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September 29, 2025

Re: Comments on draft 2026 Long Term Plan

Dear Illinois Power Agency,

Equity Solar Illinois (ESI) respectfully submits these comments regarding the Illinois Power Agency's (Agency's) draft of the 2026 Long Term Plan (LTP) released on August 15, 2025, for public review and comment. As an active developer of community solar (CS) projects in the Equity Eligible Contractor (EEC) category of the Illinois Shines program, ESI bases these comments on our experience working to develop projects under the program to date.

Overall, the proposed LTP looks well constructed and we're excited to see Illinois Shines continue to improve in many respects. The Agency has also done a good job overseeing the program, which together with other factors, has enabled Illinois to become a top state for distributed solar development. Importantly, however, the solar industry is in a very different place than it was the last time the ICC adopted a new LTP. Changed circumstances include changes to federal statute phasing out the federal investment tax credit (ITC) for solar projects, changes to federal ITC start-construction guidance, and updated information about the difficulty of developing EEC projects under current program requirements.

This informal comment focuses on two issues: (1) objection to the proposed management and control requirement for equity eligible person (EEP) owners of EECs; and (2) feedback regarding improvements to the LTP's capacity rollover provisions.

1. ESI objects to the proposed "management and control" requirement for EPP owners of EEC approved vendors.

a. The ICC has already rejected this proposal, and required the Agency to submit alternative ideas for consideration in the next plan.

In the 2024 LTP adoption process (docket 23-0714), the ICC considered and rejected a proposed "management and control" requirement quite similar to the one presented here. The ICC characterized the proposal as "significant changes to EEP access" and expressed concern that the burden imposed would exceed a fair balance with the benefits.[1] The ICC stated it was "not not convinced that EEPs should be limited in their ability to enter into long-term partnerships with minority share owners who have more experience in the renewable energy industry."[2] It then directed the agency to identify the best and most appropriate and balanced methods, and to "submit alternatives" that would not overly burden EEPs "for the Commission to consider in the next plan."[3]

Of concern, the draft LTP does not appear to "submit alternatives for the Commission to consider" in this regard, as required by the Final Order. Instead, the Agency promotes just one potential "alternative" to address its concerns around EEP access to the EEC category – the same proposal as last time.

As ESI has previously noted, the proposed requirement goes well beyond the statutory requirements to be an EEC and exceeds the IPA's authority by putting additional requirements in the Long Term Plan that should only be created through legislative action. The change would impose an unreasonably burdensome new requirement on EEC projects

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[1] ICC Final Order in docket 23-0714 dated February 20, 2024, at 155: "The Commission declines to adopt the IPA's proposal to require that EEPs must demonstrate control or active management of an EEC. . . . more discussion amongst stakeholders is necessary before making significant changes to EEP access, to ensure the Agency's Plan strikes a fair balance between EEP requirements and reducing manipulation of the system.").

[2] *Id.*

[3] *Id.*

by requiring the EEP owner(s) to also serve as the day-to-day manager(s) and/or controller(s) of the EEC company. This requirement would apply to the EEC category projects only and would add even more complexity and risk for long-term project financing, which is already a uniquely difficult prospect for EEC projects, especially following passage of H.R. 1, also known as the One Big Beautiful Bill Act (OBBBA) as described further below.

In practical terms, requiring each owner to serve as the day-to-day manager of the EEC is a burden that is not placed on project owners in any other category of Illinois Shines, and would uniquely constrain EEC owners from partnerships and collaborations to help with the industry learning curve as they ramp up operations. This structure has not been successful in helping small, disadvantaged contractors to scale and build their own capabilities in other capital-intensive industry sectors. More broadly, it's hard to think of any government policy in America that disallows a business owner from hiring managers as it sees fit.

