term Plan, the Agency developed a block structure designed to procure 1 million RECs delivered annually from distributed generation and community solar projects, with the goal that the blocks would roughly cover a three-year period of program activity (i.e., from initial program opening to 2021 delivery year targets). This block structure utilized a standard capacity factor (17%) to translate REC goals into MWs of capacity. As outlined above, the Agency allocated 30% of capacity to Group A and 70% to Group B to be in proportion to the loads of customers in each area.

The enactment of Public Act 102-0662 corrects the funding constraints that prevented the opening of new blocks of capacity while also creating new ABP categories and allocations. For this draft Long-Term Plan, the Agency has considered how to update the block structure of the ABP to conform with those new requirements. In particular, Section 1-75(c)(1)(K) now eliminates the step-laddered approach to block opening in favor of, "for each delivery year: a single block of nameplate capacity, a price for renewable energy credits within that block, and the terms and conditions for securing a spot on a waitlist once the block is fully committed or reserved." (emphasis added)

In accordance with this statutorily mandated shift to annual blocks, the Agency proposes to open blocks at the start of each delivery year, e.g., on June1st. This schedule of annual blocks opening on June 1st will commence with the 2023-2024 delivery year. As the approval of this Plan will occur after June 1, 2022 for the 2022-2023 delivery year, the Agency proposes a different date for block opening for the 2022-2023 delivery year as discussed further in Section 7.3.4. This schedule for block opening is reflected in the table below.

Table 7-2: Adjustable Block Program Annual Block Opening Schedule

Delivery Year	Block Opening Date	Relevant Event Impacting Block Opening
2021-2022	December 14, 2021	Public Act 102-0662 is passed
2022-2023	August 1, 2022	The Agency's 2022 Long-Term Plan is approved
2023-2024	June 1, 2023	N/A

Please note that annual blocks will open on June 1st for all subsequent delivery years following the 2023-2024 delivery year.

Section 1-75(c)(1)(G)(iv) specified block sizes for the initial reopening of the ABP that occurred on December 14, 2021. But for blocks to open after this Plan is approved by the ICC, different considerations apply. The primary consideration is the overall REC target of the RPS, and the portion of that whole to be derived from the ABP – as outlined above, over 12 million RECs delivered annually are expected to be procured through the Program by 2030. From there, blocks can be sized based on annual procurement quantities in a manner consistent with the category-specific percentages and process outlined in Section 1-75(c)(1)(K)(i)-(vii) of the IPA Act.

Section 1-75(c)(1)(C) requires the procurement of "45,000,000 renewable energy credits delivered annually from new wind and solar projects by the end of delivery year 2030." 55% of that 45 million is to be sourced from new photovoltaic projects; 50% of that 55% (or 27.5%) from the Adjustable Block Program. This creates a 2030 target 12.375 million RECs from the Adjustable Block Program. Approximately 1 million RECs have already been procured through the program activity from 2019 through 2021, and another 990,000 RECs are expected to be procured from the blocks of capacity

opened in December of 2021. This leaves a little over 10 million RECs to be procured over the next eight years.

For the two delivery years covered by this Long-Term Plan (2022-2023 and 2023-2024) the Agency proposes a goal of procuring approximately 1 million RECs annually – net of traditional community solar project applications for the 2022-2023 delivery year, given the 250 MW allocated to that category on reopening – with the expectation that quantities can grow in subsequent delivery years as the solar industry in Illinois continue to grow. These can then be broken down into block sizes for individual categories based on the percentage-based allocation made through Section 1-75(c)(1)(K)(i)-(vi) of the IPA Act. For simplicity, the Agency will continue to use a 17% capacity factor for translating REC targets to MW sizes. Block sizes have been rounded to the closest megawatt and will continue to use the 30/70% split between Groups A and B.

Table 7-3 lists the proposed block sizes.

7.3.3. Block Sizes

Table 7-3: Proposed Annual ABP Block Capacity 2022-2023 Delivery Year

Category	Allocation	Group A (MW)	Group B (MW)
Small Distributed Generation	20%	40	94
Large Distributed Generation	20%	40	94
~~Traditional Community Solar~~	~~30%~~	~~60~~	~~140~~[262]
Public School Projects	15%	30	70
Community-Driven Community Solar	5%	10	23
Equity Eligible Contractor Projects	10%	20	46
Total	**100%**	**140**	**327**

2023-2024 Delivery Year

Category	Allocation	Group A (MW)	Group B (MW)
Small Distributed Generation	20%	40	94
Large Distributed Generation	20%	40	94
Traditional Community Solar	30%	60	140
Public School Projects	15%	30	70
Community-Driven Community Solar	5%	10	23
Equity Eligible Contractor Projects	10%	20	46
Total	**100%**	**200**	**467**

[262] Section 1-75(c)(1)(K)(iii) provides that "capacity for this category for the first 2 delivery years" shall be allocated according to the block reopening process described in Section 1-75(c)(1)(G)(iv), with this category opening for project applications "starting in the third delivery year after the effective date" of P.A. 102-0662 "or earlier if the Agency determines there is additional capacity needed for to meet previous delivery year requirements." The Agency understands this "or earlier" language as intended to support incremental additional project capacity should projects under contract fail to be developed.

The total of these blocks sizes creates a program capacity on an annual basis equivalent to capacity that the Agency had proposed for the first three years of the Adjustable Block Program back in 2018, which ended up being fully allocated in approximately two years' time. This increase in program size will allow for the solar industry in Illinois to continue to grow and the Agency expects to propose larger block sizes in the next Long-Term Plan (including an increase in the allocation to Equity Eligible Contractor projects as discussed in Section 7.4.6 below).

7.3.4. Opening of 2022 Delivery Year Blocks & Subsequent Annual Block Openings

The Agency is faced with a timing challenge, given that each delivery year is now associated with a single block of capacity for each category. The timing challenge arises due to the fact that this Long-Term Plan is not expected to be approved by the ICC until July 19, 2022, while the 2022-2023 delivery year begins June 1, 2022. The Agency proposes to address this timing challenge through a pause of project applications beginning on June 1, 2022; the IPA will reopen the ABP for new applications on August 1, 2022, after this Long-Term Plan is approved.[263] The Agency will begin to accept applications for all categories on August 1, 2022, with the caveat that date may need to be postponed if there are significant unexpected implementation issues arising from the ICC's approval of this Plan. Alternatively, the Agency could also consider allowing project applications to continue after June 1, 2022 but with projects Part I verified not sent to the Commission for approval until after this Long-Term Plan is approved. the Agency disfavors this alternative approach, however, as it may be more administratively burdensome. For applications submitted after June 1 and reviewed prior to the implementation of requirements arising from this Plan approval process, the Program Administrator may be required to re-review each application received during the period between June 1, 2022 and Long-Term Plan approval. This process potentially includes additional information requests to the Approved Vendors, or requests that Approved Vendors verification the acceptance of program requirements, terms, or conditions that have been modified by Commission approval of this Plan. As these re-reviews could lead to additional delays and inefficiencies in project approvals, the Agency prefers the approach proposed above.

This timing challenge arises only in the context of opening annual blocks for the 2022-2023 delivery year; beginning with the 2023 delivery year and for all subsequent delivery years, the Agency would open all blocks of capacity on June 1. This schedule is reflected in Table 7-3 in Section 7.3.2.

For this draft 2022 Long-Term Plan, the Agency is seeking feedback on this approach for opening 2022 Delivery Year blocks. The Agency recognizes the impact this pause may cause in the market, but believes it is a necessary pause to allow the program to adjust to changes resulting from the approval of this 2022 Long-Term Plan.

7.3.5. Uncontracted Capacity at the Close of a Delivery Year

As the program shifts to a schedule of annual blocks of capacity and away from a structure where blocks remain open until block capacity is exhausted, unused, or uncontracted capacity could remain at the close of a delivery year. Changes to the IPA Act made through P.A. 102-0662 now requires that "uncontracted capacity" to be "redistribute[d]" to "one or more other categories."

[263] During this pause Approved Vendors and Designees will still be able to generate Disclosure Forms.

In relevant part, Section 1-75(c)(1)(K) of the Act now states:

> *"To the extent there is uncontracted capacity from any block in any of categories (i) through (vi) at the end of a delivery year, the Agency shall redistribute that capacity to one or more other categories giving priority to categories with projects on a waitlist. The redistributed capacity shall be added to the annual capacity in the subsequent delivery year, and the price for renewable energy credits shall be the price for the new delivery year. Redistributed capacity shall not be considered redistributed when determining whether the goals in this subsection (K) have been met."*

This language raises questions about a) by when an "uncontracted capacity" determination would be made and b) how redistribution prioritization across "one or more other categories" with prioritization "to categories with projects on a waitlist" will be applied. The Agency proposes the following approach.

The Agency will first determine the amount of uncontracted capacity across all program categories within one week after the closing date of that year's annual blocks. That uncontracted capacity will be summed to a total amount, with distribution of that total amount made according to the prioritization below.

- First, the Agency will allocate any uncontracted capacity to the Equity Eligible Contractors category to select waitlisted projects from this category.
    - As the only category which is expressly sought to be expanded over time, growing to 40% of the ABP by 2030, this approach allows the Agency to expand capacity allocated to the EEC category should demand allow. In addition, as P.A. 102-0662 prioritizes the diversification of the Illinois clean energy economy and instructs the Agency to provide better and broader access to Equity Eligible Contractors through its solar programs, this approach best meets the spirit of the law.
- Next, the Agency will prioritize reallocation of any remaining uncontracted program capacity to the Small Distributed Generation category to select waitlisted projects from this category.
    - This approach helps maximize the number of Illinois residents and/or businesses that can benefit from the Adjustable Block Program.
- Next, the Agency will prioritize reallocation of any still remaining uncontracted program capacity to the Community-Driven Community Solar category if a waitlist of Community-Driven Community Solar projects has formed. Eligible waitlisted projects will be selected by scoring rank order (which establishes the ordinal waitlist for that category) and will be required to have met the minimum scoring threshold for selection.
    - This category is prioritized in recognition of the concern that community solar project development in Illinois has been largely homogenous since program inception. This new program category was established to diversify the community solar market through community-driven projects, and allocating waitlisted capacity maximizes its impact.
- If uncontracted capacity remains after prioritized reallocation to these three program categories, the Agency will evenly distribute the remaining uncontracted capacity across the remaining program categories featuring waitlists. Should a category's waitlist be satisfied by less capacity than that distribution, then the remaining capacity shall be added to the other category or categories featuring waitlists.

If any or all uncontracted capacity cannot be used to satisfy existing waitlists, then that remaining uncontracted capacity will be distributed across all program categories on a pro rata basis corresponding with those categories Section 1-75(c)(1)(K) percentage allocations.

The Agency will publish its capacity redistribution within one week after determining the sum total of capacity (i.e., within two weeks after the close of that year's annual blocks). Capacity distribution to categories featuring waitlists will result in projects selected off of those waitlists by waitlist order, with the resulting contract price at the price of the next annual block. Published block capacities for that next annual block will be updated to reflect that category's expanded, and now-filled, capacity additions.

The Agency seeks stakeholder feedback on this proposed approach to reallocate uncontracted capacity from a previous delivery year. Should different program categories be prioritized in this reallocation process? For instance, should the spread of the reallocation of uncontracted capacity be equal across all program categories featuring waitlists, instead of prioritized as outlined above? Should that distribution instead be based on waitlist size? Please be specific in how suggested changes would apply across all program categories.

For waitlisted capacity not met through uncontracted capacity redistribution, Section 1-75(c)(1)(K) also provides that "the waitlist of projects in a given year will carry over to apply to the subsequent year when another block is opened." Thus, those waitlisted projects will be given priority in selection within their category under that new delivery year's capacity allocation to that category.

7.4. Adjustable Block Program Categories

Through the enactment of Public Act 102-0662, three new categories (Public Schools, Community-Driven Community Solar, and Equity Eligible Contractors) were added to the Program's existing three categories (Small Distributed Generation, Large Distributed Generation, and Traditional Community Solar). Each project application submitted to the program after the passage of Public Act 102-0662 will apply to one of these six categories.

Pursuant to the requirements of P.A. 102-0662, projects in each of these six categories are subject to the prevailing wage requirements in the Prevailing Wage Act (820 ILCS 130/*et seq.*), except as noted within the category descriptions below.[264] Prevailing wage is a minimum compensation level by county set by the Illinois Department of Labor for construction activities related to public works. Additionally, Public Act 102-0673, which became effective on November 30, 2021, clarifies that projects receiving incentives under the Program are "public works" subject to the Prevailing Wage Act —which requires compliance with additional provisions under the Prevailing Wage Act, including notice requirements.

7.4.1. Small Distributed Generation

The Small Distributed Generation category includes distributed generation projects up to and including 25 kW in size (prior to P.A. 102-0662, Small DG projects were sized at less than or equal to 10 kW). The Small Distributed Generation category will comprise at least 20% of the ABP capacity generally.

[264] See 20 ILCS 3855 1-75(c)(1)(Q).

Each project that is constructed in this category will be subject to prevailing wage requirements included in the Prevailing Wage Act[265] except the following types of projects:

- Projects that serve a single-family or multi-family residential building, and
- Projects for which construction can be demonstrated to have been completed before September 15, 2021, the effective date of Public Act 102-0662.

7.4.2. Large Distributed Generation

The Large Distributed Generation category includes distributed generation projects greater than 25 kW in size up to and including 5 MW (prior to P.A. 102-0662, Large DG projects were sized at greater than 10 kW and less than or equal to 2 MW). The Large Distributed Generation category will comprise at least 20% of the ABP capacity generally.

Each project that is constructed in this category will be subject to the prevailing wage requirements included in the Prevailing Wage Act except the following types of projects:

- Projects (greater than 25 kW AC) that were on a waitlist as of the Program's reopening on December 14, 2021
- Projects that serve a single-family or multi-family residential building
- Projects that serve a house of worship and are not greater than 100 kW AC (aggregated with any co-located projects)
- Projects for which construction can be demonstrated to have been completed before September 15, 2021, the effective date of Public Act 102-0662

7.4.3. Traditional Community Solar

The Traditional Community Solar category[266] now allows for community solar projects up to and including 5 MW in size (increased 2 MW). Capacity for the Traditional Community Solar category for the first two years after the effective date of Public Act 102-0662 will be allocated to waitlist projects.[267] Traditional Community Solar projects must have subscriptions of 25 kW or less for at least 50% of the facility's nameplate capacity. The Traditional Community Solar category will generally comprise at least 30% of the ABP capacity. Traditional Community Solar projects will also feature 20-year REC delivery contracts that pay for RECs over time as they are delivered rather than the front-loaded payment schedule previously used for community solar, and that continues to be in use for other ABP categories other than Traditional Community Solar and Public Schools projects.

For Traditional Community Solar projects, P.A. 102-0662 allocated 250 MW (30% or 75 MW to Group A, and 70% or 175 MW to Group B) of new Adjustable Block Program capacity to Approved Vendors (including affiliates) having waitlisted ABP community solar applications in proportion to the capacity of their waitlisted applications that meet the following requirements: 1) were eligible for the April 10, 2019 lottery, 2) were on the ABP community solar waitlist as of December 31, 2020, and 3) are currently active (Part I status remains verified). Approved Vendors will be allowed to apply

[265] See 820 ILCS/130. Prevailing wage requirements are discussed in more detail in Section 7.6 of this Chapter.

[266] "Traditional Community Solar" is used to designate projects described in Section 1-75(c)(1)(K)(iii) for clarity to distinguish these projects from the newly established Community-Driven Community Solar project category.

[267] For the December 14, 2021 block reopening, project size was still limited to 2 MW as waitlisted projects were proportionately allocated to Approved Vendors with valid projects that were both on waitlists as of December 31, 2020 and originally eligible for the April 2019 community solar project selection process.

their capacity to any project which was eligible for the April 2019 lottery, present on the ABP community solar waitlist as of December 31, 2020, and currently active. Approved Vendors must submit their selected projects to the Program Administrator by March 14, 2022.

Section 1-75(c)(1)(K)(iii) provides that "capacity for this category for the first 2 delivery years" shall be allocated according to the block reopening process described in Section 1-75(c)(1)(G)(iv), with this category opening for project applications "starting in the third delivery year after the effective date" of P.A. 102-0662 "or earlier if the Agency determines there is additional capacity needed for to meet previous delivery year requirements." As a consequence, the Agency understands that this category would not open for project applications until the 2023 delivery year block opening.

For Traditional Community Solar blocks that open after the approval of this 2022 Long-Term Plan, Section 1-75(c)(1)(K)(iii)(1) specifies that "the Agency shall select projects on a first-come, first-serve basis, however the Agency may suggest additional methods to prioritize projects that are submitted at the same time." The Agency proposes that "submitted at the same time" be considered on a first day basis rather than the exact second (or nano-second) that a project application is submitted at program opening. This is intended to prevent an unfair advantage to entities that have a faster internet connection while maintaining the spirit of the law.

As the Agency expects that it is likely that applications for Traditional Community Solar projects submitted even on the first day of block opening may continue to exceed block capacity, some methodology for distinguishing between those projects must be employed. Noting the distaste that market participants have voiced for random selection processes, the Agency proposes to utilize a scoring system that prioritizes qualitative aspects of individual projects.

In so doing, the Agency has generally attempted to avoid overlap with the qualitative scoring provided to community-driven community solar projects under Section 1-75(c)(1)(K)(v). This scoring system focuses on qualitative aspects of projects with an eye toward objectives outlined in declaratory paragraphs or other statutory language found in the Illinois Power Agency Act.

If applications on Day 1 exceed block capacity, the Agency proposes to prioritize project applications utilizing the scoring system outlined below.

1. Projects that are sited on brownfields. (3 points)
2. Projects that are committed to agriculturally-sensitive provisions, such as providing a pollinator friendly habitat. (2 points) **The Agency is interested in stakeholder feedback on additional appropriate provisions and applicable demonstration of such commitments.**
3. Projects that increase the geographic diversity of community solar by being located in a county or township that does not contain other approved community solar projects. (2 points)
4. Projects submitted by equity eligible contractors (2 points) or that can demonstrate contractual commitments for at least 50% of project development work to be performed by eligible equitable contractors (1 point).
5. Projects that commit to 100% of projects subscriptions being met through small subscribers (below 25 kW). (1 point)
6. Project applications that were eligible for inclusion in the blocks of capacity that opened in December 2021 (e.g., were on waitlists as of December 31, 2020) (2 points).

After this scoring criteria is applied to the universe of received projects, each project will be given a score resulting in a rank, which then results in an ordinal list. This ordinal list will be used to select projects for the delivery year in which the process takes place and will establish the initial project waitlist. Any applications submitted after the first day of annual block opening will be slotted on the waitlist behind those project applications received on the first day and prioritized based on time and date received and will not be scored. The resulting ordinal waitlist will be used to select any additional projects should capacity become free within that delivery year or should the category receive a redistribution of uncontracted capacity as described in Section 7.3.5. As Section 1-75(c)(1)(K) requires that "the waitlist of projects in a given year will carry over to apply to the subsequent year when another block is opened," projects remaining on the ordinal waitlist after reallocation of uncontracted capacity as described in Section 7.3.5 will be prioritized for selection in the next delivery year.

The Agency also proposes the application of a 20% developer cap for any affiliated[268] family of project developers for this Traditional Community Solar capacity. Any affiliated family of project developers which exceeds 20% of the awarded capacity in this initial Traditional Community Solar block will have any projects that cause them to exceed the 20% capacity cap moved to become the first projects on the waitlist for this category.

If further ordering is required across first-day projects (for instance, ordering of projects featuring the same score where projects receiving that score span across selected and unselected capacity within that block), the Agency proposes only then to utilize a random selection process to create a rank-order within those equivalently-scored projects. This process would only be developed by the Agency if/when the need arises based on the block capacity represented by first-day applications received and a need to differentiate between equivalently-scored projects.

The Agency seeks stakeholder feedback on this scoring approach generally and is particularly interested in stakeholder feedback on any additional prioritization criteria that specifically make a project unique and can better differentiate proposed projects, and ideally criteria apparent within the project at the time of application given challenges inherent with later commitments or criteria that would cause the need for downstream compliance. Additionally, the Agency understands that a case could be made for simply prioritizing larger and more cost-effective projects within this category now that a separate category exists to support community-driven community solar projects—but given the smaller size that the community-driven community solar category represents in the program, the Agency has not adopted that approach. Nevertheless, if stakeholders wish to offer arguments for leveraging economies of scale across this project category and prioritizing accordingly, the Agency is interested in receiving those arguments.

7.4.4. Public Schools

The Public Schools category includes Small and Large Distributed Generation projects as well as community solar projects that serve a public school in Illinois.[269] The Public Schools category will

[268] "Affiliated" means, with respect to any entity, any other entity that, directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with each other or a third entity. "Control" means the possession, directly or indirectly, of the power to direct the management and policies of an entity, whether through the ownership of voting securities, by contract, or otherwise. Affiliates may not have shared sales or revenue-sharing arrangements, or common debt and equity financing arrangements.

[269] For the December 14, 2021 block opening of capacity for Public Schools, only DG applications were accepted.

generally comprise at least 15% of the ABP capacity. Public Schools projects will also feature 20-year REC delivery contracts that pay for RECs over time as they are delivered, rather than the front-loaded payment schedule previously used under the ABP.

For this category, public schools are defined as any school operated by the authority of the Illinois School Code.[270] Public school projects located within Environmental Justice Communities or located on schools that are categorized as a Tier 1 or Tier 2 school based on the latest annual Evidence-Based Funding Distribution process by the Illinois State Board of Education shall be given priority in the allocation process.[271]

To achieve the desired prioritization, 70% of capacity will be allocated to schools categorized as Tier 1, Tier 2, and schools located within Environmental Justice Communities and 30% will be allocated to Tier 3 and Tier 4 schools not located within Environmental Justice Communities. Tiers will be determined using the prior year results of the annual Evidence-Based Funding Distribution process conducted by the Illinois State Board of Education.[272] Capacity will be further allocated by size within these two groups of school types. 25% of each allocation will go to projects less than or equal to 250 kW, 50% to projects greater than 250 kW and less than or equal to 1 MW, and 25% to projects greater than 1 MW AC in size.

For each delivery year, if any of the above allocations are not filled within 180 days, projects located at a public school will be accepted on a first come, first serve basis regardless of Tier, Environmental Justice Community location, or project size.

7.4.5. Community-Driven Community Solar

The Community-Driven Community Solar ("CDCS") category includes community solar projects up to 5 MW that meet the criteria to be classified as community-driven. The CDCS category will comprise at least 5% of the ABP generally and these projects are intended to provide a more direct and tangible connection and benefits to the communities in which they operate.

Each delivery year, the Agency will have a 90-day period for projects to be submitted prior to any project selection. After the close of that 90-day period, the Agency will review projects submitted and score them according to the project selection process described below. The Agency will endeavor to complete the review, scoring, and selection process within 90 days. Projects will be selected in order from projects with the highest score to projects with the lowest score based on the below scoring mechanism until the capacity for the Community-Driven Community Solar block is filled.

Section 1-75(c)(1)(K)(v) of the IPA Act, as amended by Public Act 102-0662, provides that the Agency shall develop selection criteria for projects participating in this category. Primary selection criteria include:

- community ownership or community wealth-building
- additional direct and indirect community benefit, beyond project participation as a subscriber, including, but not limited to, economic, environmental, social, cultural, and physical benefits

[270] See: 105 ILCS 5.

[271] Illinois State Board of Education Evidence-Based Funding Distribution process: https://www.isbe.net/Pages/ebfdistribution.aspx

[272] Details can be found at Evidence-Based Funding Distribution Calculation (isbe.net) and Environmental Justice Community Search Map (arcgis.com)

- meaningful involvement in project organization and development by community members or nonprofit organizations or public entities located in or serving the community
- engagement in project operations and management by nonprofit organizations, public entities, or community members; and
- whether a project is developed in response to a site-specific RFP developed by community members or a nonprofit organization or public entity located in or serving the community.

Sufficient demonstration of any of the individual primary selection criteria will be worth up to four (4) points each in the scoring system.

Demonstration of any of these primary selection criteria should be accomplished through a detailed written narrative description that includes firm commitments and evidence as to how any benefits, resources, and wealth-building will flow to the community that will host the Community-Driven Community Solar project. Additionally, any community engagement activities and planned community ownership should be documented in a detailed way in this narrative. **In comments on this Draft Plan, the Agency seeks feedback on how best to accomplish these evaluations.**

Additionally, the Agency seeks feedback on how to define or demonstrate various terms noted in the primary selection criteria including: community ownership or community wealth-building, direct and indirect community benefits, and community engagement. The Agency notes that it requested feedback on how to define these terms in the request for comments put forth in advance of this Draft Plan, but did not receive substantive feedback to help focus these terms and/or concepts**.**

Section 1-75(c)(1)(K)(v) of the IPA Act, as amended by Public Act 102-0662, also detailed the following additional selection criteria to prioritize CDCS projects that:

- are developed in collaboration with or to provide complementary opportunities for the Clean Jobs Workforce Network Program, the Illinois Climate Works Preapprenticeship Program, the Returning Residents Clean Jobs Training Program, the Clean Energy Contractor Incubator Program, or the Clean Energy Primes Contractor Accelerator Program
- increase the diversity of locations of community solar projects in Illinois, including by locating in urban areas and population centers
- are located in Equity Investment Eligible Communities
- are not greenfield projects
- serve only local subscribers
- have a nameplate capacity that does not exceed 500 kW
- are developed by an equity eligible contractor; or
- otherwise meaningfully advance the goals of providing more direct and tangible connection and benefits to the communities which they serve or in which they operate and increasing the variety of community solar locations, models, and options in Illinois.

Sufficient demonstration of any of the individual secondary selection criteria will be worth up to two (2) points each in the scoring system.

Demonstration of any of these additional selection criteria should be accomplished through a detailed written narrative description separate from the narrative provided for the primary selection criteria outlined directly above. Evidence of any/all additional selection criteria that are applicable to the applicant's Community-Driven Community Solar project should be outlined as

comprehensively as possible in this narrative. **In comments on this Draft Plan, the Agency seeks feedback on how best to accomplish these evaluations.**

Selection of projects be based on total points awarded up to the category's block size. To avoid prioritization of a project that does not have community-based support, the Agency will require a minimum score of six (6) points for project category qualification. Random selection would only be utilized as a tie-breaker for equally scored projects to fill available capacity, if any; however, should the capacity available be so small so as to only accommodate one or more projects below a certain size, then the Agency might only consider those projects small enough to not exceed that remaining capacity.

After project selection for any given delivery year is complete, projects that were not selected and that have a minimum score of at least ten points will be placed on a waitlist for the following delivery year. The increase in the minimum score requirement is to ensure the quality of projects carried over from year to year.

The Agency recognizes that as Community-Driven Community Solar is a new type of community solar for Illinois and introduces a variety of new ways of evaluating project types, the first few years of the category should be viewed as an opportunity to learn how communities choose to organize and develop projects. Only after several rounds of project selection will it be possible to evaluate if the approach the Agency is proposing for project selection is successful in creating a diversity of community solar projects and organizational structures in Illinois. Therefore, the Agency expects that in the next update of the Long-Term Plan (to be initiated in the summer of 2023 for implementation for the 2024 delivery year) this approach may be substantially revised, and the Agency will seek stakeholder feedback as part of that revision process.

7.4.6. Equity Eligible Contractor ("EEC")

The EEC category includes Distributed Generation projects as well as community solar projects that have been submitted to the Program by Equity Eligible Contractor Approved Vendors per the guidelines specified in Section 7.7.2.[273] At least 10% of the capacity of the ABP shall come from projects submitted by applicants that are EEC certified. EEC certified Approved Vendors may also submit projects into other program categories and are not limited to the EEC category. To give the market for EEC projects time to develop, for the 2022-2023 and the 2023-2024 delivery years, the Agency does not propose increasing the portion the Adjustable Block Program allocated to EEC projects above the 10% level, but expects that in the next Long-Term Plan which will cover the subsequent two delivery years, the Agency will begin to increase that percentage with the goal of reaching 40% by the 2030 delivery year.

At this time, the Agency is not proposing specific sub-categories within the EEC category for specific project types as it believes that it needs to give time for this sector to develop and does not want to prematurely limit project applications. Furthermore, for this draft 2022 Long-Term Plan the Agency is not proposing different REC prices for EEC projects than the comparable DG or Community Solar projects (which would recognize variations in project size and geographic location), rather the Agency is proposing that the key value of participation in the EEC category is the opportunity for the advance of capital to overcome financing barriers.

[273] For the initial block of capacity for Equity Eligible Contractors, only distributed generation applications were accepted.

7.4.6.1. Equity Eligible Contractor Advance of Capital

Section 1-75(c)(1)(K)(iv) of the IPA Act specifies that,

> *The Agency shall propose a payment structure for contracts executed pursuant to this paragraph under which, upon a demonstration of qualification or need, applicant firms are advanced capital disbursed after contract execution but before the contracted project's energization. The amount or percentage of capital advanced prior to project energization shall be sufficient to both cover any increase in development costs resulting from prevailing wage requirements or project-labor agreements and designed to overcome barriers in access to capital faced by equity eligible contractors.*

For this draft 2022 Long-Term Plan, the Agency proposes that up to 25% of contract value may be advanced under this provision.

A particular challenge that the Agency has identified with the advance of capital is the risk of projects not being completed, despite the advance of capital. Therefore, the Agency proposes the following risk mitigation requirements. First, to be eligible for prepayment, an EEC will need to include the request for level of the advance of capital in the Part I application of the project, along with a short narrative description of the need being addressed, and what key project development milestone will trigger the disbursement. The narrative description should include a breakdown of costs that the advance will cover and may be submitted on a confidential basis. The Agency will use the information gained in first two years of this option's availability to refine how advances of capital will be addressed in future Long-Term Plans. Second, an EEC who has projects that receive an advance of capital, are not completed, and the EEC does not return the advanced funds will not be eligible to submit additional project applications.

7.4.6.2. EEC Eligibility

Section 7.7.2 describes in detail the requirements for an Approved Vendor to become certified as an Equity Eligible Contractor. At this time the Agency believes that eligibility should be limited to the following:

1. Approved Vendors who qualify as an Equity Eligible Contractor and do not use Designees for the construction and installation of projects
2. Approved Vendors who qualify as an Equity Eligible Contractor and use a Designee (or Designees) for the construction and installation of projects who also meet the requirement to be an Equity Eligible Contractor. This would include Approved Vendors serving as aggregators.

While the Agency understands that there may be interest in models where a Designee is an Equity Eligible Contractor, but they operate under an Approved Vendor who is not an Equity Eligible Contractor, the Agency cannot reconcile that with Section 1-75(c)(1)(K)(iv) of the IPA Act's requirement that this category is for projects "from applicants that are equity eligible contractors." Applicants in the Adjustable Block Program are Approved Vendors, as they are ultimately the entity that holds the REC delivery contract with a utility. The concept of a Designee was developed by the Agency to ensure that program requirements and accountability flow through to the entities involved in sales, marketing, subscriber acquisition, construction, and installation. It does not change who is the applicant into the program, as Designees are not permitted to submit project applications to the

program. The Agency also hopes that this approach will minimize the risk that entities that are not Equity Eligible Contractors inappropriately benefit from this category.

7.5. REC Pricing Model

7.5.1. Background

For the Initial Plan, the IPA adopted and modified the National Renewable Energy Laboratory's Cost of Renewable Energy Spreadsheet Tool ("CREST") to develop a model for calculating REC prices. CREST is an economic cash flow model that estimates the cost of energy in terms of cents per kilowatt hour associated with specific input assumptions regarding technology type, location, system capital and operating costs, expected production, project useful life, and various project financing variables. The Agency's REC pricing model established initial pricing for each block, with prices then declining 4% for each subsequent block.

In its Order approving the First Revised Plan, the Commission stated that "REC prices must be lower," although it neglected to adopt any specific proposal for how to lower such prices (and no methodology for lowering prices was introduced into the record). Instead, the Commission required that "workshops should be held and stakeholder input considered" regarding how REC prices could be lowered, with a need to be mindful that, going forward, "the IPA must recognize market signals rather than solely relying on its cost modeling approach" in determining REC prices.

The Agency solicited stakeholder feedback on REC pricing in November 2020[274] and further feedback after a workshop in July 2021.[275] Generally, most stakeholders favored maintaining the 4% decline between blocks, but there was some concern that community solar REC prices remain too high. Alternatively, stated concerns that would argue against a decline in REC prices included the decrease in the Federal Investment Tax Credit from 30% to 26%, a decline in energy prices (which would reduce net metering credit value), higher than expected interconnection costs (particularly for community solar), and ongoing uncertainty about the future value of smart inverter rebates.[276]

When the Agency released the now withdrawn draft Second Revised Plan, it offered an example of what REC prices would look like with a continuation of the 4% decline between blocks as well as REC price modeling based upon updating certain inputs to the original pricing model approved in the Initial Plan.[277] With the enactment of Public Act 102-0662, two key changes were made that impact the Agency's REC price modeling. First, three new categories of projects were introduced (Public Schools projects, Community-Driven Community Solar projects, and Equity Eligible Contractors projects), with one of those new categories, Public Schools projects as well as the existing category for Traditional Community Solar, now featuring 20-year contracts rather than 15-year contracts. The second change is that rather than blocks opening as the previous block close, blocks are now set on an annual basis to correlate with energy delivery years (June 1 to May 31). As a result, the concept of 4% declines between blocks no longer fits the program design and the Agency instead proposes, as described below, to conduct an annual update to REC prices.

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[274] See: https://illinoisabp.com/stakeholder-feedback-rec-pricing-feedback-request/.

[275] See: https://www2.illinois.gov/sites/ipa/Pages/RenewableResourcesWorkshops.aspx.

[276] The Agency notes that since the time that feedback was received, energy prices rose significantly in the second half of 2021.

[277] A description of the updated inputs is contained in Section 6.3 of the withdrawn draft Second Revised Plan. See: https://www2.illinois.gov/sites/ipa/Documents/DraftSecondRevisedPlan16August.pdf and additional information is contained in Appendices D and E at: https://www2.illinois.gov/sites/ipa/Pages/Second-Revised-LTRRPP-Appendices.aspx.

For this draft 2022 Long-Term Plan, the Agency has updated the modeling conducted for the withdrawn draft Second Revised Plan in several ways and uses that updated modeling as the basis for the REC prices contained in this Plan. First, it has updated the cost of installation to account for an estimate of incremental impact of prevailing wage requirements where applicable. This update follows the price adjustment the Agency used for REC prices for the non-waitlisted Large DG blocks that opened in December 2021 but now applies across a wider set of program categories.[278] Second, for those categories now featuring 20-year contracts, the model was adjusted for a larger quantity of REC deliveries that provide corresponding revenue to the project. Third, for the community solar categories, rather than having an adder for various levels of small subscribers, given the new requirement that all projects have at least 50% small subscribers, the previous value the Agency proposed in the withdrawn Second Revised for the 50% small subscriber adder has been included in all community solar prices and there is no longer a separate adder for small subscribers.

The Agency also made a significant change to Appendix E which contains the spreadsheets used to calculate REC prices. For the withdrawn draft Second Revised Plan, each category and group was presented in a separate spreadsheet, with a total of 16 separate spreadsheets for REC prices for the Adjustable Block Program and the Illinois Solar for All Program. The Agency has now consolidated the REC pricing model into a single spreadsheet which automatically recalculates REC prices through drop-down menu selections. This new spreadsheet also groups assumptions used in modeling into consolidated tables which will allow stakeholders to compare differences between categories in a single view. While the change in the spreadsheet design does not impact the resulting REC prices, it is intended to allow for easier review of modeling assumptions by stakeholders, and also to allow stakeholders to use the modeling tool to test how changes in assumptions would impact REC prices. This can help stakeholders provide feedback on the model and REC prices contained in this draft 2022 Long-Term Plan.

7.5.2. Modeling Update

As part of the development of the withdrawn draft Second Revised Plan the Agency undertook the exercise of updating the REC Pricing Model with the following changes that are now included in this draft 2022 Long-Term Plan:

- Adjusted the Federal Investment Tax Credit to 26%
- Updated project cost information based on the *U.S. Solar Photovoltaic System and Energy Storage Cost Benchmark: Q1 2020* Report from NREL.[279] This also includes reducing the impact of tariffs on imported modules to the current level.
- Updated the AC/DC ratios based on an analysis of actual project applications received and energized and capacity factors based on PVWatts analyses of energized projects. However, due to the lack of Community Solar projects below 500 kW, for smaller community solar size categories, DG project data was utilized.
- Updated net metering credit values and energy values to current values.
- Updated Community Solar interconnection costs based on a survey of Approved Vendors with actual interconnection costs for energized Community Solar projects.

[278] See: https://illinoisabp.com/wp-content/uploads/2021/10/Large-DG-REC-Price-Feedback-14-Oct-2021-Final.pdf.

[279] See: https://www.nrel.gov/docs/fy21osti/77324.pdf. This was report was released in January 2021 and is the most recent data available from NREL

As described above the modeling for this draft 2022 Long-Term Plan now also includes adjustments to account for the cost of prevailing wage requirements, for the length of the contract (15 or 20 years), and to include the cost of community solar small subscriber management, and net metering and energy values have been updated.

A description of the updated REC Pricing Model and inputs used is contained in Appendix D and the updated REC Pricing Spreadsheet is provided in Appendix E. **The Agency encourages stakeholders to review these appendices and provide comments on them as part of the feedback on this draft 2022 Long-Term Plan.**

The REC Pricing Model is a very complex model with many inputs and significant interactive effects between them. These prices should be viewed as preliminary in nature and could change significantly as this Plan update process continues. Examples of inputs that were not updated include financing structure (e.g., debt ratios and project financing interest rates), internal rates of return, and O&M costs. These inputs are all listed in detail in Appendices D and E. Furthermore, pending federal legislation may significantly change the Investment Tax Credit which would have a significant impact on the REC Pricing model. **The Agency is interested in stakeholder feedback on the model and its inputs, and the Agency expects that through comments on this draft 2022 Long-Term Plan, many of those inputs may be updated prior to filing the 2022 Long-Term Plan for Commission approval.**

Table 7-4: Proposed ABP REC Prices ($/REC) for Delivery Year 2022-23

Block Category/Size		Group A (Ameren Illinois, MidAmerican, Mt. Carmel, Rural Electric Cooperatives, and Municipal Utilities located in MISO)	Group B (ComEd, and Rural Electric Cooperatives and Municipal Utilities located in PJM)
Small DG	≤10 kW	$86.54	$86.80
	>10 - 25 kW	$82.26	$89.07
Large DG	>25 - 100 kW	$68.97	$78.55
	>100 - 200 kW	$56.88	$62.66
	>200 - 500 kW	$50.35	$55.04
	>500 - 2,000 kW	$48.13	$48.43
	>2,000 kW – 5,000 kW	$33.40	$30.93
Public Schools (20 years)	≤ 25 kW	$56.83	$66.87
	>25 - 100 kW	$50.27	$57.30
	>100 - 200 kW	$41.30	$45.30
	>200 - 500 kW	$36.40	$39.70
	>500 - 2,000 kW	$34.72	$34.72
	>2,000 kW – 5,000 kW	$23.69	$21.53
Traditional Community Solar (20 years)	≤ 25 kW	$73.26	$87.97
	>25 - 100 kW	$67.88	$79.58
	>100 - 200 kW	$60.98	$69.65
	>200 - 500 kW	$57.38	$65.43
	>500 - 2,000 kW	$47.88	$57.54
	>2,000 kW – 5,000 kW	$32.62	$42.83
Community-Driven Community Solar	≤ 25 kW	$94.24	$114.11
	>25 - 100 kW	$87.13	$102.65
	>100 - 200 kW	$77.95	$89.11
	>200 - 500 kW	$72.91	$83.34
	>500 - 2,000 kW	$60.17	$72.75
	>2,000 kW – 5,000 kW	$39.57	$53.07

Note that as discussed in Section 7.4.6, for this draft 2022 Long-Term Plan the Agency is not proposing separate prices for projects in Equity Eligible Contractor category. Those projects will instead feature the opportunity for the advance of capital. Equity Eligible Contractor projects would use the applicable REC price for distributed generation or community-driven community solar (as

they would be under 15-year contracts). In addition, a Public Schools project that is community solar would receive the Traditional Community Solar REC price applicable to the project's size.

7.5.3. Adjustments

Adjustments are intended to adjust the base REC price to meet specific additional purposes. These include adjusting for system size, and for adjusting for the additional costs of small subscribers for community solar projects.

While the Act seeks to encourage projects "in diverse locations and are not concentrated in a few regional areas,"[280] at this time the Agency is not proposing any specific geographic REC price adders for distributed generation projects. The Agency believes that the split of the blocks between utility service territories adequately addresses program-wide/statewide geographic diversity, and DG project applications to date indicate that projects are well distributed across the state.

The Agency observes that while projects are spread across the state at a high level, community solar projects are predominantly located in rural areas that are not likely to be close to subscribers. The Agency expects that the creation of the new category of Community-Driven Community Solar will address this issue and result in community solar projects in more suburban and urban areas that will increase the diversity of community solar project locations.

7.5.4. Size Category Adjustments

Prior to the enactment of Public Act 102-0662, Small DG projects were up to and including 10 kW in size. That has been increased to up to and including 25 kW. The Agency proposes to now have two price levels within the Small DG category, one for projects up to and including 10 kW and one for projects over 10 kW up to and including 25 kW. The price for projects up to and including 10 kW does not include an adjustment the incremental cost of prevailing wage requirements. Most residential projects are under 10 kW in size (and similarly most projects under 10 kW are residential), so this provides a proxy for that adjustment. **The Agency is interested in stakeholder feedback on if there should instead be a separate set of prices for residential and house of worship projects in addition to, or instead of having separate prices for projects up to an including 10 kW and projects over 10 kW up to and including 25 kW.**

For all other categories, the Agency proposes to have the smallest size category for projects up to and including 25 kW, and then subsequent category sizes for projects 25 kW up to and including 100 kW, over 100 kW up to and including 200 kW, over 200 kW up to and including 500 kW, and over 500 kW up to and including 2 MW, and over 2 MW up to and including 5 MW, with adjustments to REC prices reflecting modeled development costs by size category.

For this draft 2022 Long-Term Plan, the Agency welcomes stakeholder feedback on if there should be any changes to these categories.

7.5.5. Co-location of Distributed Generation Systems

For purposes of Adjustable Block Program categories and applicable REC prices, the total capacity of distributed generation systems energized after June 1, 2017 on a single parcel that participate in the

[280] 20 ILCS 3855/1-75(c)(1)(K).

Adjustable Block Program are considered a single system.[281] (For example, three 100 kW systems on a single parcel will be considered a 300 kW system.) If a system on a single parcel is subsequently expanded, the Agency reserves the right to revise the incentive amounts paid for the subsequent system(s), and to set the incentives based on the total expanded system size rather than just treat the expansion as a separate system. For the purpose of establishing a revised incentive level under these circumstances, the systems' location would be considered at the parcel level. Exceptions will be made if it can be demonstrated that two projects on one parcel have separate, non-affiliated owners and serve to offset the load of separate, non-affiliated entities on a parcel.

The Agency recognizes that in rural areas of Illinois it is not uncommon for a parcel to have buildings (and thus load to be offset by distributed generation) that serve separate residential and agricultural uses, and will evaluate requests to consider those uses separately for the application of this standard. **For this draft 2022 Long-Term Plan, the Agency welcomes stakeholder feedback on criteria for making such evaluations.**

The Agency's co-location determinations only apply to distributed generation projects participating in the Adjustable Block Program and not projects installed outside of the Program (e.g., through previously conducted Agency procurements, receiving DCEO rebates, or developed without incentives). It also does not apply to the co-location of distributed generation and community solar projects. Co-location of community solar projects is discussed in Section 7.9.4.

7.5.6. Community Solar

Community solar projects face additional costs and feature reduced eligibility for direct energy-related revenues than distributed generation systems. On the revenue side, subscribers to such projects are eligible only for energy-only net metering, while on the cost side, there is the cost of acquiring, maintaining, and managing subscribers. The prices for community solar RECs compared to distributed generation projects as shown above in Table 7-4 reflect those differences.

In the Initial Long-Term Plan, the Agency included adders for community solar projects with higher levels of small subscribers (residential and small commercial customers with subscriptions below 25 kW). For the Revised Plan, the Agency eliminated the Initial Plan's highest adder for over 75% small subscribers and had the largest adder available for projects featuring over 50% small subscribers. This left the adders ranging from $11.17/$10.88, for Groups A and B respectively for projects with over 25% small subscribers, and less than 50% to $22.34/$21.77 respectively, for projects with 50% or greater small subscribers.

The Agency continued to have concerns that these adders may have been too high. These adders were developed using an analysis of community solar subscription costs contained in the Initial Plan. The Agency notes that a 2018 GTM Research report[282] contained estimates of subscriber acquisition costs that ranged from $0.06 to $0.25 per Watt and ongoing subscriber management (including billing and replacing subscribers) of $0.12 to $0.35 per Watt. The low end of the combined costs from those estimates would be $0.18 per Watt and the high end $0.60 per Watt. Translating those costs to the REC output over 15 years of a typical 2 MW community solar project (with a 22% AC capacity factor),

[281] Any system developed under this program would require a separate GATS or M-RETS ID from any system developed through a different program (e.g., the Supplemental Photovoltaic Procurement or the Utility DG procurements) or without programmatic support. This would allow for a clear demarcation between systems and their associated RECs.

[282] The Vision for U.S. Community Solar: A Roadmap to 2030. GTM Research, July 2018 (https://votesolar.org/wp-content/uploads/2021/05/EXEC_SUMM___The_Vision_for_US_Community_Solar_072518.pdf).

those ranges would imply additional subscriber-related costs of $6.85 to $22.83 per REC, which indicates that those small subscriber adders were too high, especially if the prior adder for systems with greater than 75% small subscriber participation had been maintained.

Another data point suggesting a lower adder comes from Minnesota, which utilized the equivalent of $15/REC for a two-year pilot for projects that energized in 2019 or 2020 (and is currently undergoing review with stakeholders advocating for its extension).[283]

For the withdrawn draft Second Revised Plan, the Agency sought stakeholder feedback on if small subscriber adders should be reduced. The shift to online marketing and enrollment is likely an additional cost savings for community solar providers that may not have been reflected in the original current adder. The Agency suggested starting with the midpoint of the range of costs reported by GTRM Research, or $14.82/REC for 50% or over small subscriber levels (and a lower adder for projects in the 25-50% small subscriber range). This approach produced adders very similar to the current Minnesota adder.

Public Act 102-0662 now requires that community solar projects have a minimum of 50% small subscribers. This renders the need to have an adder for different levels of small subscriber levels unnecessary, as there would no longer be the possibility of a project having between 25 and 50% small subscribers. As the Agency had already proposed basing the highest level adder as being at the 50% of higher small subscriber level, the amount that was previously broken out as an adder is now proposed to be included in all community solar REC prices. The Agency proposes maintaining its suggestion from the withdrawn draft Second Revised Plan of having that adjustment set at $14.82/REC. The Agency further notes that changes to community solar net metering contained in Section 16-107.5(l)(3) will allow Ameren and ComEd to offer consolidated billing for community solar projects, which is a potential additional decrease in the cost of managing small subscriber subscriptions. **The Agency is interested in stakeholder feedback on this approach of recognizing the costs associated community solar subscription management.**

7.5.7. Updating of REC Prices

Prior to the enactment of Public Act 102-0662, there were two ways REC prices could change. The first was when a block of capacity closed, the next block would open at a new, lower price and the Agency set that price decline at 4% between blocks. The second way that REC prices could change was a provision of Section 1-75(c)(1)(M) of the IPA Act that allowed the Agency to change prices (and other program elements) by up to 25% without seeking Commission approval, but with stakeholder input. During the period of 2019 through 2021, the Agency did not make any such REC price adjustments.

Public Act 102-0662 now sets blocks to be based on capacity for a given energy delivery year. As a result, the approach of having REC prices decline by 4% between blocks is now less appropriate. Under the prior model the rate of progression between blocks was determined by market activity. More applications received by the program meant faster closing of blocks, and prices changing more often. Thus fewer applications received by the program, and prices would be maintained for a longer time. As the transition between blocks will now occur on a known schedule, occurring every June 1, the Agency proposes that rather than having a pre-determined price change between blocks, that instead the Agency conduct an annual refresh of the REC Pricing Model described above. This will

[283] See Appendix C for additional information on the Minnesota adder.

include refreshing inputs from known sources and seeking stakeholder feedback on preliminary prices.

For the 2022-2023 delivery year, REC prices will be as approved by the Commission through the Commission's approval the 2022 Long-Term Plan. For the 2023-2024 delivery year, the Agency proposes to begin the updating of the REC pricing model in January of 2023 with the release of a draft new set of REC prices for stakeholder feedback. The Agency will consider that feedback and finalize REC prices by May 1, 2023. **The Agency is interested in stakeholder feedback on this approach for updating REC prices for the 2023-2024 delivery year, or if alternatives should be considered such as maintaining a pre-set price change between delivery years.**

The other mechanism for changing REC prices is the provision of Section 1-75(c)(1)(M) that allows for, "[p]rogram modifications to any block price that do not deviate from the Commission's approved value by more than 10% [and] shall take effect immediately and are not subject to Commission review and approval." This adjustment level was reduced from 25% by Public Act 106-0662. Furthermore, any modifications to prices require stakeholder feedback and advance notification. There are several reasons why the Agency might consider a mid-year price adjustment and would only do so sparingly if it determines that changing circumstances have created a need for an adjustment. Examples of such circumstances would include changes to federal legislation that impact the Investment Tax Credit, new tariffs on imported panels and modules, or significant changes to net metering credits or the smart inverter rebate (however smart inverter rebates will not change prior to December 2024, which is outside the time period covered by this 2022 Long-Term Plan). If the Agency becomes aware of a circumstance that would warrant consideration of a mid-year REC price adjustment, it will conduct modeling of REC price changes and conduct a stakeholder feedback process before making any changes.

7.6. Prevailing Wage

As outlined in Section 1-75(c)(1)(Q) of the IPA Act, most Adjustable Block Program project proposals must comply with Illinois Prevailing Wage Act requirements. Prevailing wage is a minimum compensation level by county set by the Illinois Department of Labor for construction activities related to public works. Section 1-75(c)(1)(Q) of the IPA Act (20 ILCS 3855) now requires that individuals engaged in the construction of applicable projects submitted to the Program are paid the prevailing wage. Additionally, Public Act 102-0673 clarifies that projects receiving incentives under the Program are "public works" subject to the Prevailing Wage Act—which includes notice requirements and related provisions as well. For Adjustable Block Program administration, Illinois law allows only the following types of projects to be considered exempt from prevailing wage requirements:

- Large Distributed Generation projects (greater than 25 kW AC) that were on a waitlist as of the program's reopening on December 14, 2021
- Distributed generation projects (Large or Small) that either serve a single-family or multi-family residential building, or serve a house of worship and are not greater than 100 kW AC (aggregated with any co-located projects)
- Distributed generation projects (Large or Small) for which construction can be demonstrated to have been completed before September 15, 2021, the effective date of Public Act 102-0662.

