

**Vistra Corp.'s Comments on  
Illinois Power Agency's  
Draft 2022 Long Term Renewable Resources Procurement Plan**

Vistra Corp. (Vistra) is pleased to submit the comments provided in this document on the Illinois Power Agency's (IPA) draft 2022 Long Term Renewable Resources Procurement Plan (LTRRPP). Vistra is providing comments on selected sections of the LTRRPP, as set forth in this document. Vistra reserves the right to submit different or additional comments on the sections of the LTRRPP addressed herein, and on other sections of the LTRRPP, when it is revised and filed with the Illinois Commerce Commission (ICC) later this year pursuant to 220 ILCS 5/16-111.5(b)(5)(ii)(B).

In the comments below, Vistra identifies the section or section(s) of the LTRRPP that is/are the subject of each comment, and provides any specific changes to the text of the LTRRPP that Vistra is proposing.

Vistra notes that it has previously (December 3, 2021) submitted comments in response to the IPA's requests for comments on several topics that are now addressed in the draft LTRRPP, including utility-scale and brownfield site photovoltaic procurements, the Self-Direct Renewable Portfolio Standard Compliance Program for large non-residential retail customers established by P.A. 102-0662, the Adjustable Block Program (ABP), the Illinois Solar for All program, Diversity, Equity and Inclusion requirements under P.A. 102-0662, and the IPA's REC Pricing Model. Vistra has also previously submitted comments on the draft Indexed REC Contract and procurement rules for the upcoming (May 2022) Indexed REC procurement event for RECs from new utility-scale wind, utility-scale solar, and brownfield site photovoltaic projects. Although the May 2022 Indexed REC procurement event is not part of the draft 2022 LTRRPP, Vistra respectfully urges the IPA to consider Vistra's previous comments on the Indexed REC procurement to the extent those comments are applicable to provisions of the draft 2022 LTRRPP.

Vistra's point of contact for any questions concerning these comments is:

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Vistra commends the IPA for the substantial effort that obviously was required of the IPA staff to prepare the draft LTRRPP.

**Specific Comments**

**Section 5.4.5 – Indexed REC Settlement**

In Section 5.4.5, the IPA states that it seeks feedback on whether the approach of summing hourly settlements of the Indexed REC transactions up to the monthly level for monthly settlement purposes constitutes the optimal approach. Vistra believes this approach is reasonable.

### **Section 5.5.2 – Brownfield Site Photovoltaic**

Vistra supports the IPA’s proposal to use a price-based competitive approach for the procurement of brownfield-site photovoltaic RECs conducted under this LTRRPP (*i.e.*, in the next two years), and concurs in the IPA’s reasoning stated in the first full paragraph on page 120. Vistra reiterates the following comments from its December 3, 2021 response to the IPA’s request for comments on certain utility-scale and brownfield site photovoltaic procurement issues:

Vistra urges that the approach of using an administratively-determined REC price for brownfield solar procurements (with selection of winning projects then based on other, non-price criteria) should *not* be used. Such an approach carries the risk of setting the REC price higher than necessary to incent development of the target number and capacity of projects (including projects with a lower likelihood of successful completion), as may have happened with respect to the Adjustable Block Program prior to enactment of P.A. 102-0662. This may result in selection of inefficient projects, thereby expending an excessive portion of the renewable resources budget. Selection of projects for REC contracts through a competitive procurement process exclusively or primarily based on bid prices will result in the selection and development of the most efficient projects and obtain renewable energy at the lowest cost per REC.

