

## Large Customer Self-Direct RPS Compliance Program Request for Stakeholder Feedback

November 12, 2021

### Background

On September 15, 2021, Governor Pritzker signed the Climate and Equitable Jobs Act ([Public Act 102-0662](#)) into law. This Act includes significant changes to the Illinois renewable portfolio standard, with the requirement a new Long-Term Renewable Resources Procurement Plan be published no later than 120 days after the effective date of the Act.

The Illinois Power Agency (“IPA” or “Agency”) is seeking feedback on certain topics in preparation for publishing its updated Long-Term Renewable Resources Procurement Plan on January 13, 2022 in compliance with P.A. 102-0662. This feedback may be utilized by the Agency to help form the content of that draft Plan, with stakeholders having additional opportunities for comment after that draft Plan is published.

New Section 1-75(c)(1)(R) of the IPA Act provides extensive new requirements directing the IPA to establish a self-direct RPS compliance program for large customers through its new Long-Term Plan. Successful participation in the self-direct program would allow a large customer to receive a reduced RPS-related surcharge reflecting the removal of costs associated with subsequent procurements conducted by the Agency to support new utility-scale project development. The Agency must also provide deductions to statutory RPS goals and targets reflecting qualifying self-procured RECs.

As the entirety of subparagraph (R) is new statutory text, it is presented in whole below.

*(R) In its long-term renewable resources procurement plan, the Agency shall 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 as described in this Section. Such long-term agreements may include the purchase of energy or other products on a physical or financial basis and may involve an alternative retail electric supplier as defined in Section 16-102 of the Public Utilities Act. This program shall take effect in the delivery year commencing June 1, 2023.*

*(1) For the purposes of this subparagraph: "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.*

*"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.*

*(2) For renewable energy credits to count toward the self-direct renewable portfolio standard compliance program, they must:*

- (i) qualify as renewable energy credits as defined in Section 1-10 of this Act;*
- (ii) be sourced from one or more renewable energy generating facilities that comply 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;*
- (iii) be procured through long-term contracts with term lengths of at least 10 years either directly with the renewable energy generating facility or through a bundled power purchase agreement, a virtual power purchase agreement, an agreement between the renewable generating facility, an alternative retail electric supplier, and the customer, or such other structure as is permissible under this subparagraph (R);*
- (iv) 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;*
- (v) be retired by or on behalf of the large energy customer;*
- (vi) be sourced from new utility-scale wind projects or new utility-scale solar projects; and*
- (vii) if the contracts for renewable energy credits are entered into after the effective date of this amendatory Act of the 102nd General Assembly, 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).*

*(3) The self-direct renewable portfolio standard compliance program shall be designed to allow eligible self-direct customers to procure new renewable energy credits from new utility-scale wind projects or new utility-scale photovoltaic projects. 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, subject to receiving qualifying applications. 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. If 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. Each 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. The self-direct customer 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. Customers must provide the Agency with their most recent electricity billing statements or other information deemed necessary by the Agency to demonstrate they are an eligible self-direct customer.*

*(4) The Commission shall approve a reduction in the volumetric charges collected pursuant to Section 16-108 of the Public Utilities Act for approved eligible self-direct customers 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. The self-direct credit amount shall be determined annually and is 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 kilowatt-hour basis, and does not include (i) 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, and (ii) 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. The Agency shall assist the Commission in determining the current and future costs. The 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 approve the self-direct credit amount by June 1, 2023 and June 1 of each delivery year thereafter.*

*(5) Customers described in this subparagraph (R) shall apply, on a form developed by the Agency, to the Agency to be designated as a self-direct eligible customer. Once 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. Thereafter, application may be made not less than 12 months before the filing date of the long-term renewable resources procurement plan described in this Act. At a minimum, such application shall contain the following:*

- (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.*

*(6) If 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. Self-direct customers who knowingly fail to properly procure and retire renewable energy credits and do not notify the Agency are ineligible for continued participation in the self-direct renewable portfolio standard compliance program.*

Through this Request for Stakeholder Feedback, the Agency is seeking feedback on how best to implement this new large customer self-direct RPS compliance program through its updated Long-Term Renewable Resources Procurement Plan.

**Responses to this Request for Stakeholder Feedback should be submitted to the IPA by December 3, 2021. Written responses should be emailed to [IPA.Contactus@illinois.gov](mailto:IPA.Contactus@illinois.gov) with the subject “Responder’s Name – Response to Self-Direct Program Comment Request.”**

In general, responses will be made public and published on the [Illinois Power Agency](http://Illinois Power Agency) website. Should a commenter seek to designate any portion of its response as confidential and proprietary, that commenter should provide both public and redacted versions of its comments. Independent of that designation, if the Agency determines that a response contains confidential information that should not be disclosed, the IPA reserves the right to provide its own redactions.

## Stakeholder Feedback Questions

### CUSTOMER ELIGIBILITY

Section 1-75(c)(1)(R)(1) allows for “multiple retail customer accounts under the same corporate parent” to be aggregated to meet the law’s 10,000 kilowatt peak demand participation threshold.

- 1) How should the IPA determine whether multiple retail customer accounts indeed connect back to the same corporate parent?
  - a. What documents would constitute appropriate proof of such affiliation, and allow that affiliation to be understood as connecting back to that customer’s utility account?
  - b. For multiple aggregated accounts, should the 10,000 kW threshold be based on coincident or non-coincident “total highest . . . demand” peak demands?