The proposed EEP-owner-must-manage constraint would also put EEC project developers at a financial disadvantage, since most solar ITC investors require a project's development to be controlled and managed by individuals with a strong balance sheet and a proven track record for on-time delivery of operational secured assets. The need to have a development track record has recently become even more important following passage of OBBBA, which creates a new risk that project investors can lose the entire tax credit (30% or more) if the solar project fails to meet shorter new project deadlines.

b. ESI also objects specifically to retroactive application of the proposal.

Of additional concern, the proposed LTP appears to suggest the new management-and-control requirement would also apply retroactively to EEC projects that have already received and executed a REC Agreement under a prior LTP:

> Entities unable to maintain their EEC status [due to not proving management and control to the Agency] and that have ***existing projects under a REC contract*** in the EEC category must reassign their projects to another qualifying EEC.[4]

ESI strongly objects to this proposed retroactive application, because that would only exacerbate the unreasonable burden that this new, non-statutory eligibility requirement would place on participants. At the very least, if the IPA were to impose a new non-statutory eligibility requirement, that new requirement certainly should not apply to projects that received REC contracts under a previous Long Term Plans (*i.e.*, prior to the ICC's approval of the new requirement).

c. It already become more difficult to develop EEC community solar projects following recent changes to federal statutes and guidance, so the Agency should not pile on more EEP requirements.

Developing community solar under the Illinois Shines program requires a significant amount of paperwork (even beyond what third party financiers and project buyers require) that unnecessarily adds complexity, cost, and timeline risk to these projects. This is especially true of the EEC category, where EEP owners of EEC projects must already participate in an annual recertification, which lenders view as an annual risk of losing program eligibility. While ESI does not proactively seek to reverse or modify that requirement, this is just one example of the extra hurdles already placed on EEC projects that make them more difficult to develop and finance. Between Part I and Part II verification, the EEC project must secure and successfully close on construction financing prior to equipment procurement and then secure and successfully close on long-term project financing in time to complete construction and

[4] Draft Long Term Plan, at 399 (emphasis added). While this revised section states the EEC would have to "reassign their projects to another qualifying EEC", in other places the Agency has stated that EEC approved vendors *do not* need to own a project to serve as its approved vendor (*i.e.*, its REC contract administrator).

commission the project - during the current tax year for purposes of ITC financing. The EEC project must also acquire and manage project subscribers that comply with the program's subscriber mix requirements.

We see this difficulty reflected in the EEC CS project application data, where ***zero*** EEC projects have successfully achieved Part II Verification to date (as of September 25, 2025). While many projects are under development in the EEC CS category, the lack of projects crossing the finish line should be seen as a caution against creating further EEC-specific hurdles. It seems we will soon witness the first EEC CS project reach Part II verification. This means the fastest an EEC CS project has ever gone from Part I application to Part II application is about three years. This is significantly longer than it typically takes for projects in the non-EEC Traditional Community Solar (TCS) category, which should be a concern for all stakeholders, especially given the recent federal policy changes to phase out the ITC.

The EEC category and others is now facing significant new challenges and risk following the passage of OBBBA in July 2025. Each EEC project seeking the baseline 30% ITC must now show that it meets a new domestic content requirement that previously applied only on an opt-in basis. Each project also faces a December 31, 2025, deadline to begin construction in order to avoid new foreign-entity-of-concern (FEOC) restrictions, paperwork, and compliance risk that will impose challenging new supply chain constraints.

Following OBBBA's enactment, the Treasury Department also revised its ITC start-construction guidance, removing the most common method (5% cost methodology) for solar projects over 1.5 MW in size to demonstrate start of construction, which is required to safe harbor for ITC eligibility. EEC projects that fail to secure safe-harbor status by July 4, 2026, will face the daunting prospect of having to secure construction and long-term project financing without the safe harbor, along with finishing all construction and interconnection scope in time to achieve commercial operation in advance of the solar ITC going away entirely after December 31, 2027.

For these additional reasons, ESI is opposed to any new requirement that would unreasonably burden the ability of EEPs to participate as majority owners of an EEC approved vendor in the EEC category.

d. The Agency should submit alternatives for the Commission to consider, including an affidavit establishing that EEP owners are actively involved in the business, and requiring five years of residency if the EEP qualifies solely on that basis.