### **Section 5.7.1 – Credit Requirements**

Vistra agrees with the continuation of collateral requirements in utility-scale REC contracts, and urges that collateral requirements be substantial and carry risk of loss, in order to help ensure that only entities with the financial resources and commitment to bring projects to completion and operation will participate in procurement events. Vistra reiterates the following comments from its December 3, 2021 response to the IPA’s request for comments on certain utility-scale and brownfield site photovoltaic procurement issues:

Both increases in collateral requirements and, more importantly, requiring posting of significant collateral earlier in the project development process, should be strongly considered as means to ensure that projects that are selected are capable of reaching operational stage. In Vistra’s extensive industry experience across the U.S., some developers that are not well financed nor fully capable of bringing projects to successful completion seek to develop projects only to the point at which they must expend significant amounts of capital (including posting significant collateral), with the objective of “flipping” the project to another developer at that point. If “flipping” fails, the project development may terminate, ultimately resulting in failure to meet statutory REC procurement goals. Requiring significant amounts of collateral early in the development process will likely discourage developers that are not capable or prepared to develop projects through to completion from entering into the IPA procurement process in the first place.

Collateral requirements should include both bid assurance collateral required of bidders in a procurement event and performance collateral required of successful bidders. Vistra reiterates

the following comments from its December 17, 2021 comments on the Preliminary Proposal Requirements and Draft Key Contract Terms for the upcoming (May 2022) Indexed REC procurement event for RECs from utility-scale wind and solar projects and brownfield site photovoltaic projects:

While the Preliminary Proposal Requirements and Draft Key Contract Terms document does not discuss specific bid assurance collateral amounts, Vistra urges the IPA and the Procurement Administrator to consider higher collateral requirements. This is an additional tool to help ensure that only committed developers, who are financially capable of successfully bringing their renewable energy projects to completion and operation, will participate in the procurement events, thereby increasing the likelihood that participant selections and REC contract rewards will ultimately result in the production of clean electricity in Illinois to meet the State's RPS goals.

As an example from another State which is aggressively pursuing renewable generation development including solar development, Vistra has participated in procurement events (Requests for Offer) held by the California electric utilities in which the range of collateral (cash or letter of credit) required when signing the contracts has been between \$35/kW to \$65/kW for both pre-delivery (or development) term security and delivery term security. For a 100 MW project, this would result in a collateral requirement of between \$3.5 million to \$6.5 million.

#### **Section 6.5.1.1 – Self-Direct Renewable Portfolio Standard Compliance Program – Self-Direct Bill Crediting – Interpretive Issues**

In Section 6.5.1.1, the IPA requests feedback on the question of whether, in the Self-Direct Renewable Portfolio Standard Compliance Program, costs from utility-scale contracts concern those contracts entered into directly after the date of a customer's successful participation (which is before the customer's first compliance report), or only beginning with the delivery year (DY) thereafter. Vistra believes that the IPA's currently-proposed approach, that utility-scale renewable portfolio standard (RPS) contracts utilized for credit calculations will begin with those entered into directly after the customer begins participation, is reasonable.

#### **Section 6.6.2 – Self-Direct RPS Compliance Program – Establishing Program Size**

In Section 6.6.2, concerning the Self-Direct Renewable Portfolio Standard Compliance Program for large customers, the IPA states:

“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.”

Vistra notes that most, in fact likely virtually all, large non-residential retail customers

that would be eligible to participate in the self-direct program receive their electricity supply from alternative retail electric suppliers (ARES). ARES, including Vistra's retail power supply affiliates, will have a strong interest in assisting their large non-residential customers that may be interested in the self-direct program. Therefore, there will likely be considerable outreach by ARES to large nonresidential customers about the self-direct program. In addition, the electric delivery utilities have billing relationships and other points of contact (e.g., delivery facilities arrangements and maintenance) with most if not all of the large nonresidential customers in their service territories. Therefore, the electric utilities can be another point of outreach/contact to inform potentially eligible retail customers about the self-direct program. The IPA may wish to develop a set of standardized materials describing the self-direct program, including the eligibility requirements, for ARES and electric utilities to use in discussing the program with potentially eligible nonresidential customers.

### **Section 7.2 – Adjustable Block Program Program Administrator**

Vistra believes the IPA's proposal to expand the ABP Program Administrator's scope of work, as described in the last paragraph of page 146, is reasonable.