A project application sized between 10-25 kW for which an application was originally received in the Large Distributed Generation category (i.e., on or before November 1, 2021 when the ABP application

portal closed to applications in preparation for program reopening on December 14, 2021) will be considered a waitlisted Large Distributed Generation project for prevailing wage purposes, although that project will otherwise be reclassified as a Small Distributed Generation project for processing the project application and that reclassification will be reflected in the REC price and payment terms.

After the enactment of Public Act 102-0673, projects that do not qualify for one of the above exemptions must comply with all provisions of the Prevailing Wage Act ("PWA"). The Illinois Department of Labor ("DOL") oversees the implementation and enforcement of the Prevailing Wage Act and has multiple resources, such as FAQs, available on its website.[284] The Prevailing Wage Act requires that employees engaged in construction activities related to the project be paid the prevailing wage of that location, as determined by the DOL annually and updated regularly on its website. The Approved Vendor, its contractors and subcontractors must provide written notice to all contractors and subcontractors that the PWA applies to the project, including notice and record keeping requirements; penalties and fines for violations may be imposed on upstream contractors if they did not provide proper notice to subcontractors. Employees engaged in construction activities must be given written notice of the applicable prevailing wage rates through posting those rates on the work site, at a central office, or through direct written communication. Each contractor and subcontractor under contract for construction activities for the project must submit a Certified Transcript of Payroll ("CTP") on DOL Certified Transcript of Payroll Portal on a monthly basis throughout construction activities. Templates for the CTP and additional details on what to include may be found on the DOL website. Approved Vendors must also submit all CTPs from the project to the Program Administrator.

Part I of the project application for non-exempted projects will require that an Approved Vendor certify its understanding that prevailing wage requirements apply to that project, and the Part I verification will include the Program Administrator's determination regarding applicability of prevailing wage requirements. In Part II of the project application, the Approved Vendor will be required to certify to and document compliance with prevailing wage requirements, if applicable.

All projects subject to prevailing wage requirements may be subject to auditing by the Program Administrator to verify compliance. This auditing includes a requirement to admit the Program Administrator or their representatives to work sites for ongoing projects, access to speak to employees who are working or have worked on projects, access to requested documentation demonstrating payment of wages including but not limited to Certified Transcripts of Payroll, and any other information the Program Administrator deems necessary to confirm compliance with this requirement. Failure to comply with prevailing wage requirements is considered a violation of program requirements. While the Agency may refer potential violations of the PWA to the DOL for further investigation and enforcement, the Agency may also take disciplinary action against any Approved Vendor or Designee found to have violated the PWA on a facility for which there was a REC contract under the ABP.

7.7. Approved Vendors

Participation in the Adjustable Block Program takes place through, and is conditional upon, the Approved Vendor process developed by the Agency and implemented by the Program Administrator. The Approved Vendor model was originally based upon the experiences the Agency gained through

[284] Illinois Department of Labor: https://www2.illinois.gov/idol/Pages/default.aspx

the development and implementation of the Supplemental Photovoltaic Procurement, as well as observations of programs in other states. While arguably there could be more flexibility available to consumers through a program under which any entity may receive a contract, by having Approved Vendors—i.e., ensuring that any entity receiving a REC delivery contract is registered with and vetted by the Agency, and has met conditions predicate—the Agency is better able to monitor compliance with program terms and conditions, ensure the accuracy and quality of information submitted, and reduce the administrative burden on the contractual counterparties.

This model thus benefits consumers because they can verify that an entity that proposes to develop a photovoltaic system for them (or sell them a subscription to a community solar project) is a legitimate entity participating in the Program. It is important for the Agency to have the ability to monitor the program and ensure high quality performance by the Approved Vendors; an Approved Vendor that fails to live up to the requirements of the Adjustable Block Program could have a significant negative impact on the entire renewable energy market in Illinois that would extend beyond just its own actions. Additionally, as discussed in more detail in Chapter 8, registration as an Adjustable Block Program Approved Vendor is a prerequisite to becoming an Illinois Solar for All Approved Vendor, and the loss or suspension of Approved Vendor status under the Adjustable Block Program would result in an Approved Vendor's status under the Illinois Solar for All Program to also being terminated or suspended.

The Agency does not restrict Approved Vendor participation by entity type; as such, Approved Vendors could include a company that specializes in the aggregation and management of RECs; a for-profit developer or installer of photovoltaic systems; a municipality; or a non-profit serving a specific sector of the community, among others.

Approved Vendors serve as the contractual counterparty with the utility, and thus are the entity that receives payments from the utility for REC deliveries as contract obligations are met.[285] Approved Vendors are therefore responsible for submitting necessary paperwork (project applications, status updates, quarterly and annual reports) to the Program Administrator (as the responsible party for the information contained in that paperwork), maintaining collateral requirements (and paying any contractual clawback not covered by posted collateral), and providing ongoing information and reporting. As such, the Approved Vendors must coordinate downstream information from installers/developers as well as individual system owners (who may well provide required information through the installer/developer).

The Agency does not require a specific delegation of duties between the Approved Vendor, sales generating firms, installer/developer, and system owner; rather, it believes that the market is better suited to allow a variety of business arrangements to develop. The key consideration is that the Approved Vendor is ultimately responsible for the fulfillment of contractual obligations, including any obligations delegated to subcontractors, in a manner consistent with the requirements of this Plan, other published program requirements stemming from this Plan (such as those found in the Program Guidebook and Marketing Guidelines), and the Approved Vendor's contract with the counterparty utility.

As discussed in Section 7.8, the Agency now requires that Designees (entities working with or on behalf of Approved Vendors for participating projects) be registered with the program. While this

[285] The Agency imposes no requirement as to how the Approved Vendor shall share the REC payments with the installer, host, and other project parties.

does not change the responsibilities of the Approved Vendor, or the potential for an Approved Vendor to be held accountable for the conduct of its Designee, the Agency believes that this step provides additional information and transparency to consumers and to the marketplace generally.

Approved Vendors must agree to the following terms:

- Participate in registration and complete any training developed by the Agency
- Abide by these ongoing Program terms and conditions
- Provide information to the Agency on the Approved Vendor's organizational history, capacity, financial information, regulatory status in Illinois and other states (including current complaints or other actions against the Vendor or prior complaints within the past five years), etc.
- **For this draft Plan, the Agency proposes that Approved Vendors shall indicate if they are minority, woman, disabled, or veteran-owned, and provide an estimate of the percentage of staff at time of registration and subsequent annual renewals who are women, disabled, veterans, or minorities. This process will include specifying with which certification programs the business has registered.**
- Be registered to do business in Illinois
- Disclose to the Agency names and other information on installers and projects, while otherwise maintaining confidentiality of information
- Document that all installers and other subcontractors comply with applicable local, state, and federal laws and regulations, including for example, maintaining Distributed Generation Installer Certification
- Provide samples of any marketing materials or content used by the Approved Vendor, and/or their subcontractors/installers, designees, agents, and affiliates, to the Agency for review, as requested.[286]
- Agree to make changes to marketing materials as instructed by the Agency.[287]
- Register and maintain such registration in GATS or M-RETS and demonstrate the ability to manage project application and REC management functions in the applicable tracking system
- Pay applicable application fees
- Comply with all terms of contracts with utilities under the Program
- Submit Annual Reports on a timely basis

7.7.1. Approved Vendor Applications

Approved Vendors must have their approval renewed once a year. Failure by an Approved Vendor to follow the requirements of the Adjustable Block Program, as determined by the Agency and/or its Program Administrator, could result in the entity having the suspension of or losing its status as an Approved Vendor and thus losing the ability to bring new projects into the programs. Losing that status would not relieve an Approved Vendor of its obligations to ensure that RECs from its projects that have been energized continue to be delivered to the applicable utility; failure to meet those contractual obligations could result in having the Vendor's credit collateral drawn upon. (See Section 7.12.1 for more discussion of contractual obligations.)

[286] This requirement applies to, at minimum, printed materials, advertising through television and radio, websites (including affiliate websites), web ads, marketing via email or social media, telemarketing scripts, and leads purchased through lead-generation vendors.

[287] This requirement is not meant to impede the ability to market to customers, but rather to ensure that any types of marketing are not deceptive, confusing, or misleading. Likewise, the Agency is concerned about misrepresentations that could be made about the relationship between an Approved Vendor (or the subcontractors/installers) and the Agency or program.

The Agency recognizes that there may be certain projects where the Approved Vendor model may not be completely appropriate, and therefore allows an Approved Vendor who has only one project to apply under a more limited set of requirements as a Single Project Approved Vendor. Specifically, this designation may apply to a project that is owned by that Single Project Approved Vendor (as opposed to a situation where the Approved Vendor is an intermediary between the system developer and/or owner and the contracting utility). In this situation, the following provisions related to Approved Vendors do not apply:

- Provide samples of any marketing materials or content used by the Approved Vendor, and/or their subcontractors/installers and affiliates, to the Agency for review, as requested.
- Agree to make changes to marketing materials as instructed by the Agency.

In addition, the consumer protection requirements found Chapter 9 would not apply to the Single Project Approved Vendor for a distributed generation project, but if the project is a community solar system, all applicable community solar consumer protection requirements related to subscribers do apply (including those concerning marketing materials referenced above).

Single Project Approved Vendors will need to request that status prior to submitting their system's Part I application, and the Program Administrator and Agency will review requests to ensure that this process is not used to avoid the more general requirements of this program through the establishment of nominally separate entities. The minimum size for a project submitted by a Single Project Approved Vendor is 100 kW.

The Agency also encourages the hiring of graduates of job training programs (as described in Sections 8.8.1 and 8.9.1) to work on installations of projects supported by the Adjustable Block Program. The Program Administrator currently requests Approved Vendors to report on the planned usage of job training program graduates as part of the project application process and requires reporting on job trainee hiring as part of the annual reports submitted by each Approved Vendor.

As more trainees become available, the Program Administrator will provide additional information to Approved Vendors to support this goal.

7.7.2. Equity Eligible Contractor Application Process

Approved Vendors that wish to submit projects into the Equity Eligible Contractor ("EEC") category must first apply to be certified as an EEC. They may do so in conjunction with their Approved Vendor application or at any time after submitting their initial Approved Vendor registration.

If the Approved Vendor is organized as a corporation, general partnership, limited liability partnership, limited liability company, or limited partnership, the applicant will be asked to designate which owners, partners, or proprietors meet the EEC eligibility criteria. Similarly, if the Approved Vendor is organized as a non-profit, the applicant will be asked to provide the board membership of the non-profit and designate which board members meet the EEC eligibility criteria. However, if the Approved Vendor is a sole proprietor, no additional designations are required.

An Approved Vendor can qualify for an EEC certification by having status under at least one of the following four categories:

- Persons who graduated from or are current or former participants in the Clean Jobs Workforce Network Program, the Clean Energy Contractor Incubator Program, the Illinois Climate Works Preapprenticeship Program, Returning Residents Clean Jobs Training Program, or the Clean Energy Primes Contractor Accelerator Program, and the solar training pipeline and multi-cultural jobs program created in paragraphs (a)(1) and (a)(3) of Section 16-108.21 of the Public Utilities Act
- Persons who are graduates of or currently enrolled in the foster care system
- Persons who were formerly incarcerated
- Persons whose primary residence is in an equity investment eligible community.[288]

EEC applicants will be required to complete an EEC certification in addition to the general Approved Vendor attestation and application. This certification must be completed by each owner or board member in the organization used to establish EEC status.

The applicant will be asked if it would like to be identified as an Equity Eligible Contractor on the public list of Approved Vendors on the illinoisabp.com and illinoisshines.com web sites; willingness to be publicly identified as an Equity Eligible Contractor on those sites is not required for maintaining EEC status.

All certified EEC Approved Vendors will be listed on public project application reports and potential other public reports.

As part of the EEC certification process, the Program Administrator may follow up with the applicant with additional questions to clarify EEC eligibility and reserves the right to seek additional information or other documents to confirm EEC eligibility.

7.8. Approved Vendor Designees

In the First Revised Plan, the Agency created a new requirement for Approved Vendor Designees, requiring that Designees must register with the program and be listed on the program websites (both www.illinoisabp.com and www.illinoisshines.com) along with the Approved Vendor(s) with whom they are working. Registration also requires the assent of the Approved Vendor(s), and can be withdrawn by an Approved Vendor working with the Designee at its discretion, or by the IPA or Program Administrator if the Designee is found to have violated program guidelines and is suspended or has its registration terminated. As used herein, by "Designee," the Agency is referring to third-party (i.e., non-Approved Vendor) entities that have direct interaction with end-use customers. This includes, but is not limited to, installers, marketing firms, lead generators, community solar subscription management firms, and sales organizations. The Agency reserves the right to add additional categories as needed.

7.8.1. Designee Registration

Registration encompasses the Designee's provision of contact information, acknowledgment of the business relationship with the Approved Vendor, and identification of the categories of the consumer-facing services provided. **For this draft Plan, the Agency proposes that Designees also**

[288] Equity investment eligible communities are defined as 1) R3 Areas as established pursuant to the Cannabis Regulation and Tax Act, and 2) Environmental Justice Communities as established through Illinois Solar for All Program. For maps and address lookup tools for these two areas see: https://r3.illinois.gov/eligibility and https://www.illinoissfa.com/environmental-justice-communities/ respectively.

indicate if they are minority-owned, woman-owned, veteran-owned, disability-owned or considered a small business and provide an estimate of the percentage of staff at time of registration who are women, minorities, veterans, or disabled.

Additionally, a Designee is responsible for acknowledging that it will comply with all Program requirements applicable to installers or marketing agents, as applicable. Since launching the Adjustable Block Program, the Agency has become aware of instances of violation of program guidelines by Approved Vendor Designees that may have been committed without the knowledge or control of the underlying Approved Vendor. Failure by a Designee to comply with applicable requirements could subject the Designee to suspension or termination from registration. If the Designee ignores a suspension (or termination) decision made by the Program Administrator and continues program activities nonetheless, any Approved Vendor that works with the Designee during that period will be subject to discipline. Likewise, Approved Vendors found to be working with entities engaged in the proscribed activities that fail to register will be subject to discipline.

Pursuant to the Commission's Order in Docket No. 19-0995, Approved Vendors and their Designees were to register with the Program by December 10, 2020 to remain in compliance.[289]

The purpose of this requirement is to increase transparency for the program. Potential customers will be able to verify that a company that reaches out to them is actually a program participant registered with the Program (and likewise be able to review if they are listed on the program's Consumer Protection Database or the program's Disciplinary Actions Report)[290]. While the Agency had anticipated that smaller installers would work with Approved Vendors that are aggregators it has become clear that sales and marketing of solar includes a variety of different types of organizations and that this variance can create market confusion.

Approved Vendors are responsible for ensuring that their Designees register with the program (which includes an attestation by that Designee that the Designee agrees to abide by program terms and conditions), and Approved Vendors who fail to do so may be subject to disciplinary actions. This includes Designees contracted by or working for other Designees, sometimes referred to as "nested" designees. For example, for an Approved Vendor who has an installer serving as a Designee, and that installer hires a lead generation firm to assist in marketing for customer acquisition purposes, the Approved Vendor is responsible for ensuring that the lead generation firm (in addition to the installer) registers with the program. One possible benefit to Approved Vendors through this system will be that they will know what downstream firms are working with their direct Designees, and they may be able to better monitor those firms' behavior (as the Approved Vendor is ultimately responsible with conformance with program guidelines).

7.8.2. Equity Eligible Contractor Designees

As discussed in Section 7.4.6. Designees may also register as an Equity Eligible Contractor. This registration does not qualify projects from those Designees to be eligible for the Equity Eligible Contractor category. Instead, as described in that section, such Designees would need to work with an Approved Vendor that is EEC certified in order for their project to be eligible for the EEC category. EEC certified Designees could work with an Approved Vendor that is not EEC certified, but this would

[289] See Docket No. 19-0995, Final Order dated February 18, 2020 at 56.

[290] The ABP Consumer Protection Database and the Disciplinary Action Report can both be found here: https://illinoisabp.com/consumer-complaint-database/

make projects submitted by that non-EEC certified Approved Vendors ineligible for the EEC category. The application process for Designees will use the same criteria as described in Section 7.7.2 for Approved Vendors.

7.9. Project Requirements

Projects that are eligible for the Adjustable Block Program must meet, at minimum, two sets of requirements. The first relates to the technical aspects of the system itself, and the second to the customer (and additionally to subscribers, in the case of community solar). The purpose of the first set of requirements is to ensure that high-quality systems are installed that will be capable of generating the expected quantity of RECs over the duration of the delivery contracts. The purpose of the second set of requirements is to ensure consumer protections.

7.9.1. Technical System Requirements

In this Section, the Agency outlines what technical information must to be submitted for each project. These standards apply for both distributed generation and community solar projects. The application process is described in more detail in Section 7.10.

The technical system requirements are as follows:

- Information about the system location, and size, including but not limited to
  - A description of the technical specifications of the main system components including the make and model, manufacturer, number (quantity) of panels, of panels and inverters and meters, array location (roof or ground mount), tilt, orientation
  - Site map or other project details
- Proof of site control and/or host acknowledgement
- Project-specific estimate of REC production during the delivery term using PV Watts or a similar tool
- For systems over 25 kW, an Interconnection Agreement signed by both the interconnecting utility and the interconnecting customer[291]
- For ground mounted systems over 250 kW, a land use permit, when applicable, from the Authority Having Jurisdiction ("AHJ") over the project. In the event a land use permit is not applicable, written confirmation from the AHJ that no permit is required must be provided.
- For systems that include a battery, a detailed schematic showing that either only solar generated power can be used to charge the battery or that the battery's output does not run through the meter used to measure solar output.

In the Initial Plan, the Agency required that "[f]or systems over 25 kW, evidence of having obtained all non-ministerial permits that, according to the commercially reasonable investigation of the Approved Vendor, are necessary to the project at the time of application to the Adjustable Block program." While the Agency no longer requires this provision (other than as specified above for land use permits), failure to obtain permits is a developer risk and one which the Agency believes likely would not allow for the invoking of force majeure provisions applicable to failing to meet contractual obligations.

[291] The Adjustable Block Program now provides for separate categories for systems up to 25 kW, and greater than 25 kW and up to 5,000 kW, and for the purposes of the requirements related to each project, the Agency has determined that this 25 kW breakpoint is the appropriate for different levels for requirements.

For systems that have been energized prior to application, the following information will also be required:

- GATS or M-RETS unit ID[292]
- Certificate of Completion of Interconnection
- Photographic documentation of the installation

The Agency recognizes that there may be special situations where some portion of these documents may not be available (for example, some rural electric cooperatives and municipal utilities may not have standardized interconnection documents). The Agency will consider alternative documentation to demonstrate completion of interconnection in those situations.

7.9.2. Metering Requirements

In developing the Supplemental Photovoltaic Procurements that took place in 2015 and 2016, the Agency developed a metering standard[293] that is now used for the Adjustable Block Program. That standard has been updated to reflect changes in M-RETS metering requirements that harmonize with GATS standards and to clarify the use of inverters with integrated meters. The current standard applicable to systems registered in either PJM-GATS or M-RETS is as follows:

- Systems 25 kW and over must utilize a new meter that meets ANSI C.12 standards. Inverters with integrated ANSI C.12 compliant production meters are allowed with a specification sheet showing this standard has been met. The inverter must be UL-certified and must include either a digital or web-based output display.
- Systems over 10 kW and up to 25 kW in size utilize a meter that meets ANSI C.12 standards. Meters that are refurbished (and certified by the meter supplier) are allowed. Inverters with integrated ANSI C.12 compliant production meters are allowed with a specification sheet showing this standard has been met. The inverter must be UL-certified and must include either a digital or web-based output display.
- Systems of 10 kW in size and below must utilize either a meter that is accurate to +/- 5% (including refurbished and certified meters), or an inverter that is specified by the manufacturer to be accurate to +/-5%. The inverter must be UL-certified and must include either a digital or web-based output display.

In responses to Request for Comments after the Agency's workshops for the development of the Initial Plan,[294] several commenters suggested allowing production estimates for smaller systems. A production estimate consists of GATS automatically generating RECs for a system based on the system size and engineering modeling of expected kilowatt hour generation. Production estimates do not require the system owner (or aggregator) to provide ongoing data to GATS. While several states do allow production estimates for smaller systems, because production estimates do not require any actual data being transmitted to the tracking system to verify production, production estimates could be problematic as there would be no way to verify the system's ongoing operation. By contrast, a meter read (from either a meter, or an inverter output) only needs to be submitted

[292] GATS or M-RETS registration must be complete and unit ID verifiable through GATS or M-RETS public reports.

[293] See: https://www2.illinois.gov/sites/ipa/Documents/IPA-metering-accuracy-standard-5-14-15.pdf.

[294] See: https://www2.illinois.gov/sites/ipa/Pages/Responses6-2017LongTermRenewableResources.aspx.

once per year to GATS. The Agency thus does not allow production estimates for the Adjustable Block Program or the Illinois Solar for All Program.

Given the upfront payments for RECs paired with the 15 or 20-year requirement for RECs to be delivered, the Agency believes that receiving actual data on system performance is essential to ensuring the integrity of the RPS, and having meter reads as infrequent as annually (although they could be as frequently as monthly) appropriately balances the need for accurate data and the compliance burdens on the system operators. Therefore, in the Initial Plan required metered output for the generation of RECs, although the use of inverter readings for systems up to 10 kW were continued to be allowed.[295] In other words, the metering standard developed for the Supplemental Photovoltaic Procurement was the metering standard for the Adjustable Block Program, with the caveat that meter reads were only required on an annual basis. The Agency understands that as of January 1, 2020, M-RETS no longer required an ANSI C.12 certified revenue quality meter, so the standards previously applicable for projects registered in GATS are now also applicable to projects registered in M-RETS.

Additionally, in Docket No. 17-0838, questions were raised regarding the applicability of these metering standards to DC-based technologies. In its Order approving the Initial Plan, the Commission sought for the IPA to "ensure that its Plan does not inadvertently prohibit participation from systems that do not convert the DC electricity produced to AC electricity," with any resulting resolution to be presented to the Commission "before or in the 2019 Plan update." The IPA thus endeavored to work with stakeholders on solutions for facilitating permissible participation in the Adjustable Block Program from DC-based systems.[296]

After approval of the Initial Plan, the Agency communicated regularly and deliberately with industry stakeholders who were seeking to coordinate and obtain ANSI approval of a new DC metering standard. However, the Agency has not received any subsequent input from such stakeholders and understands that this standard was finalized in of March 2021.[297] The Agency has not yet reviewed the applicability or relevance of this standard to its programs and continues to welcome stakeholder comments on this topic.

7.9.3. System Optimization

The Agency added information to the Illinois Shines website in 2021 to educate customers and potential customers about optimal system design, and to provide information about typical ranges for specifications of solar photovoltaic systems participating in the Adjustable Block Program.[298] The Agency plans to update the Distributed Generation Brochure and/or Disclosure Form following the approval of this 2022 Long-Term Plan and is contemplating inclusion of a reference to this resource therein.

For more information regarding consumer protections and strategies to ensure optimal system specifications are known to consumers, please see Chapter 9 of this Plan.

[295] The Agency notes that while using an inverter rather than a meter may save on installation costs, if the inverter were to suffer a system failure and lose data, no RECs could be created. A meter may be a more reliable way to ensure REC creation.

[296] Final Order, Docket No. 17-0838, April 3, 2018, at 78-79.

[297] See: https://energycentral.com/c/gr/ansi-dc-metering-standard-earned-emerge-alliance.

[298] See: https://illinoisshines.com/best-practices-for-system-design-and-evaluating-proposals/

7.9.4. Co-location of Community Renewable Generation Projects

Co-location of projects occurs when multiple projects are located adjacent to each other, perhaps using the same point of interconnection. Co-located projects can be structured to maximize income from incentives, such as by dividing up a larger project into smaller pieces that qualify for higher incentives. Community Renewable Generation Projects are defined in the Act as being smaller than or equal to 5,000 kW, and for photovoltaic projects, the Adjustable Block Program includes adders for smaller projects. Co-location strategies could therefore result in the gaming of incentives.

Minnesota offers two points of experience with the issue of co-location, for both community wind and community solar. Under both policies, larger projects were structured as a series of smaller projects to qualify for higher incentives, undermining the legislative intent of promoting distributed, community-owned projects. A 30 MW wind project, owned by 15 corporate entities with the same owners, was developed under the Minnesota Community-Based Energy Development (C-BED) tariff program, which was intended to encourage community-owned wind projects of 2 MW or less. That program was reformed in 2003 to be more prescriptive, limiting ownership to Minnesota residents, with a single owner limited to a 15% share of a project.[299]

The development of the Minnesota Community Solar Gardens policy led to a similar problem. While the legislature capped project size at 1 MW, it did not address co-location issues. As a result, 15 co-located, aggregated projects were proposed between 10 and 20 MW, three between 20 and 30 MW, and two in the 30 to 50 MW range. One developer, Sunrise Energy Ventures, filed applications for 100 projects within the first hour of the program. When the state Public Utilities Commission ("PUC") imposed co-location caps of 5 MW for projects with filed applications and 1 MW for newly proposed projects, Sunrise appealed to the Minnesota Court of Appeals. The Court, however, affirmed the PUC's decision to implement caps.[300]

While co-location can undermine the concept of smaller and more geographically diffuse projects, it can also capture economies of scale from larger projects: large, available parcels with good interconnection points can be low-cost and efficient ways to develop large amounts of renewables quickly. Low development costs could help compensate for the higher marketing and customer acquisition costs of community renewable generation and provide greater benefits to low-income customers. Also, different owners might apply to develop completely distinct projects at different times, that just happen to be on adjacent parcels; restrictive rules would limit the development of especially attractive parcels of land.

Public Act 102-0662 added a new provision related to the co-location of community solar projects, "projects shall not be colocated with one or more other community renewable generation projects, as defined in the Agency's first revised long-term renewable resources procurement plan approved by the Commission on February 18, 2020, such that the aggregate nameplate capacity exceeds 5,000 kilowatts."[301]

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[299] Jessica A. Shoemaker and Christy Anderson Brekken, Farmers' Legal Action Group, *Community Wind: A Review of Select State and Federal Policy Incentives*, August 2006, http://www.flaginc.org/wp-content/uploads/2013/03/CommWindAug061.pdf.

[300] Mitchell Williams, Selig Gates & Woodyard PLLC, "Community Solar Gardens: Minnesota Appellate Court Allows Public Utility Commission to Implement Caps on Usage," Lexology, August 23, 2016. http://www.lexology.com/library/detail.aspx?g=c4690835-61c4-40cf-8105-0cc8d3229c77.

[301] See 20 ILCS 3855/1-75(c)(1)(K)(iii)(3).

As the maximum size for community solar projects is now 5 MW, this would appear to preclude the co-location of 5 MW community solar projects and only allow for the co-location of smaller projects. The following co-location standard reflects that definition of co-location updated to account for the maximum size:[302]

- No Approved Vendor may apply to the Adjustable Block Program for more than 5 MW of Community Solar projects on the same or contiguous parcels (with each "parcel" of land defined by the County the parcel is located in).
- A parcel of land may not have been divided into multiple parcels in the two years prior to the project application in order to circumvent this policy. If a parcel has been divided within that time period, the requirement will apply to the boundaries of the larger parcel prior to its division.
- If there are multiple projects owned or developed by a single entity (or its affiliates) located on one parcel of land, or on contiguous parcels of land, any size-based adders will be based on the total size of the projects owned or developed on the contiguous parcels by that single entity or its affiliates. Furthermore, the total combined size of projects owned or developed by a single entity (or its affiliates) on contiguous parcels of land may not be more than 5 MW.
    - "Affiliate" means, with respect to any entity, any other entity that, directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with each other or a third entity. "Control" means the possession, directly or indirectly, of the power to direct the management and policies of an entity, whether through the ownership of voting securities, by contract, or otherwise. Affiliates may not have shared sales or revenue-sharing arrangements, or common debt and equity financing arrangements.
    - "Contiguous" means touching along a boundary or a point. For example, parcels touching along a boundary are contiguous, as are parcels that meet only at a corner. Parcels, however near to each other, that are separated by a third parcel and do not touch along a boundary, or a point are not contiguous.
- Projects owned or developed by separate entities (meaning that that they are not affiliates) may be located on contiguous parcels. If there is a naturally good location from an interconnection standpoint, one owner should not be allowed to prevent another owner from developing a project in that location.
- Projects must have separate interconnection points.

7.9.5. Eligibility of Projects Located in Rural Electric Cooperatives and Municipal Utilities

The definition of community renewable generation projects specifically mentions rural electric cooperatives and municipal utilities,[303] but does not explicitly include or exclude them from any program or procurement to be run by the Agency. Moreover, the definition includes the concept of that project having "subscribers," a term which in turn has a definition that defines such "subscribers"

[302] A reference to "competitive procurements" has also been removed as it would have applied to the now repealed Illinois Solar for All Low-Income Community Solar Pilot Procurement.

[303] See 20 ILCS 3855/1-10 ("'Community renewable generation project' means an electric generating facility that is . . . interconnected at the distribution system level of an electric utility as defined in this Section, a municipal utility as defined in this Section that owns or operates electric distribution facilities, a public utility as defined in Section 3-105 of the Public Utilities Act, or an electric cooperative, as defined in Section 3-119 of the Public Utilities Act").

as "tak[ing] delivery service from an *electric utility*," which as defined in the IPA Act does not include cooperative and municipal utilities.[304] This resulted in ambiguity around whether a community renewable generation project can be located within the service territory of a rural electric cooperative or a municipal utility.

The Agency recognized the General Assembly's choice expressly to include those entities in defining "community renewable generation projects"—a term only used in the IPA Act in connection with the Agency's community renewable generation program—and proposed in its Initial Plan that community renewable generation projects (including community solar) located in these service territories should, if possible, be eligible for the Adjustable Block Program and Illinois Solar for All Program (where applicable).

The status of community renewable generation projects and distributed renewable energy generation devices located in the service territories of rural electric cooperatives, municipal electric utilities, and Mt. Carmel Public Utility Company was a contested issue in Docket No. 17-0838. The Commission's Final Order in that proceeding determined that the Agency's Initial Plan correctly allowed the participation of these projects in the Adjustable Block Program, the Community Renewable Generation Program, and the Illinois Solar for All Program.[305] In June 2018, Commonwealth Edison Company filed a petition seeking review of that determination (i.e., an appeal) with the state's Second District Appellate Court, case number 2-18-0504. On May 2, 2019, the Appellate Court affirmed the ICC's decision in this regard. On July 11, 2019, ComEd filed a Petition for Leave to Appeal, No. 124898, with the Supreme Court of Illinois. It was denied on September 25, 2019, resolving this issue and clarifying that projects in the service territories of rural electric cooperatives, municipal electric utilities, and Mt. Carmel Public Utility Company, are indeed eligible to receive REC delivery contracts under the Adjustable Block Program.

As mentioned above, there are already at least three community solar offerings by or within rural electric cooperatives that are not part of the Adjustable Block Program. Illinois' first community solar project was a 126 kW installation in Elizabeth, Illinois, built by Jo Carroll Energy in December 2014.[306] That project allows Jo Carroll customers to buy individual panels in the 460-panel ground-mounted system, with the energy produced credited against their bills. Prairie Power sells kWh blocks of solar power to customers of its 10 distribution cooperatives through the Bright Options Solar program. The program is supplied by two 500 kW solar installations near Shelbyville and Astoria, both built in Neither of these projects would be eligible to participate in the Adjustable Block Program because they were energized prior to June 1, 2017, but they indicate that rural electric cooperatives have thus far been the leaders in community solar in Illinois. Several proposed community solar projects that would be located within the Jo Carroll Energy service territory applied to the Adjustable

[304] Specifically, Section 1-10 of the IPA Act defines an electric utility as having "the same definition as found in Section 16-102 of the Public Utilities Act," which is "a public utility, as defined in Section 3-105 of this Act, that has a franchise, license, permit or right to furnish or sell electricity to retail customers within a service area." 220 ILCS 5/16-102. Section 3-105 of the PUA in turn defines "public utility" to expressly *exclude* "public utilities that are owned and operated by any political subdivision, public institution of higher education or municipal corporation of this State, or public utilities that are owned by such political subdivision, public institution of higher education, or municipal corporation and operated by any of its lessees or operating agents" as well as "electric cooperatives as defined in Section 3-119" of the PUA. 220 ILCS 5/3-105.

[305] See Docket No. 17-0838, Final Order dated April 3, 2018 at 177-179.

[306] Jo Carroll Energy, https://www.jocarroll.com/south-view-solar-farm.

[307] Prairie Power, https://www.ppi.coop/brightoptions.

Block Program, and one – the Apple Canyon Lake Solar Farm – was allocated a REC contract via the April 10, 2019 lottery and is currently in operation.

The Agency proposes no changes to the standard for allowing community renewable generation projects in the service territories of rural electric cooperatives and municipal utilities to participate in the Agency's programs or procurements from the standard approved by the ICC in the Initial Plan. This standard, outlined below, may require actions be taken by the rural electric cooperative or municipal utility. As entities not regulated by the state, they are free to choose whether to take these actions, but should they choose not to, then the residents and businesses within their service territories would not benefit from receiving revenue through these programs for its RECs, and thus the economics of such projects may not be as attractive to developers or subscribers.

The requirements for participation for a community renewable generation project located in a rural electric cooperative or municipal utility follow from those required in the Act for electric utilities:

- Be capable of "credit[ing] the value of electricity generated by the facility to the subscribers of the facility."[308] This can be accomplished through offering "virtual net metering" substantially similar to the provisions contained in Section 16-107.5(l) of the Public Utilities Act.[309] The value of electricity credited must be at no lower than the subscriber's supply rate.[310]
- Provide a monetary credit to a subscriber's subsequent bill for service for the proportional output of a community renewable generation project attributable to that subscriber.[311]
- Purchase any unsubscribed energy from community renewable generation projects that are Qualifying Facilities ("QF") under the electric utility's tariff for purchasing the output from QFs under Public Utilities Regulatory Policies Act of 1978.[312]

Prior to a photovoltaic community renewable generation project applying for the Adjustable Block Program, or a community renewable generation project powered by other renewable technologies participating in the competitive procurement, the Approved Vendor shall obtain a certification addressed to the Agency that the rural electric cooperative or municipal utility has met these conditions from the subject cooperative or municipal utility. Absent this information, a project located in the service territory of that rural electric cooperative or municipal utility will not be allowed to participate. All other programmatic requirements for community renewable generation projects (e.g., size limits, co-location, consumer protections) would apply to projects located in rural electric cooperatives or municipal utility service territories. For the purposes of rural electric cooperatives, these requirements apply at the distribution cooperative level, rather than for generation and transmission cooperatives (which do not directly interact with retail customers).

[308] See definition of "Community Renewable Generation Facility" in 20 ILCS 3855/1-10.

[309] See 220 ILCS 5/16-107.5(*l*).

[310] If the municipal utility or rural electric cooperative does not have unbundled rates (e.g., separate line items for delivery services and electricity supply) then the applicable municipal utility or rural electric cooperative must indicate the portion of the bundled rate that reasonably correlates to the cost of electricity supply service.

[311] See 20 ILCS 3855/1-75(c)(1)(N).

[312] See id.

7.9.6. Specific Requirements for Community Solar

Community Renewable Generation remains a developing concept in Illinois. It is intended to allow consumers to participate in renewable energy generation even if they are unable to have an on-site system at their home or business, and to offer a more direct connection to the benefits of renewable energy than signing up for a renewable energy retail supply offer from an Alternative Retail Electric Supplier (where information about the specific sources, costs, and benefits of the renewable energy and the underlying generating system(s) may not be readily available).

Community, or "shared," renewable energy is growing nationally, most often in conjunction with solar power. The Solar Energy Industries Association reports that nearly 3,100 MW of community solar had been developed in the United States through 2020.[313]

Many policy issues that have been debated in other states are resolved in Illinois the law itself, including elements of project size, ownership structures, and the minimum number and type of subscribers. In addition to explaining those aspects of Illinois law, in this Chapter, the Agency outlines the terms and conditions for the Community Renewable Generation Program that are not prescribed by the IPA Act.

7.9.6.1. Subscriber Requirements

With community renewable generation still an emerging concept, the level of consumer interest and the most viable business models remain to be determined. Most offers the Agency has observed in the market to date are simply cost savings offers under which the customer pays a lower per kilowatt hour fee for a community solar subscription than the customer receives as a per kilowatt hour credit through net metering. In general, Agency seeks to allow creativity and flexibility in developing projects and creating unique value propositions for subscribers, while at the same time ensuring basic consumer protections for subscribers to a community renewable generation project. These considerations will apply for all types of community solar projects.

7.9.6.2. Small Subscriber Participation

In the development of the Initial Long-Term Plan to address the requirement 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,"[314] the Agency defined small subscribers as "residential and small commercial customers" so long as their subscription size is below 25 kW. While the Agency did not require a minimum participation level for small subscribers, the initial lottery for community solar project selection included a first phase for projects that committed to serving at least 50% small subscribers, and REC pricing included adders for reaching certain levels of small subscriber participation.

Public Act 102-0662 codified this level of small subscriber participation with Section 1-75(c)(1)(K)(iii)(2) now requiring, "projects shall have subscriptions of 25 kW or less for at least 50% of the facility's nameplate capacity and the Agency shall price the renewable energy credits with that as a factor." As this is not a hard minimum for small subscriber participation, the REC prices for

[313] https://www.seia.org/initiatives/community-solar.

[314] 20 ILCS 3855/1-75(c)(1)(N).

community solar projects now include consideration of the costs of acquiring and maintain small subscribers rather than having them as a separate adder.

7.9.6.3. Utility Responsibilities

While the Agency, through the Adjustable Block Program and competitive procurements, will be responsible for the procurement of RECs from community renewable generation projects, it is not responsible for all aspects of a successful program. There are additional key aspects of making community renewable generation projects successful that fall outside of the control of the Agency:

- The crediting of the value of energy through net metering
- Ensuring the portability and transferability of subscriptions within a utility service territory.

The Agency will work with system owners and developers as well as the utilities (and with rural electric cooperatives and municipal utilities should they choose to participate) to reflect these aspects in the terms, conditions, and operational aspects of the programs and procurements conducted by the Agency. The Agency will also coordinate with the utilities for the sharing of any pertinent data and information that each party collects and maintains regarding projects and subscriptions.

Under the provisions of P.A. 99-0906, the Commission approved tariffs for ComEd, Ameren Illinois and MidAmerican on September 27, 2017, which the Agency understands complied with the requirements of Section 16-107.5 of PUA in terms of crediting to subscribers and with the requirements of and Section 1-75(c)(1)(N) of the IPA Act in terms of subscription portability. Public Act 102-0662, however, significantly updated the net metering requirements for the utilities and set a deadline for new tariffs to be filed within 90 days of the effective date of the Act. Those revised tariffs, in turn, are due to be approved by the Commission within 120 days of the effective date of the Public Act 102-0662.[315] As a result, the Commission is required to approve these tariffs on the same date that the IPA is required to publish this draft Plan. Accordingly, the Agency will update the discussion below in the version of the 2022 Long-Term Plan which will be filed with the Commission on March 21, 2022.

First and foremost under the changes to Section 16-107.5 of the PUA is the addition of the provision that "only electric utilities serving more than 200,000 customers as of January 1, 2021 shall provide net metering for projects that are eligible for subparagraph (C) of this paragraph (1) and have energized after the effective date of this amendatory Act of the 102nd General Assembly[.]"[316] Subparagraph (C)(1) of Section 16-107.5(l) of the PUA identifies those net metering projects as "subscriptions to community solar renewable generation projects, including community renewable generation projects on the customer's side of the billing meter of a host facility and partially used for the customer's own load." As a result of these changes and in conjunction with the requirement that updated tariffs be filed with the Commission 90 days after the effective date of 102-0662, on December 14, 2021, MidAmerican filed a Petition for Special Permission to put updated tariffs into effect on less than 45 days' notice with changes to its Rate NMS – Net Metering for Subscribers to Community Renewable Generation Projects (Rate NMS). These proposed revisions reflect the fact

[315] 220 ILCS 5/16-107.5(l-5).

[316] 220 ILCS 5/16-107.5(l)(1).

that MidAmerican, as an electric utility serving less than 200,000 customers on January 1, 2021, is no longer required to offer community solar subscription net metering for community renewable generation projects built after September 15, 2021. Based upon the recommendation of ICC Staff, the Commission granted special permission to allow these tariff changes at its Regular Open Meeting on January 5, 2022.[317]

Other changes to Section 16-107.5 of the PUA pursuant to P.A. 102-0662 resolve questions regarding the calculation of net metering credits and issues which require that electricity providers provide credits "that include at least energy supply, capacity, transmission, and, if applicable, the purchased energy adjustment."[318] Additionally, electric utilities serving more than 200,000 customers as of January 1, 2021 (i.e., ComEd and Ameren) shall provide the subscription credits on the customer's monthly utility bill at the utility's total price to compare equal to the subscriber's share of the production of electricity from the project, including for customers on payment plans or participating in budget billing programs.[319] ARES providing electric supply to a subscriber not subject to Sections 16-108.18 and 16-1118 of the PUA shall likewise provide the monetary credits to the subscriber's subsequent bill. Commonwealth Edison and Ameren Illinois have filed updated tariffs with the Commission; those proposed modifications are currently under review in Docket Nos. 21-0851 and 21-0854 and on the Commission's agenda for January 13, 2022.

7.10. Application Process

The following section outlines the process and procedure that Approved Vendors will use to submit projects to the Program Administrator for review and approval, as well as how projects, once approved, will be placed into contracts with the utilities.

7.10.1. Batches

Under the Initial Plan, Approved Vendors were required to submit projects bundled into batches. For the First Revised Plan, the Agency proposed (and the Commission approved) a simplification of the batch process. For a new Approved Vendor, there remains the requirement for a submittal of a first batch of at least 100 kW of projects, and that 75% of the capacity of that batch must be verified to be approved. Approved Vendors are allowed to select which batches approved systems are placed into, so that they can better manage their financing portfolios.[320] Once systems' Part I applications are verified, and before they are sent to the Commission for approval, an Approved Vendor will be consulted and given the opportunity to specify how its verified systems are batched, so long as those batches of verified systems are at least 100 kW in size. **While the Agency believes an initial batch of 100 kW is not a significant barrier to new market entrants, the Agency welcomes stakeholder feedback on whether the initial batch size and/or 75% verification level for new minority-owned, woman-owned, veteran-owned, disability-owned Approved Vendors or Approved Vendors considered a small business should be set at a lower level.**

For established Approved Vendors that have had a contract approved by the Commission and do not desire to assemble batches into portfolios in this way, projects may be submitted on a rolling basis,

[317] Illinois Commerce Commission Regular Open Meeting, January 5, 2022; Special Permission Letter, January 5, 2022.

[318] 220 ILCS 5/16-107.5(l)(2).

[319] 220 ILCS 5/16-107.5(l)(3).

[320] See Docket No. 19-0995, Final Order dated February 18, 2020 at 75.

and as projects are verified, the Program Administrator will place them into new batches that will result in a contract and/or new confirmations with one utility.

Utilities may use one master agreement with multiple confirmations (one confirmation per batch) from an Approved Vendor, rather than having multiple contracts with the same vendor.[321] The systems within the batch/confirmation will be listed on a schedule (or product order) attached to the contract and may not be substituted once approved.

A batch may contain projects in different groups/blocks (and thus with different prices) and with different adders. The price for the RECs for each system will be based on the price available within the applicable block on the date of the submittal. The failure of any system to be developed (and thus the forfeiture of any collateral associated with that specific system) will not impact any of the other systems on the same schedule, although the Agency will monitor system failure rates across Approved Vendors. Approved Vendors with high failure rates may be required to provide additional information to the Agency for subsequent applications.

The Program Administrator will determine which utility will serve as the counterparty for each contract. While a batch may contain projects in multiple utility service territories, the Program Administrator will strive to assign contracts to the utility where the bulk of the projects are located but may not always be able to do so because the Program Administrator will also consider how assigning contracts to each utility will allow each utility to meet its pro-rata share of the RPS REC targets and available RPS funding. The REC price for each system will be based on the applicable Group for that system's physical location, and not based on the identity of the counterparty utility to that contract.

After a batch of projects is created by the Procurement Administrator, the number of RECs to be delivered annually and payment amount(s) for the batch will be provided to the utility by the Program Administrator for purposes of contract/confirmation preparation (i.e., the utilities will track the RECs by batch rather than by individual unit). Utilities will send a report of RECs delivered by batch semi-annually to the Program Administrator.[322]

7.10.2. Systems below 25 kW

In responses to the Request for Comments that the Agency issued in June 2017, several commenters recommended that systems under 25 kW only be submitted once they are completed and energized, to minimize administrative burdens and avoid project attrition. While the Agency is sympathetic to those ideas, it did not adopt that recommendation for several reasons. It may be difficult, or impossible, to have appropriate consumer protections if the Agency sees information about a system only after it is completed. Preventing problematic behavior (such as deceptive information about system costs and payback times) should be done prior to the homeowner or business paying for the system; that would not be the case if systems apply only after being energized.

To be clear, the Program does not prohibit an Approved Vendor from submitting a "new" system that has already been energized, but the Approved Vendor will have to assume the risk that the system may not meet the required terms and conditions and could be rejected and thus not be included in a contract for the purchase of the system's RECs. A system that is rejected could be resubmitted at a

[321] See Docket No. 17-0838, Final Order dated April 3, 2018 at 109.

[322] See id.

later date if the deficiencies are cured, but the Agency cautions that some deficiencies may be difficult or impossible to cure (particularly when related to ensuring consumer protections from the beginning of the project's life).[323]

7.10.3. Application Fee

For each project, a non-refundable application fee must be paid to the Program Administrator or the Agency of $10 per kW, not to exceed $5,000 per project. This fee will be used to offset the administrative costs of running the program and will decrease the administrative fees that would otherwise be taken from the utility RPS budgets.

7.10.4. Project Review

The Program Administrator reviews project applications received by the Program and as needed, requests additional information from the Approved Vendor in order to verify the submitted information and approve the project. An Approved Vendor will be given up to two weeks to cure deficiencies in an application. If deficiencies cannot be cured, the project application will be withdrawn. If the Approved Vendor can subsequently address the deficiencies, the Approved Vendor can resubmit the project (with a new application fee). For Approved Vendors participating in the proposed training/mentorship program described in Section 7.2, new application fees will be waived if the resubmittal happens within three months of the initial application being withdrawn.

For an initial 100 kW batch, if, after any attempts to cure deficiencies have been made, projects representing at least 75% of the capacity of the batch are reviewed and approved by the Program Administrator, that batch will included in a contract presented to the Commission for approval. For established Approved Vendors, on a rolling basis in anticipation of the next scheduled Commission meeting, the Program Administrator will place verified projects for each Approved Vendor into batches for assignment to a counterparty utility, and prepare the confirmation information (and, in that case, master agreement information, if it is the Approved Vendor's first batch) or the contract information related to that batch.[324]

The Program Administrator will then submit the contract information for the batch to the Commission for approval. The Program Administrator will simultaneously forward the contract information to the applicable utility.[325]

An Approved Vendor that repeatedly submits deficient or noncompliant project applications may be subject to having its Approved Vendor status reviewed, and possibly suspended or terminated.

7.10.5. Converting System Size into REC Quantities

For each approved system, the Program Administrator will calculate a 15 or 20-year REC payment amount and obligation level, and that payment amount and delivery obligation will be included in the REC Contract. Approved Vendors will have the option of using a PVWatts calculated capacity factor (stated relative to a system's nameplate capacity in AC rating) automatically computed by the application platform or proposing an alternative capacity factor based upon an analysis conducted

[323] See Section 6.13 of the Revised Long-Term Plan for further discussion of consumer protections applicable to systems energized after June 1, 2017 but before consumer protection requirements are finalized.

[324] See Docket No. 17-0838, Final Order dated April 3, 2018 at 115-116.

[325] See id.

using an equivalent tool. Alternative capacity factors may be proposed as part of each system's application and will be subject to review and approval by the Program Administrator. Systems using bifacial panels must submit an alternative capacity factor subject to review and approval by the Program Administrator. All capacity factors submitted must be for a system's first year; as stated in Section 7.12.2 below, annual REC delivery commitments will incorporate a 0.5% per year degradation factor.

7.10.6. Batch Contract Approval

The Commission meets approximately every two weeks. The Program Administrator will strive to efficiently process approved projects and assign them to batches for submittal to the Commission. The Agency understands that Commission practice is that items for consideration by the Commission must be submitted to be placed on its open meeting agenda at least 8 business days prior to each meeting.

When the Program Administrator submits contract information to the Commission for approval, that submittal will include the Program Administrator's recommendation for approval of the batch, with a summary of factors relevant to Plan compliance. (Projects that are not approved by the Program Administrator are not submitted to the Commission.) This process is similar to that required for approval of contracts under annual electricity procurement plans pursuant to Section 16-111.5(f) of the PUA, or contracts under the Supplemental Photovoltaic Procurement Plan pursuant to Section 1-56(i)(5) of the Act.[326]

Pursuant to the Initial Plan, the Agency worked with Commission Staff to develop a Staff Report that includes the standards that the Commissions should use in considering the approval of contracts and product orders within the ABP and ILSFA.[327] The Commission approved the recommendations contained in the Staff Report on December 19, 2018. Upon approval of this Plan by the Commission, the Agency and Commission Staff will review and update that Staff Report if necessary.

Once a batch is approved by the Commission, the applicable utility will execute the REC contract and/or product order, as applicable. The Approved Vendor will then be required to sign the contract or product order within seven business days of receiving it from the utility.[328] Failure to sign the contract or product order may subject the Approved Vendor to discipline under the Program. Additionally, when a contract or product order is not executed by the Approved Vendor within the seven business days after receipt, the constituent projects will be considered removed from the Program, with the option to re-apply later, subject to payment of a new application fee and available open block capacity (and subject to the applicant's Approved Vendor status not having been revoked due to the product order's non-execution). A collateral requirement to be held by the utility equal to 5% of the total contract value will be required in the form of either cash or a letter of credit with the utility within 30 business days of Commission approval of the contract.

In the First Revised Plan, the Agency recommended, and the Commission approved a clarification to the collateral withholding process to be reflected in the updated REC contract (as discussed in Section 7.14). In cases where collateral was posted through a letter of credit, the Approved Vendor may

[326] See id.

[327] See: https://www.icc.illinois.gov/downloads/public/edocket/490368.pdf.

[328] See id.

choose for the utility to withhold the collateral amount for each system from the last (or only, if a distributed generation system of 25 kW or smaller in size) REC payment in exchange for a release/reduction of the letter of credit.[329]

In the Initial Plan, the Agency provided an option to allow an Approved Vendor to be able to forgo posting collateral for a system that was already energized and instead have that collateral withheld from the REC payment. The intent of that provision was to allow systems that had been developed prior to the program launch to have a simplified process, recognizing of those systems' absence of development risk. However, the Agency has observed that this process has had an unintended consequence of encouraging some Approved Vendors to submit projects only after their energization as a way of avoiding any collateral obligation. If the project does not apply until after it is built, enforcing and ensuring consumer protections (and other program requirements) becomes more challenging. Ultimately, consumers are better served if their project can be reviewed and approved by the program (and then submitted to the ICC for approval) prior to being built. For this reason, the Agency will require upfront collateral in all cases, including for energized systems under the new 2021 REC Delivery Contracts utilized for program reopening in December 2021.