### PROJECT ELIGIBILITY

Section 1-75(c)(1)(R)(2) requires that RECs “be sourced from new utility-scale wind projects or new utility-scale solar projects,” but “new” is not defined within Section 1-75(c)(1)(R). The Agency is proposing to utilize the “new” project definition found in Section 1-75(c)(1)(C)(iii) (energized after June 1, 2017) in applying subparagraph (R), with geographic eligibility determined by the application of Section 1-75(c)(1)(I) of the IPA Act as interpreted through the Agency’s Commission-approved Long-Term Renewable Resources Procurement Plan in place at the time of contract execution (with the IPA’s Initial Long-Term Plan’s determinations applicable to contracts executed before that Plan’s formal approval).

- 2) Is this approach to determine whether a project is “new” the correct approach?
  - a. Should the Agency instead consider “new” as a facility that had not yet been energized as of the effective date of P.A. 102-0662?
- 3) For geographic qualification, would facilities qualifying under Section 1-75(c)(1)(I)’s new provisions for electricity transmitted to Illinois-based HVDC converter stations also qualify (once such converter stations are built and qualified)?

### PROGRAM SIZE

Section 1-75(c)(1)(R)(3) requires that the Agency “annually determine the amount of utility-scale renewable energy credits it will include each year” from the program, with that determination made through evaluating “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.” Program size should also take into consideration the overall market size or share of eligible self-direct customers—but that market size has proven difficult to determine, as many smaller retail customer accounts may qualify once aggregated through corporate affiliation.

- 4) How should the IPA handle this requirement for establishing program size?
  - a. What such publicly available analyses and studies are available to the Agency in determining self-direct program size?
  - b. By when each year should the Agency make this determination, and using what process?
  - c. Should the Agency publish the initial delivery year self-direct program size as part of its upcoming Long-Term Plan?
  - d. Given that customer account size does not account for permitted account aggregation by corporate affiliates, how can the IPA best assess the size of the retail customer market eligible for self-direct RPS compliance?

Section 1-75(c)(1)(R)(3) also provides provisions for ensuring that “participation is evenly split between commercial and industrial users” in the case of more applicants than the program size could accommodate.

- 5) If the IPA receives applications for the program which exceed the amount of RECs it will include each year, how should the Agency choose between competing applicants?
  - a. While the law indicates that the Agency “shall ensure participation is evenly split between commercial and industrial users,” how should the Agency choose between individual commercial or industrial users within that category should applications exceed program capacity?
  - b. Should the Agency maintain a program waitlist for qualified applicants, with preference for waitlisted applicants when the program next reopens for applications?

#### BILL CREDITING

The amount of avoided RPS costs credited back to the customer shall 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.” The Agency understands this to mean that it would be providing credit levels each year for the upcoming delivery year, which vary by the delivery year in which the customer begins self-compliance REC retirements. Thus, for a customer which begins retiring RECs for self-compliance in 2023, an individual rate would apply and would change year-over-year as anticipated new utility-scale wind and solar costs grow (as additional contracts are entered into and additional retirements occur). Alternatively, for a customer which begins retiring RECs for self-compliance in 2024, a different rate would apply, as only contracts entered into after the “delivery year after the large energy customer” began retiring RECs for self-compliance would count toward the anticipated cost rate. Thus that 2024 customer’s annual self-direct credit rate would be almost certainly be different than the 2023 customer’s annual self-direct credit rate.

The phrasing “entered for each delivery year” found in Section 1-75(c)(1)(R)(4) contains some ambiguity, and the IPA believes that the most appropriate approach is to interpret this passage as a) meaning “entered into for” and b) not counting costs from those contracts until such costs occur (i.e.,

not until the delivery year in which deliveries from those contracts are expected to commence). This reading is further supported by statutory language on what costs are excluded as well.

- 6) What is the correct approach to determining bill credit levels? Do commenters agree with the IPA's statutory interpretation? What other interpretations could be offered to this language?

The law further provides that while the Agency shall ultimately determine the self-direct credit amount(s), it should be filed with the Commission as a compliance filing—but must be approved by the Commission by June 1 of each year beginning in 2023.

- 7) Given that the Commission does not normally approve compliance filings, how should the Agency comply with this provision?
  - a. What process should the Agency propose for the Commission's review and approval of self-direct rates?
  - b. What information should the Agency include in such a filing to a) assist the Commission in making that determination and b) provide interested parties with visibility into how self-direct crediting rates are being set?

### APPLICATION PROCESS

Section 1-75(c)(1)(R)(5) could be understood as envisioning a two-step application process. First, the customer must demonstrate that it qualifies as a self-direct customer, generally by a demonstration of usage above 10,000 kilowatts by that customer or its affiliates. Next, the customer must demonstrate that its contract with a new utility-scale renewable energy facility qualifies for self-direct bill crediting (e.g., from contracts of at least 10 years and in volumes that are at least 40% of the customer's annual consumption).

- 8) How should the application process operate?
  - a. Should these steps be completed contemporaneously?
  - b. By when should applications open?
  - c. For how long should the application window stay open for a given delivery year?

Section 1-75(c)(1)(R)(5)(ii)-(v) references "proof" or "supporting documentation" required for compliance demonstration.

- 9) How should the Agency determine whether an applicant is indeed compliant?
  - a. What types of documentation should the Agency seek?
  - b. For the prevailing wage and equity standards requirements in 1-75(c)(1)(R)(2)(vii), how might the applicant prove compliance?
  - c. What confidentiality considerations apply to the receipt of this information?

### **Next Steps**

Stakeholder feedback received on the proposals discussed herein will be considered while developing the new draft Long-Term Renewable Resources Procurement Plan due to be published on January 13, 2021.