### **Section 7.3.4 – ABP – Opening of 2022 Delivery Year Blocks & Subsequent Annual Block Openings**

In Section 7.3.4, the IPA requests feedback on its approach for opening 2022 DY blocks of the ABP, which will involve pausing project applications beginning June 1, 2022, and reopening the ABP for new applications on August 1, 2022, after the new LTRRPP is approved by the ICC. Vistra believes that the IPA's proposed approach is reasonable and in fact probably necessary given the need to obtain approval of the proposed LTRRPP.

### **Section 7.3.5 – ABP – Uncontracted Capacity at Close of a Delivery Year**

In Section 7.3.4, the IPA requests stakeholder feedback on its proposal for redistributing uncontracted ABP capacity at the end of a delivery year, which is a new requirement under P.A. 102-0662. Vistra believes that the IPA's proposal, on pages 152-153, is reasonable, and Vistra particularly supports that all uncontracted capacity should be reallocated to program categories with wait lists. However, Vistra further proposes that the uncontracted capacity should be pro-rated and allocated based on the size of the wait list (based on the aggregate MW of capacity represented by the wait-listed projects) for each program category. For example, if Large Distributed Generation has a wait list 50% larger than the wait list for Small Distributed Generation, then the Large Distributed Generation should be allocated more of the uncontracted capacity commensurate with its comparatively larger wait list.

### **Section 7.5.7 – ABP – Updating of REC Prices**

In Section 7.5.7, the IPA requests stakeholder feedback on IPA's proposed approach for updating REC prices for the ABP for the 2023-2024 DY, as required by P.A. 102-0662 in a change from the prior law. Vistra believes that the IPA's plan and schedule for updating

the ABP REC prices for the next DY, through “refreshing” the ABP REC Pricing Model, is appropriate.

### **Section 8.2.3 – Illinois Solar for All – Small and Emerging Business Development**

In Section 8.2.3, the IPA requests stakeholder feedback on its proposed definitions of “small and emerging business” (which terms are not defined in the IPA Act). Specifically, the IPA proposes to use the U.S. Small Business Administration’s definition of “small,” based on annual revenues within the appropriate North American Industry Classification System (NAICS) category. The IPA also proposes to define an “emerging business” as one that has been authorized to do business in any U.S. state for less than three years. Vistra believes that the IPA’s proposed definitions are appropriate. Vistra notes that these definitions are based on verifiable metrics and that the proposed definition of “small [business]” uses data from a respected and widely-used third-party source.

### **Section 10.1.1. – Minimum Equity Standards**

In Section 10.1.1, the IPA requests stakeholder feedback on the proposed percentage requirement for the 2024-2025 DY, as well as if there are concrete geographic considerations the IPA should take into account at this time. Recognizing that a 10% workforce component for the 2023-2024 DY is mandated by statute, Vistra believes that the proposed 12% requirement for DY 2024-2025 is reasonable. Vistra believes that both the 10% requirement for DY 2023-2024 and a 12% requirement for DY 2024-2025 should be reasonably achievable by participants. Vistra also agrees that it is appropriate to defer identifying the percentage requirements for subsequent years (on the pathway to a 30% requirement by 2030) until the next IPA LTRRPP, when more data and experience will be available than is the case today.

Vistra does not have any “concrete geographic considerations” that it believes should be taken into account for purposes of this LTRRPP. Vistra believes that any “concrete geographic considerations” will become more readily apparent, based on experience and further studies, by the time of development of the next LTRRPP. As Vistra stated in its previous comments in response to the earlier IPA Request for Comments, a Statewide Availability/Disparity study or studies would be essential to identifying specific geographic areas of the State where differing minimum percentage requirements are necessary or appropriate.

Finally, Vistra notes that Section 10.1.1 does not specify whether the minimum percentage requirement for each DY must be accomplished through Tier 1 direct contracting alone, or, through both Tier 1 contracting and sub-Tier contracting, so long as the overall percentage requirement is achieved and specified in the participant’s Minimum Equity Standard Compliance Plan. Vistra believes that at this early stage of these requirements, participants should be allowed to achieve compliance through the aggregate results of both Tier 1 direct contracting and sub-Tier contracting. In any event, the LTRRPP should be explicit on this topic.