Approved Vendors do not have the option to decline to post collateral within 30 business days once they have signed the contract. Failure to post collateral by the 30 business day deadline will violate the REC contract and may result in an Approved Vendor being suspended from further participation in the program.

7.10.7. Assignment of Projects

Section 1-75(c)(1)(L)(x) of the IPA Act now expressly provides that "[c]ontracts may be assignable, but only to entities first deemed by the Agency to have met program terms and requirements applicable to direct program participation." In addition, "[i]n developing contracts for the delivery of renewable energy credits, the Agency shall be permitted to establish fees applicable to each contract assignment.

Contracts or individual batches (but not individual projects that form a subset of a batch) are assignable. The assignee must agree to, and abide by, the applicable terms and conditions required of an Approved Vendor (or a Single Project Approved Vendor in the case of the assignment of a single project from a contract). Consistent with the Commission's Order in Docket No. 17-0838, the assignor and the assignee will be required to notify the contracting utility of any assignment, and provide the utility with all pertinent financial, settlement and contact information.[330] The assignor may be required to pay a fee to the contracting utility. The Agency and its Program Administrator have generated form documents[331] for use in accommodating the assignment process and will endeavor to cooperate with the assignor, assignee, and utility in updating Program records to accommodate the assignment. More specific project assignment terms and conditions (such as the of assignment

[329] This provision would not apply to cash collateral for the following reason. If a project had a total REC value of $100, $5 of collateral would be due. To swap the 5% collateral for a withheld payment, $100 in total payments ($95 of REC payments plus a return of $5 collateral) would need to be made, leaving a balance held by the utility of $5, the same as before. On the other hand, if the collateral were a letter of credit, then a payment of $95 would eliminate the need for the Approved Vendor to maintain the letter of credit (or portion thereof) for the remaining life of the contract.

[330] See Docket No. 17-0838, Final Order dated April 3, 2018 at 74.

[331] See: https://illinoisabp.com/wp-content/uploads/2019/07/ABP-Acknowledgement-of-Assignment.pdf; https://illinoisabp.com/wp-content/uploads/2019/10/ABP-Acknowledgement-of-Assignment-and-Consent-2019_10_23.pdf.

fees) have generally been handled through the development of the REC delivery contracts themselves, and the Agency proposes a continuation of that approach.

For waitlisted projects, projects may be selected off a waitlist in any given Group/category combination either when previously selected and approved projects drop out of the program, thus freeing up program capacity (with the project selected from the waitlist receiving the most recently available REC price), or when a new block of capacity is opened (and receive that block's REC price). While projects on a waitlist are not yet under contract,[332] an Approved Vendor may assign that project to another Approved Vendor, or the project itself may be sold, without penalty or impacting the project's position on the waitlist. An Approved Vendor must promptly notify the Program Administrator[333] of that transfer and provide appropriate documentation.

7.11. Project Development Timeline and Extensions

7.11.1. Development Time Allowed

Once a contract for a batch has been executed by the Approved Vendor and the utility, the next step is for projects not yet developed to be developed and energized. The following timelines are based upon the REC delivery contract execution date, such that any delays in processing and approving an application will not reduce the time available for development.

- Distributed generation projects will be given one year to be developed and energized.
- Community solar projects will be given 18 months to be developed, energized, and demonstrate that they have sufficient subscribers.

While the program features generous extension request provisions as described below, the experiences of the past several years, while exacerbated by COVID-19 related delays, suggests that longer deadlines may be warranted. **For this draft 2022 Long-Term Plan, the Agency welcomes stakeholder feedback on these energization deadlines and if they should be extended, particularly for community solar projects.**

A project that is not completed in the time allowed (plus any extensions granted) will be removed from the contract, and the REC volume associated with the project will be eliminated from the contract. The Approved Vendor will also forfeit the posted collateral associated with the project. Any forfeiture of collateral by the Approved Vendor under the REC contract will be considered to be returned to the utility's available Renewable Resources Budget and will become available for REC delivery contracts for other projects.

A project that is not completed in time and is removed from the contract may be subsequently re-submitted by an Approved Vendor but will be treated like any other new system being submitted.

In some instances, the developer of an Adjustable Block Program project may learn that development of the project is no longer feasible—whether due to financing falling through, the system host no longer wanting to move forward with the project, or myriad other circumstances. Under the language of the 2019 REC delivery contract, such a system could not be removed from the contract until

[332] The allowances in this sentence also apply to a non-waitlisted Part I applicant project that has not yet been selected by the Program Administrator for a REC contract.

[333] For this Chapter, all references to the Program Administrator refer to the Program Administrator for the Adjustable Block Program. Discussion of the Program Administrator for the Illinois Solar for All Program can be found in Chapter 8.

contract requirements related to a Seller meeting the system's energization deadline were not timely met, a contract violation which may not occur until over one year from the point at time in which the Seller learns that development is no longer feasible.

Thus, in the First Revised Plan, the Agency sought Commission permission to allow the Seller to provide notification to the Buyer, the Agency, and the Commission that it is exercising its option allowing for a system's removal from the contract because the Approved Vendor no longer wished to develop that system. Under these circumstances, the Seller would forfeit the posted Performance Assurance applicable to the system. Doing so allows the contract parties (the utility Buyer and Approved Vendor Seller) to no longer maintain a contractual obligation when performance is no longer intended, while also providing clarity to the Agency and its Program Administrator about the availability of new Program capacity through removal of a project from a REC contract. This proposal was approved by the Commission in Docket No. 19-0995, and the Agency has since developed specific forms and procedures to effectuate this option for Sellers.[334]

7.11.2. Extensions

Extensions to the energization deadline will be granted for the following circumstances.

- An indefinite extension will be granted if a system is electrically complete (ready to start generation) but the utility has not approved the interconnection. The Approved Vendor must document that the interconnection approval request was made to the utility within 30 days of the system being electrically complete, yet not processed and approved.
- A 6-month extension will be granted for documented legal delays, including permitting delays.
- A 6-month extension will be granted upon payment of a refundable $25/kW extension fee, for distributed generation systems, and up to two 6 month extensions for community solar projects (the second extension is only for achieving the required subscriber rate, not for project completion and energization, and will require an additional refundable $25/kW fee). The extension fee(s) is payable to the contracting utility and would be refunded as part of the first (or only for systems up to 10 kW) REC payment.
- The Agency may also, but is not required to, approve extensions for demonstration of good cause.[335]

7.11.3. Project Completion and Energization

The Approved Vendor will provide the Program Administrator with a status update on each project under development but not yet energized at least every six months and will inform the Agency of any significant changes to the system.[336] For community solar projects, the update will include an update on the status of acquiring subscribers. The Agency and Program Administrator have developed a standardized form (including standard status categories to simplify reporting) for this purpose.

[334] See Docket No. 19-0995, Final Order dated February 18, 2020 at 80.

[335] Good cause extensions have been the primary means of allowing for extensions in energization deadlines due to COVID-19 related delays, as described extensively in Chapter 3.

[336] For systems under 25 kW, that status update is only be required for a system where there is a change in status (e.g., a project being completed, or canceled).

Once a project is energized, the following information is required from the Approved Vendor for the Program Administrator to approve the final project as Energized for purposes of the REC delivery contract and authorize commencement of payment for RECs:

- Final system size
- Final system specific capacity factor and REC production estimate
- GATS or M-RETS unit ID[337]
- Certificate of Completion of Interconnection or comparable documentation[338, 339]
- Photographic documentation of the installation
- Disclosure of any changes to the system technical specifications that occurred between the initial application and the completion of the project
- Identity of the installer (must be a Qualified Person under Part 468 of the ICC's Rules)
- Documentation of compliance with prevailing wage requirements, if applicable
- Demographic information related to the workforce constructing and installing the system

Additional requirements may be published (such as through the Program Guidebook) by the Program Administrator if the Agency determines that such requirements are warranted, and the Program Administrator may reference other sources (such as public databases) to determine the accuracy of any submissions.

If the final system size is larger than the proposed system size such that it would cause the system to change from the up to and including 25 kW category to the over-25 kW category, the payment terms will be adjusted from the full payment on energization to 15% on energization and the balance over the next six years. The price per REC will also be changed to the applicable REC price for the over 25 kW category in effect at the time when the system is energized.

For systems over 25 kW, the final REC price will be based on the final system size if that final system size would cause the REC price to remain the same or to decrease. A system that is developed at a size smaller than the original application will not be eligible for a higher REC price.

The quantity of RECs used for payment calculations is based on the lesser of the RECs calculated based on the proposed (Part I) system size and capacity factor, and the RECs calculated based on the final (Part II) system size and capacity factor. The final capacity factor can be adjusted down from the initial capacity factor but cannot be increased from the original capacity factor, including changes in capacity factor due to switches between tracking technology, non-tracking and tracking systems, and bifacial vs. standard module use. In this way, a system that is built smaller than planned will not benefit from excess REC payments that could result from purposefully submitting the project at a larger size than really intended. On the opposite side, if a project's final system size is significantly larger than the planned system size, an increase in the payment due could present unexpected budget management challenges. An Approved Vendor has the option of canceling and resubmitting a system if the final size is larger than the proposed system to align the REC quantities or if it desires to have the system change from a distributed generation project to a community solar project, or vice versa. However, the applicable REC price upon resubmittal is the price of the block open at that time (and

[337] GATS or M-RETS registration must be complete and unit ID verifiable through GATS or M-RETS public reports.

[338] Comparable documentation would only apply for a rural electric cooperative or municipal utility that does not provide a Certificate of Completion of Interconnection.

[339] Per Section 1-75(c)(1)(K) of the IPA Act, the date of final interconnection approval must be no earlier than June 1, 2017.

subject to any applicable waitlists), and not at the time of the original submittal. Because the Program Administrator will need to review the system design (due to the change in system size), a new application fee will be required. If a project is resubmitted, the collateral associated with the original system may be applied to the resubmitted system, if approved.

While the Approved Vendor is the entity that receives REC payments, the terms of sharing that REC payment value with customers (completely, partially, or not at all; immediately or over time; directly or indirectly) or obligations associated with a system's performance assurance payment are left to a customer and Approved Vendor (or customer and Designee) to work out between themselves prior to executing an agreement. However, the clear failure to satisfy a contractual obligation to a customer may result in the violation of program requirements and disciplinary action under the program.

The Agency reserves the right to request more information on an installation, and/or conduct on-site inspections/audits of projects to verify the quality of the installation and conformance with the project information submitted to the Agency. Projects found not to conform with applicable installation standards and requirements, or projects found not to be consistent with information provided to the Agency will be subject to removal from the program if the deficiencies cannot be remedied. Likewise, Approved Vendors who repeatedly submit projects featuring application errors or inconsistencies with program requirements may be subject to suspension or termination of their Approved Vendor status.

7.11.4. Additional Requirements for Community Solar Projects

A community solar project must demonstrate that it has met a minimum subscription level to be considered energized and eligible to receive payment for RECs. Under Section 1-75(c)(1)(K) of the IPA Act, 50% of the subscriptions must be from small subscribers, and at least 50% of the capacity of the project must be subscribed at the time of energization in order to receive payment for RECs, and that payment will be based upon calculating the number of RECs that correspond with the amount of the project's capacity that has been initially subscribed. The Approved Vendor shall report subscription levels on a quarterly basis during the first year. The calculation of the number of RECs for payment will be updated after one year of operation (based on the final quarterly report of that first year) to allow for the acquisition of additional subscribers. A community solar project may request one additional extension (with a refundable extension payment as provided for in Section 7.11.2) to its energized date if it needs additional time to acquire subscribers.

To the extent that an Approved Vendor demonstrates additional subscriptions or updated subscription mixes that would entitle the Approved Vendor to a greater payment, the contract will require that subsequent payments reflect the increased value for quarters where the additional subscriptions or updated subscription mix entitle the Approved Vendor to additional revenue. If subscriber levels (or mixes) change in such a manner that contract value is reduced, the additional payments would also be adjusted downwards accordingly.[340]

The calculation of the maximum number of RECs due payment is determined by the project's subscription level after one year of operation (and will be subject to the maintenance of subscription levels as described in Section7.15). For determining the contract payment amount based on a project's subscription level, Section 1-75(c)(1)(L) of the IPA Act provides that,

[340] See Docket No. 17-0838, Final Order dated April 3, 2018 at 118.

> *Notwithstanding the preceding, for those projects participating under item (iii) of subparagraph (K), the contract price for a delivery year shall be based on subscription levels as measured on the higher of the first business day of the delivery year or the first business day 6 months after the first business day of the delivery year. Subscription of 90% of nameplate capacity or greater shall be deemed to be fully subscribed for the purposes of this item (iv).*

Thus, a project at 85% subscribed under this approach would have a contract price associated with an 85%-subscribed project, while a project 92% subscribed would be considered "fully subscribed." Ongoing requirements for overall subscription levels and small subscriber participation are discussed further in Section 7.9.6.1.

7.12. REC Delivery

Once a system is energized, it is required to begin REC delivery. For systems larger than 5 kW, the first REC must be delivered within 90 days of when the system is energized and registered in GATS or M-RETS. For systems smaller than 5 kW, 180 days will be allowed. The 15 or 20-year delivery term will begin in the month following the first REC delivery and will last 180 months or 240 months respectively, depending on project category.

Approved Vendors will be required to set up an irrevocable Standing Order for the transfer of RECs from the system to the utility.[341] As the Agency understands that automatic transfers can only be terminated with the consent of both parties, this will reduce the risk to the utility that the RECs could be sold to another party after the utility has paid for them.

As part of the Annual Report discussed in Section 7.15, the Approved Vendor will report on any systems that have not delivered a first REC, and report on any systems that have not delivered RECs for more than a year from their previous delivery. The report will also detail what corrective actions will be taken to ensure future deliveries. In the event of failure to remedy non-delivery of RECs, the utility may draw on the collateral it holds from the Approved Vendor.

7.12.1. Ongoing Performance Requirements

A significant challenge for the Adjustable Block Program is that the payment for RECs is front loaded for categories other than Traditional Community Solar and Public Schools (which pay for RECs on delivery over 20 years); systems up to 25 kW feature full contract prepayment upon energization, and all payments for systems over 25 kW will be made within the first six years of energization. Yet those contracts have a 15-year REC delivery obligation. This creates a situation in which, absent any additional measures, the buyer (the utility) will be unable to use the typical contractual tool of withholding payments for the item not yet received to ensure REC delivery. Fortunately, the Act anticipated this issue and requires that "[e]ach contract shall include provisions to ensure the delivery of the estimated quantity of renewable energy credits and ongoing collateral requirements and other provisions deemed appropriate by the Agency."[342]

[341] See Section 10.2 of the GATS Operating Rules available at https://www.pjm-eis.com/~/media/pjm-eis/documents/gats-operating-rules.ashx.

[342] 20 ILCS 3855/1-75(c)(1)(L)(v).

The Agency will utilize the approach described below to ensure REC delivery over the full term of the contracts. This approach will also ensure proper matching of adders for photovoltaic community renewable generation projects at different levels of residential subscription levels.

REC delivery obligations will be managed at a portfolio level. As projects are completed and become energized, each Approved Vendor will therefore have a portfolio of systems with REC delivery obligations from the various contracts that it has with each utility. The obligation to ensure REC delivery is at the contract level rather than the individual project level. In this way, the natural variation that some systems will produce more RECs than forecast and others fewer RECs reduces the risk of contract default, as compared to project-level contracts, and allows for ease in contract administration.

7.12.2. Collateral Requirements

An Approved Vendor is required to post collateral equivalent to 5% of the total contract value within 30 business days of when each Batch's contract (or product order) is approved. As described in Section 7.10.6, if the collateral was provided in the form of a Letter of Credit, then the Approved Vendor may choose for the utility to withhold the collateral amount for each system from the last REC payment for the system (or only REC payment for small systems) in exchange for not needing to maintain the collateral in the form of the Letter of Credit. In this situation, the collateral would be reduced as described below, and fully returned at the end of the contract (net any amounts that were drawn to meet contractual obligations). As systems are energized, this collateral amount (or deferred payment) will be maintained through the life of the contract. This requirement will be maintained at the portfolio level, not the individual contract or system level. The collateral amount is based upon the contract value at the time of ICC approval of the product order and is not adjusted if the final system size and/or capacity factor (and thus resulting quantity of RECs for payment) is lower than the initial approved amount.

By maintaining collateral requirements at the portfolio level, Approved Vendors can better manage the risk that some systems may underperform (or have other problems) while others may overperform. This allows the collateral level to be lower than it would be if maintained at the system level.

The Agency wishes to emphasize that this Plan does not prescribe the source of funds for collateral, whether it be an Approved Vendor's cash on hand, bank borrowings, the project owner's funds, customer-provided funds, a letter of credit, or some other source.

Nonetheless, an Approved Vendor will be responsible for delivering RECs each year under its contracts (subject to the reduction options described in the following Section). On an annual basis, failure to deliver RECs for the previous year will result in the utility drawing on the collateral to be compensated for the undelivered RECs from that year for which payment was already received. After any such drawing, the Approved Vendor will need to restore its collateral level to bring it back up to the 5% of remaining value of the portfolio within 90 days. If the amount of collateral held for an Approved Vendor is insufficient to compensate the utility, the Approved Vendor will be required to pay the utility for the balance of the value of the undelivered RECs from that previous year. Failure to make payment and/or maintain the collateral requirement may result in the Approved Vendor's suspension from participating in the Program.

Additionally, the Agency understands and appreciates that the natural degradation of photovoltaic system's productive capacity will likely result in reduced delivery quantities in the later years of a system's performance under a REC delivery contract. Annual contractual REC delivery volumes will thus be decline by 0.5% each year, which the Agency believes should help ensure that collateral is not unfairly drawn upon due to reduced system performance.[343]

Reconciliation of REC deliveries and collateral requirements will be conducted on an annual basis based on the Annual Reports filed by the Approved Vendors as described in Section 7.15.

7.12.3. Options to Reduce REC Delivery Obligations

Section 1-75(c)(1)(L) of the IPA Act provides that for categories other than Traditional Community Solar and Public Schools projects "[t]he electric utility shall receive and retire all renewable energy credits generated by the project for the first 15 years of operation."[344] The capacity factor as described in Section 7.10.5 will be used to calculate the number of expected RECs each system generates, and thus the overall payment for that system. If a system produces more RECs than expected from that calculation, then no adjustment would be made to payments or to the statutorily mandated REC delivery term. However, if the system produces fewer than the contracted quantity of RECs, then the following conditions apply.

The Agency expects each Approved Vendor to take the steps necessary to ensure that projects contained within its portfolio meet all expected REC deliveries. This may include working with system owners to ensure that ongoing maintenance and repairs of systems occurs as well as to ensure that meter/inverter data is properly transferred to GATS or M-RETS for the creation of RECs. Furthermore, Approved Vendors will be responsible for ensuring the ongoing transfer of RECs to the applicable utility. However, because weather and other factors may impact annual production values, REC delivery performance will be evaluated on a three-year rolling-average basis, although any overproduction may be carried forward (or "banked") for performance evaluation and collateral purposes into future contract years without expiration.[345] However, a project or portfolio is not entitled to additional compensation if a carryforward remains as project-specific contracts expire.[346]

There are circumstances where a system may not be able to deliver the RECs it was expected to produce; the Agency believes that reasonable accommodations should be made for these situations that appropriately balance the requirements for the utilities to comply with RPS targets and their expectation to receive RECs for which payment has already been made while acknowledging that unexpected situations may arise at no fault of the Approved Vendor.

In force majeure circumstances (including, but not limited to, physical damage to the system from fires, tornados, etc.) the Approved Vendor may request to have a delivery obligation suspended, reduced, or eliminated without penalty.[347] Approval of the recognition of a force majeure event requires consensus between the Agency and the contracting utility. Curtailments by either the utility

[343] See Docket No. 17-0838, Final Order dated April 3, 2018 at 129.

[344] 20 ILCS 3855/1-75(c)(1)(L)(ii).

[345] All RECs must be delivered to the counterparty in the delivery year when produced, regardless of any overproduction under the contract. See Docket No. 17-0838, Final Order dated April 3, 2018 at 129.

[346] See Docket No. 17-0838, Final Order dated April 3, 2018 at 129.

[347] Specific circumstances that constitute force majeure have been outlined and memorialized in the REC Contract.

(including those through a smart inverter) or the RTO that result in reduced REC production would allow for reduced REC delivery obligations.

In the case of reductions or eliminations of delivery obligations, the Approved Vendor must demonstrate what measures have been taken that do not adequately cure the situation (such as filing and receiving an insurance claim that is inadequate to restore the system to operation). For the suspension of delivery obligations, the Approved Vendor must demonstrate that reasonable measures are being taken to have a timely restoration of production. Approved suspension of delivery obligations will serve to change the end date for the REC delivery timeline to reflect the time the delivery obligations were suspended.

An Approved Vendor may also determine that a system is not performing at the level expected in the absence of force majeure circumstances. In this circumstance, the Approved Vendor may request to have the delivery obligation related to that system within its portfolio reduced in exchange for the return to the utility of a payment adjustment to account for all undelivered RECs at the original delivery level as of the time of the request.

These provisions will not apply to Traditional Community Solar projects and Public Schools projects as the delivery and payment obligations for those projects under 20-year contracts is based on actual delivery of RECs. Section 1-75(c)(1)(L)(iv) provides for adjustments to payments based on those deliveries including the ability to carry forward higher than expected REC deliveries,

> *If generation of renewable energy credits during a delivery year exceeds the estimated annual generation amount, the excess renewable energy credits shall be carried forward to future delivery years and shall not expire during the delivery term. If generation of renewable energy credits during a delivery year, including carried forward excess renewable energy credits, if any, is less than the estimated annual generation amount, payments during such delivery year will not exceed the quantity generated plus the quantity carried forward multiplied by the contract price. The electric utility shall receive all renewable energy credits generated by the project during the first 20 years of operation and retire all renewable energy credits paid for under this item (iv) and return at the end of the delivery term all renewable energy credits that were not paid for.*

7.13. Payment Terms

The Act provides a schedule of payments for RECs for projects. Section 1-75(c)(1)(L) of the IPA Act as updated by Public Act 102-0662 specifies the following schedule for projects in categories other than Traditional Community Solar and Public Schools projects: For systems up to 25 kW, "the renewable energy credit delivery contract value shall be paid in full, based on the estimated generation during the first 15 years of operation by the contracting utilities at the time that the facility producing the renewable energy credits is interconnected at the distribution system level of the utility and verified as energized and compliant by the Program Administrator."

For distributed generation systems greater than 25 kW and up to 5,000 kW and community solar projects, "15% of the renewable energy credit delivery contract value, based on the estimated generation during the first 15 years of operation, shall be paid by the contracting utilities at the time

that the facility producing the renewable energy credits is interconnected at the distribution system level of the utility and verified as energized and compliant by the Program Administrator. The remaining portion shall be paid ratably over the subsequent 6-year period."

For Traditional Community Solar projects and Public Schools projects, the payment terms are not on a set schedule, rather are for,

> *20 years and shall be paid over the delivery term, not to exceed during each delivery year the contract price multiplied by the estimated annual renewable energy credit generation amount. If generation of renewable energy credits during a delivery year exceeds the estimated annual generation amount, the excess renewable energy credits shall be carried forward to future delivery years and shall not expire during the delivery term. If generation of renewable energy credits during a delivery year, including carried forward excess renewable energy credits, if any, is less than the estimated annual generation amount, payments during such delivery year will not exceed the quantity generated plus the quantity carried forward multiplied by the contract price.*

The Agency has established that the standard for being "energized" as used above must include the completion of the interconnection approval by the local utility and the registration of the system in GATS or M-RETS so that generation data can be tracked, and RECs created.[348] In addition, to avoid a system being completed but RECs not created and delivered, before a system can be considered "energized" so as to initiate the processing of an invoice for REC delivery contract payments, automatic assignment of RECs to the applicable utility must be initiated. The Agency believes that by ensuring proper registration in the tracking system up front, future administrative challenges can be minimized.

For systems over 25 kW and community solar projects other than Traditional Community Solar, it is not clear from the law how exactly the "subsequent 6-year period" would be calculated, and whether the frequency of payments should be annually, quarterly, or monthly. The Agency proposed in the Initial Plan (which featured a 20% upfront payment and subsequent payments over a 4-year period based upon now changed provisions from Public Act 99-0906) that after the first payment of 20%, the balance of payments be made on a quarterly basis over the following 16 quarters. For example, if the first payment is made on September 30, 2019 (upon interconnection and energization), assuming continued compliance with contractual requirements, the next payments would occur approximately on December 31, 2019, March 31, 2020, etc., with the final payment on approximately September 30, 2023—resulting in 17 total payments that bookend a four-year period of time. Payment amounts occur on a set schedule and may be adjusted to reflect changes in REC quantities (per Section 7.12.3), or community solar subscription levels (per Section 7.11.4). Based on feedback received to date, the Agency does not believe that a change to the basic quarterly payment schedule is warranted (although the quarters of subsequent payments will increase to 24). However, the refreshed contract structure described in Section 7.14 that has been implemented now allows for three separate

[348] This proposed standard is only intended to relate to the contractual payment terms for the Program. Section 1-75(c)(1)(K) specifies that, "[o]nly projects energized on or after June 1, 2017 shall be eligible for the Adjustable Block program." The Agency views this to mean that a project must be interconnected to the applicable utility after June 1, 2017 and that the registration date of the system in GATS or M-RETS does not impact that determination. The added contractual standard is meant to ensure that energized systems will produce the RECs that they are receiving upfront payments for.

quarterly delivery schedules to reduce the lag time between a project being approved for payment and the first (or only) payment being received.[349]

Section 1-75(c)(1)(L)(vii) also requires that:

> *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 may consider future uncommitted funds to be reserved for these contracts on a first-come, first-served basis.*

The Agency will continue to carefully monitor project application approvals and available budgets. Nevertheless, aside from waitlisted projects replacing defunct projects as already accounted for in budget modeling, the Agency will not recommend Commission approval of contracts for additional projects if it determines that contract obligations cannot be met through expected funds. The Agency will endeavor to publish updates to available budgets and related information on regular intervals, as discussed in Chapter 3 of this Plan.

7.14. Contracts

The Agency notes that while payments are made according to the terms described in Section 7.13, the Adjustable Block Program and its REC delivery contracts feature ongoing performance requirements to ensure that RECs are delivered across the 15 or 20-year term of the contracts, especially after payments have been made under 15-year contracts. Section 7.12.1 describes in more detail how those performance requirements have been implemented.

The Agency, in consultation with its Program Administrator and its Procurement Administrator, developed a standard REC delivery contract between the utilities and Approved Vendors, much as its Procurement Administrator had done for the competitive procurement processes. This included the opportunity for interested parties to comment on the contract. The original REC delivery contract, reflecting the consensus of the Agency, the utilities, and Commission Staff, was finalized in January 2019, just prior to the opening of the Adjustable Block Program for project applications. Once finalized, that standard 2019 REC delivery contract was not subject to further negotiation for each project or batch accepted into the Program.

For the First Revised Plan, the Agency proposed a substantial refresh of the standard delivery contract based upon lessons learned from the execution and early administration of the initial contracts. The Agency conducted stakeholder workshops in 2020 to review the contract structure for the Adjustable Block Program, the Illinois Solar for All Program, and competitive procurements.[350]

Key issues that were considered included:

- Shortening and simplifying the REC Contract (and, if possible, synthesizing the contract into a single set of terms and conditions)

[349] For example, a project approved for payment in January would be on a quarterly schedule of payments occurring in February, May, August, and November; a project approved for payment in February would be on a quarterly schedule of payments occurring in March, June, September, and December; and a project approved for payment in March would be on a quarterly schedule of payments occurring in April, July, October, and January.

[350] This process began on April 9, 2020 with the release of a request for stakeholder feedback. See: https://www2.illinois.gov/sites/ipa/Documents/ABP%20REC%20Contract%20Update%202020/IL%20ABP%20REC%20Contract%20Request%20for%20Comments%209%20APR%202020.pdf.

- Clarifying contract default versus system default versus penalties
- Clarifying Product Orders, Master Contracts, and Portfolio-level responsibilities
- Termination for convenience (subject to applicable penalties)
- Measurement of community solar subscription levels
- Mechanism of collateral holdbacks[351]
- Incorporation of Acknowledgement of Assignment forms
- Removal of a project from the contract
- Adoption of a measure providing for mediation by the IPA between utilities and Approved Vendors in certain REC Contract disputes[352]

Based on the workshops, the Agency worked with the Program Administrator, Procurement Administrator, ICC Staff, and the utilities to develop a draft of a refreshed standard contract and provided stakeholders the opportunity to comment on the refreshed contract. Based on comments received from participants in the process, implementation of the refreshed REC contract was deferred until new blocks were able to open—which occurred in December 2021 after the enactment of Public Act 102-0662. For program reopening in December 2021, two versions of the contract were released, one for projects under a 15-year REC delivery commitment, and one for projects under a 20-year REC delivery commitment. These two contract structures also incorporated changes necessary to comply with provisions of Public Act 102-0662.[353]

The Agency expects that as a result of the approval of this 2022 Long-Term Plan the REC delivery contracts may require additional updates and new contract versions will be developed with opportunities for stakeholder feedback as has been past Agency practice.

Once any updated contracts are finalized and thus required to be used, Approved Vendors may withdraw projects that had been submitted to the Program before the updated contract's finalization (that are not yet ICC-approved) with no penalty.

As the contract structure will be altered as a result of the above-mentioned process, the Agency recommends that projects approved by the Commission after the contract finalization date would use the new contract, regardless of application date. The Program will also provide an "off-ramp" option for any already-applied projects expecting to be subject to the original 2019 REC Delivery Contract rendered unable to be developed under the updated 2021 REC Delivery Contracts (although this appears to be unlikely given the nature of modifications found in the updated contract).

7.15. Annual Report

On an annual basis, each Approved Vendor is required submit an Annual Report of the contracts and systems in its portfolio.[354] The Annual Report serves as the basis for verifying that RECs from projects are being delivered to the applicable utility, and, absent corrective actions taken by the Approved Vendor, will be used to determine what actions should be taken by the utilities to enforce the

[351] This topic is discussed further in Section 7.10.6.

[352] See Docket No. 19-0995, Final Order dated February 18, 2020 at 49.

[353] See: https://illinoisabp.com/rec-contract/ for the current revised contracts and stakeholder comments related to their development. This refreshed ABP REC contract also served as the basis for the contract that has been implemented for the fourth program year of Illinois Solar for All.

[354] Approved Vendors may request confidential treatment of the Annual Report. However, aggregated information from Annual Reports may be publicly disclosed by the Agency to the extent that it does not disclose Approved Vendor-specific confidential information.

contractual requirements that RECs are delivered, including, but not limited to, drawing on collateral. Additionally, the Annual Report will be used by the Agency to consider the ongoing eligibility of an Approved Vendor to continue participation in the program.

For distributed generation systems, the report will include information on:

- RECs delivered by each of the systems in the portfolio
- Status of all systems that have been approved, but not yet energized, including any extensions requested and granted
- Energized systems that have not delivered RECs in the year
- Balance of collateral held by each utility
- A summary of requests for REC obligations reductions due to force majeure events
- A summary of requests for REC obligations, suspensions, reductions, or eliminations due to force majeure events
- Information on consumer complaints received
- Other information related to ongoing program participation, including use of graduates of job training programs and other information related to increasing the diversity of the solar workforce[355]

For community solar projects, the report will include those requirements listed above for distributed generation projects and additionally:

- Percentage of each system subscribed on a capacity basis
- The number and type of subscribers (e.g., residential, small commercial, large commercial/industrial), including capacity allocated to each type
- Subscriber turn-over rates

The Agency will review the annual reports to assess compliance with the requirements of the Adjustable Block Program and, if there are shortfalls of REC deliveries or subscription levels for photovoltaic community renewable generation projects, will coordinate with the applicable utility on what remedies should be taken, including drawing on collateral.[356] For this process and those described in the next two paragraphs, the performance evaluation and collateral draw methodologies have been specified in the standard REC delivery contract.

For community solar projects, subscription levels must be maintained to remain eligible for REC payments. If the annual report shows that subscriber levels on a rolling average basis have fallen below the subscribership level that the project contractually committed to, then if REC payments are still due, those payments will be reduced as described earlier in this chapter; if all payments have been made, then the Agency will work with the applicable utility on what remedies should be taken including drawing on collateral. If a project's subscribership falls below 50% for a given delivery year, no payment would be owed to the project for that delivery year, and a payment reduction or

[355] As discussed in the Commission's Order approving the First Revised Plan, this requirement was added in order to learn from and celebrate how the increase in solar development in Illinois is improving diversity in the state's renewable energy workforce. The IPA commits to gathering this information for informational purposes only. See Docket No. 19-0995, Final Order dated February 18, 2020 at 87.

[356] The Agency will request on a semi-annual basis a report from each utility on RECs delivered by contract.

collateral draw would result (although the project could regain 50% subscribership the following year and qualify for payment in relation to that year).

A similar review will be conducted for projects that have received a small subscriber participation adder but do not maintain sufficient levels of small subscriber participation. If small subscriber participation levels are not maintained and there are remaining REC payments due, those payments will be reduced (to either the actual small subscriber adder category that has been maintained, or to remove the adder altogether if the level falls below 25%). If all payments have been made, then the Agency will work with the applicable utility on what remedies should be taken including drawing on collateral.

Approved Vendors will be given 90 days to cure any deficiencies found by the Agency and/or utilities, and the failure to submit annual reports or cure deficiencies may carry consequences under REC delivery contracts and/or result in disciplinary action under the Program.

In addition to the Adjustable Block Program Annual Report, Approved Vendors and Designees will also be required to file an annual report related to their Equity Accountability Compliance Plan as described in Section 10.1.1.3. As the Equity Accountability System does not launch until June 1, 2023, the first report on the Equity Accountability Compliance Plan will not be due until July 15, 2024.

8. Illinois Solar for All

8.1. Overview

The Illinois Solar for All Program was created in 2017 through revisions to Section 1-56(b) of the IPA Act contained in Public Act 99-0906 to "include incentives for low-income distributed generation and community solar projects" with the following objectives:

> *"bring photovoltaics to low-income communities in this State in a manner that maximizes the development of new photovoltaic generating facilities, to create a long-term, low-income solar marketplace throughout this State, to integrate, through interaction with stakeholders, with existing energy efficiency initiatives, and to minimize administrative costs."*[357]

Public Act 99-0906 created four sub-programs within Illinois Solar for All, with incentives for each type of development:

(A) Low-income Distributed Generation, for on-site solar projects
(B) Low-Income Community Solar, for off-site solar projects
(C) Incentives for non-profits and public facilities to do on-site projects
(D) Low-Income Community Solar Pilot Projects, with distinct rules and incentives

The Act instructed the Agency to "include a description of its proposed approach to the design, administration, implementation and evaluation of the Illinois Solar for All Program" in this Plan. The Agency's Initial Long-Term Plan fulfilled this requirement for the Illinois Solar for All Program, and the Agency selected a Program Administrator and launched to program in early 2019.

While the price of photovoltaics has declined dramatically over recent years, there can be significant upfront costs for the development of projects. The financial incentives offered through the Adjustable Block Program may not be sufficient for low-income households and communities to overcome the substantial barriers to participating in the growing solar energy market. The Illinois Solar for All Program is an alternative approach and program to help address this challenge.

Public Act 102-0662, which took effect on September 15, 2021, updated the sub-programs that comprise Illinois Solar for All, increased available funding, and prioritized expanding participation in Illinois Solar for All to areas of Illinois previously underserved by the program, increasing development by small and emerging businesses, and encouraging development of projects promoting energy sovereignty.

The updates to the sub-program structure of Illinois Solar for All by Public Act 102-0662 eliminated the Low-Income Community Solar Pilot Projects and split the Low-Income Distributed Generation sub-program into separate sub-programs for distributed generation projects serving small residential (single- to four-unit residences) and large residential (five units or more) buildings. The Illinois Solar for All sub-programs under Public Act 102-0662 now consist of:

(A) Low-income Single-Family and Small Multifamily Solar

[357] 20 ILCS 3855/1-56(b)(2).

(B) Low-Income Community Solar
(C) Incentives for non-profits and public facilities
(D) Low-income large multifamily solar

The funding allocation percentages for these sub-programs were also adjusted, distributing the funding no longer allocated for the Low-Income Community Solar Pilot Projects to the new subprograms, with the Low-income Single-Family and Small Multifamily Solar and the Low-income multifamily solar sub-programs sharing a funding allocation.

8.2. Existing and New Design Elements

In initially developing the program, the Agency identified two key design elements for implementing the Illinois Solar for All Program that needed more focused discussion: the relationship to the Adjustable Block Program, and the creation of "tangible economic benefits" for participants. With the new provisions contained in Public Act 102-0662 the Agency has expanded its consideration of key design elements to also include small and emerging business development and energy sovereignty.

8.2.1. Relationship with the Adjustable Block Program

The goals of the Illinois Solar for All Program overlap with the goals of the Adjustable Block Program in that both promote distributed photovoltaic generation and community solar. The differences primarily involve the sectors that the programs serve, the structure of the incentives and program design, and the applicable funding sources.

As described in this Chapter, the Agency administers the Illinois Solar for All Program separately from the Adjustable Block Program, but it is built off of the program design of the Adjustable Block Program, with additional considerations specific to Illinois Solar for All. These include a different level of incentives, additional requirements to be an Illinois Solar for All Approved Vendor, additional project application requirements, Illinois Solar for All specific contracts, and additional considerations to ensure community involvement, consumer protections, and eligibility. To the extent not specifically mentioned in this Chapter, the program design, terms, and conditions of the Adjustable Block Program also apply to the administration of, and REC delivery contracts executed under, the Illinois Solar for All Program.

Many of the fundamental aspects of the Illinois Solar for All Program are identical, or at least similarly structured to the Adjustable Block Program, as detailed in Chapter 7 of this Plan. For example, as in ABP, projects located on a single parcel are considered co-located, which influences determination of system size and eligible REC prices (Section 7.5.5). To ensure program funds go to entities that have been properly vetted and commit to compliance with program terms, Illinois Solar for All accepts applications from program Approved Vendors, just as in ABP (Section 7.7). In order to qualify to apply to be an Illinois Solar for All Approved Vendor, the developer must register and maintain their status as an Approved Vendor with the Adjustable Block Program (Section 7.7.1). Entities that are not interested in entering into REC contracts as Approved Vendors but are subcontracted to work on ILSFA projects must register as Approved Vendor Designees (Sections 7.8 and 7.8.1). Additional requirements to qualify as an Illinois Solar for All Approved Vendor are found below in Section 8.9.

As with the Adjustable Block Program, Illinois Solar for All projects must meet technical and metering system requirements (Section 7.9.1 ad 7.9.2) as well as the same basic consumer protection

requirements found in Chapter 9, with additional consumer protection requirements for Illinois Solar for All participation detailed below in Section 8.11.

The requirements for a project to participate as a community solar project follow the framework outlined in Sections 7.9.6, 7.9.6.1, 7.9.6.2, and 7.9.6.3, while providing the additional participant savings and consumer protections detailed in this chapter.

As in Section 7.10, there is an application process for the submission of projects to the Illinois Solar for All program: projects are submitted in batches (7.10.1), are reviewed by the Program Administrator (7.10.4), have the anticipated quantity of RECs generated by the system over the contract term calculated (7.10.5), and, if in compliance with program requirements and selected, are submitted to the ICC for final approval (7.10.6). Following ICC approval, REC contracts are executed by the Approved Vendor and the contract Buyer for the RECs produced by the project (7.12). Project construction is completed (if it wasn't already) and must submit confirmation of utility energization and document final project details within a given deadline (7.11.1). If an Approved Vendor is unable to meet a project's given deadline, the REC contract provides options for requesting extensions to the deadline for meeting contract energization requirements (7.11.2) Once an Approved Vendor has provided the Program Administrator the required documentation to confirm project completion and energization by the utility, the project can be approved for payment (7.11.3 and 7.9.4). RECs generated by the project are delivered to the contract Buyer through irrevocable Standing Order and reported to the Program Administrator regularly through an Annual Reporting process (7.15). A collateral payment is required from the Approved Vendor Performance to ensure REC deliveries requirements are met for the duration of the REC contract (Section 7.12, 7.12.1, and 7.12.2). Following approval for payment, the Approved Vendor invoices the Buyer for payment on a schedule determined by the project type as outlined below.

Illinois Solar for All Approved Vendors must maintain status of good standing in the Adjustable Block Program as well as the Illinois Solar for All program, which includes submission of Annual Reports of REC deliveries and other program metrics for each program (7.15). The details and any differences in how these concepts are implemented within the Illinois Solar for All program are detailed further in the Illinois Solar for All Approved Vendor Manual.

8.2.2. Tangible Economic Benefits

The second consideration is the concept of "tangible economic benefits" and how low-income participants can capture them. Section 1-56(b)(2) of the Act stipulates that the Illinois Solar for All Program should "ensure tangible economic benefits flow directly to program participants."

The requirement that low-income program participants receive tangible benefits carries into the parameters of the contracts executed within the Illinois Solar for All Program as well. Section 1-56(b)(2) also requires that "[e]ach contract that provides for the installation of solar facilities shall provide that the solar facilities will produce energy and economic benefits, at a level determined by the Agency to be reasonable, for the participating low income customers."[358] In addition, contracts should "ensure [that] the wholesale market value of the energy is credited to participating low-income customers or organizations and to ensure tangible economic benefits flow directly to program participants, except in the case of low-income multi-family housing when the low-income

[358] 20 ILCS 3855/1-56(b)(2).

customer does not directly pay for energy."[359] For the purposes of this chapter the term "multi-family" applies to residential buildings with five or more units.

A key barrier to low-income participation in renewable energy programs is lack of access to funds and financing to pay for the up-front costs of photovoltaic systems.

To create "tangible economic benefits" at a "reasonable" level, the Agency has determined that eligible residential participants in the Illinois Solar for All Program should not have to pay up-front costs for on-site distributed generation or pay an up-front fee to subscribe to a community solar project.[360] Further, participation in the program should result in immediate, reliable reductions in energy costs for those residents or subscribers. Consistent with the Commission's Order in Docket No. 17-0838, this means that for projects that are financed or leased, any ongoing annual payments must be smaller than 50% of the annual first year estimated production and/or utility default service net metering value to be received by the customer.[361]

For this draft 2022 Plan, the Agency proposes two exceptions to this no up-front costs standard. The first would be made for Low-income large multi-family solar initiative projects (multi-family projects of five or more units) where the participant purchases the system. In this case, the residential participant's first-year savings may be less than 50% so long as the calculation of that customer's expected ongoing savings demonstrates that this requirement would be met through overall savings applied across the full 15 years of the REC delivery contract. The second would be to allow low-income community solar projects that are organized as cooperatives to promote energy sovereignty to charge a nominal fee to join the cooperative. The Agency is interested in stakeholder feedback on these exceptions, whether there should be a cap on up-front costs, and if so, at what amount.

The Agency requires that Illinois Solar for All Approved Vendors verify that developers, installers, landlords, and other intermediaries ensure that the resulting value of the incentives offered by the program flow through to the people the program is meant to serve. However, the Agency notes that in order to avoid an overly complex administrative system, incentive levels are not customized to each participant's specific economic circumstances.

For public and non-profit facilities that participate in the Illinois Solar for All Program, the Agency proposes to continue to utilize an incentive level that recognizes that these entities may not be able to capture the tax benefits that would be available to a comparable sized project participating in the Adjustable Block Program.[362] The higher REC price offered by the Illinois Solar for All Program can help overcome the financing barriers that certain non-profits and public facilities may face compared to private entities. The Agency observes that over 180 non-profit and public facility projects (exceeding 60 MW of capacity) applied to the Adjustable Block Program in its initial blocks, indicating that many such projects are viable at the REC prices offered by that program.

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[359] Id.

[360] This requirement does not apply to multi-family buildings with more than five units, or projects in the non-profit/ public facilities sub-program.

[361] See Docket No. 17-0838, Final Order dated April 3, 2018 at 151. As required by the Commission's Order, this calculation must be "disclosed to the customer and reviewed and approved by the Agency."

[362] See Appendix E-5 to Initial Plan, available at https://www2.illinois.gov/sites/ipa/Documents/2018ProcurementPlan/AppendixE-5ILSolarAllNon-ProfitPublicFacilitiesPricingModel.xls, at "CREST Inputs" tab, cell G73.

In order to account for these additional tax benefits, in the First Revised Plan the Agency proposed that Illinois Solar for All Approved Vendors submitting projects for non-profit or public facilities that *can* utilize the federal Investment Tax Credit under 26 U.S.C. § 48 will be required to demonstrate additional value to the project host. The Agency will maintain that approach for this 2022 Plan, as discussed further in Section 8.5.6 below.

Ensuring that "the wholesale market value of energy is credited to participating low-income customers" can be achieved through existing net metering provisions. Therefore, projects are required to participate in the applicable utility's or ARES's net metering program. This may prevent projects in the service territory of a municipal utility or rural electric cooperative that does not offer net metering from participating in the Illinois Solar for All Program. The Agency hopes that such municipal utilities and rural electric cooperatives strongly consider adopting net metering policies to bring the full value of solar to their residents and members.

Approved Vendors may demonstrate that they are ensuring that tangible economic benefits flow directly to program participants by providing documentary evidence to the Agency that: a project on a one to four-unit residential building has no upfront cost to the residential participant, except in cases of system purchases; that incentives are used by the project developer/installer to offset costs to the participant; and that there will not be ongoing costs or fees to the participant that exceed 50% of the value of energy produced. The resulting economic benefits to program participants will be accrued through the value they receive through net metering or avoided consumption from the energy the system produces. As described in Section 8.2.2, Illinois Solar for All Approved Vendors are required to document how they ensure that this goal is met. The case of low-income multi-family housing can be more complex and is discussed in more detail in Section 8.5.4.3.

It should be noted that program incentives are tied directly to creating economic benefits through lowered net energy costs and are calculated in that manner. As a result, there may be additional costs required to make a specific project viable (e.g., costs associated with roof repairs or wiring upgrades) that these incentives may not be able to address. Additional incentives to pay for those types of costs are not available through the Illinois Solar for All Program, but the Agency encourages participants to explore alternative sources of funding as needed. For example, Public Act 102-0662 creates a number of new initiatives administered by other state agencies such as the Department of Commerce and Economic Opportunity and the Illinois Finance Authority as described further in Section 8.8. The Agency and the Illinois Solar for All Program Administrator will also work with Illinois Solar for All Approved Vendors to facilitate informing and educating program participants about opportunities that may be available to them through utility-administered energy efficiency programs, weatherization assistance programs, lead abatement programs, and other forms of support. This includes the provision of a Program Resource Guide on those programs.[363]

Additionally, in order to facilitate the direct flow of tangible economic benefits to low-income residential participants, the Agency and its Illinois Solar for All Program Administrator will explore, and if deemed feasible and prudent, pursue the possibility of receiving guidance from the United States Department of Housing and Urban Development that would clarify the treatment of Illinois Solar for All benefits with regard to cost allowance-based low-income housing programs.

[363] See: https://www.illinoissfa.com/app/uploads/2019/03/ILSFA-Program-Resources-Guide-v1-20190318.pdf.

8.2.3. Small and Emerging Business Development

Public Act 102-0662 included a number of provisions aimed at encouraging business development.

Section 1-56 (b)(2) now requires the Agency to "make every effort to ensure that small and emerging businesses, particularly those located in low-income and environmental justice communities, are able to participate in the Illinois Solar for All Program" and to report on progress annually.

While the Act does not define "small and emerging" business, other state and federal programs have provided definitions for "small business." The Illinois Business Enterprise for Minorities, Women, and Persons with Disabilities Act promotes "open access in the awarding of State contracts to disadvantaged small business enterprises victimized by discriminatory practices."[364] Eligible small businesses have annual gross sales of less than $75,000,000.[365] The Small Business Set-Aside Program of the Illinois Department of Central Management Services reserves certain types of state procurement contracts for small businesses. According to the Department:[366]

- "A small business means one that is independently owned and operated, is not dominant in its field or operation, and meets the required size status and the following sales limitations: ….
- No CONSTRUCTION business can exceed $14 Million in annual sales and receipts.
- No MANUFACTURING business can employ more than 250 persons."

The federal definition of a small business varies by industry. For example, the US Small Business Administration (SBA) considers Electrical Contractors and Other Wiring Installation Contractors (NAICS code 238210) that have annual revenues of less than $16.5 million[367] as small for federal contracting purposes. **To help small and emerging businesses participate in the Illinois Solar For All Program, the Agency proposes to use the federal SBA definition of "small," based on annual revenues within the appropriate NAICS category. The Agency welcomes feedback on this proposal.**

Definitions of an "emerging" business vary widely by jurisdiction, and may include factors such as the novelty of the business or the industry, the duration of operations, revenues or number of employees, or whether the majority owner is in a category of people that has suffered discrimination in the past. **For "emerging business," the Agency proposes to define it as a business that has been authorized to do business in any US state for less than three years. The Agency welcomes feedback on this proposed definition.**

Public Act 102-0662 also creates a number of job training and business development programs, as discussed in more detail in Section 8.8.1. While many of these programs focus on technical skills, the Agency sees a need for business training, especially around efforts to encourage energy sovereignty and community-driven solar projects. Ownership and management of projects requires skills in finance, permitting, regulations, community engagement, marketing, customer acquisition and management, and other topics. Two of the programs, the Clean Energy Contractor Incubator

[364] 30 ILCS 575/1.

[365] Id. at (2)(a)(10).

[366] State of Illinois, Chief Procurement Office, website, accessed January 10, 2022. https://www2.illinois.gov/cpo/general/Pages/Sell2Illinois.aspx

[367] See Small Business Association "size standards" at https://www.sba.gov/federal-contracting/contracting-guide/size-standards.

Program and Clean Energy Primes Contractor Accelerator Program, do include business development activities. The Agency encourages DCEO and stakeholders to consider the need for business training around ownership and management of solar projects. Such a program could be supported by or integrated with the Community Solar Energy Sovereignty Grant Program.

8.2.4. Energy Sovereignty

Public Act 102-0662 introduces a new concept for the Illinois Solar for All program, that of energy sovereignty.

Section 1-56(b)(2)(A)(i) requires the Agency to reserve "a portion" of Illinois Solar for All funding "for projects that promote energy sovereignty through ownership of projects by low-income households, not-for-profit organizations providing services to low-income households, affordable housing owners, community cooperatives, or community-based limited liability companies providing services to low-income households."

The Act identifies several potential factors that create energy sovereignty, such as "that local people have control of the project and reap benefits from the project over and above energy bill savings." Eligible energy sovereignty projects can "promote ownership over time" or "involve partial project ownership by communities." The Act also permits the Agency to set higher incentive levels for projects within ILSFA that promote energy sovereignty than for those that do not.

