



## **CLEAN GRID ALLIANCE'S COMMENTS REGARDING MINIMUM EQUITY STANDARD WAIVER REQUEST**

February 22, 2023

Clean Grid Alliance (“CGA”) submits these comments in response to the IPAs request for feedback dated February 8, 2023. CGA’s comments address IPA’s questions from the perspective of a utility-scale project developer that participates in the IPA’s competitive RFPs, and not the position of an ABP or community scale project developer. CGA’s comments: [1] respond to IPA’s questions related to the process and timing of a waiver of the Minimum Equity Standard (“MES”); [2] respond to IPAs questions regarding scoring of a waiver; [3] provide feedback on criterion in the IPA’s draft scoring table; and [4] explains that the annual waiver requirement for a project is inconsistent with the manner in which a utility-scale project developer staffs a project. Finally, CGA is in the process of preparing an alternative waiver scoring table for IPA consideration, which CGA intends to submit next week. CGA and its members are open to informal discussions of these comments and to work toward a mutually agreed upon waiver scoring table for utility-scale project developers.

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Table of Contents

COMMENTS ..... 2

1. Criteria for Evaluating a Waiver ..... 3

    Response To “Timing of Waiver Requests” ..... 3

    Response To “Questions Regarding Scoring of Waiver” ..... 5

2. Feedback on IPA’s Draft Scoring Table..... 7

3. Annual Waiver Requests ..... 9

**COMMENTS**

From the outset, CGA notes that the majority of utility-scale project developers that would participate in a competitive RFP are not local to Illinois. The majority of the project workforce used to develop, build, and operate a utility-scale project will be hired by local contractors for that project. The waiver scoring system needs to account for the fact that the primary mechanism for employing EEPs for utility-scale projects compliance with the MES is through local contractors. This is in contrast to ABP developers who will predominantly be local companies that will have local employees and would hire EEPs to develop and build a facility, and the ABP likely would not be operating it. This key difference requires a scoring table for utility-scale project developers separate from the scoring table used for ABP project developers, so that the scoring tables capture their unique situations and differences.

## 1. CRITERIA FOR EVALUATING A WAIVER

### RESPONSE TO “TIMING OF WAIVER REQUESTS”

1. *Do developers rely on long-term employees or contracted individuals for single projects?*

RESPONSE:

The vast majority of developers that bid into competitive procurements will primarily hire contractors or temporary employees whose duties will be directly or substantially related to the bid project.

Some developers will use long-term employees for some site development activities. Some developers may use office employees to work in administrative, sales, marketing or technical roles, but those employees are not directly required for a project or substantially related to a project. These employees work on all projects being developed in a region, country, or hemisphere, depending on the size and structure of the company. The number of full-time employees of a utility-scale developer that are dedicated to a specific project is small in comparison to the number of project specific workers used by a contractor on a project.

2. *When using contracted individuals, how far in advance do project developers or their subcontractors hire the project installers and other employees required for project development? Does that vary across project types, and if so, how?*

RESPONSE:

Developers of projects that participate in competitive procurements will start construction approximately 9 to 12 months after winning a bid. During that time they will seek to hire contractors or temporary employees, whom they need to place under contract at least two to

three months prior to the start of construction.

CGA notes that the actual employees needed for compliance are hired by the contractors or subcontractors. Hiring practices among subcontractors varies. Either a subcontractor has a crew of long-time employees and will not staff beyond that, or it will have an employment roster that includes long-term employees and temp or union employees who are brought on to meet the companies' workload.<sup>1</sup>

3. *If the Agency accepts waiver requests on a rolling basis, how much lead time would developers require for a response on the waiver request in the event that the request is denied and they must still comply with the MES?*

RESPONSE:

Compliance with the MES is heavily dependent on a sufficient pool of EEPs and EECs. Currently, the training providers/HUBs are still being identified, curricula still need to be created, and it will take 1 to 2 years to train EEPs. Therefore, for the next 4 to 6 years there is likely to be a deficit in EEPs or EECs that have staff to work on a utility-scale project. As this market grows and is populated with EEPs/EECs a rolling waiver deadline is likely to be most beneficial. This allows a utility-scale developer the greatest amount of time to find and hire contractors that have sufficient EEPs for the developer to comply with the MES percentage.