As noted above, the February 20, 2024, Final Order in docket 23-0714 directed the agency to identify the most appropriate and balanced methods, and to "submit alternatives" that would not overly burden EEPs for the Commission to consider in the next plan. In line with the ICC's order, ESI could support a less burdensome approach to ensure that the EPP owners are legitimately involved in the EEC business (as are ESI's majority EEP owners) and not simply silent investors. For example, ESI would support a proposal to require during the initial qualification process and the annual renewal that each EEP owner to complete an attestation of active involvement in the business. Ultimately, each EEC approved vendor (AV) should strive to ensure its EEPs are gaining knowledge and experience in a way that works best for each EEP owner, without overly prescriptive requirements as to what role the EEP owner or owners must play and who they must employ.

In addition, with respect to EEP eligibility, CEJA created a geographical option for EEP eligibility because individuals who were raised in and worked in these communities lived among geographic disinvestment and faced structural barriers to participation in clean energy. For that reason, ESI strongly supports the Joint EEC's common-sense proposal to require that EEPs "seeking to register via residency to provide proof of living in an EIEC for at least five years . . . ."[5]

In summary, ESI supports reasonably ensuring EEPs are (1) actively involved in the business and (2) are long-term residents of the geographic areas the program is intended to support could improve the program, without adding new requirements that would unreasonably burden the EEC project's ability to access long-term project financing.

2. Regarding Section 7.3.4, the Agency should remove the capacity holdback for the EEC Distributed Genertion subcategory and restore the EEC category to the top of the uncontracted-capacity waterfall.

ESI acknowledges the Agency's request for "feedback on whether capacity from projects under contract that are subsequently removed from the Program should be included in the reallocation process that occurs between Program Years."[6] It is not clear how much additional program capacity this would enable, but assuming the administrative burden is not too great ESI would certainly support this innovation at the program level.

We also support for the Agency's proposed change in Section 7.3.4 to eliminate the 25% capacity holdback in the Public School category. This would enable the category capacity that is not allocated in a given year to enter the uncontracted capacity waterfall.

As stated in our June 2025 feedback to the Agency, ESI also supports two additional reasonable modifications to the EEC category that we respectfully ask the Agency to adopt:

(a) Remove the capacity holdback for the EEC Distributed Generation (DG) subcategory. This 25% holdback of the overall EEC category's annual capacity was seemingly intended to give EEC AVs more time (after the June 1 start of the program year) to prepare and submit their DG applications. However, this holdback has not led to a meaningful increase in the number of EEC DG

[5] *See* Joint EEC's June 2025 Stakeholder Feedback for the 2026 Long-Term Plan re: Chapter 10, at 11.
[6] Draft LTP, at 186.

applications, nor is there any waitlist to apply for non-EEC DG capacity (at the same REC price as EEC DG capacity) anywhere in the state. In short, there is no continuing reason for this capacity holdback. In practice, the main impact of the holdback has been to freeze a quarter of the EEC capacity for nearly a year, stalling deployment and access. This appears to be an unintended consequence of the 2024 Long-Term Plan. The 2026 Long-Term Plan provides the opportunity to address this by removing or reducing the capacity holdback for EEC DG projects.

(b) Restore the EEC category to the top of the uncontracted capacity waterfall as under the 2022 LTP (before it was moved to near the bottom position in the 2024 LTP). Among all the categories listed in Section 1-75(c)(1)(K), the EEC category has the highest capacity allocation goal of 40% that the IPA is meant to achieve over time based on factors including "capacity used in this [category] in previous delivery years." Placing the EEC category higher in the waterfall would thus allow more capacity to be used by EEC projects in the delivery year (rather than rolling those projects over to the next year's waitlist), enabling the category to ramp up to the 40% capacity allocation over time as required by CEJA.

Thank you for allowing this opportunity to provide input, and for your careful consideration of this matter.

Respectfully submitted,

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