While the law does not define "energy sovereignty," Section 1-56(b)(2)(A)(i) refers to two concepts in relation to energy sovereignty. First, it envisions "ownership of projects by low-income households, not-for-profit organizations providing services to low-income households, affordable housing owners, community cooperatives, or community-based limited liability companies providing services to low-income households; second, it seeks to ensure that "local people have control of the project and reap benefits from the project over and above energy bill savings."

Section 1-56(b)(2) does not define "ownership," but Section 1-75(c)(1)(K)(v) defines "community ownership" as "an arrangement in which an electric generating facility is, or over time will be, in significant part, owned collectively by members of the community to which an electric generating facility provides benefits; members of that community participate in decisions regarding the governance, operation, maintenance, and upgrades of and to that facility; and members of that community benefit from regular use of that facility." While not directly applicable to programs in Section 1-56(b), this definition can provide guidance for the Agency in setting a standard for "ownership" within the Illinois Solar for All Program. This definition points to the ability of "owners" to participate in decisions regarding the operations and management of the facility and to benefit from using the facility. For Low-income Single and Small Multifamily Distributed Generation, being the sole or majority owner of the solar installation would create such abilities. For Low-Income Large Multifamily Distributed Generation and Low-Income Community Solar, potential factors that the Agency proposes to inform qualification as supporting energy sovereignty is discussed in more detail below.

The second concept included in Section 1-56(b)(2)(A)(i) as an element of energy sovereignty in fact contains two factors. First, "that local people have control of the project," and second, that they "reap benefits from the project over and above energy bill savings. The simplest interpretation of "control" is the ability to determine the use and management of the facility, including operations and maintenance, finance and revenues, and other managerial matters. Broader interpretations of

"control" include a greater sense of "energy democracy" such as "interdependence, conservation, wealth-building, political autonomy, and economic opportunity."[368] Likewise, the benefits that can be reaped "over and above energy bill savings" flow largely from ownership, such as self-reliance, income and wealth building. Other benefits, such as pollution reduction and property tax base, would be reaped by local communities with or without local ownership.

The Agency believes that majority ownership by individuals or community institutions listed by Section 1-56(b)(2)(A)(i) is the most direct way to ensure that local people will have control over and reap the benefits from photovoltaic energy projects. **Thus, the Agency proposes to define "energy sovereignty" as the low-income household or community organization having or being on a defined path to majority ownership of the photovoltaic facility. Discussion of the various business and ownership models that might qualify follows below, and Section 8.5.1 offers further detail regarding eligibility to be considered an energy sovereignty project and the associated program benefits. The Agency welcomes comment on this definition.**

The Agency recognizes that low-income households may encounter a number of barriers to ownership of both distributed generation and community solar projects. Low-income households may lack savings to buy systems outright, they may not have a credit score high enough to enable financing, they may not own their dwelling, and their home may need electrical or structural upgrades to enable installation of solar.

A further impediment—for individuals, non-profits, public agencies, schools, and others—is the structure of federal tax incentives. Investments in community solar are eligible for the Section 48 investment tax credit and accelerated depreciation,[369] which can only be applied against taxes on passive (investment) income.[370] The Section 25D residential solar tax credit,[371] for rooftop solar panels, is claimed against income tax, but cannot be refunded to taxpayers with insufficient taxable income. As a result, solar projects often require a "tax equity" partner who can monetize federal tax credits and depreciation. This combination of incentives can be worth over 40% of the upfront investment in a commercial solar project.[372] To attain ownership, the tax equity partner or third-party owner ("TPO") can sell or "flip" ownership to the other party after 5-7 years, when the main financial incentives have been captured. The details and mechanisms vary for the two types of deployment: on-site solar or remote community solar.[373]

On-site systems are either owned by the customer and financed using a cash purchase or a loan, or they are owned by a TPO with the system leased to the customer or the power sold to the customer

[368] Chelsea Schelly, et al, "Energy policy for energy sovereignty: Can policy tools enhance energy sovereignty?" (https://digitalcommons.mtu.edu/michigantech-p/2066/) *Solar Energy* 205 (2020) 109–112.

[369] 26 U.S.C. §48.

[370] Congressional Research Service, "Tax Equity Financing: An Introduction and Policy Considerations," report number R45693, April 17, 2019. https://www.everycrsreport.com/reports/R45693.html.

[371] 26 U.S.C. §25D.

[372] Keith Martin, Norton Rose Fulbright, "Partnership flips: Structures and issues," February 18, 2021. https://www.projectfinance.law/publications/2021/february/partnership-flips/.

[373] The Agency notes that the "Build Back Better" legislation currently under consideration at the Federal level may significantly revamp the nature of this tax credit and the provisions discussed herein may not apply in the future. If that bill, or similar legislation, is enacted prior to the filing of this 2022 Long-Term Plan for ICC approval, the Agency will update this discussion accordingly.

through a power purchase agreement ("PPA").[374] In the Illinois Solar For All Program to date, most Low-income Distributed Generation installations have been leased to eligible customers. A common method of transferring ownership in such circumstances is an early buyout ("EBO") of a lease or PPA.

Community solar projects are typically owned by a for-profit developer, often in conjunction with a tax equity partner who is able to take advantage of federal incentives. This partnership sells subscriptions to customers, but usually retains ownership. Alternative models that would lead to greater community ownership and control could include: ownership by local businesses or investors with sufficient tax appetite to monetize incentives; by local non-taxable entities such as governments, community choice energy aggregators, non-profit businesses or organizations, and cooperatives, in conjunction with a tax equity partner; or, by a for-profit (and taxable) subsidiary of a non-profit entity, created specifically to own the solar project; or by some combination of partners. As with distributed generation, a transfer of ownership after 5-7 years would enable ownership of community solar by a community organization.

For ownership of community solar by individuals, two strategies are currently being applied in the United States: owning shares in a community solar company[375] or owning parts of a community solar installation.[376] Individuals could also own shares in a corporation that owns a community solar project. But creating a corporate structure that complies with Securities and Exchange Commission regulations on public ownership can be an onerous financial burden for what would be a small company.

The Agency would welcome comment on how these different models might be leveraged within the Illinois Solar for All Program to better facilitate energy sovereignty

Related to the Agency's consideration of models for energy sovereignty, Public Act 102-0662 enacted the Energy Transition Act, which established the Community Solar Energy Sovereignty Grant Program (Section 5-60 of the Energy Transition Act), to be administered by DCEO. The Sovereignty Grant Program shall support "applicants that best demonstrate the ability and intent to create community ownership and other local community benefits, including local community wealth building via community renewable generation projects." The Agency recognizes the potential for positive interactions between this Grant Program and the Illinois Solar for All Program and will work with DCEO to maximize such benefits.

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[374] Nate Hausman, Clean Energy States Alliance, "A Homeowner's Guide to Solar Financing: Leases, Loans and PPAs," November 28, 2018. https://www.cesa.org/resource-library/resource/a-homeowners-guide-to-solar-financing-leases-loans-and-ppas/.

[375] Customers would own shares in a community solar cooperative or corporation. Cooperative Energy Futures ("CEF") in Minnesota has 950 member-owners and owns 6.9 MW of solar in eight projects. Members pay $25 to join the co-op, and can subscribe to take solar electricity via virtual net metering. They can also participate in energy efficiency programs or buy preferred stock in the co-op when it is offered. Like a standard solar company, the co-op teams up with a tax equity partner to capture tax benefits, with majority ownership then flipped to the co-op, in effect managing tax issues for its customer/owners.

[376] Customers can own solar panels in a community solar project. This approach is being used by a community solar cooperative in the Northeast US, Co-Op Power,[376] and by publicly-owned utilities in Colorado and Kansas. In this case, the customer buys and owns the panels and is responsible for monetizing tax credits, selling or retaining renewable energy credits (in some states), and paying the project manager for system operations and maintenance. The customer gets the value of the electricity as a bill credit and can sell ownership in their panels to other utility customers or co-op members. Owning the panels directly requires individual owners to be able to use the tax credits, which may be an impediment for low-income customers. However, that model could also include a taxable partner and a transfer of ownership, such as through a lease with an early buyout option.

8.3. Program Launch and Experience to Date

In implementing the various new programs and procurements mandated by Public Act 99-0906 (and now updated by Public Act 102-0662), the Agency had a large and varied set of new tasks to undertake. The Agency appreciates the strong interest in the Illinois Solar for All Program and desire to make the benefits of the Program available to low-income households and communities so that they can benefit from lower energy costs. The Illinois Solar for All Program as originally proposed in Public Act 99-0906 mostly builds on the Adjustable Block Program described in Chapter 7; therefore, it was necessary to first have the Adjustable Block Program's design finalized and put into operation before the Illinois Solar for All Program launched. Like with the Adjustable Block Program, while the Initial Plan and First Revised Plan detailed many programmatic considerations, final program design including contracts, program manuals, etc. needed to be developed and finalized by the Agency and the Illinois Solar for All Program Administrator(s) prior to program launch.

In November 2018, the Agency and Program Administrator initiated a series of stakeholder engagement sessions to share draft program details with the public and invite written feedback, which was considered in planning the implementation of the Illinois Solar for All Program. Stakeholder feedback sessions were held on a number of topics, including Environmental Justice Communities, Job Training, Approved Vendor Registration, Grassroots Education, Third Party Program Evaluation, Consumer Protection, and Project and Participant Eligibility. These opportunities to engage the public helped ensure that the process of finalizing program protocols and requirements was transparent and responsive to input from stakeholders from the solar industry, environmental advocates, and low-income advocates.

The program began accepting applications for registering Illinois Solar for All Approved Vendors on February 19, 2019 and opened for project applications on May 15, 2019. Due to anticipated high interest in the program's incentives for new low-income solar installations, the program launch included an initial project application window for the 2018-2019 program year of 30 days for Low-Income Community Solar projects and 45 days for Low-Income Distributed Generation and Non-Profit/Public Facilities projects. Forty-five Low-Income Community Solar applications (totaling nearly 60 MW of capacity), 28 Non-Profit/Public Facilities applications (totaling over 3 MW of capacity), and one Low-Income Distributed Generation application (2 MW of capacity) applied during that initial window. The applications for Low-Income Community Solar and Non-Profit/Public Facility projects exceeded allocated sub-program budgets for the program year, while the Low-Income Distributed Generation sub-program featured application levels below the allocated sub-program budget. Five Low-Income Community Solar projects (totaling 4 MW of capacity), and seven Non-Profit/Public Facility projects (1.3 MW of capacity) were selected. The community solar projects were selected using the project selection protocol (as discussed further in Section 8.10.2) while all the eligible Non-Profit/Public Facility projects were selected (the volume of project applications in that sub-program dropped below the annual sub-program budget after some were deemed ineligible during review). The one distributed generation applicant project withdrew. In the latter two sub-programs, unused 2018-2019 sub-program budget was rolled over to the respective 2019-2020 sub-program budget.

For the 2019-2020 Program Year, 30 Low-Income Community Solar projects (54.5 MW), 20 Non-Profit/Public Facilities projects (2.7 MW), and 11 Low-Income Distributed Generation projects (2 MW) applied during the initial project application window. Eligible applications for Low-Income Community Solar projects exceeded the allocated sub-program budget for that program year, so the

project selection protocol was executed for the Low-Income Community Solar sub-program. Four community solar projects were selected (totaling 4 MW of capacity). The Non-Profit/Public Facilities sub-program reopened on October 25, 2019 for rolling project applications and closed on February 26, 2020 after 24 projects (totaling 2.8 MW of capacity) were approved for the program year. Applications for the Low-Income Distributed Generation sub-program did not fill available the available budget and that sub-program reopened for rolling project applications on October 1, 2019. One multi-family (2 MW) and nine single-family distributed generation projects (totaling 58 kW) were approved by the ICC before the program closed on May 31, 2020.

For the 2020-2021 Program Year, 17 Low-Income Community Solar projects (over 35 MW), 33 Non-Profit/Public Facilities projects (4.9 MW), and 7 multi-family unit (0.354 MW) were submitted during the initial project application windows. Eligible applications for Low-Income Community solar projects exceeded the allocated sub-program budget for the program year, so the project selection protocol was executed for the Low-Income Community Solar program. Three community solar projects were selected (totaling 4.5 MW of capacity). Eligible applications for the Non-Profit/Public Facilities sub-program also exceeded the allocated sub-program budget for the program year, so the project selection protocol was executed and 18 projects (2.4 MW) were selected, and an additional project (0.3 MW) from the waitlist was able to be approved when funding was made available following a project withdrawal from the program. Again, applications for the Low-Income Distributed Generation sub-program did not fill the available budget and reopened for rolling project applications on July 20, 2020. A total of nine multi-family units (0.424 MW) and 53 single-family distributed generation projects (0.295 MW), totaling 0.719 MW, were approved by the ICC before the program year closed on May 31, 2021.

Figure 8-1: ILSFA Program Years 1-3 Project Applications and Selections

Illinois Solar For All applications submitted and selected for program years 1-3 (2018-19 through 2020-21)

For the 2021-2022 Program Year, 58 Distributed Generation Projects (55 single-family and small multifamily, and 3 5+ unit multifamily) have applied as of January 13, 2022 and the sub-program

remains open for project applications. Forty-eight Non-Profit/Public Facilities Projects (5.8 MW) applied during the initial application window and eligible applications exceeded the allocated sub-program budget for the program year. Project selection occurred on August 11, 2021 and 20 Projects (2.4 MW) were selected (two projects had incentive values larger than the remaining funds and will need to resize their projects or accept a lesser incentive value). As of the release of this draft 2022 Plan, nineteen of those projects have been approved by the ICC, and one selected project is considering the option to resize to accept remaining sub-program budget amounts. The program year application window for low-income community solar project applications opened on August 23, 2021. Thirteen projects (16.8 MW) were submitted, and eligible projects exceeded the allocated sub-program budget. Project selection was conducted on October 27, 2021 resulting in the selection of three projects (4.4 MW), which were approved by the ICC on November 18, 2021.

8.4. Funding and Budget

The Illinois Solar for All Program is funded through three sources. First, the Renewable Energy Resources Fund pursuant to Section 1-56(b)(2) of the IPA Act; second, funds from the renewable energy resources budgets of the utilities pursuant to Section 1-75(c)(1)(O) of the IPA Act; and third, potential additional funds from the renewable resources budgets of the utilities pursuant to Section 16-108(k) of the Public Utilities Act.

8.4.1. Funding

While Section 1-56(b)(2) envisions the Illinois Solar for All Program being funded primarily through the Renewable Energy Resources Fund, as of January 13, 2022, the balance of the Renewable Energy Resources Fund is $ 29,265,692 (not including $108.5 million that has been lent to the state's General Revenue Fund and Health Insurance Reserve Fund as discussed below and not yet repaid), while existing commitments from the Fund for contracts from the Supplemental Photovoltaic Procurements total $4.5 million[377] and for Illinois Solar for All from the first three program years, $52.5 million. This implies $80.8 million of RERF funds remain available for Illinois Solar for All. Prior to the 2018-2019 program year (i.e., at the outset of the Program), before the Agency had paid any administrative costs to its Program Administrator, $150.0 million of RERF funds were available for Illinois Solar for All; this is the figure the Agency will use in this Section in explaining sub-program allocations from the RERF.

Two transfers of $10 million were made in 2020, one to the General Revenue Fund and one to the Health Insurance Reserve Fund. As with the prior-transferred amount, these transfers are still required to be repaid back into the RERF, and that funding remains available for supporting expenditures from the RERF.

Prior to the enactment of Public Act 99-0906, the Renewable Energy Resources Fund received Alternative Compliance Payments each fall from Alternative Retail Electric Suppliers as part of their RPS compliance obligations. Under the revisions to Section 16-115D of the PUA contained in Public Act 99-0906, those payments were no longer made to the Fund as of June 1, 2017; rather, they were

[377] The commitments consist of REC delivery contracts previously entered into and are being paid, or will be paid, over a five-year REC delivery schedule (invoiced quarterly) depending on when individual systems under contract were completed and began REC deliveries.

now made to the utilities, and were be paid to the utilities through Fall 2019.[378] With those payments no longer being made into the RERF, there is no new revenue that will be deposited into the Fund.

The RERF's current balance is due to the fact that on August 10, 2017, $150 million was transferred from the Renewable Energy Resources Fund to the General Revenue Fund pursuant to the borrowing provisions contained in Section 5h.5 of the State Finance Act.[379] Thirty-seven and a half million dollars was paid back into the RERF in April of 2019,[380] and the remainder of borrowed funds are required by law to be paid back to the Renewable Energy Resources Fund within five years (i.e., by August 10, 2022).[381] As described above, two additional transfers of $10 million were also made in 2020 under this same authority. In recent months repayments into the Fund have been made including $4 million in September 2021, $10 million in December 2021, and $10 million in January 2022.

Section 5h.5(b) contains a provision that when the RERF (or for that matter other state funds that had similar transfers),

> *ha[s] insufficient cash from which the State Comptroller may make expenditures properly supported by appropriations from the fund, then the State Treasurer and State Comptroller shall transfer from general funds to the fund only such amount as is immediately necessary to satisfy outstanding expenditure obligations on a timely basis.*

Likewise, that Section also provides for,

> *continuing authority for and direction to the State Treasurer and State Comptroller to reimburse the funds of origin from general funds by transferring to the funds of origin, at such times and in such amounts as directed by the Comptroller when necessary to support appropriated expenditures from the funds, an amount equal to that transferred from them plus any interest that would have accrued thereon had the transfer not occurred…*

Were the RERF balance insufficient for payments under any new contractual obligations, these provisions would allow the Agency to make expenditures from the RERF prior to the repayment of the transferred amount—i.e., to operate as though the RERF's balance were at its original amount, even if transferred funds have not yet been moved back into the RERF. In addition, the Agency understands that the State Comptroller will coordinate with the Agency to make sure that any appropriated expenditures that the Agency makes through new contractual commitments are honored by ensuring that the balance of the RERF is at all times sufficient to make timely payments on contracts. While the Agency understands that these transfers from the RERF have caused consternation, based on the assurances contained in the law, it does not believe that these transfers

[378] See 220 ILCS 5/16-115D(i); after May 31, 2019, the ARES will no longer have any future Alternative Compliance Payment obligations, although "alternative retail electric suppliers and electric utilities operating outside their service territories shall be obligated to make all alternative compliance payments that they were obligated to pay for periods through and including May 31, 2019, but were not paid as of that date." Those payments are due to by September 1, 2019.

[379] 30 ILCS 105/5h.5(b);

[380] https://illinoiscomptroller.gov/financial-data/state-revenues/by-fund/?FundSel=0836&FundGrpSel=&FundCatSel=&FundTypeSel=&GroupBy=Agcy&FY=18&ShowMo=Yes&submitted.

[381] Section 5h.5 was initially created by Public Act 100-0023 and set the repayment time at two years from initial transfer. This transfer-back deadline was subsequently amended to four years by Public Act 101-0010 and then to five years by Public Act 102-0016 .

necessitate any adjustments to its proposed Illinois Solar for All program design, structure, and budget.

8.4.2. Illinois Solar for All program design, structure, and budget

For the Low-Income Distributed Generation Initiative, the Low-Income Community Solar Project Initiative, and Incentives for Non-Profits and Public Facilities sub-programs the Agency plans to allocate up to $16.5 million per program year from the RERF for use for the Illinois Solar for All Program (the Low-Income Community Solar Pilot Projects sub-program is conducted through a different process that allocates funds to each procurement event rather than program year).[382] In the First Revised Plan, the Agency clarified that this allocation will be on an accrual basis, meaning that the amount allocated sets aside that much funding for selected applications during that program year, but are likely to actually be expended in future years in many cases due to the development timeline of photovoltaic projects (RECs are paid for upon energization). Unallocated RERF funds from any program year for a given sub-program would roll over and increase the balance available for the subsequent program year for that sub-program.

Table 8-1: RERF Funding for Illinois Solar for All [383]

Funding Source	Low-Income Distributed Generation Incentives[384]	Low-Income Community Solar Project Initiative	Incentives for Non-Profits and Public Facilities	Total
RERF Allocation Percent	35%	40%	25%	100%
Previously allocated* for 2018-2019 through 2021-2022 Program Years[385]	$18,000,000	$30,000,000	$12,000,000	$80,000,000[386]
Allocated* for 2022-2023 Program Year	$5,775,000	$6,600,000	$4,125,000	$16,500,000
Allocated* for 2023-2024 Program Year	$5,775,000	$6,600,000	$4,125,000	$16,500,000

* RERF funds not allocated within a sub-program for a program year will roll over to the next program year for that same sub-program.

Allocations are based on $150 million of the RERF available for Illinois Solar for All at the time of the Initial Plan development, and assume continuing level support from the RERF for the three non-pilot sub-programs in the 2022-2023, 2023-2024, and 2024-2025 program years (which, if fully allocated, would eventually deplete the RERF, leaving only utility-supplied funding available for program years after 2024-2025).

[382] As stated in Section 2.6.1, a program year for ILSFA corresponds to an energy delivery year and thus starts June 1 of each year. Therefore, a program year starts one month earlier than the state fiscal year, which begins July 1.

[383] The annual RERF sub-program budgets stated above are gross budgets *before* deducting administrative, evaluation, & grassroots education costs; the budgets actually available for REC incentives will be net of those costs.

[384] This includes both the Low-income Single-Family and Small Multifamily Incentive and the Low-income Large Multifamily Solar Incentive.

[385] $7,273,296 of RERF allocations from the 2018-2019 through 2020-2021 program years was not allocated to projects and is available during the 2021-2022 program year and if not allocated would be further rolled over to the 2022-2023 program year.

[386] This includes $20,000,000 allocated to Low-income Community Solar Pilot Procurement projects from the procurement conducted in 2019. That sub-program of Illinois Solar for All was repealed by Public Act 102-0662.

The funds allocated from the RERF are allocated according to the percentages specified in Section 1-56(b)(2) of the Act as modified by Public Act 102-0662, namely 35% combined for the Low-income Single-Family and Small Multifamily Incentive and the Low-income Large Multifamily Solar Incentive sub-programs, 40% to the Low-Income Community Solar Project Initiative sub-program, and 25% for the Incentives for non-profits and public facilities sub-program.

Prior to the enactment of Public Act 102-0662, Section 1-56(b)(2)(D) set aside 25% of the RERF for Low-Income Community Solar Pilot Projects, which was $37.5 million. As discussed further in Section 8.5.7, the Agency set a budget of $20 million for the first Low-Income Community Solar Pilot Project procurement held in December 2019 and two projects were selected. Public Act 102-0662 repealed this subsection and there will be no subsequent procurements.

After accounting for all payments under the Supplemental Photovoltaic Procurement process pursuant to Section 1-56(i) of the IPA Act, as well as all payments under Illinois Solar for All contracts, whenever the balance of the RERF falls under $5,000, then the RERF shall be inoperative and any remaining funds shall be transferred to the Supplemental Low-Income Energy Assistance Fund for use in the Low-Income Home Energy Assistance Program, as authorized by the Energy Assistance Act.[387]

8.4.3. Utilities Annual Funding Available

Section 1-75(c)(1)(O) under Public Act 99-0906 contained a provision that allocated the greater of $10 million or 5% of "fund available under the plan" to Illinois Solar for All. Under Public Act 102-0662, this language was updated:

> *The long-term renewable resources procurement plan shall allocate up to $50,000,000 per delivery year to fund the programs, and the plan shall determine the amount of funding to be apportioned to the programs identified in subsection (b) of Section 1-56 of this Act; provided that for the delivery years beginning June 1, 2021, June 1, 2022, and June 1, 2023, the long-term renewable resources procurement plan may average the annual budgets over a 3-year period to account for program ramp-up. For the delivery years beginning June 1, 2021, June 1, 2024, June 1, 2027, and June 1, 2030 and* [sic] *additional $10,000,000 shall be provided to the Department of Commerce and Economic Opportunity to implement the workforce development programs and reporting as outlined in Section 16-108.12 of the Public Utilities Act.*

As discussed in Section 2.9.1, the Agency understands the above statutory provision to refer to funds collected by utilities through RPS riders under Section 1-75(c)(6) of the Act and Section 16-108(k) of the PUA. Public Act 102-0662 increased the previous $10,000,000 annual allocation of utility funds to $50,000,000. For the 2021-2022, 2022-2023, and 2023-2024 delivery years, the Agency is allowed to determine the allocation to allow for a ramping up at an average of $50,000,000 per year for those three program years, then will allocate $50,000,000 each year towards Illinois Solar for All.

As the 2021-2022 delivery year was already underway when Public Act 102-0662 was enacted, it raised the question of how the annual allocation of utility funding for the 2022-2023 delivery year had already been established through the Revised Long-Term Plan approved by the Commission in 2020. On January 10, 2022 the Agency filed a petition with the Illinois Commerce Commission

[387] 20 ILCS 3855/1-56(b-10).

seeking to have a limited reopening of the Revised Long-Term Plan to update the 2022-2023 delivery budget year allocation of utility RPS funds to conform with Public Act 102-0662.[388] To maximize opportunities in the Illinois Solar for All Program the Agency proposed an immediate ramp-up to $50 million. As of the release of this draft 2022 Long-Term Plan the result of this request has not yet been determined.

For the 2022-2023 and 2023-2034 delivery years the Agency proposes to continue allocating $50 million per year from utility collected fund.

These funds are supplied by each utility based on the allocation percentages contained in Section 3.1.7.

Section 1-56(b)(2), as updated by Public Act 102-0662, now requires that utility funding initially be allocated to the sub-programs at the same percentages as the RERF funds, as dictated by that same section (35% combined allocation to the Low-income Single Family and Small Multifamily Solar and the Low-income Multifamily Solar sub-programs, 40% to the Low-Income Community Solar Project Initiative, and 25% to Incentives for Non-Profits and Public Facilities). In this draft 2022 Plan, the Agency plans to continue the approach described in the Initial Plan and now required under Section 1-56(b)(2) for the 2021-2022 program year. As this allocation of utility funding to the sub-programs is not required by law after the initial allocation, the Agency may adjust utility funding between those sub-programs on an as-needed basis after the 2022-2023 program year if there are available funds in one sub-program and higher demand in another sub-program, with the exception that funds for the Distributed Generation sub-program will not be reallocated.[389]

For each of the sub-programs, approved project applications within a program year will be first funded by the utility funds, and then by the RERF funds. The reason for this approach is that, utility funds are that not spent within five years of when they are collected may be returned to ratepayers through a reconciliation process,[390] while RERF funds are not subject to the same reconciliation and refund mechanism. Unallocated RERF funds within a sub-program from each program year would be rolled over to the following program year.

The funding for job training programs provided by the Department of Commerce and Economic Opportunity ("DCEO") under Section 16-108.12 of the PUA is noted in the budget discussion in Chapter 3. As those funds are not directly part of the Illinois Solar for All Program as managed by the Agency, those funds are not included in this budget discussion. (The intersection between the Illinois Solar for All Program and the job training programs is discussed in Section 8.9.1)

8.4.4. Section 16-108(k) Funding (Now Inoperable)

Prior to the enactment of Public Act 102-0662, Section 16-108(k) of the Public Utilities Act contemplated a possible situation in which the total amount of funds appropriated by the General Assembly from 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" and a mechanism to potentially address that shortfall. This provision has now been removed from Section 16-108(k). For

[388] See: https://www.icc.illinois.gov/docket/P2019-0995/documents/319359.

[389] See Section 8.5.3.1.

[390] See 220 ILCS 5/16-108(k).

a discussion of this now inoperable mechanism, please refer to Section 8.4.3 of previous versions of the Long-Term Plan.

8.4.5. Setting Budgets

The Agency has developed the Illinois Solar for All Program under the assumption that the funds available for the 2022-2023 and 2023-2024 delivery years will be funds from the RERF and the utility-supplied funds identified in Section 8.4.3. Table 8-2 provides a summary of the Illinois Solar for All funding.

As discussed in Section 8.5.1, 25% of funds in each sub-program category will be reserved for the Energy Sovereignty Fund that is intended to promote ownership for eligible customers.

Table 8-2: Total Illinois Solar for All Budgets[391]

Funding Source	**Low-Income Distributed Generation Incentives** (Low-Income Single-Family and Small Multifamily Solar; Low-Income Large Multifamily Solar)	**Low-Income Community Solar Project Initiative**	**Incentives for Non-Profits and Public Facilities**
Percentage Allocation	**35%**	**40%**	**25%**
2022-2023 Program Year			
RERF	$5,775,000	$6,600,000	$4,125,000
Utility	$17,500,000	$20,000,000	$12,500,000
Total	**$23,775,000**	**$26,600,000**	**$16,125,000**
2023-2024 Program Year			
RERF	$5,775,000	$6,600,000	$4,125,000
Utility	$17,500,000	$20,000,000	$12,500,000
Total	**$23,775,000**	**$26,600,000**	**$16,125,000**

8.4.6. Payment Structure

The Illinois Solar for All Program is structured so that the Agency "may pay for such renewable energy credits through an upfront payment per installed kilowatt of nameplate capacity paid once the device is interconnected at the distribution system level of the interconnecting utility and verified as energized."[392] Section 7.10.5 describes the options for the capacity factor used in the Adjustable Block Program to convert kilowatt size of a project to the number of RECs the system would be expected to generate over 15 years and those same options apply to Illinois Solar for All. For each approved system, the Program Administrator will calculate a 15-year REC delivery quantity. Illinois Solar for All Approved Vendors will have the option of using a PVWatts calculated capacity factor (stated relative to a system's nameplate capacity in AC rating) automatically computed by the application platform, or propose an alternative capacity factor based upon an analysis conducted

[391] As noted above in Section 8.4, the RERF sub-program funding amounts are gross budgets before deduction of administrative costs. Additionally, there could be unused utility funds and/or RERF funds from the sub-program budgets for 2018-2019 through 2021-2022 that are rolled over to 2022-2023.

[392] 20 ILCS 3855/1-56(b)(3).

using an equivalent tool. Alternative capacity factors may be proposed as part of each system's application and will be subject to review and approval by the Program Administrator. Systems using bifacial panels must submit an alternative capacity factor subject to review and approval by the Program Administrator. All capacity factors submitted must be for a system's first year; as stated below, annual REC delivery commitments will incorporate a 0.5% per year degradation factor.

Payments for Illinois Solar for All incentives take the form of upfront payments upon energization of systems, with the similar conditions as the Adjustable Block Program that a system must also be registered in GATS or M-RETS to verify that it will produce RECs.

REC delivery contracts are either with the Agency or an electric utility, depending on the funding source,[393] and include the assignment of RECs from each system for 15 years. RECs from these contracts are applied to the annual RPS goals of the utility to which the project is interconnected, but do not count toward each utility's new photovoltaic project targets.[394] Projects that receive a contract through Illinois Solar for All are not eligible also to receive a contract through the Adjustable Block Program.[395]

Contracts with the Agency (that utilize funds from the RERF) are standard contracts that include required state contract provisions—such as terms, conditions, and attachments—including a clause stating that payment is subject to appropriation. Contracts with the utilities may have similarities, but vary given the different requirements applicable to each.[396] Similar to what was discussed in Section 7.14 regarding contracts for the Adjustable Block Program, the Agency published standard REC delivery contracts (one for the Agency as counterparty and one for a utility as counterparty) for Illinois Solar for All in May 2019; following the approval of the First Revised Plan the Agency updated the Illinois Solar for All REC contract structure following the concepts included in Section 7.13, including updates to the payment withholding in lieu of collateral option as discussed in Section 7.12.1. This new contract was implemented beginning in the fourth program year, 2021-2022.

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 does not apply RECs from those projects procured through contracts with the Agency using the RERF to the utility RPS goals, while any RECs procured through contracts with a utility are applied to the RPS goals of the contracting utility.[397]

8.5. Program Requirements and Incentives

Section 1-56(b)(2) outlines four sub-programs of the Illinois Solar for All Program:

[393] See 20 ILCS 3855/1-56(b)(2). ("Contracts that will be paid with funds in the Illinois Power Agency Renewable Energy Resources Fund shall be executed by the Agency. Contracts that will be paid with funds collected by an electric utility shall be executed by the electric utility.")

[394] See id.

[395] Section 1-56(b)(3) of the IPA Act requires that for Illinois Solar for All contracts, "[p]ayments for renewable energy credits shall be in exchange for 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 as only one REC can be produced, transferred, and retired for each MWh of generation.

[396] See Docket No. 17-0838, Final Order dated April 3, 2018 at 151-152.

[397] To date no approved Illinois Solar for All projects are located in the service territories of rural electrical cooperatives or municipal utilities.

1. Low-Income Single-Family and Small Multifamily Solar
2. Low-Income Community Solar Project Initiative
3. Incentives for Non-Profits and Public Facilities
4. Low-income large multifamily solar

These sub-programs provide an incentive based on the price per REC from the Adjustable Block Program, with adjustments to that price as described below to account for the specific needs of the Illinois Solar for All Program. The Low-Income Distributed Generation Incentive sub-program was divided by Public Act 102-0662 into two separate sub-programs, the Low-Income Single-Family and Small Multifamily Solar sub-program, and the Low-income Large Multifamily Solar sub-program.

In addition to the four Illinois Solar for All sub-programs, Section 1-56(b)(4) of the Act allows some flexibility to propose changes that "more effectively maximizes the benefits to low-income customers":

> *"In the course of the Commission proceeding initiated to review and approve the plan, including the Illinois Solar for All Program proposed by the Agency, a party may propose an additional low-income solar or solar incentive program, or modifications to the programs proposed by the Agency, and the Commission may approve an additional program, or modifications to the Agency's proposed program, if the additional or modified program more effectively maximizes the benefits to low-income customers after taking into account all relevant factors, including, but not limited to, the extent to which a competitive market for low-income solar has developed."*[398]

Section 1-56(b)(2) as amended by Public Act 102-0662 also states:

> *"In addition to the programs outlined in paragraphs (A) through (E), the Agency and other parties may propose additional programs through the Long-Term Renewable Resources Procurement Plan developed and approved under paragraph (5) of subsection (b) of Section 16-111.5 of the Public Utilities Act. Additional programs may target market segments not specified above and may also include incentives targeted to increase the uptake of nonphotovoltaic technologies by low-income customers, including energy storage paired with photovoltaics, if the Commission determines that the Illinois Solar for All Program would provide greater benefits to the public health and well-being of low-income residents through also supporting that additional program versus supporting programs already authorized."*

At this time the Agency is not proposing additional programs.

8.5.1. Energy Sovereignty

As noted above in Section 8.2.2, Section 1-56(b)(2)(A)(i) of the IPA Act requires the Agency to reserve "a portion" of Illinois Solar for All "for projects that promote energy sovereignty through ownership of projects" by eligible entities. The Agency proposes here a number of measures to incorporate ownership policies into the four sub-programs of ILSFA. **Since this is a new aspect of Illinois Solar for All, the Agency welcomes comments on all aspects of the proposals related to energy sovereignty.**

[398] 20 ILCS 3855/1-56(b)(4).

The Agency proposes to reserve one-quarter (25%) of the funds in each of the four sub-program budgets for projects that promote energy sovereignty. Projects that feature or facilitate ownership of projects by low-income households or other entities listed in Section 1-56(b)(2)(A)(i) meet this requirement and would be eligible for an energy sovereignty bonus adder to the REC price. Projects where the low-income household or eligible entity holds majority ownership of the installation from the time of project application will automatically qualify as promoting energy sovereignty. For projects claiming to "facilitate" energy sovereignty, the Agency will examine the project ownership model, as discussed below.

Ownership facilitation models that would likely meet this standard are best understood as falling into two categories: on-site projects that are on the customer's property, serving 1-4 units of housing, 5+ units of housing, or non-profits and public facilities; or remotely located community solar projects.

Section 1-56(3) of the IPA Act requires Illinois Solar for All incentives to be paid upon energization of a project, providing an upfront payment to the project developer, who then delivers ongoing services to the eligible customer. Since the transfer-of-ownership model is best able to capitalize on federal incentives after five to seven years, this poses a timing issue for promoting energy sovereignty. Section 1-56(B)(2)(A)(i) of the Act does allow the Agency to "consider the inclusion of projects that promote ownership over time or that involve partial project ownership by communities, as promoting energy sovereignty."

To solve this timing issue, the Agency proposes the following strategies for the two ownership models, on-site and community solar.

8.5.1.1. On-Site Projects

For on-site systems, the Agency proposes to offer an adder of $5 per REC for projects that facilitate ownership through a transfer of ownership after project energization. As with all Illinois Solar for All REC contract payments, full payment will be due upon energization. The REC contract for such projects will feature additional contract terms that require a transfer of ownership at a certain date, such as five to seven years after energization. The Program Administrator would review and approve the terms of the contract. The Agency envisions that the TPO would have a contract for a lease or power purchase agreement with the customer that featured an early buyout clause at a given time.

The incentives paid for energy sovereignty would be managed in one of two ways: they could be held back and used at the time of transfer to cover the cost of the buyout at fair market value, the cost of ongoing monitoring and maintenance after transfer of ownership, and the cost of equipment replacement for a certain period (perhaps up to 25 years); or they could be retained by the TPO with the contract featuring a buyout value at a commensurately lower price, and the TPO agreeing to provide services after transfer.

The amount and apportionment of the ILSFA incentives would be adjusted to reflect the energy sovereignty adder. For example, if ownership is expected to be transferred at the end year seven, the initial ILSFA incentive may be based on a seven-year value of RECs, with the remaining eight years including the energy sovereignty adder.

The Program Administrator would be notified of the transfer of ownership when it occurs along with documentation of how it adheres to the contract terms. The Agency, or contracting utility, would be able to claw back any ownership incentives if the transfer does not happen as expected.

The Agency welcomes comments on the workability, financial implications, and risks and benefits of these two options. There are many permutations of customer types, building ownership structures, and solar business models. The Agency's goal is to enable ownership for the greatest number of potential beneficiaries in a financially efficient manner, and is seeking comments on how the proposed program models might or might not work for each permutation, and what could be done to solve barriers.

8.5.1.2. Community Solar

Promoting ownership of off-site community solar projects by low-income households would require a different approach than on-site systems. As noted above in Section 8.2.2, community solar installations are eligible for different tax incentives and use different business models than on-site systems.

To encourage energy sovereignty for community solar, the Agency could take the following actions:

1. Energy sovereignty adder payments could be used to pay for ownership shares in a community solar cooperative on behalf of eligible customers. These shares would entitle the customer/owner to receive dividends and to subscribe to electricity from the project at a discounted rate, sufficient to meet bill savings requirements.
2. As with on-site solar, energy sovereignty adder payments could be used to promote ownership of individual panels located at the community solar project. The bonus could be used to transfer ownership to an eligible customer after tax benefits have been fully captured, such as through an early buyout of a lease or PPA. Bonus payments would be paid upfront, and either held in escrow to pay for the buyout or taken by the TPO and reflected in contract terms relating to an early buyout.

Community solar projects that result in ownership by subscribers would be given a REC adder of $5 per REC.

The Agency also seeks stakeholder feedback on an option whereby eligible low-income or non-taxed customers could use Illinois Solar for All funds to take ownership of panels at a community solar project outright, foregoing federal tax incentives. Ground-mounted solar projects are typically cheaper per Watt than rooftop systems, and single-axis tracking systems deliver lower cost of energy. It's possible that Illinois Solar for All REC values that are set high enough to cover the full cost of co-owned community solar panels and would be lower than incentives needed to support rooftop solar installations, offering a more cost-effective path to ownership.

While much of this analysis has focused on how to manage federal tax incentives, it should be noted that Congress may change to how renewable energy incentives are delivered. Some existing proposals would allow incentives to be paid in cash instead of taken as a tax credit, obviating the problem of monetizing the incentives for non-taxable and low-income entities. Should that "direct pay" provision be adopted, the IPA will revisit Illinois Solar for All program designs.

The IPA welcomes comments on the workability, financial implications, and risks and benefits of these community solar ownership options. We are especially interested in comments on how the proposed program models might affect business practices, and what could be done to solve barriers.

These ownership strategies will be pursued in coordination with other programs created under Public Act 102-0662. The Agency is not the only agency tasked with promoting energy sovereignty, making interagency collaboration vital.

The Community Solar Energy Sovereignty Program, part of the Jobs and Environmental Justice Grant Program created in Section 5-60 of the Energy Transition Act enacted through Public Act 102-0662, will be managed by the DCEO. The program will award grants to projects "that best demonstrate the ability and intent to create community ownership and other local community benefits, including local community wealth building." Grants can be awarded for a variety of business tasks as well as to support entities that would assist in ongoing operation, "such as community solar cooperatives." Priority will be given to projects located in equity investment eligible communities and that provide "additional benefits for participating low-income households." It is noted that the statute does not say that grants can be used to purchase systems for eligible entities, suggesting a complementary role for the incentives provided through Illinois Solar for All.

Aside from budget updates to the 2021-2022 program year, as authorized by Public Act 102-0662, any changes (compared to the First Revised Plan) to sub-program terms and conditions, and other general aspects of Illinois Solar for All, described subsequently in this Chapter (as well as the budgetary discussion in Section 8.4 above) will be effective for the 2022-2023 and 2023-2024 program years and will not apply to the 2021-2022 program year which will have been completed by the time the Agency expects this 2022 Long-Term Plan to be approved by the Commission.

As listed in Table 8-3, approximately $66.5 million is expected to be available in program years 2022-2023 and 2023-2024, in addition to any unallocated funds rolled over from program year 2021-2022.

8.5.2. Setting Incentive Levels

The incentive levels described in the following Sections were derived by utilizing the REC prices for the Adjustable Block Program as described in Section 7.5 and adjusting those prices to meet the objectives of the Illinois Solar for All Program. These incentives will be offered through a 15-year REC delivery contract, either with the Agency for projects funded with the Renewable Energy Resources Fund, or with a utility for projects funded through utility-supplied funds.

Incentive levels are expressed as REC prices and are set according to the same groups and categories as the Adjustable Block Program (Group A for projects located in Ameren Illinois, Mt. Carmel, MidAmerican, and rural electric cooperatives and municipal utilities located in MISO; Group B for projects located in ComEd, and rural electric cooperatives and municipal utilities located in PJM). Unlike the Adjustable Block Program, these incentives have not been and will not be adjusted upward or downward based upon blocks of capacity filling. Rather, the Agency proposes to review and update the incentive levels on an annual program year basis. That update will include an adjustment to account for how the comparable Adjustable Block Program REC price for each Group and category has changed since the previous update, 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.

For this draft 2022 Plan, the Agency is proposing an update to ILSFA REC Prices based on the preliminary modeling of the updated REC Pricing Model described in Chapter 7 and in Appendices D and E. The Agency wishes to emphasize that these updated prices are preliminary in nature and the Agency requests that stakeholders provide feedback on the

updated REC prices during the comment period for the Agency to consider prior to the Agency filing the 2022 Plan for Commission approval. The changes to REC Prices largely reflect changes to the underlying modeling used for the Adjustable Block Program that then flow through to Illinois Solar for All.

In setting REC prices for the Low-Income Distributed Generation Incentive sub-program for the Initial Plan, the Agency adjusted the Adjustable Block Program's REC prices in the CREST model by setting the assumed debt financing of the project to 0%, and increasing the net metering benefit shared with participants from 20% to (i) 100% for residential participants in 1-4 unit buildings, and (ii) 50% for residential participants in larger buildings.[399] F**or this draft 2022 Plan the Agency proposes increasing the development costs component of the model for 1-4 unit buildings to 150% of the value used in the Adjustable Block Program to recognize the increased complexity of developing residential projects as part of Illinois Solar for All. The Agency welcomes stakeholder feedback on whether this adjustment is sufficient to cover the added costs of identifying and verifying eligible low-income customers.**

For the Low-Income Community Solar sub-program, the Adjustable Block Program REC prices were adjusted by shortening the financing term to five years and lowering the debt financing to 35%. For the Incentives for Non-Profits and Public Facilities sub-program, REC prices were adjusted from the ABP DG pricing model by considering the project as a non-taxable entity; the up-to-10 kW size segment was assumed to be non-residential instead of residential; and the net metering benefit to be shared with participants was increased from 20% to 50%. The Agency does not propose any adjustments to the REC prices for these two sub-programs for this 2022 Plan.

The Agency believes these approaches represent reasonable proxies for the higher incentive level needed for Illinois Solar for All projects to overcome the financing barriers and other hurdles these project face.

8.5.3. Low-Income Single-Family and Small Multifamily Solar

The Low-Income Distributed Generation Incentive sub-program, created in Public Act 99-0906, has been historically under-subscribed, spending less than its budget allowed. While participation in the sub-program continues to increase over time, funds in its budget remained unspent at the end of each program year. Public Act 102-0662 introduced several changes to this subprogram in an effort to reduce barriers to participation and grow the low-income market for distributed generation.

The sub-program was created to provide funding for photovoltaic projects located on individual homes and multi-unit residential buildings. Public Act 102-0662 updated Section 1-56(b)(2), which lays out the Illinois Solar for All sub-program structure, creating separate sub-programs for projects serving single-family and two- to four-unit multifamily residences (the Single-Family and Small Multifamily category) and low-income residences with five or more units (the Large Multifamily category), and setting aside a portion of the program to encourage energy sovereignty. Separate schedules of REC incentive prices were established for projects serving one-to-four-unit residences and 5+ unit multi-family buildings. To ensure that large Low-Income Distributed Generation projects could not quickly exhaust the sub-program budget, 25% of the sub-program budget was reserved in

[399] See Docket No. 17-0838, Final Order dated April 3, 2018 at 155; see also Appendices E-3-a and E-3-b.

a nine-month carveout to ensure opportunities for one-to-four-unit projects beginning in the 2020-2021 program year.

Additional changes enacted by P.A. 102-0662 include the additional low-income consumer protections outlined in Chapter 9 and Section 8.11 and funding set aside targeted to environmental justice communities (25% of each sub-program) and to projects promoting energy sovereignty (25% of each sub-program). In approving and modifying the First Revised Plan, the Commission noted that multi-faceted challenges to participation in the Low-Income Distributed Generation sub-program must be addressed. The Agency and Program Administrator have worked with stakeholders to identify barriers to participation in this sub-program and continue to explore and implement adjustments to increase participation, lower soft costs, and simplify sales procedures.[400]

For example, a referral process to generate greater participation was developed in fall of 2020 and stakeholder input was received through the end of that year.[401] The referral process and an income verification process for single-family homeowners were both implemented in mid-2021. For this draft 2022 Plan, the Agency clarifies that it interprets the Commission's directive to implement such processes in a competitively neutral fashion to mean that the processes should not give advantage to one Illinois Solar for All Approved Vendor or group of Approved Vendors over others, nor should they give the appearance of doing so. Furthermore, the referral process should consider geography, availability of Approved Vendors serving single-family customers in a potential participant's area, services provided, the efficiency of the process, and transparency of offers.

Additional proposals for streamlining the project submission process have been made for this draft 2022 Plan including:

- Extending the time period in which the Program Administrator-provided income verification is valid from 6 to 12 months (Section 8.10.4.1)
- Amending Section 8.11 to eliminate the requirement to present and sign the disclosure seven days prior to consummation of the contract along with an extension of the cancellation period to simplify the customer engagement process with one less touchpoint in the customer acquisition process; and
- Reaffirming the Agency's commitment to more closely work with third-party energy efficiency program administrator or Community Action Agencies to facilitate connecting their participants to Illinois Solar for All Approved Vendors and providing initial site suitability screening where applicable (Section 8.8.3).
- Removing the minimum batch requirement (Section 8.10.1).

Although the Agency is hopeful that these changes will help to lower soft costs and encourage increased participation in the sub-program, it is noteworthy that one of the identified barriers to increasing participation is the complexity of the sub-program and confusion or mistrust from potential participants.

[400] See Docket No. 19-0995, Final Order dated February 18, 2020 at 101.

[401] In response to concerns raised by various stakeholders in the process of approving the First Revised Plan, the Commission determined that the Agency and the Program Administrator shall explore implementing a process to connect interested income-qualified customers with Illinois Solar for All Approved Vendors, and that the Agency must implement any such process in a competitively neutral fashion. (Docket No. 19-0995, Final Order dated February 18, 2020 at 108.) This referral program implements that directive.

8.5.3.1. Eligibility

For single-family homes, households must verify that they are low-income; for two- to four-unit residential buildings, at least two of the households must be verified as low-income. In addition to projects being eligible based on household income, projects developed on homes or buildings that qualify for US Department of Housing and Urban Development ("HUD") Project-Based Vouchers or Project-Based Rental Assistance (which are programs for housing units dedicated to low-income tenants) also qualify. The income qualification levels required for participation in these programs are lower than income requirements for the Illinois Solar for All Program.

Under the Revised Plan, to help ensure funding would be available for projects for 1-4 unit buildings, 25% of the sub-program budget was carved out for 1-4 unit buildings projects for the first nine months of the program year, and any unobligated funds from that carveout was released for any Low-Income Distributed Generation project for the final three months of the program year, and any unused sub-program funds would be rolled over to the following year's sub-program budget. **In a similar fashion, for this 2022 Plan the Agency proposes holding the initial budget allocations for the Low-Income Single and Small Multi-family or the Low-Income Large Multifamily Solar sub-programs for the first nine months of the program year, at which time the two sub-program allocations would combine to be used on a first-come, first-served basis by projects of either sub-program. At the end of the program year, any unreserved sub-category funds will rollover to the total budget allocation for the Low-Income Single and Small Multi-family and the Low-Income Large Multifamily Solar sub-programs for the following program year of Distributed Generation sub-program, in accordance with the Commission's order in approving and modifying this Revised Plan.[402] The Agency welcomes feedback on this proposal.**

8.5.3.2. Incentive Level

As discussed in Section 7.5, these REC prices are based on an update of the REC Pricing model developed for this draft 2022 Long-Term Plan and the Agency welcomes stakeholder feedback on this preliminary analysis.

Table 8-3: Incentives for the Low-Income Single and Small Multifamily Solar Program($/REC)[403]

System Size	Group A	Group A Change from Initial and First Revised Plan Prices	Group B	Group B Change from Initial and First Revised Plan Prices
≤10 kW	$161.86	13%	$177.53	24%
>10 - 25 kW	$144.11	13%	$159.97	25%
>25 kW	$113.70		$124.91	

[402] See Docket No. 19-0995, Final Order dated February 18, 2020 at 100-101.

[403] While theoretically projects for 1-4 unit buildings could be larger than 100 kW, the Agency does not believe that it is technically possible for a 4-unit project to exceed that size and thus only REC prices for up to 100 kW are displayed here. The REC pricing model included in Appendices D and E includes a full set of modeled REC prices for.

To encourage Energy Sovereignty, an additional $5 per REC would be added for projects that result in ownership by the customer.

These incentive payments are intended to be sufficient to provide tangible economic benefits to participants through enabling project developers to eliminate upfront costs to the participants for the installation of photovoltaic projects. The REC price is a standard incentive for the contractually obligated delivery of a renewable energy credit and not customized for each project.