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<sup>1</sup> As an issue tangential to the waiver scorecard, if the contractor deviates from its contract with the utility-scale developer and does not supply the number of EEPs promised, a mechanism is needed to hold the contractor/EEC, and not the utility-scale project developer, accountable for failing to comply.

4. *To what extent do developers know how many projects they will be working on in a given program year?*

RESPONSE:

A utility-scale project developer works on numerous projects in a year, but it takes more than a year to fully develop a project. Utility-scale project developers have projects in early and late-stage development across the state (and country) and have a good understanding or grasp as to their status and actions needed to get them to completion.

5. *At what point would a developer know that compliance with the MES is not possible on a particular project?*

RESPONSE:

A utility-scale project developer that bids into a competitive procurement would know approximately two months before the start of construction whether they can comply with the MES for a particular project. Prior to that time the developer would have been working to identify and hire contractors that have a sufficient number of EEPs for the developer to comply with the MES.

**RESPONSE TO “QUESTIONS REGARDING SCORING OF WAIVER”**

1. *The Agency seeks feedback on how to score each element and what the thresholds for certain scores should be.*

RESPONSE: See “Feedback on IPA’s Draft Scoring Table” below.

2. *The Agency is interested in feedback on the minimum point threshold in order to grant a waiver request.*

RESPONSE: CGA is preparing an alternative scorecard for IPA consideration.

3. *Are there any scoring criteria that if not demonstrated by the entity requesting the waiver that should disqualify that entity from being granted a waiver?*

RESPONSE: No.

4. *For the subtraction of points where similarly situated Approved Vendors achieve different results in regards to the number of EEPs they are able to hire, what should the Agency consider as “similarly situated” (geographic location, company size, resources available to entity)?*

RESPONSE: At the outset, CGA notes that this question is framed in terms of developers participating in the ABP. For utility-scale project developers, the primary source of EEPs needed for compliance will come from the contractors used on the project. The work of hundreds of contractor employees will directly or substantially be related to the project compared to a few full-time or temporary employees a developer may hire for a project. A utility-scale developer’s waiver will primarily be driven by the EEC/EEP market, and there can be a number of reasons why a utility-scale project developer was unable to hire contractors with a sufficient number of EEPs for the developer to meet the MES. Those reasons affect or change the scope of ‘similarly situated.’ For these first handful of years the core of this issue is not whether a utility-scale developer is attempting to avoid the MES (as implied by this criteria), but how rapidly the training programs ramp up and the market responds to the opportunity that MES provides.

**2. FEEDBACK ON IPA’S DRAFT SCORING TABLE**

For each criterion in the draft score table the scoring is “up to X points” or X points are possible. The IPA’s discretion to select less than the maximum points per action creates significant uncertainty for a utility-scale project developer. Given the state of the market, uncertainty in the # of points a developer can be allocated per action will discourage participation in IPA procurements; especially when considering the potential harm to the developer if, for reasons outside of its control, it is found noncompliant with the MES despite its best efforts. To overcome this uncertainty CGA recommends that the developer be awarded the full amount of the stated point total for an action if the utility-scale project developer performs that action. Therefore, CGA recommends that the action demonstrating due diligence should be well defined, such as identifying what platforms are acceptable for recruiting EECs or EEPs. Developers are willing to put forth effort when they know such effort will be rewarded. Conversely, they are unlikely to take risks present in vague, unclear, or discretionary criterion.