8.5.4. Low-Income Large Multifamily Solar

As detailed in Section 8.5.3 above, the Low-Income Large Multifamily Solar sub-program separated incentives for distributed generation projects serving residential facilities with five or more units, which were previously included in the Low-Income Distributed Generation sub-program, into a separate sub-program, the Low-Income Large Multifamily Solar sub-program.

As with the Low-Income Single-Family and Small Multifamily Solar sub-program, the Low-Income Large Multifamily Solar projects must meet requirements of the Adjustable Block Program, as well as the additional low-income consumer protections outlined in [Chapter 9 and Section_8.11. As with all Illinois Solar for All sub-programs, 25% of available funding in this sub-program will be targeted to environmental justice communities and 25% will be targeted to Energy Sovereignty projects that result in ownership by eligible customers.

Despite being separate sub-programs, Public Act 102-0662 provided a single budget allocation to be shared with the new Low-Income Single and Small Family Solar sub-program. The Agency proposes to allocate that funding evenly between the two sub-programs for the first nine months of the program year.

If, at the end of the ninth month of the program year, there were remaining funds in the carveout, those would be released for projects of any size from either sub-program, and any funds of the total sub-program budget that remain unobligated at the end of the program year will be rolled into the following program year's sub-program budget.

8.5.4.1. Eligibility

To verify program eligibility for five-unit and larger residential buildings, either at least 50% of the tenants must be verified as low-income, or the building must be demonstrated to meet the definition of "affordable housing" contained in the Illinois Affordable Housing Act.[404] In addition to projects being eligible based on household income, projects developed on homes or buildings that qualify for US Department of Housing and Urban Development ("HUD") Project-Based Vouchers or Project-Based Rental Assistance (which are programs for housing units dedicated to low-income tenants) also qualify. The income qualification levels required for participation in these programs are lower than income requirements for the Illinois Solar for All Program.

[404] See Section 8.14 for more information on income verification and Section 8.10.4.1 for more information on income eligibility (including a required commitment for owners of multi-family buildings).

8.5.4.2. Incentive Level

As discussed in Section 7.5, these REC prices are based on an update of the REC Pricing model developed for this draft 2022 Plan and the Agency welcomes stakeholder feedback on this preliminary analysis.

Table 8-4: Incentives for the Low-Income Large Multifamily Solar Program($/REC)

System Size	Group A	Group A Change from Initial and First Revised Plan Prices	Group B	Group B Change from Initial and First Revised Plan Prices
≤10 kW	$117.30	0%	$125.83	6%
>10 - 25 kW	$108.05	1%	$119.87	11%
>25 - 100 kW	$88.57	1%	$99.31	12%
>100 - 200 kW	$75.14	1%	$81.70	9%
>200 - 500 kW	$68.58	0%	$74.04	7%
>500 – 2,000 kW	$66.32	2%	$67.12	2%
2,000 kW – 5,000 kW[405]	$50.14	N/A	$48.01	N/A

To encourage Energy Sovereignty, an additional $5 per REC would be added for projects that result in ownership by the customer.

These incentive payments are intended to be sufficient to provide tangible economic benefits to participants through enabling project developers to eliminate upfront costs to the participants for the installation of photovoltaic projects. The REC price is a standard incentive for the contractually obligated delivery of a renewable energy credit and not customized for each project.

8.5.4.3. Demonstrating Tangible Economic Benefits for Residents of Multi-family Buildings

Section 1-56(b)(2) requires that the Illinois Solar for All incentives deliver tangible economic benefits for eligible low-income customers, including those that live in multi-family buildings. Multi-family buildings can be either master metered or individually metered. For master-metered buildings, the economic benefits of installing a photovoltaic system will not directly impact the occupants of the building because they do not individually pay an electric bill to their electric utility; instead, the benefits accrue to the building owner/manager. **For this draft 2022 Plan, the Agency proposes to clarify that for master-metered building owners to be eligible for the Low-Income Single and Small Multifamily Solar and the Low-Income Large Multifamily Solar categories, the building owner/manager will need to commit to passing along the value of at least 50% of the energy**

[405] The maximum size for projects was increased from 2M to 5 MW through Public Act 102-0662 and REC Prices have now been developed for this size category.

savings from net metering to tenants in tangible ways: reduced (or not raised) rents; new staff that serves all tenants; facility upgrades (excluding repairs and renovations necessary to maintain building codes or organization certifications); new equipment that serves all tenants; or other payments, benefits, or services to all tenants that would not otherwise have been possible without the savings generated by the photovoltaic system. These benefits must be made available to all the tenants, regardless of income level or individual participant uptake. Additionally, the building owner/manager will communicate to all residents those benefits and how they resulted from the installation of solar. The building owner/manager shall demonstrate the commitment to pass along the full value of the required savings to residents by describing in detail how this will be accomplished. The Agency welcomes stakeholder feedback on this clarification.

How the ownership benefits are managed for projects located at large multifamily buildings that create energy sovereignty will vary depending on the ownership model of the building. Cooperative housing and condominiums have an inherent ownership model for occupants, but for rental buildings the Agency assumes that ownership of the solar project will likely be retained by the building owner, and not the rental tenants. Since ownership will facilitate long-term financial benefits, the Agency encourages building owners to consider how benefits of ownership can be extended to tenants over the life of the system and will be required to present a plan to address this issue if the applicant seeks to qualify for an energy sovereignty adder.

One challenge to multi-family buildings that are not master-metered is that the photovoltaic system will most likely be connected to the main building account that serves common areas and building-wide load rather than to any individual unit's account. For these buildings, the owner/manager must either provide the same demonstration of passing along benefits to all tenants as for master-metered buildings or, in the alternative, must make available to all tenants the opportunity (at no additional upfront cost levied by the landlord) to participate in net metering pursuant to the provisions of Section 16-107.5(*l*)(1)(B) of the PUA, which allows for net metering of "individual units, apartments, or properties located in a single building that are owned or leased by multiple customers and collectively served by a common eligible renewable electrical generating facility." In this instance, the project will utilize the interconnecting utility's applicable net metering tariff, which will require the Illinois Solar for All Approved Vendor to maintain system shares for all participating tenants/meters. The net metering bill credit in this instance will be supply-only and costs/savings will be based on this net metering value.

8.5.5. Low-Income Community Solar Project Initiative

This sub-program or initiative is intended to support participation in community solar by low-income subscribers. To qualify for this initiative, community solar projects must meet the requirements for community renewable generation projects outlined in the Act and beyond those applicable community solar projects that participate in the Adjustable Block Program. These include the following provisions contained in Section 1-56(b)(2)(B) of the IPA Act:

- *[E]ach project shall identify its partnership with community stakeholders regarding the location, development, and participation in the project, provided that nothing shall preclude a project from including an anchor tenant that does not qualify as low-income. …*
- *It is a goal of this program that a minimum of 25% of the incentives for this program be allocated to community photovoltaic projects in environmental justice communities.*

- *The Agency shall reserve a portion of this program for projects that promote energy sovereignty through ownership of projects by low-income households, not-for-profit organizations providing services to low-income households, affordable housing owners, or community-based limited liability companies providing services to low-income households.*

For the first provision, Illinois Solar for All Approved Vendors' project applications must include a description of a partnership with community stakeholders in the community where the project will be located applicable to that project. While the Act does not define the term "community stakeholders," the National Community–Based Organization Network (NCBON) defines a community-based organization as one in which:

- The majority of the governing body and staff consists of local residents,
- The main operating offices are in the community,
- Priority issue areas are identified and defined by residents,
- Solutions to address priority issues are developed with residents, and
- Program design, implementation, and evaluation components have residents intimately involved, in leadership positions.[406]

The Agency will consider entities that demonstrate that they meet this definition as being able to represent community stakeholders in a partnership. Furthermore, the Agency believes the intent of the Act was to create substantial partnerships, going beyond just holding a few community meetings. In addition to information regarding location, development and participation, these partnerships should include a description of how the partnership shows that it is responsive to the priorities and concerns of low-income members of the community.

In its Initial Plan, the Agency proposed that a public entity may qualify as a community-based organization for this purpose, but only if the public entity meets the following requirements:

- The public entity must represent a municipality or county (or school district, park district, etc.) in a municipality or county in the bottom 25% of the state by population.
- The public entity must certify that no local community-based organizations exist that are capable of filling this role.
- The public entity must provide the same showing of robust community engagement as a non-public entity would be required to show.
- Public entities that have failed to act as community-based partners in a past project certification would be ineligible.

The public entity would be qualified as a "community-based organization" only in the context of one project application; the qualification would not be retained for a future project application (the public entity would need to demonstrate the same factors again). Finally, the public entity must provide ongoing reporting of its engagement approach, including public participation opportunities and disclosure of its approach to the project location selection (if applicable).

[406] National Community–Based Organization Network (NCBON), "What is a Community–Based Organization (CBO)?" https://sph.umich.edu/ncbon/about/whatis.html..

If the proposed project has an anchor tenant that does not qualify as a low-income residential household, the application shall describe that anchor tenant in detail; the Illinois Solar for All incentive will be reduced to account for the share of the system subscribed by that tenant not receiving a low-income incentive. As approved in the First Revised Plan, for any anchor tenant, that reduction is achieved by pricing the non-low-income anchor tenant share at the equivalent applicable Adjustable Block Program REC price (non-profit or public anchor tenants no longer qualify for the higher ILSFA price). A project may only have one anchor tenant, and that anchor tenant must be identified at the time of application.

In order to encourage projects that have deep community connections, the project selection protocol (see Section 8.10.2) reflects the following prioritization in project selection:

- Projects for which the anchor tenant is a non-profit or public facility critical service provider and also the project host;
- Projects for which the anchor tenant is a non-profit or public facility that is not a critical service provider and is also the project host;
- Projects for which the anchor tenant is a non-profit or public facility critical service provider but not the project host;
- Projects for which the anchor tenant is a non-profit or public facility that is not a critical service provider but not the project host;
- Projects for which the anchor tenant is not a non-profit or public facility.

To qualify for any preference in project selection for a project with an anchor tenant, the anchor tenant subscription must be at least 10% of the project size (and, by law, may not be more than 40%).

For this draft 2022 Long-Term Plan, the Agency proposes to clarify that for master-metered low-income residential housing programs to be eligible to subscribe as an anchor tenant of a Low-Income Community Solar project, the building owner/manager will need to commit to passing along the value of at least 50% of the energy savings realized from their anchor subscription to tenants in tangible ways. Because the net metering bill credit in this instance will be supply-only, costs/savings will be based on this net metering value. Options for methods of passing benefits to residents include: reduced (or not raised) rents; new staff that serves all tenants; facility upgrades (excluding repairs and renovations necessary to maintain building codes or organization certifications); new equipment that serves all tenants; or other payments, benefits, or services to all tenants that would not otherwise have been possible without the savings generated by the photovoltaic system. These benefits must be made available to all the tenants, regardless of income level or individual participant uptake. Additionally, the building owner/manager will communicate to all residents those benefits and how they resulted from the installation of solar. The building owner/manager shall demonstrate the commitment to pass along the full value of the required savings to residents by describing in detail how this will be accomplished. The Agency welcomes stakeholder feedback on this clarification.

As described in Section 8.12.4, 25% of available funding in this sub-program will be targeted to environmental justice communities.

As specified in Section 8.5, 25% of ILSFA funding will be set aside for the energy sovereignty bonus incentives, creating a priority for projects that result in ownership. Section 8.5.1.2 describes possible

ownership models for low-income community solar projects, such as ownership in shares of a community solar cooperative and customer ownership of a portion of a remotely-sited community solar project.

8.5.5.1. Incentive Level

As discussed in Section 7.5, these REC prices are based on an update of the REC Pricing model developed for this draft 2022 Plan and the Agency welcomes stakeholder feedback on this preliminary analysis. Note that these prices now are inclusive of the small subscriber adder as discussed in Section 7.9.6.2.

Table 8-5: Incentives for Low-Income Community Solar Projects ($/REC)

System Size	Group A	Group A Change from Initial and First Revised Plan Prices[407]	Group B	Group B Change from Initial and First Revised Plan Prices[408]
≤ 25 kW	$121.56	-9%	$144.05	10%
>25 - 100 kW	$112.14	-3%	$129.99	15%
>100 - 200 kW	$100.57	-2%	$113.73	14%
>200 - 500 kW	$95.09	-2%	$107.33	14%
>500 – 2,000 kW	$80.80	-14%	$95.26	5%
2,000 kW – 5,000 kW[409]	$56.80	N/A	$72.52	N/A

To encourage energy sovereignty, an additional $5 per REC will be added for projects that result in ownership by eligible entities.

These incentives for Low-Income Community Solar Projects are for the portion of the project subscribed to by households who have been verified as low-income. In order to receive the incentive at the time of energization, the Approved Vendor will have to verify the level of low-income subscribers to the project as outlined Section 8.10.4.1. The Agency notes that the Adjustable Block Program only requires 50% of subscribers (in kW volume) to be identified at the time of energization, and that small subscriber adders are granted only if the project meets the small subscriber level after one year of operation. This principle applies to Illinois Solar for All's Low-Income Community Solar Project Initiative as well. Only 50% of the low-income subscribers will need to be identified by the time the project is energized to receive payment under the REC delivery contract; however, the total amount of that incentive payment will be prorated to the anchor and low-income subscription levels

[407] The comparison to prior REC prices includes the 50% small subscriber adder for those prior prices.

[408] The comparison to prior REC prices includes the 50% small subscriber adder for those prior prices.

[409] The maximum size for projects was increased from 2M to 5 MW through Public Act 102-0662 and REC Prices have now been developed for this size category.

at the time of energization. After one year, a payment adjustment shall potentially be made based upon the anchor and low-income subscription level achieved by that time.

To ensure ongoing subscription levels by low-income subscribers, the Approved Vendor will have to provide ongoing collateral for ten years equal to 5% of the remaining REC value and report annually on low-income subscription levels. If those levels are not maintained, then the collateral may be called upon to claw back the incentives to the level of low-income subscription.

8.5.6. Incentives for Non-Profits and Public Facilities

Section 1-56(b)(2)(C) of the Act specifies that "non-profits and public facilities" are eligible to receive incentives for on-site photovoltaic generation. These incentives are designed to "support on-site photovoltaic distributed renewable energy generation devices to serve the load associated with not-for-profit customers and to support photovoltaic distributed renewable energy generation that uses photovoltaic technology to serve the load associated with public sector customers taking service at public buildings."[410] The Act does not provide what specific non-profit organizations or public sector customers may be eligible.

8.5.6.1. Eligibility

Given that the objective of the Illinois Solar for All Program is in part "to bring photovoltaics to low-income communities,"[411] it is reasonable to infer that only non-profits and public sector customers that in some manner serve low-income communities should be eligible. However, the Act could also be interpreted such that all non-profits and public facilities would be eligible to participate. Because current funding levels are such that only a few large projects might make up the whole of the Non-Profit/Public Facilities budget in a single program year, focusing available funds on low-income and environmental justice communities to align with the legislative objectives has been the Agency's approach.

To balance these objectives, initially Illinois Solar for All Approved Vendors will have to demonstrate that the project:

1. Meets the standards described in Section 8.9 related to projects having sufficient connection to, and input from, low-income community members;
2. Is sited within an environmental justice community[412] or low-income community;[413]
3. Serves the electricity load of a building that is occupied by an organization that is a critical service provider for the community[414] (e.g., youth centers, hospitals, homeless shelters, senior centers, community centers, places of worship); if a public facility, the building must host a department/agency that is a critical service provider meeting this standard; and
4. The Approved Vendor must either certify that the project's owner will not apply for the federal Investment Tax Credit in relation to the project installation, or if it will apply for the

[410] 20 ILCS 3855/1-56(b)(2)(C).

[411] 20 ILCS 3855/1-56(b)(2).

[412] As defined by the methodology outlined in Section 8.12.2 of this Revised Plan.

[413] A "low-income community" for this purpose is defined as a census tract where at least half of households are not exceeding 80% of AMI.

[414] If the building is not owned by the organization or public agency, then either a lease with at least five years remaining on it, or a commitment by the building owner to lease the facility to a critical service provider for at least five years must be provided.

Investment Tax Credit, then the savings level for the participating host of the project must be 65% of energy value rather than 50%.

As described in Section 8.12.4, 25% of available funding in this sub-program will be targeted to environmental justice communities, and 25% will be targeted for energy sovereignty projects that result in ownership by eligible customers.

For this draft 2022 Plan, the Agency proposes defining a Critical Service Provider as a non-profit or public entity that offers critical services to low-income or environmental justice communities and can demonstrate that at least half of their service recipients are considered low-income. The Agency welcomes stakeholder feedback on this proposal.

Additionally, the Agency proposes disallowing public schools from eligibility for the Non-Profit/Public Facilities sub-program due to new language in Section 1-75 establishing a category in the Adjustable Block Program specifically to serve public schools, as well as ongoing high interest in the subprogram exceeding available funding. Similarly, the Agency proposes disallowing multifamily residential distributed generation projects from participation in the Non-profit/Public Facilities sub-program since these types of projects qualify to apply for the Low-Income Large Multifamily Solar sub-program.

8.5.6.2. Incentive Level

As discussed in Section 7.5, these REC prices are based on an update of the REC Pricing model developed for this draft 2021 Plan and the Agency welcomes stakeholder feedback on this preliminary analysis.

Table 8-6: Incentives for Non-Profits and Public Facilities ($/REC)

System Size	Group A	Group A Change from Initial and First Revised Plan Prices	Group B	Group B Change from Initial and First Revised Plan Prices
≤ 25 kW	$127.29	-11%	$146.26	2%
>25 - 100 kW	$115.28	-3%	$128.69	8%
>100 - 200 kW	$99.89	-3%	$107.69	4%
>200 - 500 kW	$92.40	-3%	$98.65	2%
>500 - 2,000 kW	$89.82	-2%	$90.19	-2%
2,000 kW – 5,000 kW[415]	$69.40	N/A	$65.88	N/A

[415] The maximum size for projects was increased from 2M to 5 MW through Public Act 102-0662 and REC Prices have now been developed for this size category.

To encourage energy sovereignty, an additional $5 per REC is added for projects that result in ownership by the customer.

8.5.7. Low-Income Community Solar Pilot Projects

Public Act 99-0906 established a sub-program for Low-Income Community Solar ("LICS") Pilot Projects, to test approaches to serving eligible customers. The law specified that projects must provide economic benefits for members of the community where the project is located and include a partnership with at least one Community Based Organization.

The LICS Pilot procurement process was conducted by the Agency's Procurement Administrator, who handled the intake and evaluation of all project proposals, and made recommendations for bid approval to the ICC. Two pilot projects were awarded REC contracts totaling $20 million in the fall of 2019, with an average REC price of $72.02. As of late 2021, the projects had not been fully subscribed.

Public Act 102-0662 removed the Low-Income Community Solar Pilot Procurement sub-program from Section 1-56 of the IPA, so no further procurement will be conducted.

8.6. Illinois Solar for All Program Administrator

The Program Administrator for the Illinois Solar for All Program was selected via a two-part Request for Qualifications/Request for Proposals process conducted by the Agency in 2018, which culminated in Commission approval of the contract for Elevate Energy to serve as the ILSFA Program Administrator on September 14, 2018 for a period of two years, with the option for annual renewal for up to three additional years. Revisions to 1-56(b)(2)(5) of the IPA Act clarify that the Illinois Solar for All Program Administrator "may be, but need not be, the same administrator as for the Adjustable Block Program." The Agency expects to issue a new Request for Qualifications/Request for Proposals in the second half of 2022.

The obligations of the Illinois Solar for All Program Administrator expanded under revisions to Section 1-56(b)(5) by Public Act 102-0662, which now include at minimum:

- Take applications and verify project eligibility in Illinois Solar for All and coordinate this information with the Adjustable Block Program Administrator (who will process the actual generation of contracts). This includes, but is not limited to, review of project technical specifications, income verification, review of community involvement in projects, review of job training coordination, and review of Illinois Solar for All consumer protections such as verification of ensuring tangible economic benefits flow to low-income participants. Illinois Solar for All administrative procedures will be as similar to those of the Adjustable Block Program as possible, to reduce administrative burden on Approved Vendors that serve both programs.

- Act as the centralized source for income verification and maintain database of program participants.

- Assist in the development of contracts, disclosure forms, and brochures for use by Illinois Solar for All Approved Vendors and their partner community-based organizations.

- Coordinate the distribution of funding for grassroots education efforts by community-based organizations. A priority for this funding will be to promote the availability of the Illinois Solar for All Program in Environmental Justice Communities to achieve the goal of 25% of the incentives being allocated to those communities.

- Facilitate Illinois Solar for All Approved Vendors meeting the additional requirements of the Illinois Solar for All Program. In particular, the Program Administrator acts as a liaison between Illinois Solar for All Approved Vendors participating in the programs and organizations providing job training. The Program Administrator shall also work to inform Illinois Solar for All Approved Vendors of energy efficiency, weatherization, lead abatement, and other program opportunities that could provide additional benefits to participants.

- Provide guidance and education to Illinois Solar for All Approved Vendors, community groups, local government agencies, and others on how to leverage other governmental policies to facilitate low-income solar projects and energy efficiency programs. Other relevant policies include affordable housing, economic development, public finance, and tax policies, at the federal, state, and local level. The Administrator will act as liaison with other governmental agencies that administer such programs to facilitate their use on solar development.

- Provide Program Manual and related materials for use by Illinois Solar for All Approved Vendors.

- Provide reports to the Agency and the Commission on a quarterly basis on the status of the Program including, but not limited to, number of applications received, number of applications approved, number of projects completed, REC payments, payments for and status of grassroots education efforts (if applicable), and a summary of technical assistance provided.

- Facilitate "placement for graduates of Illinois-based renewable energy-specific job training programs, including the Clean Jobs Workforce Network Program and the Illinois Climate Works Preapprenticeship Program administered by the Department of Commerce and Economic Opportunity, along with other programs administered under Section 16-108.12 of the Public Utilities Act."[416]

- "[D]evelop a web-based clearinghouse for information available to both job training program graduates and firms participating, directly or indirectly, in Illinois solar incentive programs."[417]

- "[C]oordinate … activities with entities implementing electric and natural gas income-qualified energy efficiency programs, including customer referrals to and from such

[416] 20 ILCS 3855/1-56(b)(5).

[417] *Id.*

programs, and connecting prospective low-income solar customers with any existing deferred maintenance programs where applicable."[418]

8.7. Quality Assurance

Due to the higher incentive level that Illinois Solar for All projects will receive compared to those that participate in the Adjustable Block Program, as well as the additional vulnerabilities that program participants may face, it is especially important for the Agency to ensure that projects are properly installed and produce their expected amounts of energy. In conjunction with the Program Evaluator (as described in Section 8.14), the Illinois Solar for All Program Administrator has developed and implemented a process for quality assurance, including assessing 1) the suitability of sites for solar installation and/or the proper planning for mitigating site deficiencies before installation, 2) a thorough photo documentation of all projects while under construction, and 3) on-site inspection of a random sample of installations. If installations are found to have deficiencies or nonconformance with specifications from the application, the Illinois Solar for All Approved Vendor, at its own expense, will be responsible for any repairs, alterations, or additions to remedy the deficiencies. A deficient project may be removed from the Program if already contracted. Illinois Solar for All Approved Vendors who have a disproportionately high number of deficient systems may lose their eligibility to continue to participate in the Illinois Solar for All Program. The Agency continues to work with the Program Administrator to streamline these quality assurance processes.

8.8. Coordination with Other Programs

Public Act 102-0662 requires that Illinois Solar for All "be implemented in a manner that seeks to minimize administrative costs, and maximize efficiencies and synergies available through coordination with similar initiatives, including the Adjustable Block program..., energy efficiency programs, job training programs, and community action agencies."

It creates a number of new programs that interact with Illinois Solar for All, as described below.

8.8.1. Job Training and Placement Programs

Public Act 102-0662 expanded on the job training and placement programs initiated under Public Act 99-0906. Those programs now include the Clean Jobs Workforce Network Program, the Illinois Climate Works Pre-apprenticeship Program, Returning Residents Clean Jobs Program, Clean Energy Contractor Incubator Program, Clean Energy Primes Contractor Accelerator Program, and the Energy Transition Barrier Reduction Program. It creates three Regional Administrators (North, Central, and South) to administer the implementation of the programs.

While these programs are to be designed and implemented under the guidance of DCEO, they have a number of implications for the Illinois Solar For All program, as the source of trainees required for program job training requirements, as detailed in Section 8.9.1.

Section 1-56(b)(2) of the Act contains two provisions that are designed to ensure that the job trainees supported by the job training programs participate in the installation of photovoltaic projects

[418] *Id.*

supported by the program. The first of these requirements is aspirational in nature, while the second is more specific.

The first provision is that "[p]rojects must include job training opportunities if available, with the specific level of trainee usage to be determined through the Agency's long-term renewable resources procurement plan, and the Illinois Solar for All Program Administrator shall coordinate with the job training programs described in paragraph (1) of subsection (a) of Section 16-108.12 of the Public Utilities Act and in the Energy Transition Act."[419] This program is known as the "solar training pipeline program." The job training program is to be "designed to ensure that entities that offer training are located in, and trainees are recruited from, the same communities that the program aims to serve and that the program provides trainees with the opportunity to obtain real-world experience."[420]

Prior to Public Act 102-0662, Section 1-75(c)(1)(O) authorized $10,000,000 of ComEd's RPS Budget to be allocated to fund solar job training programs pursuant to Section 16-108.12 of the PUA every *four* years, beginning with the 2017-2018 delivery year. P.A. 102-0662 revised Section 1-75(c)(1)(O), now requiring that "[f]or the delivery years beginning June 1, 2021, June 1, 2024, June 1, 2027, and June 1, 2030" – every *three* years– "$10,000,000 shall be provided <u>to the Department of Commerce and Economic Opportunity</u> to implement the workforce development programs and reporting as outlined in Section 16-108.12 of the Public Utilities Act." (Emphasis added.) However, Section 16-108.12 of the Public Utilities Act still directs the utilities to spend $3,000,000 in each of 2021, and 2025 to train installers for the solar projects authorized and contemplated under the Illinois Solar for All program and other RPS programs.[421]

On December 13, 2021, ComEd petitioned the Commission to reopen Docket No. 17-0332, seeking for its prior-approved workforce development plan to be "modified to address (i) DCEO's new role as the implementer of the Section 16-108.12 workforce development programs (and termination of ComEd's implementer role), (ii) ComEd's remittance of funding to DCEO for the applicable delivery year, and (iii) any administrative activities that ComEd will continue to perform in support of the workforce development programs now implemented by DCEO." That petition to reopen was unanimously granted by the Commission on December 16, 2021. Docket No. 17-0332 remains open at the time of this Draft 2022 Long-Term Plan's publishing, and thus these issues remain unresolved. However, at minimum, it appears that a) workforce development programs will continue to be funded from Section 16-108(k) RPS collections, b) DCEO will eventually assume some portion of ComEd's responsibility for implementation of workforce development programs, and c) the depth and timing of that transition is presently unclear.

The availability of job training opportunities for Illinois Solar for All projects depends, in part, on the availability of graduates of the solar training pipeline program. ComEd's Request for Proposals from potential training providers was issued August 1, 2017 and remained open until September 30, 2017.[422] The RFP emphasizes the need for training providers to include trainee recruitment,

[419] 20 ILCS 3855/1-56(b)(2).

[420] 220 ILCS 5/16-108.12(a)(1).

[421] The responsibility to administer these programs resided with ComEd prior to the enactment of Public Act 102-0662.

[422] See https://www.cct.org/what-we-offer/request-for-proposals-solar-job-training.

substantive solar industry training, and post-training opportunities.[423] Moreover, ComEd has committed "to coordinate with the Illinois Power Agency or its administrator of Illinois Solar for All."[424]

Second, as added to Section 1-56(b)(2) by Public Act 102-0662, all Illinois Solar for All sub-program descriptions direct that "[c]ompanies participating in this program that install solar panels shall commit to hiring job trainees for a portion of their low-income installations" and further that, "an administrator shall facilitate partnering the companies that install solar panels with entities that provide solar panel installation job training."[425]

The Act does not specify what is meant by "a portion" and also does not define who would qualify as a "job trainee" in contrast with the prior provision that specifically ties it to the solar training pipeline program. The Agency notes that Section 16-108.12 of the Public Utilities Act not only creates the solar training pipeline program described above but also creates a "craft apprenticeship program" and a set of six "multi-cultural jobs programs." Additionally, other solar training programs in Illinois may be proposed to the Program Administrator to potentially be considered an Other Qualifying Program, if completion of the job training program would lead to the eligible trainee becoming a Qualified Person under the Ill. Adm. Code 468.20 related to the certification of installers of photovoltaic systems. The Agency infers that graduates of both the training programs created by Section 16-108.12 of the Public Utilities Act as well as designated Other Qualifying Programs could reasonably be considered "job trainees" for the purposes of Illinois Solar for All job trainee employment requirements.

ComEd stated in the ICC proceeding reviewing its Section 16-108.12 job training plan that it intends to implement the Solar Craft Apprenticeship Program in coordination with the International Brotherhood of Electrical Workers ("IBEW") Local 134, which will integrate solar training curricula into its existing electrical craft/trade/skill apprenticeship programs at 18 IBEW sites as well as certain community colleges and high schools.[426] According to the Plan submitted by ComEd in that proceeding, the Solar Craft Apprenticeship Program appears to include training locations located across the entire State, and not just in ComEd's service territory.[427] This program may be essential for ensuring the availability of job trainees across the State. ComEd has released a report detailing the status of its job training programs under Section 16-108.12 annually since 2019.[428]

In 1-56(b)(5), Public Act 102-0662 further instructs that, "To increase the update of trainees by participating firms, the administrator shall also develop a web-based clearinghouse for information available to both job training program graduates and firms participating, directly or indirectly, in Illinois solar incentive programs." The Illinois Solar for All Program Administrator is coordinating with the entities providing job training to maintain a clearinghouse of information that Illinois Solar for All Approved Vendors can use to identify potential job training program graduates to hire. ComEd

[423] Docket No. 17-0332, ComEd Ex. 1.0 (http://www.icc.illinois.gov/downloads/public/edocket/451215.pdf) at 8. As described further at the webpages linked below, recipients of Multi-Cultural Jobs Program grants were announced in August 2017: https://www.comed.com/News/Pages/NewsReleases/2017_08_01.aspx and recipients of Solar Training Pipeline Program grants were announced in December 2017: https://www.comed.com/News/Pages/NewsReleases/2017_12_07.aspx.

[424] Docket No. 17-0332, ComEd/EDF/ELPC/LVEJO Joint Initial Comments at 5.

[425] 20 ILCS 3855/1-56(b)(2)(A), (B), (C) and (E).

[426] ICC Docket No. 17-0332, ComEd Ex. 1.0 at 12.

[427] Id. at 13.

[428] The reports are available at https://www.icc.illinois.gov/docket/P2017-0332/documents.

administers a FEJA Jobs portal (https://fejajobs.vouchedin.com/) where graduates of its job training programs created under Section 16-108.12 of the Public Utilities Act can post their resumes and employers can post opportunities for jobs and specific projects. The Program Administrator has provided training to Illinois Solar for All Approved Vendors on how to access and use this portal, and will continue to work with the organizations receiving statutorily-authorizing funding to provide job training in an ongoing effort aimed at encouraging participation in the FEJA Jobs portal by those programs' graduates.

The Agency and its Program Administrator(s) do not run the job training programs, and therefore, the Agency has limited ability to ensure the success of those programs in effectively training new workers. Rather, the Agency will seek to ensure that the Illinois Solar for All Program creates employment opportunities for those new workers.

8.8.2. Equity and Environmental Justice programs

In Section 5-60 of the Energy Transition Act, Public Act 102-0662 establishes the Jobs and Environmental Justice Grant Program with two subprograms: the Equitable Energy Future Grant Program and the Community Solar Energy Sovereignty Grant Program, administered by the DCEO. The grant programs will make grant awards of up to $1,000,000 per application "to provide businesses, organizations, and community groups with capital needed to plan, develop, and execute" a renewable energy or energy efficiency project.

The Jobs and Environmental Justice Grant Program will "coordinate with and supplement existing incentive programs, such as the Adjustable Block program, the Illinois Solar for All Program, the community renewable generation projects, and renewable energy procurements as described in the Illinois Power Agency Act, as well as utility energy efficiency measures as described in Section 8-103B of the Public Utilities Act."[429] The Equitable Energy Future Grant Program is specifically for "equity eligible contractors" while the Community Solar Energy Sovereignty Grant Program will support "the pre-development and development of community solar projects that promote community ownership and energy sovereignty." The Agency will work with DCEO to ensure coordination in the implementation of these programs and the Illinois Solar for All Program.

Finally, Public Act 102-0662 enacted the Clean Energy Jobs and Justice Fund Act, which establishes the Illinois Clean Energy Jobs and Justice Fund, discussed below in conjunction with the Climate Bank.

8.8.3. Energy Efficiency Programs and Community Action Agencies

Section 1-56(b)(2) of the Act provides that the Illinois Solar for All Program "shall be implemented in a manner that seeks to minimize administrative costs, and maximize efficiencies and synergies available through coordination with similar initiatives" including energy efficiency programs and community action agencies (CAAs). There are 35 CAAs in Illinois that administer state weatherization and energy assistance programs.

Public Act 102-0662 amended Section 8-103B(c) of the Public Utilities Act to direct utilities "to bundle low-income energy efficiency offerings with other programs that serve low-income households to maximize the benefits going to these households. The utilities shall market and

[429] Energy Transition Act, §5-60(b), enacted through Public Act 102-0662 (2021).

implement low-income energy efficiency programs in coordination with low-income assistance programs, the Illinois Solar for All Program, and weatherization whenever practicable."

Section 1-56(b)(8) of the IPA Act, as amended by Public Act 102-0662, instructs:

> *As part of the development and update of the long-term renewable resources procurement plan authorized by subsection (c) of Section 1-75 of this Act, the Agency shall plan for: (A) actions to refer customers from the Illinois Solar for All Program to electric and natural gas income-qualified energy efficiency programs, and vice versa, with the goal of increasing participation in both of these programs; (B) effective procedures for data sharing, as needed, to effectuate referrals between the Illinois Solar for All Program and both electric and natural gas income-qualified energy efficiency programs, including sharing customer information directly with the utilities, as needed and appropriate; and (C) efforts to identify any existing deferred maintenance programs for which prospective Solar for All Program customers may be eligible and connect prospective customers for whom deferred maintenance is or may be a barrier to solar installation to those programs.*

The Program Administrator has identified energy efficiency programs and programs to address deferred maintenance and maintains current information about these resources in Resource Guides to assist potential Illinois Solar for All Program participants in overcoming barriers to participation. The Agency and the Program Administrator will work with utilities, administrators of the Low Income Home Energy Assistance Program ("LIHEAP") and the Illinois Home Weatherization Assistance Program ("IHWAP"), and other relevant organizations to develop opportunities to share referrals between ILSFA and programs that similarly address energy costs and energy burdens of low-income households and non-profit and public facility participants.

The Agency seeks feedback from stakeholders on how the Agency and the ILSFA Program Administrator can best encourage coordination with utilities, administrators of LIHEAP and IHWAP, and other relevant organizations. What obstacles would hinder smooth coordination between programs, such as sharing customer referrals and data, and how can they be overcome? What role can Illinois Solar for All play in integrating solar into weatherization and energy assistance programs?

8.8.4. Climate Bank and the Clean Energy Jobs and Justice Fund

Public Act 102-0662 establishes financial vehicles to aid in the deployment of clean energy. Article 850 of the Illinois Finance Authority Act as enacted by Public Act 102-0662 directs the Illinois Finance Authority to create a Climate Bank "to aid in all respects with providing financial assistance, programs, and products to finance and otherwise develop and facilitate opportunities to develop clean energy and provide clean water, drinking water, and wastewater treatment in the State."[430] While the Climate Bank has not been launched yet, green banks in other states have played an active role in financing distributed solar. The Connecticut Green Bank, for example, provides a production-based incentive of 8.1¢ per kWh for low-income customers plus below market-rate debt to developers to facilitate lower pricing and encourage the participation of market-rate capital providers.

[430] 20 ILCS 3501/850-5.

Section 20-15 of the Illinois Clean Energy Jobs and Justice Fund Act enacted through P.A. 102-0662 creates the Clean Energy Jobs and Justice Fund, a nonprofit corporation. The Fund "has authority to pursue a broad range of financial products and services"[431] that "foster the development and commercialization of clean energy projects, including projects serving low-income, environmental justice, and BIPOC communities, and support project development by MBE and other contractors of color."[432] The board of the Fund will be appointed by the governor, and Section 20-30(a) of the Illinois Clean Energy Jobs and Justice Fund Act directs the board of the Fund to consider a number of investment initiatives, many of which could affect ILSFA, including "a solar lease, power-purchase agreement, or loan-to-own product specifically designed to complement and grow the Illinois Solar for All Program." The Agency will work with the Program Administrator and the board of the Clean Energy Jobs and Justice Fund to facilitate integration across the programs.

Neither Sections 850-5 of the Illinois Finance Authority Act nor Section 20-20 of the Illinois Clean Energy Jobs and Justice Fund Act within Public Act 102-0662 prohibits solar developers and other commercial stakeholders to participate as board members on these bodies, which could create the potential for a financial conflict of interest if solar developers participating in Illinois Solar for All are board members of these new entities. The Agency requested stakeholder feedback in November 2021 to explore if additional protections are needed to prevent gaming or undue influence. Stakeholders commented, and the Agency concurs, that policies to prevent conflict of interest should be put in place at the two organizations, with disclosure to the Agency and Program Administrator if those companies participate in Solar For All programs.

8.8.5. Equitable Energy Upgrade Program

Section16-111.10 of the Public Utilities Act as enacted by Public Act 102-0662 directs the Illinois Commerce Commission to establish the Equitable Energy Upgrade Program, which "permits customers to finance the construction of energy projects through an optional tariff payable directly through their utility bill, modeled after the Pay As You Save system, developed by the Energy Efficiency Institute."[433] Funds may be used for solar installations and other energy improvements.

The program "shall enable utilities to offer to make investments"[434] or arrange financing from third parties or from the Illinois Clean Energy Jobs and Justice Fund, established through the Illinois Clean Energy Jobs and Justice Fund within Public Act 102-0662. The program guidelines should follow the "Pay As You Save Essential Elements and Minimum Program Requirements,"[435] which requires a minimum of 20% savings, consumer protections, and other measures. Pay As You Save ("PAYS") can be a way to finance ownership of on-site solar, especially for residents of small 1-4 unit buildings, since repayment is encumbered to the meter, and passes on to any future occupant living in that unit. While PAYS can work with customers of any income level, there may be synergies to applying it to customers eligible for the Solar For All program as a way to encourage energy sovereignty.

The Agency looks forward to collaborating on ways to integrate the Equitable Energy Upgrade Program with Illinois Solar for All.

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[431] Illinois Clean Energy Jobs and Justice Fund Act, §20-30(a), enacted through Public Act 102-0662 (2021).

[432] Illinois Clean Energy Jobs and Justice Fund Act, §20-25(a)(2), enacted through Public Act 102-0662 (2021).

[433] 220 ILCS 5/16-111.10(c).

[434] *Id.*

[435] 220 ILCS 5/16-111.10(e)(2).

8.9. Additional Requirements for Illinois Solar for All Approved Vendors

Because the Illinois Solar for All Program (other than the Low-income Community Solar Pilot Projects) works similarly to the Adjustable Block Program, direct participants must first be approved as Adjustable Block Program Approved Vendors through the process outlined in Section 7.7.1. Approved Vendors who seek to submit projects into Illinois Solar for All will additionally have to register with the Illinois Solar for All Program and agree to additional terms and conditions to become an Illinois Solar for All Approved Vendor.[436] An Approved Vendor that does not achieve this status will not be eligible to submit projects. A list of Illinois Solar for All Approved Vendors is available on both the Adjustable Block Program website and Illinois Solar for All website.

The additional requirements for registering to be an Illinois Solar for All Approved Vendor include:

- Description of plans for community involvement in projects (where applicable)
- Plan for inclusion of job training opportunities
- A commitment to hire job trainees for a portion of the projects as described in Section 8.9.1
- Coordination with the Program Administrator on income verification
- Agreement to allow the Program Administrator and Agency to review and approve marketing materials geared towards the Illinois Solar for All Program
- Agreement to ensure additional consumer protections as described in Section 8.11
- Demonstration for low-income distributed generation and community solar projects that participants do not have any up-front payments.

The Agency recognizes the importance of equity and minority-/women-owned business enterprise ("MWBE") participation in the Illinois Solar for All Approved Vendor cohort and will continue to work with the Program Administrator to expand MWBE AV participation, including outreach directly to potential MWBE Approved Vendors, as well as partnering with and outreach to equity-focused industry groups.

Section 1-56(b)(2) of the IPA Act provides that "[p]riority shall be given to projects that demonstrate meaningful involvement of low-income community members in designing the initial proposals" and that "[a]cceptable proposals to implement projects must demonstrate the applicant's ability to conduct initial community outreach, education, and recruitment of low-income participants in the community."[437] For community solar projects, applicants must identify partnerships with community stakeholders. It is less clear how those provisions would apply directly to projects that participate in either the Low-Income Distributed Generation Incentive sub-program or the Incentives for Non-profits and Public Facilities sub-program.

To satisfy these provisions, the registration process for the Illinois Solar for All Program will require Illinois Solar for All Approved Vendors to demonstrate their capacities in this area. An Illinois Solar for All Approved Vendor will do so by satisfying all of the following requirements:

- Providing narrative summary of efforts taken prior to the application to conduct community outreach, education, and recruitment

[436] This includes the option to be an Illinois Solar for All Single Project Approved Vendor similar to the Adjustable Block Program Single Project Approved Vendor option. The minimum project size would be 50 kW.

[437] 20 ILCS 3855/1-56(b)(2).

- Listing community-based organizations the applicant has partnered with, including letters from those organizations to verify the partnerships
- Describing in detail ongoing plans for community outreach, education, and recruitment
- Describing staffing for dedicated outreach, education, and recruitment
- Describing plans for ensuring that tangible economic benefits flow to program participants
- Participating in training offered by the Program Administrator on guidelines for marketing, contracting, and standard disclosures for program participants

Failure to maintain a demonstrated commitment to these requirements may result in an Illinois Solar for All Approved Vendor being removed from participating in the Illinois Solar for All Program.

8.9.1. Job Training Requirements

Section 1-56(b)(2) of the Act contains two provisions that are designed to ensure that the job trainees supported by the job training programs participate in the installation of photovoltaic projects supported by the program. The first of these requirements is aspirational in nature, while the second is more specific.

The first provision is that "[p]rojects must include job training opportunities if available, with the specific level of trainee usage to be determined through the Agency's long-term renewable resources procurement plan, and the Illinois Solar for All Program Administrator shall coordinate with the job training programs described in paragraph (1) of subsection (a) of Section 16-108.12 of the Public Utilities Act and in the Energy Transition Act."[438] This program is known as the "solar training pipeline program." Under this provision, the DCEO is to spend $3,000,000 in each of 2021, and 2025 to train installers for the solar projects authorized and contemplated under the Illinois Solar for All program and other RPS programs.[439] The job training program is to be "designed to ensure that entities that offer training are located in, and trainees are recruited from, the same communities that the program aims to serve and that the program provides trainees with the opportunity to obtain real-world experience."[440]

Second, as added to Section 1-56(b)(2) by Public Act 102-0662, all Illinois Solar for All sub-program descriptions direct that "[c]ompanies participating in this program that install solar panels shall commit to hiring job trainees for a portion of their low-income installations" and further that, "an administrator shall facilitate partnering the companies that install solar panels with entities that provide solar panel installation job training."[441]

The Act does not specify what is meant by "a portion" and also does not define who would qualify as a "job trainee" in contrast with the prior provision that specifically ties it to the solar training pipeline program. The Agency notes that Section 16-108.12 of the Public Utilities Act not only creates the solar training pipeline program described above but also creates a "craft apprenticeship program" and a set of six "multi-cultural jobs programs." Additionally, other solar training programs in Illinois may be proposed to the Program Administrator to potentially be considered an Other Qualifying Program, if completion of the job training program would lead to the eligible trainee becoming a Qualified

[438] 20 ILCS 3855/1-56(b)(2).

[439] The responsibility to administer these programs resided with ComEd prior to the enactment of Public Act 102-0662.

[440] 220 ILCS 5/16-108.12(a)(1).

[441] 20 ILCS 3855/1-56(b)(2)(A), (B), (C) and (E).

Person under the Ill. Adm. Code 468.20 related to the certification of installers of photovoltaic systems. The Agency infers that graduates of both the training programs created by Section 16-108.12 of the Public Utilities Act as well as designated Other Qualifying Programs could reasonably be considered "job trainees" for the purposes of Illinois Solar for All job trainee employment requirements.

To ensure that "a portion" of projects use job trainees, Illinois Solar for All Approved Vendors who participate will have to demonstrate that at least 33% of projects (on a rolling average basis) include the use of one or more job trainees from the solar training pipeline program, the craft apprenticeship program, the multi-cultural jobs program, or training program designated by the Program Administrator as an Other Qualifying Program.[442] Furthermore, each Illinois Solar for All Approved Vendor will have to demonstrate that for its first year of participation, 10% of the hours worked on all projects will be by job trainees, and that amount would increase to 20% in their second year of participation, and 33% in the third year. The timeline for these increasing annual percentage requirements will start with the beginning of construction of the Approved Vendor's first project contracted under the Program. **For this draft 2022 Long-Term Plan, the Agency would appreciate stakeholder feedback on these annual trainee worker requirements. For example, should a standard baseline to measure these hours against be established (e.g., a set FTE per MW for each project type)? Are there methods for standardizing record-keeping that should be considered? The Agency would also appreciate feedback on the impacts of tracking trainee demographic information along with other trainee information gathered on current trainee information forms.**

Illinois Solar for All Approved Vendors are required to document the use of job trainees by providing a summary of job trainee work to the Program Administrator. Illinois Solar for All Approved Vendors may also request to use job trainees from other job training programs so long as the Approved Vendor can demonstrate that completion of the job training program would lead to the trainee becoming a "Qualified Person" under the Part 468 Rule related to the certification of installers of photovoltaic systems (see Section 2.6.2.4 for additional discussion of these requirements). The Agency will consider requests for waivers of this requirement on a case-by-case basis if an Illinois Solar for All Approved Vendor can demonstrate that, despite diligent efforts at recruitment, job trainees are not available in the area where projects are being installed and this would prevent the project from being completed.

8.10. Application Process

8.10.1. Project Submissions and Batches

Except for Low-Income Community Solar Pilot Projects, the process for a project to be submitted to the Illinois Solar for All Program generally mirrors that for the Adjustable Block Program described in Section 7.10. Projects are submitted by Illinois Solar for All Approved Vendors through a similar process as the Adjustable Block Program, but to expedite processing of ILSFA projects there is no minimum batch size.[443] There is no application fee for Illinois Solar for All projects.

[442] Prior to the enactment of Public Act 102-0662, this requirement only applied to the Low-income Distributed Generation subprogram.

[443] In prior Plans the Agency had required a 50 kW minimum batch size but is removing that requirement from the draft 2022 Long-Term Plan to help encourage participation by small and emerging businesses.

Applications will be submitted through the Illinois Solar for All project application portal and will provide the supplemental information required for Illinois Solar for All beyond that required for an Adjustable Block Program project. The Program Administrators of the two programs will strive to make their portals and processes as uniform as possible. If the supplemental information does not demonstrate that the project qualifies for participation in the Illinois Solar for All Program, the project may still be eligible to participate in the Adjustable Block Program through a separate application (including the payment of an application fee), although any such application would be subject to the availability of block capacity in the Adjustable Block Program. A project may not apply to the Illinois Solar for All Program if it is included in a batch of Adjustable Block Program projects that have been submitted to the Commission for approval (or subsequently approved). If a project applies to both programs, the Illinois Solar for All application will have to be withdrawn at the time the Adjustable Block Program sends its approval recommendation to the Commission (and vice versa). Additionally, a project may not apply to two sub-programs of Illinois Solar for All within the same program year.

Like for the Adjustable Block Program, Illinois Solar for All projects will be bundled into one contract or confirmation for each approved batch. The Agency will request Commission approval for contracts that include additional Illinois Solar for All provisions. In this 2022 Plan the Agency proposes that those contracts will be executed first with the utilities using the allocation from their Renewable Resources Budgets, and then by the Agency using funds from the Renewable Energy Resources Fund. For contracts allocated to a utility, the Program Administrator will strive to allocate contracts to each utility for projects in their service territory, and in a manner that will obligate funds at a level consistent with each utility's share of funds committed to Illinois Solar for All.

Like the Adjustable Block Program contract process described in Section 6.10.6, an Approved Vendor's failure to timely execute a product order will potentially subject that Approved Vendor to discipline, and the constituent projects will be considered removed from the Illinois Solar for All Program. Additionally, as discussed in Section 7.11.1 for the ABP, when an Approved Vendor's collateral is forfeited under its ILSFA REC contract (if the contract is with a utility), that collateral amount will be restored to the utility's Renewable Resources Budget, and if the contract is with the Agency, that collateral amount would be deposited into the Renewable Energy Resources Fund.

The process for posting collateral will mirror that for the Adjustable Block Program described in Sections 7.12.2. For a Low-Income Community Solar project that is not yet energized at the time of Commission approval, the contract value (for purposes of calculating the required collateral posting) will be based on an assumption that 100% of the project is subscribed by low-income residential households qualifying as "small subscribers."

8.10.2. Project Selection for Sub-programs with High Demand

Projects for each sub-program must initially be submitted within pre-determined project submission windows for each program year. In the case that a sub-program has a large number of applications such that the funding required for all eligible applications received within the submission window exceeds that sub-program's total budget (including RERF funds and utility funds)[444] for that program year, the Agency will establish a protocol that provides a basis for scoring each individual project

[444] Note that sub-program budgets are adjusted to account for any funds not committed in the previous program year and rolled over, administrative expenses, and grassroots education costs. Furthermore, the Agency may adjust allocations of utility-supplied funding if needed.

based on attributes that align with the goals of this 2022 Plan and creates a ranking of projects based on these scores.[445] The highest scoring projects will be selected for funding first, where possible, ensuring funds prioritize projects that directly meet Plan objectives. One objective of this selection protocol will be to minimize the use of random tie-breaking as a means of selection.

Attributes that will receive higher scores include:

- Location with an Environmental Justice Community;
- Location within a low-income community (as defined above in Section 8.5);
- Projects developed by Illinois Solar for All Approved Vendors that are women- or minority-owned businesses,[446] or small and emerging businesses;
- Preferences for types of subscribers in Low-Income Community Solar projects, as outlined in Section 8.5.5;
- Preferences for projects that result in ownership by eligible customers or subscribers, as described in the discussion of Energy Sovereignty in Sections 8.2.2and 8.5; or
- Other attributes that align with Plan priorities.

In addition, scoring will be weighted in such a way that helps to ensure a diversity of project development compared with all projects submitted for a given sub-program. For example, additional weighting might be given for:

- Geographic location,
- Project size, or
- Other such attributes that reflect a diversity of projects.

The project selection protocol should be executed in a way that ensures that 25% of funds go to projects located in Environmental Justice communities or to projects that encourage Energy Sovereignty whenever possible. As discussed in Section 8.12.4 below, the 25% allocation for projects located in Environmental Justice communities and for projects that encourage Energy Sovereignty within each sub-program will be held open until the end of each program year.

After each program year's initial project submission window, if funds for a given sub-program remain available, project applications will be accepted and reviewed on a first-come, first-served basis for the remainder of the program year. If annually allocated RERF funds in a sub-program remain at the end of the program year, the unused funds will be rolled over to the next program year for that sub-program. Additionally, if funds become available due to the withdrawal of any projects during a program year and after project selection, those funds may be made available to the next eligible project on the waitlist for that program year. The waitlist from each program year will not carry over to the following program year.

If the Part II project approval (e.g., energization verification) results in the final REC contracts value being revised downward, the funds made available from that revision would be made available

[445] This approach has been utilized for the 2018-2019 and 2019-2020 program years. See: https://www.illinoissfa.com/app/uploads/2019/05/ILSFA-Project-Selection-Protocol.pdf. The Agency expects that an update to the protocol will include additional granularity in scoring to minimize the likelihood of tied scores that would require random selection of projects.

[446] During the proceeding to approve this Revised Plan, the Agency recommended a workshop or public comment process to explore expanding this criterion beyond Approved Vendors to include contractors and subcontractors. The Commission agreed that such a process is appropriate. See Docket No. 19-0995, Final Order dated February 18, 2020 at 105.

within the applicable sub-programs for consideration by any projects remaining in the waitlist queue for the current program year. The next eligible project on the general waitlist for that sub-program would be awarded those funds or given an option to resize the project in proportion to the newly available funds in a similar fashion to the last projects selected during the project selection process.

Feedback received during the Agency's July 2021 stakeholder workshop and comment process expressed preference from stakeholders for additional lead time with visibility into the ILSFA Project Selection Protocols. Following the passage of Public Act 102-0662, further feedback was sought for guidance on updating Project Selection Protocols given updates to the legislation. The Agency understands the importance of consistency of selection protocols for the development cycle and proposes updating project selection protocols for program year 2022-2023 based on updates to the IPA Act as outlined in this draft 2022 Plan, but that the Project Selection Protocol developed for the 2022-2023 program year will be maintained without changes for the 2023-2024 program year to promote stability and certainty for Illinois Solar for All Approved Vendors, with the exception of adding in the new criterion related to Energy Sovereignty. Any changes to the protocol for the 2024-2025 program year will be finalized at least six months before the start of the program year. The Agency welcomes further stakeholder feedback on this proposal.

8.10.3. Customer Eligibility

Customer eligibility for the Illinois Solar for All Program is partly defined in the Act. Further refinements are proposed in this section.

8.10.4. Income Guidelines

Section 1-56(b) of the IPA Act states that, as used in that section (and thus for the Illinois Solar for All Program), "'low-income households' means persons and families whose income does not exceed 80% of area median income, adjusted for family size and revised every 5 years."[447]

The Agency proposes to use income eligibility guidelines from HUD. HUD bases its housing assistance programs, such as the Section 8 Housing Choice Voucher program on 80% of area median income, adjusted for family size.[448]

Because the Act does not define "area," the Agency is proposing to use HUD's definition of an area as a Metropolitan Statistical Area (MSA), a Fair Market Rate (FMR) Area, or a county not in an MSA or FMR. There are 20 MSAs and FMRs, and 62 other counties in Illinois.

Eligibility levels for Illinois Solar for All, based on 2017 HUD guidelines for every area and adjusted for family size, are presented in Appendix F. These guidelines will be updated during 2022. Since HUD updates their income guidelines in June, Illinois Solar for All income guidelines will be updated with the 2022 HUD State Income Limits once they are published. For this draft 2022 Long-Term Plan, prior income guidelines are included.

[447] 20 ILCS 3855/1-56(b).

[448] HUD, FY 2017 Income Limits Documentation System at https://www.huduser.gov/portal/datasets/il.html.

For Fiscal Year 2017, the HUD eligibility income limits for Illinois as a whole are shown in the table below. For example, a family of four would be considered "low-income" if their household income were less than $59,300. (Actual eligibility depends on income for an area, rather than for the state as a whole.) HUD has other programs that use "very low" and "extremely low" income measures, at 50% and 30% of AMI that are provided here for reference. [449]

Table 8-7: HUD Income Limits

HUD State Income Limits: Illinois FY 2017								
Median family income (MFI) = $74,100								
Persons in household	1	2	3	4	5	6	7	8
30% of median ("extremely low income")	$15,550	$17,800	$20,000	$22,250	$24,000	$25,800	$27,550	$29,350
50% of median ("very low income")	$25,950	$29,650	$33,350	$37,050	$40,000	$43,000	$45,950	$48,900
80% of median ("low income")	$41,500	$47,400	$53,350	$59,300	$64,000	$68,750	$73,500	$78,250

It should be noted that other low-income energy programs, such as IHWAP and LIHEAP have eligibility guidelines that are updated each program year, based on the federal poverty level (not area income), with statewide values. Eligibility guidelines are set for households with income below 200% of the previous year's federal poverty level, depending on the program. Illinois eligibility guidelines are set by the Department of Commerce and Economic Opportunity and are shown in Table 8-8.[450]

Table 8-8: Eligibility Guidelines for LIHEAP and WAP in Illinois

2022 Program Year Illinois LIHEAP and IHWAP eligibility		
Household Size	30 Day Income	Annual income (200% of FPL)
1	$2,147	$25,760
2	$2,903	$34,840
3	$3,660	$43,920
4	$4,417	$53,300
5	$5,173	$62,080
6	$5,930	$71,160
7	$6,590	$79,081
8	$6,737	$80,838

[449] https://www.huduser.gov/portal/datasets/il/il17/State-Incomelimits-Report-FY17.pdf. For metropolitan area and county level income limits, see: https://www.hudexchange.info/resource/reportmanagement/published/HOME_IncomeLmts_State_IL_2017.pdf.

[450] Illinois Department of Commerce and Economic Opportunity, "Community Assistance, Energy Efficiency and Infrastructure," https://www2.illinois.gov/dceo/CommunityServices/Pages/default.aspx.

Although many households who qualify for LIHEAP and IHWAP will meet the 80% AMI eligibility guidelines of Illinois Solar for All, there are certain household sizes in particular counties where 200% of FPL exceeds the local 80% AMI. The Program Administrator will still accept proof of LIHEAP or IHWAP approval as documentation of income eligibility, but with additional verification with DCEO to confirm household income eligibility to reduce inconvenience to the customer or the Approved Vendor. The tables in Appendix F compare HUD eligibility levels to LIHEAP and IHWAP income eligibility levels.

Another approach would be to identify low-income customers by geographic area rather than by individual household income. HUD's "Qualified Census Tracts" are used to define eligibility for the Low-Income Housing Tax Credit (LIHTC).[451] Qualified Census Tracts must have 50 percent of households with incomes below 60 percent of the Area Median Gross Income (AMGI) or have a poverty rate of 25 percent or more. HUD has identified and mapped Qualified Census Tracts ("QCT") nationwide. Overall, there are 657 QCTs in metropolitan areas in Illinois and 49 in non-metropolitan areas (out of 3,123 total census tracts in Illinois). Cook County has the largest portion with 441. Springfield, which has 15 QCTs, is shown in Figure 8-2 as an example.

The Agency will use QCTs (along with subscriber affidavits) as a streamlined method for determining eligibility for low-income community solar subscribers, as discussed in the next section.

Figure 8-2: Springfield Qualified Census Tracts

Source: HUD, https://www.huduser.gov/portal/sadda/sadda_qct.html

[451] HUD, "Qualified Census Tracts and Difficult Development Areas." https://www.huduser.gov/portal/datasets/qct.html.

8.10.4.1. Determining Income Eligibility

The Agency proposes several approaches to determining income eligibility for the Illinois Solar for All Program.

For projects that participate in the Low-income Distributed Generation Incentive Program sub-program, verification of income should be done at the household resident level. This can be done in several ways.[452]

For buildings with between one and four units, household income can be verified by one of the following means:

- Review of the most recent federal income tax returns
- Income verification through a third-party income verification system
- Verification of participation in another low-income energy program (such as LIHEAP or state-funded IHWAP), in HUD's housing assistance programs where the income eligibility standard is lower than 80% of AMI for that participant, or in other benefits programs where the income eligibility is lower than 80% of AMI.

Additionally, while the Agency generally expects the Illinois Solar for All Approved Vendor to verify a potential low-income community solar subscriber's income through one of the methods described above, the Agency recognizes that some potential subscribers would prefer to have their income verified independently of their community solar subscription. In such cases, the potential subscriber may request income verification directly through the Program Administrator and, if approved, that verification would remain valid for 12 months. The Program Administrator would provide the potential subscriber with a verification letter that could be provided to the Approved Vendor.[453]

The Agency received comments suggesting streamlining of the income verification process, particularly for potential participants that demonstrate household-level third-party qualification such as LIHEAP or IHWAP. Establishing income eligibility is a fundamental part of Illinois Solar for All. The Agency does acknowledge that improving processes and overall participant experience will be beneficial, and will work with the Program Administrator and stakeholders to identify ways to simplify the income verification process.

For two- to four-unit buildings, at least two of the households in the building must qualify. For a multi-family building (five or more units), either at least 50% of the households must qualify, or the building owner may demonstrate that the building meets the definition of "affordable housing" contained in the Illinois Affordable Housing Act, namely:

> *"Affordable housing' means residential housing that, so long as the same is occupied by low-income households or very low-income households, requires payment of monthly*

[452] In response to arguments raised in approving the First Revised Plan, the Commission determined that the Agency and the Program Administrator shall explore implementing a process to connect interested income-qualified customers with Illinois Solar for All Approved Vendors, and that the Agency must implement any such process in a competitively neutral fashion. (Docket No. 19-0995, Final Order dated February 18, 2020 at 108.)

[453] See Docket No. 19-0995, Final Order dated February 18, 2020 at 108.

> *housing costs, including utilities other than telephone, of no more than 30% of the maximum allowable income as stated for such households as defined in this Section.*[454]

In addition, participation in energy efficiency programs that also have an income eligibility requirement that is equal to or less than 80% of AMI may also be considered a means of qualifying a multi-family building.

For residential buildings of two or more units, the building owner will be required to agree to maintain at least half the units as affordable housing for a period of ten years.

For low-income community solar projects, the Agency recognizes that transaction costs of proving income eligibility compared to the value of the incentive may be higher than for an installation of a project on-site, and therefore proposes a streamlined income verification approach:

- A subscriber can be verified as low-income via the same provisions used for the Low-Income Distributed Generation Incentive sub-program.
- A subscriber can be verified as low-income if that subscriber resides in a HUD Qualified Census Tract and provides a signed affidavit that they meet the income qualification level.[455]
- For master-metered five-unit and larger residential buildings, either at least 50% of the tenants must be verified as low-income, or the building must be demonstrated to meet the definition of "affordable housing" contained in the Illinois Affordable Housing Act.[37] In addition to projects being eligible based on household income, subscriptions for homes or buildings that qualify for US Department of Housing and Urban Development ("HUD") Project-Based Vouchers or Project-Based Rental Assistance (which are programs for housing units dedicated to low-income tenants) also qualify. The income qualification levels required for participation in these programs is lower than income requirements for the Illinois Solar for All Program.

It is the responsibility of the Illinois Solar for All Approved Vendor to track subscribers and document income eligibility for community solar projects.[456] Approved Vendors will be required to report to the Agency on subscription rates once a year. Illinois Solar for All Approved Vendors will not be required to verify that existing subscribers continue to meet the low-income eligibility requirements, but new subscribers over time will be required to meet those requirements.

8.11. Consumer Protections

The Agency believes that this draft 2022 Plan features a strong set of consumer protections as part of both the Adjustable Block Program and Illinois Solar for All for distributed generation and community solar. The protections detailed in Chapter 9 apply to both the Illinois Solar for All Program and the Adjustable Block Program. But several factors lead the Agency to require additional

[454] See 310 ILCS 65/3(e). Note that the definition of low-income household contained in that Act mirrors the definition used for Illinois Solar for All, and that very low-income households have an income standard that is even lower.

[455] The Agency will monitor the use of this provision and may consider modifying the consideration of eligible census tracts (for example to census tracts where at least 50% of households are below 80% of AMI) if the proposed use of the QCT approach appears to be a barrier to facilitating subscription verification.

[456] While generally the Agency would expect the Illinois Solar for All Approved Vendor to verify a potential low-income community solar subscriber's income through one of the methods described in this Revised Plan, the Agency recognizes that some potential subscribers would prefer to have their income verified independently of their community solar subscription. In such cases, a potential subscriber may request income verification directly through the Program Administrator, and if approved, that verification would remain valid for six months. The Program Administrator would provide the potential subscriber with a verification letter that could be provided to the Approved Vendor.

consumer protections that are unique to the Illinois Solar for All Program. Thus, to be an Illinois Solar for All Approved Vendor for the program, Approved Vendors must agree to the following additional provisions for low-income customers.

- In order to "ensure tangible economic benefits flow directly to program participants," Illinois Solar for All Approved Vendors must also verify that there are no up-front payments for residential distributed generation program participants and no up-front subscription fees for community solar projects (with the exception of nominal fees to purchase shares in community solar projects organized as cooperative). Illinois Solar for All Approved Vendors must also provide documentation to both the program participant(s), and to the Program Administrator explaining how the project or community solar subscription will result in a cash-flow positive experience for the participant(s) (including an estimate of the monthly savings) and specifically, ensuring that the savings accruing to each participant, net of any ongoing participation fees, are at least 50% of the value produced by the solar system through avoided usage or net metering credits.[457]

- For distributed generation projects, a site suitability report is required to ensure that projects are being installed on properties that will not need substantial structural, roofing or electrical repairs. If repairs are needed, the Illinois Solar for All Approved Vendor must identify the plan for the repairs and how they will be paid for, ensuring that such costs do not place an unsustainable financial burden on the participant. While the site suitability report does not need to be completed prior to the program participant entering into a contract with the Illinois Solar for All Approved Vendor (or their sub-contracted installer), if the site suitability report indicates that the project is not viable, the contract must contain a no-cost cancellation provision.

- Illinois Solar for All Approved Vendors (or their Designees) are required to provide standard disclosures of all costs to program participants. Under the Initial and First Revised Plans, the Agency required that disclosure forms for Low-Income Distributed Generation projects be presented to customers at least seven calendar days prior to execution of the installation contract, and that customers also had the right to cancel their installation contract within seven calendar days following execution of that contract. **For this 2022 Plan, the Agency proposes to eliminate the requirement to present and sign the disclosure seven calendar days prior to contract execution; instead, program participants may be presented with the disclosure form and installation contract contemporaneously, and that following the explanation of standard disclosures to the customer, those documents may also be executed contemporaneously. To provide an additional consumer protection safeguard, the customer's right to cancellation will be extended from 7 calendar days to 14 calendar days. For contracts related to subscriptions to Low-Income Community Solar Project Initiative projects or Low-Income Community Solar Pilot Procurement projects, customers shall have the right to cancel the subscription agreement within three calendar days after its initial consummation, and to cancel subscriptions at any time with a 30-day notice. The Agency welcomes feedback on this change.**

[457] See Docket No. 17-0838, Final Order dated April 3, 2018 at 151.

- Financing amounts, terms, and conditions must be based on an assessment of the program participant's ability to repay the debt, as defined by Regulation Z, which is a federal rule that implements aspects of the Truth in Lending Act and the Dodd-Frank Act.[458]

- For low-income customers, loans should not be secured by the program participant's home or home equity. While such unsecured loans may entail a higher interest rate, especially for customers with low credit scores or little credit history, they avoid the risk of liens and foreclosures for customers who default on their loans.[459]

- Contracts for financial products must offer terms that include forbearance. If a program participant can show good cause in a request for forbearance, financers must offer a) suspension of total payments for up to three months, b) a suspension of interest payments for up to six months, or c) a reduction in interest rates for up to twelve months. Missed revenues may be recovered later in the stage of the contract, but no interest may be applied.

- Contracts may not include prepayment penalties.

- **For this draft 2022 Long-Term Plan, the Agency proposes to clarify that lease or PPA agreements that allow for ownership of the system to be fully transferred to the participant prior to the 15- year term of the REC agreement will be allowed only in circumstances where full system warranties and full coverage of operations and maintenance needs are included at no additional cost. In these instances, the first-year savings must still meet the minimum requirement and the lifetime savings will be calculated based on a 25-year life of the system.** For Energy Sovereignty on-site projects intended to be transferred to the customer after 5-7 years, contract terms may include the following: the timing of the transfer, the amount of Illinois Solar for All funds held in escrow to pay for the transfer, the purchase price of the system at the time of expected transfer, and a transfer of warranties to the new owner. Contract terms must be approved by the Program Administrator at the time of project application.

- For Energy Sovereignty community solar projects where individual panels are owned by an eligible customer, the contract should include the purchase price of the panels net of Illinois Solar for All incentives. If ownership is transferred after tax benefits are captured, the contract should specify where applicable: the timing of the transfer, the price of the system at the time of transfer, funds held in escrow for the buyer, and other factors described for distributed generation projects. **The Agency welcomes feedback on contract issues for Energy Sovereignty projects. For example, should the REC contracts require the AV to supply ongoing monitoring and maintenance after the transfer of ownership, at no additional charge to the customer, with the costs accounted for in the initial contract, and if so for how long? How should the transfer price be determined?**

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[458] See Consumer Financial Protection Bureau, April 10, 2013. *Ability-to-Repay and Qualified Mortgage Rule, Small Entity Compliance Guide*, http://files.consumerfinance.gov/f/201304_cfpb_compliance-guide_atr-qm-rule.pdf. Under the regulation (12 C.F.R. § 1026.43, issued under authority of 15 U.S.C. § 1639c), creditors generally must consider eight underwriting factors: (1) current or reasonably expected income or assets; (2) current employment status; (3) the monthly payment on the covered transaction; (4) the monthly payment on any simultaneous loan; (5) the monthly payment for mortgage-related obligations; (6) current debt obligations, alimony, and child support; (7) the monthly debt-to-income ratio or residual income; and (8) credit history.

[459] For example, the Illinois Energy Efficiency Loan Program offers unsecured loans at moderate interest rates through on-bill financing, but this is only available for certain energy efficiency measures. See: http://programs.dsireusa.org/system/program/detail/5152.

- Marketing and contractual materials must be in the language requested by the customer. The Agency reaffirms its commitment to develop program materials in Spanish and other languages to better reach underserved communities.

- Contracts must allow a grace period of at least seven calendar days after the customer payment due date before late fees are charged.

- All Illinois Solar for All contracts must include full system warranty, as well as operations and maintenance guarantees for the duration of the REC Contract or 15 years, at no additional cost to participants.

8.12. Environmental Justice Communities

The Act directs the Agency to define and provide special consideration to Environmental Justice Communities in implementing the Illinois Solar for All Program. The Act sets a goal that at least 25% of funds for the Low-Income Distributed Generation Incentive, the incentives for non-profit and public facilities, and Low-Income Community Solar projects sub-programs "be allocated to projects located in environmental justice communities."[460] (The provision did not apply to the Low-Income Community Solar Pilot Projects, which was competitively bid.)

Through changes to Illinois law made by Public Act 102-0662, other programs and state agencies now rely on the definitions of environmental justice communities developed by this methodology for their determinations of program and funding eligibility. Accordingly, the Agency will be cautious about any changes to the determination of environmental justice communities that would have cascading impact on those other provisions.

The following sections include definitions of terms, a methodology for determining which Illinois communities should be considered Environmental Justice Communities, and how the Agency determined to implement the relevant provisions of the Act. In developing the Illinois Solar for All program participation requirements, the Agency committed to consulting with stakeholders and relevant state agencies, including the Illinois Commission on Environmental Justice and the Illinois Environmental Protection Agency ("IEPA"), to establish specific values and designate specific communities as Environmental Justice Communities; the results of that process are outlined within this section.

8.12.1. Definitions

Section 1-56(b) of the IPA Act as amended by P.A. 102-0662 states that "the Agency shall define 'environmental justice community' based on the methodologies and findings established by the Agency and the Administrator for the Illinois Solar for All Program in its initial long-term renewable resources procurement plan and as updated by the Agency and the Administrator for the Illinois Solar for All Program as part of the long-term renewable resources procurement plan update." The term "environmental justice" is not defined in the Act or in other Illinois statutes, but it is helpful to define "environmental justice" in order to define "environmental justice communities."

The Environmental Justice Act, the 1997 legislation that created the Illinois Commission on Environmental Justice, found that:

[460] 20 ILCS 3855/1-56(b)(2)(A), (B), (C).

> *(i) the principle of environmental justice requires that no segment of the population, regardless of race, national origin, age, or income, should bear disproportionately high or adverse effects of environmental pollution;*
> *(ii) certain communities in the State may suffer disproportionately from environmental hazards related to facilities with permits approved by the State; and*
> *(iii) these environmental hazards can cause long-term health effects.*[461]

The Illinois EPA defines the term "environmental justice " as follows:

> *"Environmental Justice" is based on the principle that all people should be protected from environmental pollution and have the right to a clean and healthy environment. Environmental justice is the protection of the health of the people of Illinois and its environment, equity in the administration of the State's environmental programs, and the provision of adequate opportunities for meaningful involvement of all people with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.*[462]

The Illinois EPA has also defined what it terms "an area of EJ concern" based on demographic factors, as "a census block group with a low-income and/or minority population greater than twice the statewide average." The IEPA "uses a geographic information system (GIS) mapping tool called EJ Start to determine where areas of EJ concern are within the state. When a permitting action or other issue arises in an area of EJ concern, the Illinois EPA conducts enhanced public outreach."[463] Thus, the Illinois EPA takes a preemptive approach, identifying areas that may be more vulnerable to environmental hazards and including the community before potential pollution occurs.

The United States Environmental Protection Agency defines an "overburdened community" under both social and environmental terms as:

> *Minority, low-income, tribal, or indigenous populations or geographic locations in the United States that potentially experience disproportionate environmental harms and risks. This disproportionality can be as a result of greater vulnerability to environmental hazards, lack of opportunity for public participation, or other factors. Increased vulnerability may be attributable to an accumulation of negative or lack of positive environmental, health, economic, or social conditions within these populations or places. The term describes situations where multiple factors, including both environmental and socio-economic stressors, may act cumulatively to affect health and the environment and contribute to persistent environmental health disparities.*[464]

Both the IEPA and US EPA have developed analytical tools based on their definitions of EJ communities. The IEPA's EJ START is a Geographic Information Systems demographic screening tool developed by IEPA staff that identifies regions with high minority population and/or low-income population. IEPA also adds a one-mile buffer around each regulated facility as a simplified way to

[461] 415 ILCS 155/5.

[462] Illinois EPA web site, "Environmental Justice Policy," https://www2.illinois.gov/epa/topics/environmental-justice/Pages/ej-policy.aspx.

[463] Id.

[464] US EPA, "EJ 2020 Glossary," https://www.epa.gov/environmentaljustice/ej-2020-glossary.

identify potential local environmental impacts. It draws from the Census Bureau's American Community Survey 5-year estimates (2011-2015) and is updated annually.

The US EPA tool is called EJ SCREEN.[465] It uses standard and nationally-consistent data to identify communities with greater risk of exposure to pollution based on 11 environmental indicators that measure potential exposure, hazard/risk and proximity, including traffic proximity, particulate matter, and proximity to superfund sites. These indicators are combined with demographic data from the Census Bureau, enabling users to identify areas with minority or low- income populations who also face potential pollution issues.

While these tools are useful, they do not holistically address all aspects of environmental justice. For example, EJ SCREEN evaluates individual environmental indicators but does not look at cumulative impacts.

The most rigorous tool for analyzing impacted communities is the California Communities Environmental Health Screening Tool ("CalEnviroScreen") from the California Office of Environmental Health Hazard Assessment ("OEHHA").[466] CalEnviroScreen compiles data on 12 indicators of pollution burden and 8 population characteristics collected at the Census tract level. It then weights certain factors to develop a score for each area. High scoring areas are then considered eligible for a number of state policies, including disposition of some of the revenues from the state cap-and-trade program created under Assembly Bill 32.

Table 8-9: Summary of CalEnviroScreen 3.0 Identification Methodology

Pollution Burden	Population Characteristics
Exposures	***Sensitive populations***
Ozone Concentrations PM2.5 Concentrations Diesel PM Emissions Drinking Water Contaminants Pesticide Use Toxic Releases from Facilities Traffic Density	Asthma Emergency Department Visits Low Birth Weight Infants Cardiovascular disease (emergency department visits for heart attacks)
Environmental effects	***Socio-economic indicators****
Cleanup Sites Groundwater Threats Hazardous Waste Impaired Water Bodies Solid Waste Sites and Facilities	Educational Attainment Housing burdened low income households Linguistic Isolation Poverty Unemployment

Source: OEHHA. * California law prohibits the use of race as a factor in CalEnviroScreen.

The CalEnviroScreen approach is an attractive way to consider defining environmental justice communities but the Agency notes that the development of it was a multi-year, multi-million dollar

[465] See: https://ejscreen.epa.gov/.

[466] California Office of Environmental Health Hazard Assessment, *California Communities Environmental Health Screening Tool (CalEnviroScreen)*, https://oehha.ca.gov/calenviroscreen/report/calenviroscreen-version-20.

undertaking. Therefore, the Agency will utilize a streamlined approach that takes the concept of CalEnviroScreen and simplifies it for use in Illinois through using readily available data from the U.S EPA's EJ SCREEN tool. CalEnviroScreen does not account for race in its calculations, but by using data from EJ SCREEN, the Agency will be able to do so.

The federal government's U.S. Digital Service, working with the Council on Environmental Quality, is developing the Climate and Economic Justice Screening Tool to guide federal programs under the Justice40 initiative (Executive Order 14008). The tool will expand and improve EJ SCREEN, featuring interactive maps with indicators to assist agencies in defining and identifying disadvantaged communities. When this tool is available, the IPA will review the results and evaluate if it results in any changes to the consideration of environmental justice communities contained herein.

8.12.2. Approach for Defining Environmental Justice Communities

The Agency determined which areas qualify as Environmental Justice Communities by analyzing data from Illinois census block groups[467] for the following environmental indicators, as described by the EJ SCREEN Tool:[468]

- National-Scale Air Toxics Assessment (NATA) air toxics cancer risk
- NATA respiratory hazard index
- NATA diesel PM
- Particulate matter
- Ozone
- Traffic proximity and volume
- Lead paint indicator
- Proximity to Risk Management Plan sites
- Proximity to Hazardous Waste Treatment, Storage and Disposal Facilities
- Proximity to National Priorities List sites
- Wastewater Dischargers Indicator

The following demographic indicators are also used by EJ SCREEN and were incorporated into the Agency's methodology:[469]

- Percent Low-Income
- Percent Minority
- Less than high school education
- Linguistic isolation
- Individuals under age 5
- Individuals over age 64

The Agency considered including the following seven indicators that use data not contained in EJ SCREEN. These are not available at the same level of detail as the indicators using data from EJ SCREEN (more typically they have data at the zip code or county level) and would need to be translated to the block group level. Therefore, the Agency determined in the final methodology that

[467] There are approximately 10,000 census block groups in the state of Illinois.

[468] See https://www.epa.gov/ejscreen/overview-environmental-indicators-ejscreen.

[469] See https://www.epa.gov/ejscreen/overview-demographic-indicators-ejscreen.

these indicators would be too difficult to incorporate to provide meaningful impact on the evaluation criteria. Namely, these include the following demographic indicators for Sensitive Population Characteristics from the Illinois Department of Public Health:

- Asthma Emergency Department Visits
- Low Birth Weight Infants

and the following environmental indicators from the Illinois Environmental Protection Agency:

- Drinking Water Watch
- Site remediation program
- Leaking Underground Storage Tank Incident Tracking
- State Response Action Program
- Solid Waste Facilities

Using the eleven environmental and six demographic factors listed at the top of this section, the Agency then weighted each factor using an approach adapted from CalEnviroScreen: census block groups were ranked for each environmental and demographic indicator, a resulting percentile score determined for each census block group within each indicator, and the percentile scores averaged, resulting in an environmental score and a demographic score for each census block group. The two averages were then multiplied together to determine a single Environmental Justice score for each census block group.

Figure 8-3: CalEnviroScreen Formula

Source: OEHHA

Communities with scores in the top 25% of all census block groups statewide are defined as Environmental Justice Communities for the purpose of the Illinois Solar for All Program. This definition will be used to target grassroots education funding and incentives for the Low-income Distributed Generation, Non-profits/Public Facilities, and Low-income Community Solar sub-programs.

A community that is not in the top 25% of scores and thus is not initially defined as being an Environmental Justice Community may request that the Agency consider designating that community as such. The Agency will consider requests from community-based organizations, local units of government, or community residents for self-designation as an environmental justice

community based on demonstrated quantitative and qualitative environmental and/or socioeconomic factors that show a disproportionate burden and were not adequately captured in the screening defined above. A request for self-designation must be approved through an Environmental Justice Community Self-Designation Process[470] prior to any project application being submitted that seeks to utilize its location in an approved self-designated Environmental Justice Community as part of its project selection.

The Agency notes that this approach focuses on analysis of census block group-level data, and that communities are typically understood by their residents to be defined through geographic, cultural, and other factors that may, or may not, correspond to census block group boundaries. In addition, the US EPA cautions that data in the EJSCREEN tool is not always reliable at the block group level, and recommends that it may be necessary to aggregate up to larger geographic areas in a "buffer report."[471]

The Agency will therefore also consider reasonable adjustments to the borders of environmental justice communities from what is calculated through the census block group analysis, provided this does not create an unacceptable analytical burden.

8.12.3. Environmental Justice Community Designations

The Illinois Solar for All Program Administrator undertook the analysis described in Section 8.12.2 in early 2019 prior to the program launch, which included a workshop and an opportunity for written stakeholder comments. The resulting interactive map of Environmental Justice Communities, as well as information from that stakeholder process, is available at www.illinoissfa.com/environmental-justice-communities. The map of environmental justice communities will be updated at least on a semiannual basis to reflect any additional approved requests for self-designation.

The EJSCREEN data used to determine Illinois Solar for All Program-determined Environmental Justice Communities will be updated, and the Environmental Justice Community maps refigured, based on updated data from each Illinois Solar for All program year. Previously designated Self-Designated Environmental Justice Communities will be maintained through this update. **To allow for project development cycles that may overlap with these changes, for the 2022-2023 program year, the initial and updated Environmental Justice Community determinations will both be considered as meeting program Environmental Justice goals and selection points. Following the updates to the Illinois Solar for All Environmental Justice maps, the Program Administrator and the Agency will explore the scope of changes between the maps to advise a future proposal of a regular schedule to update Illinois Solar for All Environmental Justice maps. The Agency seeks feedback on this proposal.**

8.12.4. Environmental Justice Communities 25% Goal

The Act states that "It is a goal of this program that a minimum of 25% of the incentives for this program be allocated to projects located within environmental justice communities."[472]

[470] The initial Self-Designation Process developed by the Agency and Program Administrator can be found at https://www.illinoissfa.com/app/uploads/2019/05/042219EJ-Self-Designation-Process_Final.pdf. The Agency reserves the right to modify this process in the future based on program experience.

[471] EJSCREEN Technical Documentation, at https://www.epa.gov/ejscreen/technical-documentation-ejscreen.

[472] 20 ILCS 3855/1-56(b)(2).

For all sub-programs, the Agency will reserve 25% of each sub-program's annual budget to support projects in environmental justice communities. If the 25% of funds in each sub-program are fully allocated to projects in environmental justice communities, then subsequent applicant projects in environmental justice communities would still be eligible using the general available budgets. The 25% reservation of funds for environmental justice communities will be held open within a sub-program until filled within a program year, then reset at the beginning of each new program year.

To help ensure that environmental justice communities are made aware of opportunities for participation in ILSFA, grassroots education funding will be prioritized towards Environmental Justice Communities to help meet this goal. Up to 60% of the funding (or 3 percentage points of the 5%) will be used for this purpose.

8.13. Program Changes

Several provisions in the Act anticipate the ability to revise program provisions. In addition to the provision described in Section 1-56(b)(4) of the Act, updated by Public Act 102-0662, that allows stakeholders to propose additional programs, Section 1-56(b)(2) allows the Agency to reallocate funds between programs:

> *"The allocation of funds among subparagraphs (A), (B), (C) and (E) of this paragraph (2) may be changed if the Agency, after receiving input through a stakeholder process, determines incentives in subparagraphs (A), (B), (C), or (E) of this paragraph (2) have not been adequately subscribed to fully utilize available Illinois Solar for All Program funds."*[473]

With this draft 2022 Plan, the Agency must update the allocation of funds between the sub-programs as updated by Public Act 102-0662.

For this draft 2022 Plan the Agency has throughout this Chapter proposed a variety of adjustments to the program pursuant to the following provision:

> *"Following the Commission's approval of the Illinois Solar for All Program, the Agency or a party may propose adjustments to the program terms, conditions, and requirements, including the price offered to new systems, to ensure the long-term viability and success of the program. The Commission shall review and approve any modifications to the program through the plan revision process described in Section 16-111.5 of the Public Utilities Act."*[474]

Stakeholders have suggested a more collaborative stakeholder feedback process, rather than issue- or point-in-time specific engagements. The Agency will work with the Program Administrator to create an ongoing stakeholder engagement process to gather feedback on ongoing program performance, changes, and progress. These more general progress sessions will be held at least quarterly.

Further, the Agency and Program Administrator may consider piloting program or process changes on a limited scale to better understand and measure those changes' effectiveness before making long term changes to the Illinois Solar for All Program. For example, a pilot may involve coordination with

[473] 20 ILCS 3855/1-56(b)(2).

[474] 20 ILCS 3855/1-56(b)(4).

third-party energy efficiency program administrator or Community Action Agency to develop a process that would facilitate connecting participants in energy efficiency programs with Illinois Solar for All Approved Vendors or provide initial site suitability screening.

8.14. Evaluation

Section 1-56(b)(6) requires that this Plan include an approach for independent evaluation of the Illinois Solar for All Program:

> *"At least every 2 years, the Agency shall select an independent evaluator to review and report on the Illinois Solar for All Program and the performance of the third-party program administrator of the Illinois Solar for All Program. The evaluation shall be based on objective criteria developed through a public stakeholder process. The process shall include feedback and participation from Illinois Solar for All Program stakeholders, including participants and organizations in environmental justice and historically underserved communities. The report shall include a summary of the evaluation of the Illinois Solar for All Program based on the stakeholder developed objective criteria. The report shall include the number of projects installed; the total installed capacity in kilowatts; the average cost per kilowatt of installed capacity to the extent reasonably obtainable by the Agency; the number of jobs or job opportunities created; economic, social, and environmental benefits created; and the total administrative costs expended by the Agency and program administrator to implement and evaluate the program."*

In January 2019, the Agency held a workshop and took stakeholder feedback to assist in the development of the scope and process for the evaluation.[475] The Agency then issued a Request for Qualifications/Request for Proposals to select an independent evaluator to conduct the evaluation.[476] This selection process is expressly exempted from the Illinois Procurement Code.[477] On August 7, 2019, the Commission approved the contract for the Agency's selected evaluator, APPRISE, Inc.

The Act calls for an evaluation "at least every 2 years," but the Agency notes that Illinois Solar for All did not launch for project applications until May 2019. The Phase I Evaluation Report, released in October 2019, focused on the stakeholder outreach process, development of program materials and guidelines, initial Illinois Solar for All Approved Vendor registration, initial project applications, and the development of Grassroots Education efforts, and was included in Appendix G of the First Revised Plan. Four Phase II Evaluation Reports were completed in 2020 and 2021, which detail the first two years of ILSFA activities through program year 2021-2022 and provide recommendations for program improvement. The Illinois Solar for All Evaluation Summary Report was also created to provide a succinct overview of program design, metrics, and recommendations found in the Phase I and Phase II evaluation reports.[478]

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[475] See: https://www.illinoissfa.com/announcements/2019/01/written-comments-on-illinois-solar-for-all-third-party-program-evaluation/ and https://www.illinoissfa.com/announcements/2019/02/public-comments-on-third-party-evaluation/.

[476] See: https://www2.illinois.gov/sites/ipa/Documents/IPA%20-%20IlSfA%20-%20Program-Administrator%20-%2018-RFQ-02%20%28Released%2001182018%29.pdf and https://www2.illinois.gov/sites/ipa/Documents/2018ProcurementPlan/IPA-ABP-Program-Administrator-18-RFP-01-20180312.pdf.

[477] 20 ILCS 3855/1-56(f).

[478] See: https://www.illinoissfa.com/evaluation/.

Recommendations from the Phase II Final Evaluation Report are summarized below. The Phase II Final Evaluation Report is included as Appendix H to this 2022 Plan. Generally, these recommendations do not require specific changes to the Plan but rather can be considered and potentially implemented through ongoing program administration, and the Program Administrator has or will be implementing many of these recommendations. Where applicable, changes proposed in this draft 2022 Plan reflect these recommendations.

Recommendations

- Low-Income Distributed Generation Sub-program Project Barriers: Continue to reduce barriers to development of DG projects. This may include exploring where program requirements can be reduced, reducing or removing the waiting period between disclosure and contract execution, and reducing the batch requirement for the first set of projects. Also increase outreach to Illinois Solar for All Approved Vendors to encourage them to develop more standard offers for the list provided to potential participants, and work with the Chicago Porch and Roof Replacement Program and similar programs to target households that may have already had roof repair.

- Utility Screening: Future legislation could be considered that specifies how utilities engage with ILSFA and provides funding to support other aspects of project development.

- Limit Program Changes: Program design changes should focus on refinements that reduce barriers to participation in the Low-Income Distributed Generation sub-program. This will allow the Program Administrator to focus on streamlining project development and implementation processes.

- ILSFA Website: The ILSFA website design can be improved to make it easier to find information and understand the program.

- ILSFA Portal: The portal has been adapted as the program has grown, and there are opportunities to streamline, reduce redundancies and increase user-friendly design elements.

- Green Bank: Develop plans for how a Green Bank can aid Illinois Solar for All Approved Vendors in project financing if enabling legislation is enacted.

- Stakeholder Outreach: Implement proactive outreach to stakeholders beyond current email blasts, and engage Community Action Agencies and other organizations that serve low-income households.

- DG Screening: Develop and implement a process to work collaboratively with the community action agencies that administer LIHEAP and IHWAP.

- Part II Process: Reduce challenges with document and photo uploading, job training document collection, and documentation redundancies.

The Agency plans to begin the process of selecting an Evaluator for the next two-year period starting in the spring of 2022. The Evaluator selection process will include opportunities for stakeholder input in the evaluation design.

8.15. Grassroots Education Funding

Section 1-56(b)(3) of the IPA Act as amended by Public Act 102-0662 also requires that the Agency "direct that up to 5% of the funds available under the Illinois Solar for All Program to community-based groups and other qualifying organizations to assist in community-driven education efforts related to the Illinois Solar for All Program, including general energy education, job training program outreach efforts, and other activities deemed to be qualified by the Agency." [479] For the initial program years the Agency interpreted the "funds available under the [Program]" to be the annual contribution of approximately $11.7 million from the Renewable Resources Budget under Section 1-75(c)(1)(O) of the Act, plus $16.5 million allocated annually from the RERF for the three non-competitive sub-programs, plus $2.5 million allocated annually from the RERF for the Low-Income Community Solar Pilot Projects.[480] Therefore, the maximum available annual budget for grassroots education was $1.53 million for these two program years; the Agency awarded $449,464 for community grassroots education campaigns in the 2019-2020 program year, $499,094 in the 2020-2021 program year, and $500,000 in the 2021-2022 program year. With the utility funding available for Illinois Solar for All increasing to $50 million per year in addition to funding from the Renewable Energy Resources Fund, funding for grassroots education is potentially very substantial and the Agency will continue to assess what is an appropriate funding level.

For the purposes of grassroots education, community-based organizations must be registered non-profit entities, excluding trade or political non-profits. It is recognized that the definition of community-based organizations or non-profit is very broad and may include a variety of organization types. It is not required that non-profit organizations have federal 501(c)(3) status, and collaborative or fiscal sponsorship should be encouraged to ensure that very small, hyper-local organizations can participate. Qualified organizations should work within the communities in which they will be providing grassroots education. Grassroots educator entities will be chosen through competitive RFPs issued periodically and selected grassroots educators will be subcontractors of the ILSFA Program Administrator. Pursuant to the Initial Plan, the first selection of grassroots educators was made in June 2019.[481]

As noted in Section 8.12.4, grassroots education funding will be prioritized towards Environmental Justice Communities to help meet this goal. Up to 60% of the funding (or 3 percentage points of the 5%) will be used for this purpose. Grassroots education topics could include solar basics, program requirements, consumer protection, program benefits and opportunities, job training opportunities, environmental justice community issues, or community engagement, among many others. One

[479] 20 ILCS 3855/1-56(b)(3).

[480] While for three of the sub-programs there are defined program year funding levels available, that concept did not apply cleanly to the Low-Income Community Solar Pilot Project sub-program. For simplicity, the Agency proposed to allocate the total available funding for that sub-program ($37.5 million) over 15 years, which is the length of time that projects from the sub-program would be delivering RECs to the Solar for All Program.

[481] See: https://www.illinoissfa.com/announcements/2019/06/announcing-grassroots-organizations.

objective of the grassroots education strategy will be to ensure that campaigns collectively reach a diversity of households and communities, topics, and geographies over time.

Public Act 102-0662 updated language directing grassroots education efforts to clarify, "Grassroots education funding shall not be used to support the marketing by solar project development firms and organizations, unless such education provides equal opportunities for all applicable firms and organizations." Non-profit organizations providing grassroots education to communities must ensure that outreach and education provided does not serve the interest of any Approved Vendor or other solar developer above any other. When grassroots education events are open to Illinois Solar for All Approved Vendors, all Approved Vendors should have an equal opportunity to participate in a transparent manner. No organization providing grassroots education services should have a current financial relationship with an Illinois Solar for All Approved Vendor where the grassroots education organization receives payment for such services, and any past relationships should be clearly disclosed when submitting proposals. Community-based organizations may work with Illinois Solar for All Approved Vendors in the capacity of developing a solar project for their own property. Community-based organizations receiving grassroots education funding are also permitted to provide referrals to Illinois Solar for All Approved Vendors who request assistance in identifying either community organizations or property owners that are interested in seeing community solar projects developed in their communities, provided there are no financial payments or other benefits received by the grassroots education funding recipient in exchange for such referrals. **The Agency proposes conducting a special request for proposals to contract a community organization with experience in job placement services to conduct an educational campaign to connect Illinois Solar for All Approved Vendors with interested trainees. This would supplement (not replace) the job trainee clearinghouse to be maintained by the Program Administrator discussed in Section 8.6.**

8.16. Ongoing Research and Education

The Illinois Solar for All Program aims to bring the benefits of solar power to low-income, non-profit, and public sector customers, environmental justice communities, and Illinois workers.

Illinois Solar for All takes place in the context of a wide range of energy, social, and economic policies and programs from federal, state, and local governments. Moreover, business and social entrepreneurs are developing innovative approaches to deployment. Both of these factors lead to a complicated and shifting landscape for the role of solar energy in addressing social and environmental inequities.

Many states are exploring policy approaches that combine climate action and equity, with a strong focus on low-income solar development. The Agency believes that Illinois stakeholders and practitioners would benefit from ongoing study of opportunities and best practices in other states that would improve the execution of the Illinois Solar for All Program.

While the Act establishes a number of working groups and advisory councils to provide input on clean energy programs, no such formal process has been established for Illinois Solar for All. A number of stakeholders commented on the need for ongoing public input and dialogue around Illinois Solar for All. The Agency strongly supports such a process, and points to the Community Solar Energy Sovereignty Grant Program, established in Section 5-60(e) of the Energy Transition Act enacted through Public Act 102-0662, managed by the DCEO, which may be used "to support the development of programs and entities to assist in the long-term governance, management, and

maintenance of community solar projects, such as community solar cooperatives." Examples of eligible tasks include "development of cooperative or community ownership model; and development of project models that allocate benefits to equity investment eligible communities." The Agency will explore avenues to collaborate with the DCEO on the execution of such an initiative.

9. Consumer Protection

In prior iterations of the Long-Term Plan, terms, conditions, and requirements for participation in the Adjustable Block Program and the Illinois Solar for All Program were located the chapters outlining program requirements for each. This chapter consolidates discussion of those consumer protection program requirements applicable across both programs.

9.1. Consumer Protection Requirements under Prior Long-Term Plans

The Agency has considered the development of safeguards for consumers a vital component in ensuring the success of the Adjustable Block Program and Illinois Solar for All. A project that successfully applies to one of these programs stands to receive a financial benefit from the program in the form of a REC delivery contract and by extension from the ratepayers who fund it. Requiring clear and consistent information on the relationships among the end customer, the installer/developer, and the Approved Vendor is critical to ensuring that the fiscal risks and controls of these programs are properly and prudently managed.

As explained in prior plans, installation of a photovoltaic system is a significant financial commitment on behalf of that system's host (and potential owner). A system that has been sold (or leased) to a customer using incorrect, inaccurate, or deceptive information could put the financial security of Illinois residents or businesses at risk and poison the ongoing viability of the Illinois solar market.

While subscribing to a community renewable generation project is not the same as choosing to purchase or lease a system to be located on your own property, it bears similarities to signing up to take supply service from an Alternative Retail Electric Supplier ("ARES") and includes a binding contractual commitment. The Agency has observed that the history of questionable marketing practices of some Alternative Retail Electric Suppliers gives reason to ensure significant safeguards are in place around the marketing of community renewable generation subscriptions.[482] Among the troubling practices observed from alternative gas and electric suppliers include: improperly associating the supplier with the local utility or a government agency or program; implying that a customer must choose to enroll; inflating the price of green energy offers far beyond the actual incremental cost of procuring renewable resources; and targeting elderly, non-English speaking, and low-income customers who may have less access to quality information about energy prices.

The Initial and Revised Plans thus featured consumer protection requirements developed mindful of the state's experience with the retail energy supply market and the marketing and sale of energy-related products. As such, the IPA originally sought to tap into the experience and institutional

[482] See, e.g., ICC Docket No. 14-0512, Consumer Services Division and Office of Retail Market Development Staff Report to the Commission dated August 20, 2014, https://www.icc.illinois.gov/downloads/public/edocket/384622.pdf (detailing misleading and noncompliant marketing tactics employed by one ARES); ICC Docket No. 15-0438, Consumer Services Division and Office of Retail Market Development Staff Report to the Commission dated July 20, 2015, https://www.icc.illinois.gov/docket/files.aspx?no=15-0438&docId=232481 (detailing several misleading telephone marketing tactics employed by a different ARES); ICC Docket No. 15-0512, First Notice Order, September 22, 2016, at 55 (expressly relying on information submitted with the ICC Staff Initial Comments dated November 5, 2015 (https://www.icc.illinois.gov/downloads/public/edocket/417068.pdf), which detailed trends in allegations of ARES wrongdoing including unauthorized switching, misrepresentation of the nature of the transaction, misrepresentation of identity of the ARES, misrepresentation of price or savings, failure to disclose cancellation fees or right to cancel, and more); ICC Docket No. 17-0273, Order, August 15, 2017, at 4-5 (denying a certificate of service authority to an ARES that, previously operating in Illinois under a prior corporate structure, had amassed numerous complaints related to sales and marketing).

knowledge reflected in requirements applicable to alternative retail electric suppliers. While Approved Vendors would not necessarily be Alternative Retail Electric Suppliers, and thus as Approved Vendors are not governed as a matter of law by the Commission's Rules applicable to ARES, the IPA found that the Commission's Title 83, Part 412 rules provided a workable blueprint for expectations of Approved Vendors. Therefore, as a condition of ongoing approval, Approved Vendors are and have been expected to comply with marketing standards generally equivalent the Commission-approved rules for marketing practices by alternative retail electric suppliers.[483]

The Agency recognizes that it is not a regulatory agency and does not have jurisdiction over all distributed generation installations or community solar projects across the state. However, the Agency can and did create common sense provisions to ensure that entities developing projects seeking to participate in the Adjustable Block and Illinois Solar for All Programs are held to high standards for consumer protection. The Agency, along with its Program Administrators, enforces those provisions through suspension of non-compliant entities from further participation in this state-administered incentive Program.

In approving the Agency's Initial Plan through Docket No. 17-0838, the Commission recognized the necessity for consumer protection requirements and authorized the Agency to develop requirements via program-related forms and documents outside of the Commission's approval proceeding. Consistent with the Commission's Order in that proceeding, the IPA developed initial consumer protection policies and procedures as terms and conditions of participation in these programs. In order to ensure transparency in the development of these guidelines, the IPA and its Program Administrators held a series of stakeholder feedback sessions and solicited written stakeholder feedback in 2018 before producing program brochures, standard disclosure forms, contract requirements, requirements for marketing behavior and marketing materials, and the ABP Program Guidebook and ILSFA Approved Vendor Manual upon opening of the programs.

After deliberation, the Agency decided not to seek Commission approval of those specific documents through approval of its Revised Plan in Docket 19-0995. The Agency believed then that the ability to adjust such documents and the requirements embodied within them based on market experience, without further Commission approval, outweighed the certainty associated with having an administrative order from a quasi-adjudicatory body affirming the specific contents contained therein. Instead, the Commission to affirmed the following through its Order approving the Revised Plan:

- The Agency maintains flexibility to adjust its program requirements, and the documents and forms through which they are expressed, without further Commission approval as warranted;
- Any significant adjustments to those requirements should be preceded by a process to receive stakeholder feedback;
- The principle that Approved Vendors may be held accountable for the conduct of their agents, subcontractors, or designees under the Agency's marketing guidelines and other program requirements is a reasonable requirement consistent with a) the Commission's determination in Docket No. 17-0838 and b) the Agency's statutory authority to develop terms, conditions, and requirements applicable to the programs it implements.

[483] See 83 Ill. Adm. Code Part 412 for administrative rules outlining those practices.