Criterion	CGA Comment
Collaboration with qualifying workforce training programs	The term collaboration needs refinement. CGA recommends that this criterion involve contacting and affirmatively notifying the three HUBs closest to a project of open positions at the project.
Maintaining a list of EEPs for future openings (ABP only)	<p>IPA’s feedback request stated that this option is NOT APPLICABLE to utility-scale project developers based on CGA’s Objection to the 2022 LTRRPP (ICC Docket no. 22-0231).</p> <p>After reviewing DCEOs, “CEJA Training Program Inventory” (Nov. 2022) CGA and its members believe that some local temporary jobs the predominant number of jobs that some utility-scale project developers could hire local temporary employees, though the predominant amount of the project workforce will be hired by a contractor. Therefore, maintaining a list of EEPs for local temporary jobs could be an option for the scoring table.</p>

Participation in job fairs	Utility-scale project developers can participate in job fairs to hire local temporary development positions and long-term operations positions. CGA recommends that the IPA provide a list of “job fairs” that the developer could participate at to be awarded these points.
Evidence of outreach to EECs listed on ABP site	From the list that is posted on the ABP website it is unclear whether the approved EECs have sufficient staffing to build utility-scale projects. Therefore, this list may be inapplicable to utility-scale projects.
Posting positions or contract opportunities on and contacting EEPs via the Energy Workforce Equity Portal	This is the preferred method for identifying EECs and potentially for identifying EEPs for local temporary positions.
Efforts to contact unions	Contacting unions would be a function performed by the contractor hired by the utility-scale project developer. Any local temporary hires by the developer are likely to be non-union jobs.
Efforts to contact community colleges	For utility-scale projects, the predominant number of jobs that are directly or substantially related to a project will be hired by a contractor. Community colleges and community-based organizations are a possible sources of local temporary EEPs for a utility-scale project developer and could be an option for the scoring table.
Efforts to contact community- based organizations	
Posting of positions or contract opportunities on different platforms	For utility-scale projects, the predominant number of jobs that are directly or substantially related to a project will be hired by a contractor. The Energy Workforce Equity Portal, HUBs, community colleges and community-based organizations are the likely resources for a utility-scale project developer for local temporary workers.  The IPA should provide a list of “platforms” or types of platforms that merit points or are qualified to merit the full point total.



Utilization of WorkNet or other state-run employment site	For utility-scale projects, the predominant number of jobs that are directly or substantially related to a project will be hired by a contractor. Utility-scale project developers that have openings are likely to use the Energy Workforce Equity Portal, HUBs, community colleges and community-based organizations to identify local temporary workers. Given the forgoing the Illinois Worknet could be an option for the scoring table.
Number of similarly situated AVs that are able to meet MES	See response above to “Questions Regarding Scoring of Waiver’ question #4.

### 3. ANNUAL WAIVER REQUESTS

1. IPA states the following at the bottom of page 5 of the Feedback Request, “utility-scale projects selected through the Agency’s competitive REC procurements must submit waiver requests on an annual basis that are project-specific.”

**RESPONSE:**

The annual waiver request is specified in 20 ILCS 3855/1-75(c-10)(4)(E). It is inconsistent with the manner in which a utility-scale project developer staffs a project. A utility-scale project developer typically hires and manages contractors for the vast majority of the project specific work. Those contractors are hired for the duration of a project, not on an annual basis. Therefore, the point at which a waiver would need to be requested for a project is based on the contractor’s attestation that they will use a sufficient number of EEPs to that project. The duty or obligation for the EEC to provide a sufficient number of EEPs will not change for the duration of the project – which could be over a 2 or 3 year period. Therefore, the facts supporting the waiver for a specific project will not change from year to year; the number of EEPs working on a project are dependent on the contractor’s employment of such laborers.

Clean Grid Alliance appreciates the opportunity to provide comments on the MES Scoring table and other MES related matters, and looks forward to working with the IPA in crafting a mutually agreed upon scoring table.

Respectfully submitted,

/s/ Sean R. Brady

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