In accordance with the Commission's Order in 19-0995 approving the Revised Plan, the Adjustable Block Program Marketing Guidelines and related documents were updated through a stakeholder process to reflect changes to approved by the Commission, including updating the requirements to align with requirements placed on alternative retail suppliers through the enactment of Public Act 101-0590.[484] These requirements and related documents underwent minor modifications once again in October 2021 to reflect changes in program requirements surrounding the opening of additional capacity for the Adjustable Block Program on December 14, 2021.[485]

9.2. Consumer Protection Provisions Arising from Public Act 102-0662

Changes in law under Public Act 102-0662 require the Agency, along with its Program Administrators for both the Adjustable Block Program and Illinois Solar for All Program, to propose various program terms, conditions, and requirements applicable to participating entities and project applications. In large part, the requirements, codified at 20 ILCS 3855/1-75(c)(1)(M), mirror consumer protections put into place by the Agency and approved by the Commission under the Initial and Revised Plans. Pursuant to the P.A. 102-0662, the Agency is required to:

i. Establish a registration process for entities seeking to qualify for program-administered incentive funding, maintain a list of such entities, and revoke an entity's ability to receive funding based on the failure to comply with contract terms, the law, or other program requirements;
ii. Establish program requirements and minimum contract terms to ensure projects are properly installed and produce their expected amounts of energy;
iii. Direct program participants and their agents to provide standardized disclosure to a customer prior to the customer's execution of a contract in order to discourage deceptive marketing and bad faith business practices;
iv. Establish Consumer Complaint Centers to accept complaints regarding entities that participate in or otherwise benefit from State-administered incentive funding through Agency-administered programs, and maintain a public database of complaints;
v. Provide an annual written report to the Commission documenting the frequency and nature of complaints as well as any enforcement actions taken in response;
vi. Convene regular meetings with representatives of the Office of the Attorney General, the Commission, consumer protection groups, and other interested stakeholders to share information regarding consumer protection, project compliance, and complaints received; and
vii. Refer complaints to that implicate the jurisdiction of the Office of the Attorney General, the Commission, or local, State, or federal law enforcement to the appropriate entity as necessary.

As revisions to Section 1-75(c)(1)(M) now expressly state that the IPA "shall propose the Adjustable Block program terms, conditions, and requirements . . . through the development, review, and approval of the Agency's long-term renewable resources procurement plan," the Agency understands this new language as a directive from the General Assembly as a requirement to include these

[484] See: https://illinoisabp.com/wp-content/uploads/2020/06/ABP-M-GLs-Request-for-Feedback-4.3.20-Updated-Due-Date.pdf.

[485] https://illinoisabp.com/wp-content/uploads/2021/10/DG-Marketing-Guidelines-With-CEJA-Update-10.19.21-Redline.pdf

requirements within the Long-Term Plan, subject to approval from the Commission, where practicable to do so.[486]

As noted in Section 9.1, the Agency lacks regulatory authority over developers of distributed generation or community solar projects. However, the changes in law to Section 1-75(c)(1)(M) pursuant to the enactment of Public Act 102-0662 reinforce the IPA's belief that consumer protections are a vital part of its programs through new express statutory requirements necessitating that the Agency develop "terms, conditions and requirements for program participation" that discourage deceptive marketing practices and bad faith business practices. A description of the Agency's requirements for both programs and proposed changes thereto are outlined below; current program materials outlining marketing requirements are contained within Appendix I to this Plan.

9.3. Registration for Program Participants

The Agency is required to establish a registration process for entities that wish to qualify for program-administered incentive funding, establish baseline qualifications for approval of these entities, and maintain a list on each program's website. Additionally, the Agency may revoke the ability for these registered entities to receive program-administered incentive funding upon a determination that the entity failed to comply with program requirements or the law. While these statutory requirements are newly-enacted pursuant to the provisions of P.A. 102-0662, the provisions hew closely to the guidelines already in place under both programs, as detailed below. Where applicable, the Agency has outlined requests for stakeholder feedback on proposals for updated guidelines.

9.3.1. Registration Requirements

Registration requirements for Approved Vendors and Designees under the Adjustable Block Program are laid out in Sections 7.7 and 7.8 of this Plan, respectively, and further detail on those processes is contained within the Program Guidebook. Approved Vendors seeking to participate in the Illinois Solar for All Program must first satisfy the requirement of being an Approved Vendor in good standing with the Adjustable Block Program. Registration requirements for Approved Vendors under the Illinois Solar for All Program are laid out in Section 8.9 of this Plan, and further detail on the Approved Vendor application process and Designee registration process is contained within the program's Approved Vendor Manual.

The Agency experienced an increased number of complaints within the Adjustable Block Program in 2021, predominately surrounding actions of Designees rather than Approved Vendors. Investigations into these complaints have shown that more often than not, Approved Vendors are unaware of their Designees' violative conduct. The Agency previously sought stakeholder feedback on whether Designees in the Adjustable Block Program should be subject to an application process

[486] The Agency does not interpret this provision of the IPA Act to allow it to promulgate administrative rules related to terms and conditions of program participation. While the Administrative Procedure Act applies to all its administrative rules and procedures (20 ILCS 3855/1-30.1), the Agency "shall not adopt any rules that infringe upon the authority granted to the Commission" under Section 1-35 of the IPA Act. As the Commission has the authority to approve this Long-Term Plan under Section 1-75(c)(1)(A) of the IPA Act and Section 16-111.5(b)(5) of the PUA, the Agency cannot adopt any administrative rules regarding the terms, conditions, and requirements for participation in the Adjustable Block and Illinois Solar for All Programs under Section 1-75(c)(1)(M) of the IPA Act – or, indeed, for any other requirement related to the programs. The promulgation of such administrative rules would plainly infringe upon the authority granted to the Commission through its role reviewing and approving the Long-Term Renewable Resources Procurement Plan.

similar to Approved Vendors (as opposed to the current process, where Designees simply register with the program rather than applying to the program seeking the ability to participate as an Approved Vendor does). The Agency received feedback indicating that this proposal was not supported, as the process would be burdensome to Designees and may create barriers to program participation for new and emerging businesses.

As Approved Vendors are ultimately responsible for the actions of their Designees under both programs, the Agency is considering a requirement that Approved Vendors develop processes for the management and training of their Designees, including a vetting process to determine whether the Designee will be suitable for participation in the programs. Under this proposal, Approved Vendors would be required to submit these plans and processes to the Agency and/or Program Administrators upon request and may be subject to disciplinary action for the failure to develop and implement internal policies for the management of Designees. The Agency believes that this requirement would help ensure both Approved Vendors and Designees are well-informed of the programs' consumer protection requirements in a manner that may help reduce the volume and type of customer complaints, ultimately leading to more successful projects and implementation of the programs. The Agency is open to alternative approaches, including limiting this requirement to Approved Vendors with a certain threshold number of projects or Designees, or limiting the requirement to certain categories of Approved Vendors or Designees (for example, Approved Vendor Aggregators or Disclosure Form Designees).

9.3.2. Listing of Approved Entities

Both the Adjustable Block Program and Illinois Solar for All Program provide lists of Approved Vendors and Designees on each program's website. For the Adjustable Block Program, this information is published both on the consumer-facing branded website, Illinois Shines, and the website designed for participating entities. Both of these websites also provide information regarding whether the entity has been disciplined by the Program Administrator for violations of program requirements. The Illinois Solar for All website likewise provides a listing of Approved Vendors and registered Designees on its website; however, no disciplinary actions have been taken against Approved Vendors or Designees in that program. For more information on the public database of disciplinary actions and customer complaints, see Section 9.6 of this Plan.

9.3.3. Disciplinary Determinations

The Adjustable Block Program and the Illinois Solar for All Program are ultimately state-administered incentive programs leveraging state- or utility-collected funds to provide additional incentives for photovoltaic project development. These programs do not constitute the solar project development market generally; an Approved Vendor, agent, or Designee could simply choose to operate outside of the Agency's consumer protection requirements should it choose not to avail itself of incentive funding. Consequently, the Agency's disciplinary determinations are simply determining ongoing eligibility for state-administered incentives. No conduct is being restricted through the suspension or revocation of Approved Vendor status generally; all that is being restricted is the ability for an Approved Vendor to avail itself of additional incentive funding.

Changes in law under Public Act 102-0662 support the Agency's prior position on the matter of disciplinary determinations for violations of program requirements. Section 1-75(c)(1)(M)(i) now provides that the Agency may "revoke a vendor's ability to receive program-administered incentive funding status upon a determination that the vendor failed to comply with contract terms, the law, or other program requirements." The Agency believes that revocation of the ability to receive incentive funding may involve Approved Vendors as direct recipients of incentive funding as well as Designees as indirect recipients of that funding. Additionally, the Agency believes that a reasonable interpretation of the changes in law would include both a temporary revocation (i.e., suspension) and permanent revocation (i.e., termination of program registration) of the ability to receive program-administered incentive funding.

The Agency appreciates that certain procedural safeguards should accompany its disciplinary determinations. Through its Revised Plan, the Agency proposed (and the Commission approved) procedural requirements applicable to such determinations. Specifically, mirroring and expanding on the process found in the Adjustable Block Program Guidebook, the Agency's Revised Long-Term Plan provided that Approved Vendors, Designees, agents, or other third parties potentially subject to program discipline for a violation of program requirements generally be afforded the following:

- A 45-day lead time will be provided to Approved Vendors and Designees in order to prepare for and implement general changes to consumer protection requirements. Unless otherwise specified, the lead time granted will not prohibit Approved Vendors and Designees from taking earlier steps towards compliance. In situations where the Agency determines that emergency adoption of a new or modified consumer protection is necessary, no lead time will apply; however, the Agency commits to enforce any such requirements with an eye toward the practical challenges inherent in immediate implementation.[487]
- In the event that the Program Administrator identifies that it believes an Approved Vendor, Designee, or other entity participating in its programs is not acting, or has not acted, in compliance with program requirements, the appropriate Program Administrator will notify the participating entity (and its Approved Vendor, in the case of an agent or Designee,) through an e-mail that:
    - Outlines the problematic behavior;
    - Explains how the behavior is non-compliant with program requirements; and
    - Requests more information about the issue.
- No disciplinary determination (such as the suspension or revocation of the ability to participate in the Agency's programs) will be made by the appropriate Program Administrator without the allegedly offending party having the opportunity to offer a written or oral explanation of the problematic behavior for review and analysis by the Program Administrator.
- All disciplinary determinations made by the Program Administrator will be communicated through a written explanation of the determination featuring at least the following:
    - A brief explanation of the infractions for which the Approved Vendor and/or Designee is being disciplined;
    - A timeline of communications between the offending entity and the Program Administrator;

[487] See Docket No. 19-0995, Final Order dated February 18, 2020 at 56, 62. For an example of emergency adoption of a consumer protection, see: http://illinoisabp.com/2020/03/20/ipa-covid-19-announcement/.

  - Specific reference to which specific program requirement(s) the offending entity violated;
  - In the case of a warning, an explanation of the concerning behavior that, if continued, may lead to a suspension from the program;
  - In the case of a probation, an explanation of the probation terms, including which program requirement(s) must be explicitly followed during the probation period, the penalty for failure to strictly comply during that period, and other conditions that the entity may be required to satisfy prior to the probation being lifted;
  - In the case of a suspension, an explanation of the suspension terms, including what specific conduct is no longer permitted in connection with the Program through the length of the suspension and other conditions that the entity may be required to satisfy prior to resuming participation in the program; and
  - An explanation for how to appeal the Program Administrator's determination that a suspension is warranted to the Agency and the deadline for submission of the appeal. Unless otherwise indicated, appeals must be submitted to the IPA within two weeks of the suspension determination, but that deadline may be extended by the IPA upon request by the disciplined entity for good cause.
- The IPA will endeavor to address any appeals of disciplinary determinations within two weeks of receiving an appeal (although the need to receive additional documents or information may extend that timeline).
- Any appeal determination made by the IPA will include, at minimum, a clear statement of the Agency's decision, the consequences of that decision, and a supporting explanation as to why that decision was made.

The Agency does not believe that additional process beyond the steps set forth above are currently warranted; however, if such steps are necessary, the Agency believes that it would be best determined through an update to the marketing guidelines utilizing a transparent stakeholder feedback process. However, the Agency does not believe that the authority to "revoke a vendor's ability to receive program-administered funding *status*" is the same as authority to revoke a vendor's ability to receive program-administered *funding*—such as through the suspension of REC delivery contract payments—which the counterparty utility is contractually obligated to provide for REC deliveries, unless that consequence follows as a violation of certain REC delivery contract terms. Accordingly, the Agency finds that it is appropriate to continue utilizing the disciplinary determination process outlined above as approved by the Commission in its last Revised Plan.

9.4. Program Requirements and Minimum Contract Terms

As discussed in Section 9.1, pursuant to the Commission's Order approving the Initial Plan in Docket No. 17-0838, the Agency and its Program Administrators developed program requirements, including marketing requirements, standard disclosure forms, contract terms, and program brochures. The Agency is now required under Section 1-75(c)(1)(M)(ii) to establish program requirements and minimum contract terms "to ensure projects are properly installed and produce their expected amounts of energy."

While the Agency sought approval of program requirements in the past occurred through the Long-Term Plan, the content has been developed outside of the Plan approval process. The Agency continues to believe that the ability to adjust these program requirements, including marketing

requirements and minimum contract terms, based upon observations of the market and complaints regarding customer experiences is necessary to provide adequate consumer protections that can readily adapt to changes in the marketplace or other conditions. For example, in March 2020, the Agency issued emergency requirements related to in-person marketing during the onset of the COVID-19 global health pandemic.[488] These emergency provisions were modified as the pandemic progressed through 2020, 2021, and into 2022.

While documents outlining marketing requirements[489] and other requirements have now been included with this Plan as directed by Section 1-75(c)(1)(M), for this 2022 Plan, the IPA once again requests that the Commission affirm through approval of this Plan that the Agency maintains the flexibility to adjust the Adjustable Block Program and Illinois Solar for All program requirements for sales and marketing (including related documents and forms) without further Commission approval. As with the Revised Long-Term Plan, the IPA commits to conducting a stakeholder feedback process prior to implementing significant adjustments to those requirements and related documents. The commencement of any such revision process will be announced on the respective program website and communicated to Approved Vendors and registered Designees. Following a significant, non-emergency change in program requirements adopted through a stakeholder process, program participants will have 45 days to comply with the updated provisions.

9.4.1. ABP Program Requirements

In addition to being outlined in this Plan, program requirements for participants in the Adjustable Block Program are also detailed in the Program Guidebook and Guidelines[490] for Marketing Materials and Marketing Behavior ("Marketing Guidelines"), of which there are separate versions for marketing of community solar subscriptions and distributed generation installations. and Minimum Contract Terms. Approved Vendors and Designees alike are required to be familiar with and comply with all program requirements in order to remain in good standing with the program.

While Chapter 7 of this Plan outlines the primary goals and requirements for the Adjustable Block Program, detail regarding the implementation of those requirements is explained in the ABP Program Guidebook. Developed by the Agency in conjunction with the Program Administrator, the Program Guidebook provides necessary detail on program requirements across all program categories and processes. As such, some items related to the consumer protection provisions in Public Act 102-0662 (for example, the processes for Approved Vendor applications and Designee registration or project inspections) are outlined in the Program Guidebook. The Agency, along with the Program Administrator, works to update the Program Guidebook on a regular basis to ensure that requirements are in step with the program as it develops.

In addition to the Program Guidebook, there are several other documents which either set forth program requirements or are essential for compliance with those requirements, including:

[488] https://illinoisabp.com/covid-19-related-marketing-guidelines-and-updates/

[489] Current marketing requirements for the Adjustable Block Program and the Illinois Solar for All Program are contained in Appendix I.

[490] While titled as "Guidelines," this document constitutes firm requirements for continued program participation.

- Distributed Generation Standard Disclosure Form:[491] available in both English and Spanish, with separate versions available dependent upon whether the system is leased, purchased, financed through a PPA, or over 25 kW in size.
- Community Solar Standard Disclosure Form:[492] available in both English and Spanish.
- Informational program brochure:[493] available in both English and Spanish, with separate brochures providing detail on distributed generation and community solar technologies
- Guidelines for Marketing Materials and Marketing Behavior: the program provides separate marketing requirements for distributed generation[494] and community solar[495] marketing.
- Minimum Contract Requirements: different contract requirements exist for installation of a distributed generation system[496] and a community solar subscription.[497]

These supporting documents as listed above and attached hereto in Appendix I work in concert with the Program Guidebook to ensure that program participants (Approved Vendors and Designees) are fully informed on program requirements. It is the Agency's hope that through development of these requirements, customers who encounter the program are educated about the benefits and costs of photovoltaic installation and/or community solar subscriptions. The Agency firmly believes that a well-informed Approved Vendor/Designee can ensure a positive and knowledgeable consumer interaction, so goes to great lengths to ensure program participants are well informed, while simultaneously maintaining a focus on consumer education and protection.

9.4.1.1. ABP DG Marketing Guidelines

Approved Vendors and Designees involved in a distributed generation project under the Adjustable Block Program are required to adhere to the Distributed Generation Marketing Guidelines ("DG Marketing Guidelines"). The DG Marketing Guidelines set out firm requirements for sales and marketing materials, including requirements surrounding the use of false and/or misleading statements, false representations, use of testimonials, social media marketing, use of a language the customer knows and understands in marketing/soliciting sales, and compliance with local rules and restrictions on marketing. Similar provisions for marketing behavior are also outlined in this document, including specifically requirements surrounding in-person solicitations, telemarketing, online marketing, direct mail, and association with Alternative Retail Electric Suppliers. The DG Marketing Guidelines specify the requirements surrounding the distribution and use of the standard disclosure form (discussed below in Section 9.5) and program brochure, which must be provided to each customer.

Approved Vendors are required to distribute a standardized brochure to program participants prior to the execution of the contract with the program participant. This consumer protection brochure is available in either print or electronic form, and has been prepared by the Program Administrator and approved by the Agency. The brochure informs consumers of their rights, procedures for filing

[491] See samples of each version here: https://illinoisabp.com/program-guidelines-disclosure-forms/

[492] See sample: https://illinoisabp.com/wp-content/uploads/2020/12/ABP-CS-Disclosure-Form-Template-8-DEC-2020.pdf

[493] See: https://illinoisabp.com/brochures/

[494] See: https://illinoisabp.com/wp-content/uploads/2021/10/DG-Marketing-Guidelines-With-CEJA-Update-10.19.21.pdf

[495] See: https://illinoisabp.com/wp-content/uploads/2021/01/ABP-Community-Solar-Marketing-Guidelines-18-NOV-2020.pdf

[496] See: https://illinoisabp.com/wp-content/uploads/2020/05/dg-contract-requirements-2019_01_23.pdf

[497] Revised Long-Term Plan (June 6, 2021) at 195-196.

complaints, and point to more information on the Program website. The Agency has prepared the brochures in English and Spanish and will consider creating versions in other languages should sufficient demand exist.

Additionally, Approved Vendors are required to submit information to the Agency with the project application which ensures that certain standardized information about the Program was provided to that customer in accordance with marketing requirements. Approved Vendors must document to the IPA through the application process that the minimum contract terms for distributed generation systems were met (outlined below in Section 9.4.1.2), that the customer received a program brochure, and that the customer received and executed a standard (i.e., unmodified) disclosure form (as explained in more detail in Section 9.5).

9.4.1.2. ABP DG Minimum Contract Terms

The Initial Long-Term Plan stated that, for distributed generation installations, the Illinois Power Agency and its Program Administrator would develop "a list of contract requirements" to be provided to Approved Vendors for the system purchase contract, lease, or power purchase agreement ("PPA") between the Approved Vendor (or its agent) and the customer. After approval of the Initial Plan through Docket No. 17-0838, the Agency (through a stakeholder comment process) developed minimum contract terms applicable to photovoltaic system sales, photovoltaic system installations, and community solar subscriptions. These contract requirements were developed and released for program participants on January 23, 2019, and have applied to transactions supported by the Program since the onset of the Adjustable Block Program.

Public Act 102-0662's changes to 1-75(c)(1)(M) reinforce the Agency's authority for developing these requirements as a condition of participation in its incentive programs. Specific minimum contract requirements are outlined in the subsections below. To date, these requirements have taken the approach of a minimum set of items which need to be expressly addressed through the contract, and not minimum baseline terms intended to benefit customers (such as customer savings requirements, O&M terms, PV system capacity factor/efficiency, etc.).

The minimum requirements for installation contracts utilized for projects that participate the Adjustable Block Program are as follows:[498]

1. Common Contract Requirements for All Business Models
    - Right of rescission within three or more calendar days (only for systems <=25kW)
    - System design specification:
        i. Site plan or equivalent drawing
        ii. Size of system
        iii. Estimated first year production and annual degradation
    - If performance guarantee is provided:
        i. Host or owner's remedy in case of underperformance
        ii. Host or owner's procedure to lodge a claim under the performance guarantee

[498] See: https://illinoisabp.com/wp-content/uploads/2020/05/dg-contract-requirements-2019_01_23.pdf

- Change in pricing or other terms, if any, in the event of non-selection for an Adjustable Block Program REC contract. As an example, a condition precedent clause would satisfy this requirement.
- Responsibility for interconnection application
- If warranty is provided:
    i. Term of warranty
    ii. Defects covered (e.g., faulty installation, malfunctioning components beyond manufacturer's warranty, roof damage)
    iii. Financial limits on warranty
    iv. Warranty provider
    v. Host or owner's procedure to lodge a claim under warranty
- Allocation of maintenance obligations between host or owner & installer
- Allocation of responsibility for entering meter data (this provision could be in a separate contract)
- All possible fees (other than those mentioned in #2, #3, and #4 below)
- Events of default
    i. Remedies of both host or owner & installer in case of default
- Dispute resolution procedures
- Governing law

2. Contract Requirements Specific to Purchase Transactions
    - Total price:
        i. Down payment, if any
        ii. Schedule of subsequent payments
    - Type of panels
    - When title transfers to owner
    - Provisions for owner's transfer of RECs to Approved Vendor (this provision could be in a separate contract)
    - Owner's rights and obligations upon selling the property
    - When mechanic's lien waiver(s) will be provided
3. Contract Requirements Specific to PPA Transactions
    - Frequency of periodic (e.g., monthly) payments
    - Method of invoicing and payment
    - Pricing terms (including escalation)
    - Date of first payment
    - Term of PPA arrangement
    - Early termination fee, if any
    - Whether system removal is (i) mandatory or (ii) at the host's election or (iii) not possible upon contract termination o System removal fee, if any
    - Whether PPA offtaker has right to purchase the system
        i. before end of lease term; or
        ii. upon end of lease term
        iii. In either case, economic terms for purchase
    - PPA term renewal: automatic? At host's option? Not at all? What are the economic terms?
    - System owner's right to file UCC-1 statement

- Allocation of responsibility to maintain insurance on system, and the required insurance terms
- Allocation of risk of loss in case of damage to system
- Host's rights and obligations upon selling the property
    i. Requirements for transferring the PPA agreement to the new property owner

4. Contract Requirements Specific to Lease Transactions
    - Initial payment
    - Frequency of periodic (e.g., monthly) payments
    - Method of invoicing and payment
    - Pricing over time (including escalations)
    - Date of first payment
    - Term of lease
    - Early termination fee, if any
    - Type of panels
    - Whether system removal is (i) mandatory or (ii) at the host's election or (iii) not possible upon contract termination
        i. System removal fee, if any
    - Whether lessee has right to purchase the system
        ii. before end of lease term; or
        iii. upon end of lease term
        iv. In either case, economic terms for purchase
    - Lease term renewal: automatic? At lessee's option? Not at all? What are the economic terms?
    - Lessor's right to file UCC-1 statement
    - Allocation of responsibility to maintain insurance on system, and the required insurance terms
    - Allocation of risk of loss in case of damage to system
    - Lessee's rights and obligations upon selling the property
        i. Requirements for transferring the lease to the new property owner

As mentioned above, these requirements were developed for the program in 2019 and may benefit from being updated. The Agency is interested in receiving stakeholder feedback through this draft 2022 Long-Term Plan as to whether, and how, these minimum contract terms require updating in accordance with the legislative changes.

The Agency is specifically seeking stakeholder feedback on how these minimum contract requirements for Small and Large Distributed Generation projects can be updated. Are there currently any superfluous items included in the minimum contract requirements? Alternatively, what should be added to the current contract requirements to ensure a greater level of customer knowledge in order to further strengthen consumer protections?

Additionally, the Agency seeks stakeholder feedback on whether contract requirements specific to new program categories due to the passage of Public Act 102-0662. That is, is there a need for stricter and/or more specific requirements for new distributed generation project categories (i.e., Public School projects or projects developed by Equity Eligible Contractors)? Proposals of detailed contract requirements that stakeholders deem necessary to accommodate these new project types are appreciated.

The Agency previously sought stakeholder feedback on whether there should be a threshold for system efficiencies in the program to ensure inefficient or suboptimal systems were not sold, leased, or financed through a PPA to customers unknowingly. Feedback received noted this proposal was not supported, as they may create barriers to development for customers who desire to install a sub-optimal system. Rather, stakeholder feedback indicated a need for increased customer education surrounding system production, and suggested that it be addressed on the disclosure form.

As Section 1-75(c)(1)(M)(ii) specifically requires the Agency to establish "minimum contract terms to ensure projects are properly installed and produce their expected amounts of energy," the Agency is specifically seeking feedback regarding how additions to the minimum contract requirements can support this shared goal.

The Agency has seen a rise in the number of complaints from customers regarding ballooning loan payments and/or loan payments which are scheduled to begin before the customer receives an anticipated pass-through of the state-administered incentives under the REC delivery contract. The Agency is proposing additional minimum contract terms which would prohibit these types of ballooning loan payments, or in the alternative, a requirement that the contract specify that the payments may not increase until after the Approved Vendor has provided the customer with the promised incentive payment. The Agency seeks stakeholder feedback about how minimum contract terms could be modified to protect customers from such penalties, which are outside their control.

9.4.1.3. ABP CS Marketing Guidelines

Approved Vendors and Designees involved in acquiring subscribers for community solar projects receiving incentives under the Adjustable Block Program are required to adhere to the Guidelines for Community Solar Marketing Materials and Marketing Behavior ("CS Marketing Guidelines") established the program, as laid out in Appendix I.[499] While a subscription to a community renewable generation project is not the same as the installation of a distributed generation system, it does bear similarities to taking supply service from Alternative Retail Electric Supplier.

Based on ARES practices, the Agency recognizes that door to door, telemarketing, or online sales of community renewable generation subscriptions may be marketing channels of particular concern because of the information asymmetry between the salesperson and the consumer. The Agency believes an informed consumer is a wise consumer and strongly encourages marketing channels that respect the opportunity for consumers to have complete and accurate information about the decisions they may make regarding subscriptions, particularly those related to upfront payments, the net price of energy, and termination fees and conditions. The Agency and/or its Program Administrators may conduct additional monitoring of Approved Vendors and their Designees (and/or their partners/affiliates) that utilize door to door, telemarketing, and online sales, and reserve the right to request the Approved Vendor or Designee provide additional documentation of those marketing channels including, but not limited to, access to call center recordings for either sales or third-party verifications.

[499] Like the Agency's requirements surrounding marketing materials and behavior related to distributed generation systems, while titled "Guidelines," these provisions are strict program requirements. See https://illinoisabp.com/wp-content/uploads/2021/01/ABP-Community-Solar-Marketing-Guidelines-18-NOV-2020.pdf

The CS Marketing Guidelines for the Adjustable Block Program set out provisions for marketing materials, including requirements surrounding the use of false and/or misleading statements, false representations, use of testimonials, social media marketing, use of a language the customer knows and understands in marketing/soliciting sales, and compliance with local rules and restrictions on marketing related specifically to community solar subscription offers. Approved Vendors and Designees are unequivocally prohibited from engaging in unfair, deceptive, or abusive acts or business practices in their involvement with the programs.

As described in the IPA's Initial and Revised Plans, there are a number of state and federal consumer protection laws, regulations, and enforcement agencies that apply to all forms of marketing, including marketing of subscriptions to Community Renewable Generation Projects.[500]

Table 9-1: Federal Statutes that Apply to Community Solar

Statute	Topic
CAN-SPAM Act	Electronic marketing
Consumer Leasing Act	Leasing disclosures
Electronic Funds Transfer Act	Consumer rights in electronic fund transfers
Equal Credit Opportunity Act	Discrimination in credit transactions
Fair Credit Reporting Act	Collection and use of consumer information
Federal Trade Commission Act	Unfair and deceptive trade practices
Magnuson-Moss Warranty Act	Consumer product warranties
Right to Financial Privacy Act	Financial privacy from government intrusion
Truth in Lending Act	Lending disclosures and standardization
Telephone Consumer Protection Act	Telemarketing and automated telephone
Unfair Deceptive Practices Act (UDAAP)	Misleading financial products and services
Uniform Commercial Code	Sales and commercial transactions

Source: CESA, *Consumer Protection for Community Solar: A Guide for States*, 2017.

Table 9-2: Illinois Statutes that Apply to Community Solar

Statute	Topic
Consumer Fraud and Deceptive Business Practices Act (815 ILCS 505)	Enrollment, marketing, billing, and collection by electric service providers
Electronic Mail Act (EMA) (815 ILCS 511)	Regulates e-mail solicitations
Telephone Solicitations Act (815 ILCS 413) and the Restricted Call Registry Act (815 ILCS 402)	Regulates telemarketing practices
Personal Information Protection Act (815 ILCS 530)	Requires companies that collect personal information to take reasonable measures to protect it and report unauthorized access to consumer's personal information.

[500] Diana Chace and Nate Hausman, Clean Energy States Alliance, *Consumer Protection for Community Solar: A Guide for States*, June 8, 2017. http://cesa.org/resource-library/resource/consumer-protection-for-community-solar-a-guide-for-states.

These laws and regulations provide a starting point for protecting consumers, but their enforcement agencies typically only track and enforce violations if triggered by consumer complaints. The Agency will work with collaborate with the Office of the Attorney General, the Commission, and law enforcement as applicable in accordance with the provisions of Section 9.8, below, to ensure compliance with these requirements. The community solar marketing guidelines for the program detail the use of the standard disclosure forms, and further requirements surrounding the use of these forms are included below in Section 9.5. Additionally, in order to ensure that subscribers are well-informed and thus afforded adequate consumer protections, the Agency requires that all projects also adhere to the minimum contract terms and conditions outlined in Section 9.4, below.

9.4.1.4. ABP CS Minimum Contract Terms

The Agency requires that Approved Vendors and/or their Designees seeking or receiving REC delivery contracts to support community solar projects through the Adjustable Block Program must include each of the following in any contracts entered into with subscribers:

(a) A plain language disclosure of the subscription, including:
- (i) The terms under which the pricing will be calculated over the life of the contract and a good faith estimate of the subscription price expressed as a monthly rate or on a per kilowatt-hour basis;
- (ii) Whether any charges may increase during the course of service, and, if so, how much advance notice is provided to the subscriber.

(b) Contract provisions regulating the disposition or transfer of a subscription;

(c) All nonrecurring (one-time) charges;

(d) All recurring (monthly, yearly) charges;

(e) A statement of contract duration, including the initial time period and any rollover provision;

(f) Terms and conditions for early termination, including:
- (i) Any penalties that the Project Developer may charge to the subscriber; and
- (ii) The process for unsubscribing and any associated costs.

(g) If a security deposit is required:
- (i) The amount of the security deposit;
- (ii) A description of when and under what circumstances the security deposit will be returned;
- (iii) A description of how the security deposit may be used; and
- (iv) A description of how the security deposit will be protected.

(h) A description of any fee or charge and the circumstances under which a customer may incur a fee or charge;

(i) A statement explaining any conditions under which the Project Developer may terminate the contract early, including:
- (i) Circumstances under which early cancellation by the Project Developer may occur;
- (ii) Manner in which the Project Developer shall notify the customer of the early cancellation of the contract;
- (iii) Duration of the notice period before early cancellation; and
- (iv) Remedies available to the customer if early cancellation occurs;

(j) A statement that the customer may terminate the contract early, including:

(i) Amount of any early cancellation fee;

(k) A statement describing contract renewal procedures, if any, including any automatic renewal provisions;

(l) A dispute procedure;

(m) The Agency's and Commission's phone number and Internet address;

(n) A billing procedure description;

(o) The data privacy policies of the Project Developer;

(p) A description of any compensation to be paid for underperformance;

(q) Evidence of insurance;

(r) A description of the project's long-term maintenance plan;

(s) Current production projections and a description of the methodology used to develop production projections;

(t) Contact information for the Project Developer for questions and complaints;

(u) A statement that the Project Developer does not make representations or warranties concerning the tax implications of any bill credits provided to the subscriber;

(v) The method of providing notice to the subscribers when the project is out of service for more than three business days, including notice of:

(i) The estimated duration of the outage; and

(ii) The estimated production that will be lost due to the outage.

(w) Any other terms and conditions of service.

In addition, to ensure portability and transferability of subscription contracts, as required by Section 1-75(c)(1)(N) of the Act, any such contract should provide that the subscriber (i) may retain the subscription (or at least a downsized version of the subscription relative to the subscriber's new load) as long as the subscriber changes addresses for utility service within the same utility service territory, and (ii) may assign or sell the subscription to another person within the same utility service territory, without any fee owed to the subscription counterparty, subject to reasonable terms and conditions including matching the subscription size to the new subscriber's load. Section 1-75(c)(1)(N) now states that requirements that community solar subscriptions be "portable and "transferable" can be "[s]ubject to reasonable limitations," and the Agency believes this approach fits that standard. The Agency understands that the community renewable net metering tariffs for Ameren Illinois, ComEd, and MidAmerican approved by the Commission on September 27, 2017 are consistent with these principles and expects that updated tariffs approved by the Commission in accordance with Public Act 102-0662 will likewise incorporate these provisions.

As with the distributed generation contract requirements, the Agency seeks feedback as to whether these community solar minimum contract requirements should be adjusted. Are there any additions to these requirements that would further inform a consumer entering into a community solar subscription contract? Are there any present requirements that are now superfluous given the development of the community solar market since the development of these requirements?

9.4.2. ILSFA Program Requirements

Like the Adjustable Block Program, Illinois Solar for All Program requirements are outlined in this Plan and through additional documents developed by the Agency and the Program Administrator to facilitate the administration of the program. Program requirements for participants in ILSFA are laid out in Chapter 8 of this Plan, detailed in the Approved Vendor Manual ("AV Manual"), and the Consumer Protection Guidelines[501] for Low-Income Distributed Generation and Low-Income Community Solar, and customer contract provisions for both low-income community solar and low-income distributed generation sub-programs. Approved Vendors and Designees alike are required to be familiar with and comply with all program requirements in order to remain in good standing with the program.

While Chapter 8 of this Plan outlines the primary goals and requirements for ILSFA, detail regarding the implementation of those requirements is explained in the AV Manual, provides necessary detail on program requirements across all program categories and processes. As such, some items related to the consumer protection provisions in Public Act 102-0662 (for example, the processes for Approved Vendor applications, Designee registrations, and project inspections) are outlined in the AV Manual. The Agency, along with the Program Administrator, works to update the AV Manual on a regular basis to ensure that requirements are in step with the program as it develops. Most recently, the AV Manual was updated in April of 2021 to outline program requirements for the 2021-2022 program year.

Of particular note with the consumer protection program requirements applicable to the ILSFA program is the communities that the program was designed to serve. Low-income communities have been historically underserved by programs that offer resources and incentives for energy, housing, and access to capital, and as a result have had very low participation in the clean energy economy generally. This low participation level has created a significant information gap within such communities. At the same time, low-income communities have often been targeted with false or deceptive marketing practices, predatory sales, unfair contracts, and low-quality workmanship. The requirements for consumer protections within the Illinois Solar for All Program are designed to address these realities.

In addition to the AV Manual, there are several other documents necessary to the topic of consumer protections within ILSFA, as they set forth program requirements or are essential for compliance with those requirements, including:

- Consumer Protections for Low-Income Distributed Generation[502] and Consumer Protections for Low-Income Community Solar,[503] both of which are found in Appendix I to this Plan
- Program brochures, available in both English and Spanish, for the following subcategories: Low-Income Distributed Generation,[504] Low-Income Community Solar,[505] and Non-Profits and Public Facilities[506]

[501] While titled as "Guidelines," these documents constitute firm requirements for continued program participation.

[502] https://www.illinoissfa.com/app/uploads/2019/05/ILSFA-Consumer-Protections-Guidelines-DG- v3.pdf.

[503] https://www.illinoissfa.com/app/uploads/2019/05/ILSFA-Consumer-Protections-Guidelines-CS- v.2.pdf.

[504] https://www.illinoissfa.com/app/uploads/2019/05/0419-ILSFA-infosheet-distributed-generation-v10.pdf.

[505] https://www.illinoissfa.com/app/uploads/2019/10/0919-ILSFA-infosheet-low-income-community-solar-v11.pdf.

[506] https://www.illinoissfa.com/app/uploads/2019/05/ILSFA-brochure-non-profits-public-facilities.pdf.

- Customer Contract Provisions – minimum contract terms for both distributed generation and community solar technologies
- Standard disclosure forms, available in both English and Spanish for the various distributed generation forms, differentiated by financing type as well as for community solar[507]; specific standard disclosure for the Non-Profit/Public Facility[508] subcategory has also been developed

The supporting documents as listed above and attached hereto in Appendix I work in concert with the AV Manual to ensure that program participants (Approved Vendors and Designees) are aware of all program requirements. These documents were developed and informed in part by the program requirements for the Adjustable Block Program and include specific additional requirements to ensure the protections for higher-risk communities that are served by the Illinois Solar for All Program. It is the Agency's hope that through development of these requirements, customers who encounter the program are educated about the benefits and costs of photovoltaic installation and/or community solar subscriptions. The Agency firmly believes that a well-informed Approved Vendor/Designee can ensure a positive and knowledgeable consumer interaction, so goes to great lengths to ensure program participants are well informed, while simultaneously maintaining a focus on consumer education and protection.

9.4.2.1. Low-Income Distributed Generation Consumer Protection Requirements

Approved Vendors and Designees involved in a distributed generation project under Illinois Solar for All in the Low-Income Distributed Generation subprograms (of which there are now two pursuant to Public Act 102-0662) are required to adhere to the Consumer Protection Guidelines for Low-Income Distributed Generation Projects ("LIDG Consumer Protection Guidelines"), which are contained in Appendix I to this Plan.[509] The LIDG Consumer Protection Guidelines govern the interaction of Approved Vendors and their Designees within the marketplace and potential program participants. The LIDG Consumer Protection Guidelines explain requirements surrounding warranties, maintenance, and system removal; standard disclosures (which are discussed more specifically in Section 9.5 of this Plan); financial requirements; customer data and income verification; marketing materials and behavior, including requirements surrounding the use of false and/or misleading statements, false representations, use of testimonials, social media marketing, use of a language the customer knows and understands in marketing/soliciting sales, and compliance with local rules and restrictions on marketing; and site assessments and inspections. The applicable requirements for the Illinois Solar for All Program include additional protections beyond those of the Adjustable Block Program, as to account for low-income communities, as they are at increased risk for deceptive marketing practices and behaviors. Also included in the LIDG Consumer Protection Guidelines is an attestation form that must be completed by the Approved Vendor and submitted with the project application, demonstrating and certifying that the Approved Vendor's customer interactions have been in compliance with the LIDG Consumer Protection Guidelines. Approved Vendors and Designees

[507] https://www.illinoissfa.com/app/uploads/2020/03/ILSFA-Disclosure-Community-Solar.pdf.

[508] https://www.illinoissfa.com/app/uploads/2019/05/ILSFA-Disclosure-Non-Profit-Public-Facilities-Fillable.pdf.

[509] As with the ABP requirements titled as "Guidelines," this document constitutes firm requirements for continued program participation.

are unequivocally prohibited from engaging in unfair, deceptive, or abusive acts or business practices in their involvement with the program.

Similar to the Adjustable Block Program, Approved Vendors and Designees in the Illinois Solar for All Program must provide customers with a copy of a standard brochure and a disclosure form prior to execution of the contract, which must also comport with minimum contract requirements. The standard disclosure form requirements are discussed below in Section 9.5, while minimum contract terms for these subprograms follow in Section 9.4.2.2.

9.4.2.2. ILSFA DG and NP/NF Minimum Contract Terms

The Illinois Solar for All Program provides incentives to low-income customers and communities and therefore includes a set of considerations around minimum contract terms that is different from the Adjustable Block Program to provide additional protections and guarantees for more vulnerable populations. For the Illinois Solar for All Program the Agency requires that Approved Vendors seeking REC delivery contracts associated with the Low-Income Single-Family and Small Multifamily Solar Incentive, the Low-Income Large Multifamily Solar Incentive, and the Incentives for Non-Profits and Public Facilities must include each of the following in any contracts entered into with participants,[510]:

- Contract must be in the language requested by the customer.
- 1-4 unit Low-income Distributed Generation customers cannot be required to provide an upfront payment prior to energization.
- Once energization begins, any ongoing payments (on an annualized basis) by customer cannot exceed 50% of expected first-year net metering value. This requirement applies to two distinct time periods: (1) the first year of the contract as well as (2) a calculated annual average for (a) the life of the customer's contract *or* (b), in the case of a purchase transaction or a lease/PPA with a buyout option, a 25-year period. For these calculations, the following assumptions must hold: o A standard annual production degradation rate of 0.5% must be used;
    - o An annual energy price escalation rate of up to 1.7% can be used;
    - o The annual customer payment rate escalation cannot exceed the energy escalation rate used.
    - o For Low-Income Distributed Generation projects, the first-year net metering value used in the savings calculation must be based on either (i) the rate listed on the Disclosure form, or (ii) an average of the customer's 12 most recent monthly bills.
    - o For Non-profit/Public Facility projects, the first-year net metering value used in the savings calculation must be based on an average of 12 consecutive months of customer bills within the last two years.
- Full system warranty, as well as operations and maintenance guarantees for the duration of the REC Contract or 15 years, at no additional cost to participants.
- Financing amounts, terms, and conditions for a purchase or lease of a system must be based on an assessment of the Program participant's ability to repay the debt, as defined by

[510] These requirements also apply to contracts between Designees and participants.

Regulation Z, which is a federal rule that implements aspects of the Truth in Lending Act and the Dodd-Frank Act.[511]

• Right of rescission within seven business days after contract execution (only for Low-Income Distributed Generation; not for Non-profits/Public Facilities)

• System design specification: o Site plan or equivalent drawing

o Size of system

o Type of panels

o Estimated first year production and annual degradation

• Change in pricing or other terms, if any, in the event of non-selection for an ILSFA REC contract. As an example, a condition precedent clause would satisfy this requirement.

• Allocation of responsibility for securing municipal permits and approvals

• Installer will be responsible for completing interconnection application if customer requests it.

• Allocation of responsibility for harm to property, materials, and workers during construction

• Installer commits to not pass on any costs related to curing problems found in project inspections conducted by the Illinois Power Agency or its designees.

• Installer commits to provide name of any subcontractor to customer before work begins.

• Requirement that any change order, including scope and price, must be confirmed in writing

• Allocation of responsibility for entering meter data (This provision could be in a separate contract.)

• All possible fees (other than those mentioned in the requirements for particular business types)

• Dispute resolution procedures

• Governing law

• No prepayment penalties (only for Low-Income Distributed Generation; not for Non-profits/Public Facilities)

• When mechanic's lien waiver(s) will be provided

9.4.2.3. ILSFA LICS Consumer Protection Requirements

Approved Vendors and Designees involved in acquiring subscribers for projects receiving incentives under the Illinois Solar for All Low-Income Community Solar subprogram are required to adhere to the community solar marketing requirements established for each program.[512] While a subscription to a community renewable generation project is not the same as the installation of a distributed generation system, it does bear similarities to taking supply service from Alternative Retail Electric Supplier, which is an area where low-income communities have unfortunately targeted with misleading marketing and false and deceptive sales practices.

[511] See Consumer Financial Protection Bureau, April 10, 2013. *Ability-to-Repay and Qualified Mortgage Rule, Small Entity Compliance Guide*, http://files.consumerfinance.gov/f/201304_cfpb_compliance-guide_atr-qm-rule.pdf. Under the regulation (12 C.F.R. § 1026.43, issued under authority of 15 U.S.C. § 1639c), creditors generally must consider eight underwriting factors: (1) current or reasonably expected income or assets; (2) current employment status; (3) the monthly payment on the covered transaction; (4) the monthly payment on any simultaneous loan; (5) the monthly payment for mortgage-related obligations; (6) current debt obligations, alimony, and child support; (7) the monthly debt-to-income ratio or residual income; and (8) credit history.

[512] See https://www.illinoissfa.com/app/uploads/2019/05/ILSFA-Consumer-Protections-Guidelines-CS- v.2.pdf.

The background and information which was utilized to develop the ABP CS Marketing Guidelines was likewise used to develop the Consumer Protections Guidelines for Low-Income Community Solar Projects ("LICS Consumer Protection Guidelines"),[513] and may be reviewed above in Section 9.4.2.3.

The LICS Consumer Protection Guidelines set forth program requirements, including those related to standard disclosures (specifically addressed further in Section 9.5 of this Plan); financial requirements surrounding the subscription, customer data and income verification; and marketing materials and marketing behavior provisions, such as requirements surrounding the use of false and/or misleading statements, false representations, advertising, use of a language the customer knows and understands in marketing/soliciting sales, and compliance with local rules and restrictions on marketing related specifically to community solar subscription offers. The LICS Consumer Protection Guidelines include a requirement for an attestation to be provided by the Approved Vendor with the Part II application, certifying and demonstrating that the community solar subscriptions for the project were obtained in compliance with the program requirements.

In order to ensure that subscribers are well-informed and thus afforded adequate consumer protections, the Agency requires that all projects also adhere to the minimum contract terms and conditions outlined in Section 9.4.2.4, below.

9.4.2.4. ILSFA LICS Minimum Contract Terms

Similar to the additional considerations for low-income distributed generation projects the Agency requires that Approved Vendors seeking REC delivery contracts associated with Community Renewable Generation Facilities participating in the Illinois Solar for All Program must include each of the following in any contracts entered into with subscribers:[514]

(a) A plain language disclosure of the subscription, including:
- (i) The terms under which the pricing will be calculated over the life of the contract and a good faith estimate of the subscription price expressed as a monthly rate or on a per kilowatt-hour basis;
- (ii) Whether any charges may increase during the course of service, and, if so, how much advance notice is provided to the subscriber.

(b) Contract provisions regulating the disposition or transfer of a subscription, as well as the costs or potential costs associated with such a disposition or transfer;
(c) All nonrecurring (one-time) charges;
(d) All recurring (monthly, yearly) charges;
(e) A statement of contract duration, including the initial time period and any rollover provision;
(f) Terms and conditions for early termination, including:
- (i) Any penalties that the Project Developer may charge to the subscriber; and
- (ii) The process for unsubscribing and any associated costs.

(g) If a security deposit is required:
- (i) The amount of the security deposit;

[513] As previously indicated, while titled "Guidelines," this document lays out ILSFA Program requirements that require compliance for continued program participation.

[514] These requirements also apply to Designees managing community solar subscriptions for an Approved Vendor.

(ii) A description of when and under what circumstances the security deposit will be returned;
(iii) A description of how the security deposit may be used; and
(iv) A description of how the security deposit will be protected.

(h) A description of any fee or charge and the circumstances under which a customer may incur a fee or charge;

(i) A statement explaining any conditions under which the Project Developer may terminate the contract early, including:
(i) Circumstances under which early cancellation by the Project Developer may occur;
(ii) Manner in which the Project Developer shall notify the customer of the early cancellation of the contract;
(iii) Duration of the notice period before early cancellation; and
(iv) Remedies available to the customer if early cancellation occurs;

(j) A statement that the customer may terminate the contract early, including:
(i) Amount of any early cancellation fee;

(k) A statement describing contract renewal procedures, if any;

(l) A dispute procedure;

(m) The Agency's and Commission's phone number and Internet address;

(n) A billing procedure description;

(o) The data privacy policies of the Project Developer;

(p) A description of any compensation to be paid for underperformance;

(q) Evidence of insurance;

(r) A description of the project's long-term maintenance plan;

(s) Current production projections and a description of the methodology used to develop production projections;

(t) Contact information for the Project Developer for questions and complaints;

(u) A statement that the Project Developer does not make representations or warranties concerning the tax implications of any bill credits provided to the subscriber;

(v) The method of providing notice to the subscribers when the project is out of service for more than three business days, including notice of:
(i) The estimated duration of the outage; and
(ii) The estimated production that will be lost due to the outage.

(w) Any other terms and conditions of service.

(x) Once energization begins, any ongoing subscription payments (on an annualized basis) by customer cannot exceed 50% of expected first-year net metering value. This requirement applies to two distinct time periods: (1) the first year of the contract as well as (2) a calculated annual average for (i) the life of the customer's subscription contract *or* (ii) in the case of a system share purchase, for 25 years. For these calculations, the following assumptions must hold:

- o A standard annual production degradation rate of 0.5% must be used;
- o An annual energy price escalation rate of up to 1.7% can be used;
- o The annual customer payment rate escalation cannot exceed the energy escalation rate used.
- o The first-year net metering value used in the savings calculation must be based on *either* (i) an average statewide supply rate of $0.06 per kilowatt-hour or (ii) an average of the customer's 12 most recent monthly utility bills.

(y) The contract must be in the language requested by the customer.

(z) Financing amounts, terms, and conditions for a purchase of a system share or a lease-based subscription must be based on an assessment of the program participant's ability to

repay the debt, as defined by Regulation Z, which is a federal rule that implements aspects of the Truth in Lending Act and the Dodd-Frank Act.[515]

(aa) Right of rescission within three days after contract execution

(bb) The subscriber cannot be required to provide an upfront payment prior to energization.

(cc) No prepayment penalties (for a lease or a loan for purchasing a project share) are allowed.

(dd) For situations where a low-income residential customer is taking a loan to finance purchase of particular panels or a share of the community solar project from a lender affiliated with an Approved Vendor:

- o Financial instrument must include forbearance terms.
  - Forbearance terms must encompass one of the following:
    - Suspension of total payments for up to 3 months; or
    - Suspension of interest payments for up to 6 months; or
    - Reduction of interest payments for up to 12 months
  - Missed revenues may be recovered later in the contract life, but no interest may be applied.
- o Loan may not be secured by home or home equity
- o Loan documents must indicate the following:
  - Principal loan amount
  - Schedule of loan disbursements
  - Schedule and due dates of repayments
  - Order of allocating payments (to principal, interest, fees, etc.)
  - Interest rate
  - Borrower(s), lender, servicer
  - Nature of lender's security interest (e.g., UCC-1 financing statement)
  - Events of default and lender's remed(ies) upon default (including forbearance as discussed above)
  - All fees and penalties

In addition, to ensure portability and transferability of subscription contracts, as required by Section 1-75(c)(1)(N) of the Act, any such contract should provide that the subscriber (i) may retain the subscription (or at least a downsized version of the subscription relative to the subscriber's new load) as long as the subscriber changes addresses for utility service within the same utility service territory, and (ii) may assign or sell the subscription to another person within the same utility service territory, without any fee owed to the subscription counterparty, subject to reasonable terms and conditions including matching the subscription size to the new subscriber's load. The Agency understands that the community renewable net metering tariffs for Ameren Illinois, ComEd, and MidAmerican approved by the Commission on September 27, 2017 are consistent with these principles and expects that updated tariffs approved by the Commission in accordance with Public Act 102-0662 will likewise incorporate these provisions.

[515] See Consumer Financial Protection Bureau, April 10, 2013. *Ability-to-Repay and Qualified Mortgage Rule, Small Entity Compliance Guide*, http://files.consumerfinance.gov/f/201304_cfpb_compliance-guide_atr-qm-rule.pdf. Under the regulation (12 C.F.R. § 1026.43, issued under authority of 15 U.S.C. § 1639c), creditors generally must consider eight underwriting factors: (1) current or reasonably expected income or assets; (2) current employment status; (3) the monthly payment on the covered transaction; (4) the monthly payment on any simultaneous loan; (5) the monthly payment for mortgage-related obligations; (6) current debt obligations, alimony, and child support; (7) the monthly debt-to-income ratio or residual income; and (8) credit history.

As with the minimum contract terms for other categories, the Agency seeks feedback as to whether these low-income community solar project terms and conditions should be revised.

9.5. Standard Disclosure Form Requirements

The Agency has required that standard disclosure forms be provided to customers for their signature, with those customer-executed forms then submitted to the Program Administrators in both the Adjustable Block Program and the Illinois Solar for all Program since the programs initially opened under the Initial Long-Term Plan. In its Order approving the Agency's Revised Long-Term Plan, the Commission provided analysis reinforcing the requirement that every individual subscriber to a community solar project participating in the Adjustable Block Program or ILSFA must receive and execute an individualized standard disclosure form. The specific provisions regarding disclosure forms, including how they are to be generated and executed, are outlined in each program's marketing guidelines/consumer protections contained in Appendix I to this Plan.

Section 1-75(c)(1)(M)(iii) of the IPA Act now expressly provides that the Agency may "require direct program participants, including agents operating on their behalf, to provide standardized disclosures to a customer prior to that customer's execution of a contract for the development of a distributed generation system or a subscription to a community solar project." Marketing requirements for each program specify that the customer must receive, review, and execute that disclosure form before, or no later than in conjunction with, that customer's execution of its contract for the distributed generation system or the community solar subscription.

Approved Vendors and Designees are not permitted to develop their own version of disclosure form in lieu of the standard Adjustable Block Program or Illinois Solar for All forms or modify any portion of the form's standardized content. When the programs first launched forms could be generated only through the Program Administrator's portal. This portal-only process facilitated the Program Administrators' reviews of project applications in ensuring that no Approved Vendors or Designees modified the standard disclosure form prior to obtaining a customer signature on the forms. In response to requests from program participants, the Program Administrators have developed application programming interfaces ("APIs") that can now be utilized by AVs and Designees to generate disclosure forms outside of the program portals so long as the content remains the standard content. This process may be utilized by Approved Vendors/Designees only after obtaining permission from the Program Administrator(s) following a test of the disclosure form generated through the API. In this way, the Program Administrators can ensure that program requirements are being met and that customers receive the required standardized (i.e., unmodified) forms.

9.5.1. ABP Disclosure Forms

The Agency, in conjunction with its Program Administrator, developed standardized disclosure forms to be completed and provided to each program participant for signature prior to contract execution. The standard disclosure form must be presented without modification to all customers who host a distributed generation project which will participate in the program, as well as all customers who enroll as subscribers to community solar projects participating in the program. In its Order approving the Agency's Revised Plan in Docket 19-0995, the Commission provided analysis

reinforcing the requirement that every individual subscriber to a community solar project participating in the Adjustable Block Program must receive and execute an individualized standard Disclosure Form.[516] This requirement extends across all six distinct categories of the program.

For distributed generation projects, the standard disclosure form includes uniform information on the system equipment and components, warranty, installer, and lease or financing structure. The form includes a standardized estimate of the price and performance of the system as installed, including anticipated first year production, expected annual system production decreases, expected overall percentage degradation over the life of the system, a standard forecast for retail electricity prices, a net cash flow analysis, and an internal rate of return of each project. Also included on the form is a disclosure that changes to the interconnecting utility's net metering tariffs or distributed generation rebates prior to the completion of the system may impact the net cash flow analysis. The Agency provides standard electricity prices (and other inputs) to be used for these estimates as to allow customers to make equivalent comparisons across multiple offers from developers. Standard disclosure forms must be presented to customers for review and signed by customers confirming that review prior to the execution of the underlying sales contract to ensure that customers understand the terms and conditions of their installation.

For community solar subscribers, the Disclosure Form includes similar content to the distributed generation forms, as well as provisions specific to community solar subscriptions. To acknowledge and demonstrate receipt and review, customers must likewise execute the community solar disclosure form prior to execution of the underlying subscription contact; e-signatures are acceptable (and widely utilized given that community solar subscriber onboard often occurs through online transactions), but to ensure the integrity of customer execution, only using commercially available third-party e-signature systems.

In 2020, the Agency updated the Community Solar Disclosure Form in response to feedback received in stakeholder comments, the revised Community Solar Disclosure Form[517] was shortened and streamlined. At that time, the Community Solar Informational Brochure was attached to the disclosure form, and duplicative content already contained within the brochure was removed from the body of the disclosure form. The revised form also allowed for flexibility in the identification of specific community solar projects and the adjustment of subscription size in order to "right-size" the customer's subscription. The Agency found this modification to be an important one made in response to practices observed during the continued development of the community solar market in Illinois. The Agency thus adjusted initial assumptions on how subscribers would be retained by community solar project developers to align with the actual practices used in the field as the market continues to develop.

The Agency, through its Program Administrator, has seen voluminous examples of agents creating false customer email addresses, which are then used to generate customer disclosure forms. This behavior is extremely troubling, as the form sent to the customer for execution using this false email address, and the Program Administrator is at times unable to verify the identity of the signor. These situations are brought to the attention of the Program Administrator in part through customer

[516] See Docket No. 19-0995, Final Order dated February 18, 2020 at 7. In the event that the Commission or another authoritative adjudicatory body determines that an opt-out municipal aggregation may legally include community solar subscription aggregation for a project participating in the Adjustable Block Program or ILSFA, individually executed standard disclosure forms are still required for each individual subscriber.

[517] See: https://illinoisabp.com/wp-content/uploads/2020/11/Revised-Community-Solar-Disclosure-Form-DRAFT-12-Nov-2020-V2.pdf

complaints as well as a review of the disclosure forms that are submitted with project applications (at Part I of the application process for distributed generation, and at Part II of the process for community solar). Program Administrator investigations into the use of false email addresses have shown that on some occasions agents are assisting customers who do not have email addresses, while at other times agents are acting outside of program requirements surrounding disclosure forms. In order to prevent Approved Vendors, Designees, subcontractors, and/or other agents from engaging in this deceptive practice, and to avoid the possibility of so-called "bad actors" from executing disclosure forms on the behalf of customers, the Agency requires that all customer disclosures executed outside of the ABP portal must utilize a commercially-available third party e-signature platform. Such commercially-available platforms are widely available through well-known providers such as DocuSign and Acrobat, though at a charge to the user. Approved Vendors and Designees that do not wish to incur the charges for use of these commercially-available third-party signature verification platforms may use the signature features available within the ABP portal without incurring additional charges. While the Agency understands that some entities participating in the program may have their own internal e-signature platforms, the Agency believes that it is imperative to require a commercially available e-signature verification tool to ensure that bad actor agents cannot disrupt and/or circumvent the Agency's consumer protection process. This requirement is not new to the Agency's Marketing Guidelines, but recently has gained attention as community solar subscriptions became more widely available in Illinois. The IPA thus seeks that the Commission affirm this specific requirement through its Plan.

Throughout the duration of the Adjustable Block Program, the Agency has received stakeholder feedback noting that a simplification and streamlining of the disclosure forms would provide for better customer comprehension of both the program and their agreement with their Approved Vendor and/or Designee. To date, Agency has been hesitant to reduce the information provided within the current disclosure form, as the current form provides valuable system or subscription-specific information. Nevertheless, there may be efficiencies and benefits that a streamlined disclosure form can provide to customers, provided that educational materials separately exist (and are effectively communicated) to ensure any eliminated information remains available.

With this in mind, the Agency sought stakeholder feedback prior to the release of this draft 2022 Long-Term Plan regarding the current standard disclosure forms. Stakeholder feedback generally sought a more streamlined form, similar to those used in other states. The Agency strongly believes that standard disclosures for a complicated, somewhat novel product such as a community solar subscription or a distributed generation system are more useful to a customer when accompanied by explanatory text, though that explanation may be in the form of accompanying materials, rather than the disclosure itself.[518]

Accordingly, the IPA proposes to develop more streamlined standard disclosure forms, along with accompanying explanatory documents that describe the presented information to the customer, following the approval of this 2022 Long-Term Plan. The Agency plans to hold stakeholder workshops and solicit written feedback on the development of these updated standard disclosures and explanation documents before finalizing and releasing the forms.

[518] Form explanation page example used in the Maryland Community Solar Pilot Program's disclosure form: https://www.psc.state.md.us/wp-content/uploads/Community-Solar-Contract-Disclosure-Form-and-Instructions_04162018.pdf

The Agency is contemplating a disclosure form that is similar to those forms provided to participants in the Massachusetts SMART program.[519] This streamlined approach will hopefully ensure that all vital information that a customer needs to have related to their project or community solar subscription is upfront and uncluttered, with more thorough educational materials provided elsewhere (such as through website content, additional documents, etc.).

The Agency previously sought stakeholder feedback on whether there should be a threshold for system efficiencies in the program to ensure inefficient or suboptimal systems were not sold, leased, or financed through a PPA to customers unknowingly. Feedback received noted this proposal was not supported, as they may create barriers to development for customers who desire to install a sub-optimal system. Rather, stakeholder feedback indicated a need for increased customer education surrounding system production, and suggested that it be addressed on the disclosure form. The Agency now seeks feedback on how information on system production may be presented on a standard disclosure form that provides concise, easy-to-understand information about system efficiencies.

The Agency has seen a rise in the number of complaints from customers regarding ballooning loan payments and/or loan payments which are scheduled to begin before the customer receives an anticipated pass-through of the state-administered incentives under the REC delivery contract. In addition to the proposal for additional minimum contract terms which may prohibit or reduce customer risk as a result of these types of loan structures, the Agency seeks stakeholder feedback on the inclusion of information on the standard disclosure form which may help educate customers about the risk of entering into such loan agreements.

The Agency maintains that it is vital for customers to be provided with resources that explain both the State-administered incentive program in which the customer is participating as well as the agreement the customer is entering into with their Approved Vendor or Designee (whether that be a community solar subscription or a behind-the-meter distributed generation system). As such, the Agency intends to continue provide educational materials through the program's informational brochure as well as the Illinois Shines website and will continue to develop additional robust educational materials that will address information stripped from the current disclosure forms.

9.5.2. ILSFA Disclosure Forms

The Agency, in conjunction with its Program Administrator and through a transparent stakeholder process as approved by the Commission in the Initial Plan, developed standardized disclosure forms to be completed and provided to each program participant for signature prior to contract execution. Due to the nature of the ILSFA subprograms, multiple standard disclosure forms have been generated in order to provide information specific to the type of project. Accordingly, there are three disclosure forms for the Low-Income Distributed Generation subprograms based upon financing type, one disclosure form for Low-Income Community Solar, and another disclosure form specific to the Non-Profits and Public Facilities Incentives.

The applicable ILSFA standard disclosure form must be presented without modification to all customers who host a distributed generation project which will participate in the program, as well

[519] See: https://www.mass.gov/doc/community-solar-customer-disclosure-form, https://www.mass.gov/doc/small-system-customer-disclosure-form-third-party-ownership, https://www.mass.gov/doc/small-system-customer-disclosure-form-direct-ownership

as all customers who enroll as subscribers to community solar projects participating in the program. Standard disclosure forms must be presented to customers for review and signed by customers confirming that review prior to the execution of the underlying sales contract to ensure that customers understand the terms and conditions of their purchase (and additional time must be provided to customers within the LIDG subprograms, as explained below). In its Order approving the Agency's Revised Plan in Docket 19-0995, the Commission provided analysis reinforcing the requirement that every individual subscriber to a community solar project participating in the Agency's programs must receive and execute an individualized standard Disclosure Form.[520] This requirement extends across all four ILSFA categories.

For Low-Income Distributed Generation projects, the standard disclosure form includes a financial summary, terms related to financing structure, estimated cost savings, costs and fees associated with the photovoltaic system, uniform information on system equipment and components, and system operations items including maintenance and warranties. Notably different from the ABP disclosure form requirements is that for standard disclosures in the Low-Income Distributed Generation Incentives subprograms, customers must be provided with and sign the standard disclosures for execution seven days prior to the execution of the contract. As outlined in the contract terms, these customers likewise have an additional seven days after contract execution to terminate the contract.

The standard disclosure form for Non-Profit and Public Facilities likewise contains a financial summary, costs and fees associated with the photovoltaic system; uniform information on system equipment and components; system operations information, including maintenance and warranties; and details specific to the end of lease terms, renewal, and system removal.

For community solar subscribers, the LICS Disclosure Form includes similar content to the forms for the Low-Income Distributed Generation and Non-Profit/Public Facilities disclosure forms, as well as provisions specific to community solar subscriptions. To acknowledge and demonstrate receipt and review, customers must likewise execute the community solar disclosure form prior to execution of the underlying subscription contact; e-signatures are acceptable (and widely utilized given that community solar subscriber onboard often occurs through online transactions), but to ensure the integrity of customer execution, only using commercially available third-party e-signature systems.

While the Agency has seen far fewer complaints regarding the disclosure form process and requirements under the Illinois Solar for All Program than under the Adjustable Block Program, the Agency is aware that grassroots educators within the program have voice challenges in distilling the important information contained within the disclosure forms to potential program participants. As with the Adjustable Block Program, the Agency is contemplating a more streamlined approach to disclosure forms which would require the creation of additional materials to educate customers on photovoltaic systems/community solar subscriptions and how to understand the concepts in the disclosure forms. The Agency seeks feedback through this draft Plan on whether and how the ILSFA disclosure forms should be updated to facilitate the goals of the program's consumer protection requirements and the provisions of Public Act 102-0662.

[520] See Docket No. 19-0995, Final Order dated February 18, 2020 at 7. In the event that the Commission or another authoritative adjudicatory body determines that an opt-out municipal aggregation may legally include community solar subscription aggregation for a project participating in the Adjustable Block Program or ILSFA, individually executed standard disclosure forms are still required for each individual subscriber.

The Agency maintains that it is vital for customers to be provided with resources that explain both the State-administered incentive program in which the customer is participating as well as the agreement the customer is entering into with their Approved Vendor or Designee (whether that be a community solar subscription or a behind-the-meter distributed generation system). As such, the Agency intends to continue provide educational materials through the program's informational brochures as well as on the Illinois Solar for All website and will continue to develop additional robust educational materials specifically designed to meet the needs of the communities served by the Illinois Solar for All Program.

9.6. Consumer Complaint Center and Complaint Database

Section 1-75(c)(1)(M)(iv) of the IPA Act requires the Agency to establish one or multiple Consumer Complaint Centers to accept complaints regarding businesses that participate in, or otherwise benefit from, State-administered incentive funding through Agency-administered programs. Section 1-75(c)(1)(M)(iv) further requires that the Agency maintain a public database of complaints with any confidential or particularly sensitive information redacted from public entries.

In March 2020, the ABP Program Administrator launched an online consumer complaint database[521] which lists all consumer complaints received by the Program Administrator in an abridged format, identifying the entity about whom the complaint was filed, the entity's role in the program (i.e., Designee, Approved Vendor), and the date, subject, type, and status of the complaint. The database also identifies Approved Vendors and Designees that have been suspended from the program; additional information related to suspensions for program participants is outlined in a disciplinary actions report which is also available on the consumer complaint database webpage.

The Program Administrators for both programs will continue to provide consumer protection materials on a program website and through printed materials. The Adjustable Block Program Administrator has developed its customer-facing IllinoisShines.com website and program branding in part to accomplish this end. The Illinois Solar for All Program website highlights information for Illinois Residents on its homepage, making all such information clearly available to customers. The Program Administrators will continue to work to develop these websites with materials for customers as future needs are identified.

The ABP Program Administrator also provides a toll-free consumer protection telephone hotline and web-based complaint forms, and the Program Administrator receives, responds to, and documents complaints about marketing practices, sales practices, installations, and other aspects of solar marketing. The Illinois Solar for All Program also maintains a toll-free customer telephone line for questions and complaints that may be received by program participants.

The Illinois Solar for All Program, perhaps as a result of its limited size in comparison to the Adjustable Block Program, receives significantly fewer customer complaints. As of the date of this draft 2022 Long-Term Plan, no Approved Vendors or Designees have been disciplined for action arising from consumer complaints specific to the ILSFA Program, and accordingly, there is no customer complaint database that exists on the ILSFA website, though the Agency plans to develop a database in compliance with the requirements of P.A. 102-0662.

[521] This database is hosted on both the Adjustable Block Program website (designed for use by program participants) as well as on the customer-facing Illinois Shines-branded website. See https://illinoisabp.com/consumer-complaint-database/; https://illinoisshines.com/consumer-complaint-database/.

9.7. Annual Complaint Report

Section 1-75(c)(1)(M)(v) of the IPA Act requires the Agency to provide an annual written report to the Commission documenting the frequency and nature of complaints arising from its programs, as well as any enforcement actions taken in response to those complaints. This new statutory requirement mirrors an existing administrative requirement, as it was a provision of the Initial and Revised Long-Term Plans. The first such report, covering calendar year 2019, was provided to the Commission through a filing in Docket No. 17-0838 on March 2, 2020. The second report, covering calendar year 2020, was filed in Docket No. 19-0995 on February 9, 2021.

The Agency will continue to provide an annual written report to the Commission documenting the frequency and nature of complaints and any enforcement actions taken. As the programs have grown and changed since their inception, this annual report has consequently changed as well. Low numbers of complaints associated with the Illinois Solar for All Program have resulted in past reports titled as an "Adjustable Block Program" report, despite the fact that the report includes information on Illinois Solar for All complaints. For example, in 2020, only five complaints were filed with the Illinois Solar for All Program Administrator. These complaints were relatively minor in comparison to the Adjustable Block Program complaints, but nonetheless were briefly explained in the Agency's report filed in 19-0995. The Agency has not found that it is necessary to develop a separate annual report at this time but will assess this need as the program matures. Additionally, the Agency will ensure that future reports will fully detail complaints received under both programs.

The third annual report, covering calendar year 2021, will be filed with the Commission in Docket No. 19-0995. The 2021 report will again catalog the complaints received by the programs across 2021 and the disciplinary actions taken by the Program Administrators. The report also describes various challenges the program faced in 2021 and the impact of those challenges on customer experiences, including but not limited to the lack of funding to open additional blocks of capacity prior to the enactment of Public Act 102-0662 was passed and strains on the program caused by the COVID-19 global health pandemic. Future reports will be published on both program websites and filed in the Commission docket approving the Agency's most-recently approved Long-Term Plan.

This report is a vital way that the Agency ensures transparency with the public concerning complaints received regarding program participants. Continuous monitoring of complaints and maintenance of the program's Consumer Protection Database, which documents all complaints received and suspensions from the program, ensures that resolution and corrective action can be taken with each specific complaint, and/or the program at large prior to the filing of this public report each calendar year.[522]

9.8. Consumer Protection Working Group

Pursuant to the provisions of Section 1-75(c)(1)(M)(vi) of the IPA Act, the Agency shall schedule regular meetings with representatives of the Office of the Attorney General, the Illinois Commerce Commission, consumer protection groups, and other interested stakeholders to share relevant

[522] See: https://illinoisabp.com/consumer-complaint-database/.

information about consumer protection, project compliance, and complaints received. The IPA has already developed an ad hoc "Consumer Protection Working Group" and will continue to convene meetings on a monthly basis. The IPA intends for these meetings to focus on observed violations of the marketing guidelines under both Programs in the hopes of identifying marketplace trends that may require a cooperative response. The Agency will also utilize these meetings to notify participants of any disciplinary actions that may be taken against Approved Vendors and Designees in order to facilitate compliance by those whose participation in the program has been curtailed or jeopardized through violations of program guidelines. Participating entities at these meetings are also provided an opportunity to share pertinent market information and notable trends in consumer feedback. It is the IPA's hope that these meetings will facilitate frank and open discussions among those involved on these topics and assist the Agency in the ongoing improvement and enforcement of terms, conditions, and requirements for participation in its state-administered incentive programs.

Additionally, 1-75(c)(1)(M)(vii) of the IPA Act requires that, to the extent that complaints received implicate the jurisdiction of the Office of the Attorney General, the Illinois Commerce Commission, or local, State, or federal law enforcement, the Agency shall refer complaints to those entities as appropriate. The IPA will utilize the monthly meetings scheduled pursuant to 1-75(c)(1)(M)(vi) to bring such complaints to the attention of the Attorney General and the Commission as appropriate, and will likewise involve other law enforcement agencies as necessary. If warranted, the Program Administrator will refer complaints to the Agency and to appropriate state and federal agencies, including the Consumer Fraud Bureau of the Illinois Attorney General's Office, or the Illinois Commerce Commission (e.g., for failure of installers to maintain their status as Certified Distributed Generation Installers). Approved Vendors found by the Agency to have violated consumer protection standards or related Program requirements may be subject to suspension or revocation of their Approved Vendor status by the Agency, and if in violation of local, state, or federal law, also potential civil or criminal penalties from other relevant authorities.

10. Diversity, Equity, and Inclusion

Public Act 102-0662 amended the Illinois Power Agency Act to expand the "priority access to the clean energy economy for businesses and workers from communities that have been excluded from economic opportunities in the energy sector, have been subject to disproportionate levels of pollution, and have disproportionately experienced negative public health outcomes."[523] To advance that objective, the Act directs the Agency to establish an equity accountability system, which shall include:

1. Minimum equity standards applicable to all applicants to the Agency's renewably energy procurements, both through the Adjustable Block Program and competitive procurements.
2. The Equity Eligible Contractor category within the Adjustable Block Program (see Chapter 7).
3. Requirements for competitive procurement processes that advance the equity goals of the Act (see Chapter 5).

The Act further establishes several required monitoring, reporting, and facilitation requirements to support the assessment of the equity accountability system. Section 1-75(1)(c-10)(4) of the IPA Act directs the Agency to include the following in each revision to the Long-Term Renewable Resources Procurement Plan:

4. Current number of Equity Eligible Contractors certified by the Agency.
5. A mechanism for measuring and reporting project workforce profiles at the Approved Vendor or Designee level.
6. Training, guidance, and other support for Approved Vendors, Designees, Equity Eligible Contractors, and other stakeholders for meeting the requirements of the EEC category within Adjustable Block Program and the minimum equity standards laid out in this section.
7. A process for certifying Equity Eligible Contractors and persons (please see Chapter 7 for more details).
8. A waiver application process for rare cases of inability to meet the minimum equity standard.

This chapter and additional information in Chapter 7 fulfill those requirements.

The Act also empowers the Agency to assess and attempt to ameliorate existing racial discrimination or disparities in rates of participation in the clean energy economy. Section 1-75(1)(c-15)(2) directs the Agency to commission and publish a racial disparity study to "measure[] the presence and impact of discrimination on minority businesses and workers in Illinois' clean energy economy." Section 1-75(1)(c-20) directs the Agency to "collect data from program applicants in order to track and improve equitable distribution of benefits across Illinois communities for all procurements the Agency conducts." And finally, Section 1-75(1)(c-25) directs the Agency to work with the Department of Commerce and Economic Opportunity to create an Energy Workforce Equity Database in order to facilitate the engagement of Equity Eligible Contractors and persons on clean energy projects.

The opportunity to register as an Equity Eligible Contractor ("EEC") through the Adjustable Block Program began on December 14, 2021 and as of the release of this draft 2022 Long-Term Plan on January 13, 2022 no entities have registered.

[523] 20 ILCS 3855/1-75(c-10).

10.1. Equity Accountability System

The Agency's primary objective in creating, "priority access" to the clean energy economy for businesses and workers from communities that have been excluded from economic opportunities in the energy sector, have been subject to disproportionate levels of pollution, and have disproportionately experienced negative public health outcomes" will be to advance plans to achieve these outcomes through the creation of the Equity Accountability System, which includes the minimum equity standards for all renewable energy procurements, the equity category of the Adjustable Block Program, and the equity prioritization for Noncompetitive Procurements.

All programs and procurements will be designed to encourage participating projects to use a diverse and equitable workforce and a diverse set of contractors, including minority-owned businesses, disadvantaged businesses, trade unions, graduates of workforce training programs created through Public Act 102-0662, and small businesses.

10.1.1. Minimum Equity Standards

Section 1-75(c-10)(1) of the IPA Act as established by Public Act 102-0662 requires that,

> *All applications for renewable energy credit procurements shall comply with specific minimum equity commitments. Starting in the delivery year immediately following the next long-term renewable resources procurement plan, at least 10% of the project workforce for each entity participating in a procurement program outlined in this subsection (c-10) must be done by equity eligible persons or equity eligible contractors. The Agency shall increase the minimum percentage each delivery year thereafter by increments that ensure a statewide average of 30% of the project workforce for each entity participating in a procurement program is done by equity eligible persons or equity eligible contractors by 2030. The Agency shall propose a schedule of percentage increases to the minimum equity standards in its draft revised renewable energy resources procurement plan submitted to the Commission for approval pursuant to paragraph (5) of subsection (b) of Section 16-111.5 of the Public Utilities Act. In determining these annual increases, the Agency shall have the discretion to establish different minimum equity standards for different types of procurements and different regions of the State if the Agency finds that doing so will further the purposes of this subsection (c-10). The proposed schedule of annual increases shall be revisited and updated on an annual basis. Revisions shall be developed with stakeholder input, including from equity eligible persons, equity eligible contractors, clean energy industry representatives, and community-based organizations that work with such persons and contractors.*[524]

Section 1-10 of the IPA Act as amended by P.A. 102-0662 defines "equity eligible persons" or "eligible persons" as: 1) graduates or current or former participants in the Clean Jobs Workforce Network Program, Clean Energy Contractor Incubator Program, Illinois Climate Works Preapprentice Program, Returning Residents Clean Jobs Training Program, or the Clean Energy Primes Contractor Accelerator Program, and the solar training pipeline and multicultural jobs program; 2) persons who

are graduates of or currently enrolled in the foster care system; 3) persons who were formerly incarcerated; and 4) persons whose primary residence is in an equity eligible investment community.

The first delivery year after the approval of this Plan is the 2023-2024 delivery year that begins on June 1, 2023. That is the date that the Equity Accountability System will take effect. For the 2023-2024 delivery year the minimum equity standard therefore will be 10%. The Agency proposes that this standard should increase to 12% for the 2024-2025 delivery year, and then in the next Long-Term Plan the Agency will propose future increases with the goal of increasing this percentage to 30% by 2030. A slower initial rate of increase will provide the solar industry time to prepare for these standards, as well as for the workforce development and other programs administered by the Department of Commerce and Economic Opportunity to have time to ramp up. **This ramp also provides tim for the Energy Workforce Equity Database to be created, placed into operation and have a sufficient number of EEPs and EECs.** At this time the Agency does not propose having different standards for different regions of the state as it lacks information on how those standards should differ by region, including the availability of Equity Eligible Persons and contractors. The Agency will instead evaluate the initial performance of the Equity Accountability System in its first year to consider regional adjustments in the next Plan update. ~~The Agency welcomes stakeholder feedback on the proposed percentage requirement for the 2024-2025 delivery year, as well as if there are concrete geographic considerations it should take into account at this time.~~

For more information on the definition of Equity Eligible Persons and Equity Eligible Contractors, see Section 7.

Compliance with the minimum equity standard entails submission of a Minimum Equity Standard Compliance Plan, an end-of-delivery-year Minimum Equity Standard Report, and a mid-delivery-year confirmation that the entity is on track to achieve the minimum equity standard. Submission of these documents is mandatory and a condition for participation in relevant programs and procurements, as discussed below.

10.1.1.1. Applicability to Noncompetitive Procurements

Section 1-75(c-10)(1) provides that "[a]ll applications for renewable energy credit procurements shall comply with specific minimum equity commitments." That section does not define "renewable energy credit procurements" but does specify that the 10% minimum equity standard applies to "each entity participating in a procurement program outlined in this subsection (c-10)." Other requirements under this subsection are only required from "each entity participating in a procurement program of subsection (c) of this Section," and Section 1-75(c-30) provides that the penalty for non-compliance with (c-10) shall be to "deny the entity's ability to participate in procurement programs in subsection (c)." The Agency therefore interprets this section as only applying to those renewable energy procurement programs established through Section 1-75(c) of the Act, not to include the Illinois Solar for All Program. This interpretation is further supported by the distinct treatment of the Illinois Solar for All Program throughout the IPA Act, including higher REC prices, the absence of prevailing wage requirements, and dedicated funding through the Renewable Energy Resources Fund, all of which operate to ease the burden of program participation and maximize the access for and benefit to low-income participants. The Agency believes that the above reading of Section 1-75(c-10) also strengthens those aims.

Other elements of the broader suite of diversity and equity provisions added to Section 1-75 of the IPA Act through Public Act 102-0662 will apply to Illinois Solar for All, such as the data collection

obligations contained in Section 1-75(c-20) and inclusion in the studies conducted per Section 1-75(c-15).

10.1.1.2. Applicability to Competitive Procurements

Under Section 1-75(c-10)(3) of the IPA Act, bidders in the Agency's competitive procurements for RECs from new utility-scale wind, solar, and brownfield site photovoltaic projects will be required to participate in the Equity Accountability System by making minimum commitments for the utilization of Equity Eligible Persons or Equity Eligible Contractors at the applicable level for the delivery year in which the procurement event is being conducted. The commitments may be submitted in the form of letters of intent or executed sub-contracts. If the bidder is an equity eligible person or an equity eligible contractor, that will be considered full compliance with this requirement. Full Compliance Plans will only be required from successful bidders as discussed below.

~~As discussed in Chapter 5, the Agency is also considering approaches on how to prioritize bids that feature commitments to having a higher portion of contract value flowing to Equity Eligible Contractors. This could be through either adjustments to how bids are considered in price order, or an adjustment to bid price prior to ranking of bids by price order.~~

10.1.1.3. Compliance Plan Filing

The Equity Accountability System will take effect at the beginning of the 2023-2024 delivery year on June 1, 2023. By that date, existing Adjustable Block Program Approved Vendors and Designees will be required to file an annual Minimum Equity Standard Compliance Plan ("Compliance Plan") and then a year-end Report to demonstrate how they met the annual minimum equity standard. These Compliance Plans will reflect how the Approved Vendor or Designee plans to achieve compliance with the minimum equity standard percentage for work completed in the upcoming delivery year, while the Report will demonstrate how the Approved Vendor or Designee achieved compliance with the minimum equity standard for that delivery year.

If an entity applies to be an Approved Vendor or Designee during a delivery year, the Agency will require a Compliance Plan at the time of the initial application. For this Plan the Agency does not propose different requirements for different categories of the Adjustable Block Program. However, the Agency notes that the Equity Eligible Contractor category of the Adjustable Block program is only available to Approved Vendors who are Equity Eligible Contractors and thus participation in that program is the functional equivalent to full compliance with the Equity Accountability System.

Successful bidders in competitive procurements ("Competitive Procurement Suppliers") will be required to file a Compliance Plan within 30 days **of start of construction**~~of ICC approval of their bids~~. Those Compliance Plans will be required to be consistent with commitments made during the bid registration process. A Competitive Procurement Supplier who has previously filed a Compliance Plan due to having had prior winning bids will be required to update their Compliance Plan.

10.1.1.4. Compliance Plan Requirements

Compliance Plans will be required to include the following items:

i. A statement of intent to comply with equity accountability standards for the applicable delivery year and to hire a diverse project workforce including Equity Eligible Persons

and Equity Eligible Contractors. This will include a narrative description of how the applicant will meet these commitments.

ii. Projected number of workers and the demographic breakdown by race, gender, and participation in job training or workforce development programs, or other means of compliance with the standard for equity eligible persons.

iii. Plans for the use of Equity Eligible Contractors, if applicable.

iv. Applicant classification (i.e., Minority-owned, Woman-owned, Disabled-owned, Veteran-owned, Small Business, etc.), if applicable.

v. Communication plan for local outreach to increase the utilization of Equity Eligible Persons and Equity Eligible Contractors.

vi. Status of any corrective actions or adjustments from prior year Compliance Plans.

vii. Approved Vendors in the Adjustable Block Program will not be required to report on data regarding their Designees but will be required to report which Designees they worked with in the delivery year to allow the Agency to correlate activities and compliance. To be clear this is not meant to relieve Approved Vendors of responsibility to comply with the Equity Accountability Standard, but rather to ensure that efforts are not double counted.

10.1.1.5. Compliance Plan Assessment

The Agency will utilize the following graduated rating system to evaluate Compliance Plans:

1) Needs Development

2) Accepted

3) Exceeds Requirements

Needs Development (a rating of 1): Indicates that the entity will need to review, correct and/or include missing compliance items in order for the Compliance Plan to be approved. This rating indicates the Agency has identified inconsistencies in the plan that puts the applicant at risk of non-compliance and the Compliance Plan will not be accepted without updating of or inclusion of requirements that need resolution or are missing.

Accepted (a rating of 2): Indicates that all compliance requirements are in place for Compliance Plan approval. This rating indicates the Agency has identified all necessary components are present and the plan is operational.

Exceeds Requirements (a rating of 3): The Compliance Plan will be approved. This rating indicates that the entity has committed in their written plan to take internal, periodic checks before the mid-year confirmation of progress to evaluate continued effectiveness or risk of the plan, and will go beyond the minimum equity standards by 50% (e.g., if the standard for a delivery year is 10%, they commit to achieving 15%). This will include noting best practices and/or areas of adjustment.

Once the Compliance Plan Assessment review is complete, the Agency will notify the program participant of its status to proceed or recommend areas of review for correction. A rating of at least 2 is required in order to participate.

10.1.1.6. Compliance Plan Corrections

Section 1-75(c-10)(1)(B) and (D) authorize the IPA to "offer corrective action plans to entities that are not on track to achieve compliance"[525] and "to assist them in obtaining compliance and shall allow continued access to procurement programs upon an approved vendor or designee demonstrating compliance."[526] After the final submission of the Approved Vendor, Designee or Competitive Procurement Supplier's Minimum Equity Standard Compliance Plan, the Agency will review and accept or reject the Compliance Plan. Compliance Plans that receive a rating of 1 will be rejected with a recommended corrective action plan. If the Agency discovers an area of the Compliance Plan that needs to be amended or requires correction, the Agency will notify the applicant in writing of the required correction(s) within fourteen days. The applicant will have thirty days to submit the amended portion of the Compliance Plan. Applicants may request extensions to that window that will be granted by the Agency on a case-by-case basis.

After resubmittal of a corrected Compliance Plan, the Agency will notify the applicant in writing of the final re-evaluation status. The Agency will have a period not to exceed twenty-one days to notify the program participant of final acceptance of the Compliance Plan. The Agency will accept multiple revisions of a proposed Compliance Plan. The Agency will strive to meet the timelines listed above but may need to extend them during times of high Compliance Plan application volumes.

10.1.1.7. Final Compliance Plan Approval

Once the Agency receives the final corrected Compliance Plan from the applicant entity and the Compliance Plan is deemed sufficient by the Agency, the entity will advance to the next stage of project application or procurement. Approved Vendors, Designees, and Competitive Procurement Suppliers must meet all minimum equity standards before being awarded a contract for RECs under an IPA program or procurement, unless the entity has obtained a waiver. Aggregated results will be posted to the IPA website, based on industry classification.

10.1.2. Proposed Implementation Timeline

The IPA proposes the following timeline for the Minimum Equity Standard Compliance Plan. Implementation will be divided into two phases:

1) Compliance Plan Initial Education (4th quarter 2022)
    - Educational webinar to include review of Compliance Plan standards, submittals, corrective actions, and final approval
2) Compliance Plan Training (1st quarter 2023)
    - Distribution of application materials and training for applicants
3) Compliance Plan Initial Applications (2nd quarter 2023)
    - Applicants can begin submitting Compliance Plans prior to the launch of the Equity Accountability System requirements on June 1, 2023

[525] 20 ILCS 3855/1-75(c-10)(1)(B).

[526] 20 ILCS 3855/1-75(c-10)(1)(D).

10.1.3. Submittal and Reporting Process

The Agency will require each Approved Vendor, Designee, or Competitive Procurement Supplier to confirm the Minimum Equity Standard Compliance Plan is progressing according to Agency requirements halfway through the delivery year. That confirmation will take the form of a written inquiry from the Agency or Program Administrator.

Each Approved Vendor, Designee, or Competitive Procurement Supplier must then submit a year-end report within 45 days after the end of the delivery year in which they have had active participation through activities developing a project or projects. If they have no activity during the year, that may be indicated on the year-end report and compliance obligations will not apply. This will correspond with the due date of the existing Annual Reports for the Adjustable Block Program. Year-end reporting will consist of an updated version of the original Compliance Plan submitted at the commencement of the delivery year and will include data on actual performance compared to the information submitted in the original Compliance Plan. Reporting should also reflect any major differences from the Minimum Equity Standard Compliance Plan such as new and innovative ways to provide employment opportunities to low-income participants and residents within the environmental justice communities. The first Reports will be due after the end of the 2023-2024 delivery year.

10.1.3.1. Waivers for the Minimum Equity Standard

In the event an Approved Vendor, Designee, or Competitive Procurement Supplier is unable to fulfill the minimum equity standards for a given delivery year, Section 1-75(1)(c-10)(1)(D) allows that entity to seek a waiver. The Agency will have the sole discretion to grant a waiver in rare circumstances. The Agency will grant waivers where the applicant provides evidence of significant due diligence toward meeting the minimum equity standards. These efforts should include:

i. Brief narrative describing the entity's effort to recruit Equity Eligible Persons prior to the start of project development.
ii. Efforts to hire or contract with Equity Eligible Contractors should have documentation from affiliated community-based organizations and/or training program facilities, State workforce hubs, union hall registers, minority professional development associations, etc. This should include the date of contact, the agency official and title of the individual contacted.
iii. Attestation providing details of open positions or request for bids where the entity has ***not*** received inquiries or proposals from Equity Eligible Contractors or Equity Eligible Persons.
iv. Utilization of the Energy Workforce Equity Database.
v. Proactively establishing contracting relationships with Equity Eligible Contractors.
vi. Advertising or formal solicitation using various platforms of minority-targeted social media for no less than thirty (30) business days. Engagement in direct and extensive outreach to minority-targeted associations or other relevant organizations to notify them of the project opportunity.
vii. Evidence that the entity posted all project solicitations on appropriate State agency websites, include direct targeted e-mail alerts to appropriate respondents who have registered with State agencies to learn of opportunities.

Waivers approved for lack of Equity Eligible Persons or Equity Eligible Contractors in a geographic area of a project shall not count against the program participant in assessment of compliance with the minimum equity standard.

Waiver extensions or subsequent waiver requests from an applicant will need to specify efforts made to reach compliance. Section 1-75(1)(c-10)(4)(E) of the IPA Act directs that, "[w]hen considering whether to grant a waiver, and to what extent, the Agency shall consider the degree to which similarly situated applicants have been able to meet these minimum equity commitments. For repeated waiver requests for specific lack of eligible persons or eligible contractors available, the Agency will make recommendations to target recruitment to add such eligible persons or eligible contractors to the [Energy Workforce Equity] database."

The Agency will consider an assertive, sincere, and results-oriented action taken by the applicant to comply with the minimum equity standards due diligence. Such an effort should include:

i. Work consistently and assertively with approved State job training and workforce development programs to recruit a diverse workforce and provide evidence of outreach
ii. Maintain applications of individuals not selected for an opening for contact regarding future project openings
iii. Participate in State approved workforce training facilities for job fairs and related local community events, to recruit a diverse workforce

The purpose of an entity demonstrating due diligence is to promote the support of equitable access to employment on local energy solar projects, job training and apprenticeships of the residents of underserved communities throughout the State of Illinois. In an instance where full compliance is not attainable, the Agency will accept a written detailed explanation of why the applicant was incapable of contracting an equity eligible person or Equity Eligible contractor. The program participant must provide copies of all interactions proving such challenges and a signed attestation affirming the information provided is truthful accurate and complete. Inaccuracies, fraudulent statements, or any misleading details may result in immediate disqualification for a waiver and further disciplinary action with IPA programs.

10.1.4. Enforcement of Standards

If the Agency determines that an Approved Vendor, Designee, or Competitive Procurement Supplier has failed to comply with any of the requirements set forth by the Agency, or any contract provision set forth by the law, the Agency will notify that entity in writing within twenty-one days. At such time, the Agency may request within twenty-one days after the notice of noncompliance any additional reports, information and documentation that are reasonably necessary to determine program compliance. If the requested materials are not received within twenty-one days, a finding of noncompliance will be rendered, and the appropriate violation status will apply. Requests for an extension for more time to provide such additional information must be made prior to the twenty-one day deadline and will be considered on a case-by-case basis.

The Agency proposes to impose consequences for violations by program participants due to non-compliance, including but not limited to:

i. Suspension of the entity's ability to submit project applications to IPA programs or to participate in competitive procurements during the remainder of the delivery year.

ii. Repeated violations could potentially result in the Approved Vendor or Designee becoming suspended from the IPA's programs for an entire delivery year. Competitive Procurement Suppliers could likewise be barred from participation in future competitive procurement events.

Suspensions of an Approved Vendor or Designee in the Adjustable Block Program will be noted on the program website's lists of Approved Vendors and Designees as well listed on the disciplinary actions report.

10.1.5. Program Recruitment for a Diverse Workforce

The Agency will seek to collaborate with other State agencies to encourage participating entities to utilize a diverse workforce and diverse contractors. Utilization of other State agency resources, such as comprehensive databases, will be an option for program participants in need of support in meeting the minimum equity standard.

Approved Vendors, Designees, and Competitive Procurement Suppliers should exercise multiple avenues to engage eligible persons, where applicable:

i. Workshops to educate the local eligible workforce on industry particulars
ii. Offer potential job-shadowing to clean energy program students, through DCEO workforce hubs, and focus efforts on minority-targeted audiences
iii. Utilization of the Energy Workforce Equity Database
iv. Job fairs for appropriate screening of potential candidates
v. Access to untapped local labor pools (i.e., trade schools, community colleges)
vi. Developing tailored training programs to accommodate pre-employment training (i.e., life skills, financial management)
vii. Special funding for dislocated workers to expand service capability and/or training for project work
viii. Support training and employment retention by connecting with community-based organizations for proper wrap around services such as: childcare assistance, transportation, and mentor check ins
ix. Providing support to persons or entities who apply for state and federal workforce programs or assistance related to clean energy

10.1.6. Modifications to the Equity Accountability System

Section 1-75(1)(c-10)(7) provides that, "[a]s part of the update of the long-term renewable resources procurement plan to be initiated in 2023, or sooner if the Agency deems necessary, the Agency shall determine the extent to which the equity accountability system… has advanced the goals [codified in P.A. 102-0662] including through the inclusion of equity eligible persons and equity eligible contractors in renewable energy credit projects."

If the Agency determines that the equity accountability system has not fully achieved those goals to its fullest potential, Section 1-75(c-10)(7) provides that the Agency may revise the following criteria:

i. [T]he percentage of project workforce, or other appropriate workforce measure, certified as equity eligible persons or equity eligible contractors

ii. *[T]he definitions for equity investment eligible persons and equity investment eligible community*

iii. *[O]ther modifications deemed necessary to advance the goals of [Public Act 102-0662]. Such revised criteria may also establish distinct equity accountability systems for different types of procurements or different regions of the State if the Agency finds that doing so will further the purposes of such programs.*

Revisions will be developed with stakeholder input, including from Equity Eligible Persons, Equity Eligible Contractors, and community-based organizations that work with such persons and contractors.

10.2. Equity Accountability System Assessment and Racial Disparity Study

Section 1-75(1)(c-15) of the IPA Act as amended by Public Act 102-0662 requires the Agency to conduct analysis of the effectiveness of the equity actions system in increasing participation of Equity Eligible Persons and Equity Eligible Contractors. The Agency must conduct this analysis within one year of awarding the first contracts that resulted from the implementation of the equity accountability system.

After that initial assessment of the equity accountability system, Section 1-75(c-15)(2)(B) of the IPA Act requires that the Agency commission a study to "measure the presence and impact of discrimination on minority businesses and workers in Illinois' clean energy economy," including activity outside of IPA programs, utilizing consultants and subject matter experts. The study will review the State's renewable energy sector regarding access, participation, and utilization of contractors with a special emphasis on minority owned business enterprises, with the goal of analyzing whether race or gender has been a barrier to equable access for all business owners.

Section 1-75(c-15)(2)(B) of the IPA Act expressly exempts the selection of a consultant to conduct this study from the bidding requirements contained in Section 20-10 of the Illinois Procurement Code. Like other selection processes for consultants conducted by the Agency that are exempt from those requirements (e.g., Procurement Administrators, Procurement Planning Consultants, and Program Administrators), this process will be conducted in two parts consisting of an initial Request for Qualifications and a subsequent Request for Proposals issues to qualified respondents to the Request for Qualifications. The Agency will endeavor to have the consultant selected by June 1, 2023. This will allow the consultant to be in place at the time of the launch of the Equity Accountability System which will be a critical data input into the study.

10.2.1. Timing of Equity Accountability System Assessment and Racial Disparity Study

Section 1-75(c-15)(2)(A) sets the timeline for publishing the assessment findings to be within one year after contracts are awarded under the equity accountability system. The system launches June 1, 2023 and there will be some lag between that date and the first contracts awarded. Therefore, the Agency proposes that the initial study will be published by August 1, 2024. The Agency will publish the findings of all research listed above, along with recommendations to the Agency regarding inclusion of minority and disadvantaged businesses in the procurement process. The report will display participating workers and contractors by race and ethnicity, with all data anonymized.

Section 1-75(c-15)(2)(B) provides that the Agency shall commission the disparity study "as soon as is practicable" after publishing the assessment of the equity accountability system. The Agency will work with DCEO to develop a timeline for commissioning this study.

10.2.2. Scope of Equity Accountability System Assessment and Racial Disparity Study

The methodology used to assist the Agency with assessing the efficacy of the equity accountability system will include but will not be limited to the following:

i. Analysis of data collected by the Agency through its programs, procurements, and Equity Accountability System.
ii. Interviews with area and regional businesses.
iii. Community outreach to include townhall meetings, email correspondence, and public hearings open to the public for transparency.
iv. Focused assembly of randomly chosen minority business owners to articulate their experiences in doing business in the industry with the State of Illinois.

The methodology of the disparity study will be determined by the consulting firm retained by the Agency to conduct the study.

10.2.3. Coordination with Other Agencies

The Agency will collaborate closely with the Department of Commerce and Economic Opportunity, Department of Labor, Department of Corrections, and other appropriate agencies to commission the racial disparity study. The primary objective of inter-agency coordination will be to develop actions to effectively address discriminatory practices or trends in the clean energy sector in Illinois.

10.2.4. Entity Participation

A critical element of a successful disparity study is a representative set of data to obtain a true reflection of the state of inequitable practices and procedures. Specifically, minority-owned business participation would provide valuable insight to the efficacy and challenges in the Agency's efforts to increase inclusion and may highlight previously unknown barriers to participation by such entities. Substantive input from diverse entities will inform changes to policies, procedures, and procurements going forward.

The Agency will collaborate with the entity contracted to conduct the disparity study to create scheduled public workshops to collect stakeholder input. Entities not comfortable sharing experiences in a public setting or unable to attend will have the option of sharing experiences via written communication.

As discussed above, the Agency proposes a tentative completion and publication date for the study as August 1, 2024. The tentative date will be subject to change according to Agency response to future statutory requirements.

10.3. Program Data Collection

Section 1-75(c-20) acknowledges that "data collection, data analysis, and reporting are critical to ensure that the benefits of the clean energy economy provided to Illinois residents and businesses are equitably distributed across the State," and for "track[ing] and improv[ing] equitable distribution

of benefits across Illinois communities." It directs the Agency to collect certain data from all entities participating in Agency programs so that the Agency may monitor the progress in advancing access to and participation in renewable energy incentive programs by diverse businesses and residents.

The Agency will collect demographic and geographic data for each entity awarded contracts under any Agency-administered program:

i. Demographic information, including racial or ethnic identity for real persons employed, contracted, or subcontracted through the program and owners of businesses or entities that receive contracts through Agency programs or procurements
ii. Geographic location of the residency of real persons employed, contracted, or subcontracted through the program and geographic location of the headquarters of the business or entity is awarded a contract through an Agency program or procurement; and
iii. Any other information the Agency determines is necessary for the purpose of achieving the purpose of this subsection. The Agency will provide stakeholders the opportunity to review proposals and provide feedback before any new information requirements are implemented.

As required by Section 1-75(c-20)(4), the Agency will "publish … annually, information on the demographics of program participants on an aggregate basis."

10.4. Energy Workforce Equity Database

Section 1-75(1)(c-25) requires that the Agency develop an Energy Workforce Equity Database to potentially launch during the first quarter 2023. As of the release of this draft 2022 Long-Term Plan the Agency is assessing whether this database will be developed internally or by an outside contractor.[527] This online resource will allow users to view the participating businesses in the renewable energy industry of Illinois.

Section 1-75(1)(c-25)(1) of the IPA Act states that:

> *The Energy Workforce Equity Database shall be a searchable database of suppliers, vendors, and subcontractors for clean energy industries that is:*
>
> *(A) publicly accessible*
>
> *(B) easy for people to find and use*
>
> *(C) organized by company specialty or field*
>
> *(D) region-specific and*
>
> *(E) populated with information including, but not limited to, contacts for suppliers, vendors, or subcontractors who are minority and women-owned business enterprise certified or who participate or have participated in any of the programs described in this Act.*

Sections 1-75(c-25)(2) and (3) further specifies that:

[527] The selection of an outside contractor would be exempt from the bid selection process requirements of Section 20-10 of the Illinois Procurement Code.

(2) The Agency shall create an easily accessible, public facing online tool using the database information that includes, at a minimum, the following:

(A) a map of environmental justice and equity investment eligible communities

(B) job postings and recruiting opportunities

(C) a means by which recruiting clean energy companies can find and interact with current or former participants of clean energy workforce training programs

(D) information on workforce training service providers and training opportunities available to prospective workers

(E) renewable energy company diversity reporting

(F) a list of equity eligible contractors with their contact information, types of work performed, and locations worked in

(G) reporting on outcomes of the programs described in the workforce programs of the Energy Transition Act, including information such as, but not limited to, retention rate, graduation rate, and placement rates of trainees; and

(H) information about the Jobs and Environmental Justice Grant Program, the Clean Energy Jobs and Justice Fund, and other sources of capital.

(3) The Agency shall ensure the database is regularly updated to ensure information is current and shall coordinate with the Department of Commerce and Economic Opportunity to ensure that it includes information on individuals and entities that are or have participated in the Clean Jobs Workforce Network Program, Clean Energy Contractor Incubator Program, Returning Residents Clean Jobs Training Program, or Clean Energy Primes Contractor Accelerator Program.

In addition, the Energy Equity Workforce Database will identify which EEPs are qualified persons.

The Agency will seek to have the Energy Equity Workforce Database launched by the end of 2022 and will seek stakeholder feedback on development of the database. The Agency notes that while some of the information required for the database already exists (e.g., maps of environmental justice communities), many other data sources do not yet exist. For example, the new workforce development and grant programs administered by the Department of Commerce and Economic Opportunity are still under development and are not expected to start launching until later in 2022. As a result, features within the database may become available at different times as information on these resources become available.