



ENVIRONMENTAL LAW & POLICY CENTER

Protecting the Midwest's Environment and Natural Heritage

Comments of the Environmental Law and Policy Center and Vote Solar on the Illinois Power Agency's Draft Revised Long-Term Renewable Resources Procurement Plan

1) Introduction

The Environmental Law and Policy Center (ELPC) and Vote Solar appreciate the opportunity to provide comments to the Illinois Power Agency (IPA or Agency) in response to the release of its Draft Revised Long-Term Renewable Resources Procurement Plan (LTRRPP or Plan). ELPC was an active stakeholder in the development of the initial Plan and in other implementation processes as well as litigation around that Plan, working closely with allies in the renewables industry and advocacy community. Prior to that, ELPC spent years advocating for the expansion of clean energy in Illinois, specifically to ensure the success of Illinois' Renewable Portfolio Standard (RPS).

Vote Solar is a non-profit grassroots organization working to foster economic opportunity, promote energy independence, and fight climate change by making solar a mainstream energy resource across the United States. Since 2002, Vote Solar has engaged in state, local, and federal advocacy campaigns to remove regulatory barriers and implement the key policies needed to bring solar to scale. Vote Solar has members in Illinois and is a frequent party to state utility regulatory dockets throughout the nation. Vote Solar and its members have an interest in expanding prudent and cost-effective opportunities to provide solar power in the state of Illinois. Vote Solar's technical experts help regulators and other policymakers understand policy options, identify strong program and regulatory design, and provide expertise on how to implement sustainable programs for solar growth.

ELPC and Vote Solar (ELPC/VS) are also active participants in the Illinois Solar for All Working Group and have contributed to those comments. ELPC/VS draw on this experience to inform our comments on the Draft Revised Plan.

It has been almost three years since the passage of Public Act 99-0906 (colloquially known as the Future Energy Jobs Act or FEJA) significantly updated the state's Renewable Portfolio Standard (RPS), creating new, ambitious renewables targets and requiring the development and update of this Plan (as well as significant work by the Agency) to carry them out. As the IPA

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embarks on the first Plan update, the Agency faces a stark budget reality: based on current projections there appears to be no funding to add new renewables programs or procurements not only for the next two years, but until at least 2024. In fact, without action to free up the utility-held Alternative Compliance Payment (ACP) funding, the Agency may not have sufficient funds to cover existing contracts from the initial blocks of the Adjustable Block Program (ABP). (Draft Plan at 76)

The questions for this Plan revision therefore become: (1) what changes should be made to existing programs/procurements that still have some budget remaining under the current conditions? and (2) what should the IPA do if marginal additional funds become available through legislative action or some other contingency within the timeframe of this updated Plan?¹ In this set of comments, ELPC/VS will focus largely on the second of these questions as well as on some elements of the community solar program. With regard to the Illinois Solar for All Program, ELPC/VS have contributed to and support the comments of the Illinois Solar for All Working Group.

ELPC/VS note that there are ongoing discussions regarding legislation to update and *fully fund* the renewables programs. In the event such legislation passed, we expect the Agency will need to embark on at least a partial Plan revision. While we are sympathetic to the Joint Solar Parties' interest in avoiding the potential duplication of work and program delay should legislation pass this fall, ELPC/VS are doubtful that delaying this update is the wisest course of action. While we remain hopeful and continue to work diligently toward a long-term funding resolution, we believe it is important for program continuity and to meet statutory requirements to complete the required update in a timely fashion. Thus, these comments focus on a scenario with only marginal additional funds under a Plan passed in line with the Revised Plan Update Schedule that the IPA released September 3rd.

As explained further below, ELPC/VS generally support the IPA's proposed prioritization of funding in the event that additional marginal funding becomes available. However, when it comes to the community solar program in particular, ELPC/VS believe the distribution of projects that resulted from the random allocation method that was used in the initial blocks of the program failed to achieve FEJA's requirement for geographic diversity:

The Adjustable Block program shall be designed to ensure that renewable energy credits are procured from photovoltaic distributed renewable energy generation devices and new photovoltaic community renewable energy generation projects in diverse locations and are not concentrated in a few geographic areas. (20 ILCS 3855/1-75(c)(1)(M))

ELPC/VS expect that legislation will eventually enable full funding of Illinois renewables programs so that every community solar project on the waitlist is able to move forward.

¹ The Agency identifies a number of such reasons that additional funding could be made available to renewables in Chapter 3 of its Draft Plan, including changes to utility load forecast, uncertainty in the community solar program, and an extension to the period during which the Agency can roll over renewables funds (Draft Plan at 79-80).

However, in the short term, the IPA should use any marginal funds that become available to advance geographically diverse community solar projects, even if such projects are not a part of the current waitlist. The Agency must attempt to comply with the geographic diversity requirements of Section 1-75(c)(1)(M) in its proposed revisions to the Plan. ELPC/VS propose a methodology for meeting the diversity requirement in our comments below.

ELPC/VS appreciate the careful thought the Agency has invested in its Draft Revised Plan and - notably excepting the community solar waitlist - generally agree with the measured proposals put forward. Specific comments and alternative wording proposals appear below.

2) IPA's proposed contingency approach for prioritizing funding is reasonable.

The IPA lays out an approach for prioritizing funding to various renewables programs and procurements in the event that funds become available. The IPA's approach prioritizes an additional 500,000 annual renewable energy credits (RECs) through the Adjustable Block Program (ABP), followed by brownfields solar, and then utility-scale renewables (Draft Plan at 80-81). This is a reasonable approach to prioritizing scarce funds and, given the scarcity of funds, no prioritization approach will be perfect. Particularly painful is the tradeoff the Agency highlights between maximizing renewable deployment (and attendant environmental benefits) through utility-scale procurements and stabilizing the local renewable industry through opening new blocks of the ABP. Given the challenges to rapidly scale up or down the distributed generation industry, the IPA's decision to fund additional ABP blocks first is reasonable. Ultimately, ELPC/VS believe it is imperative to secure new funding for renewables expansion as quickly as possible to fund ALL programs and procurements contemplated under the law.

In the event that funds do become available for program/procurement expansion, the Agency will still need to decide how to allocate capacity between categories within the Adjustable Block Program. In that event, ELPC/VS recommend the Agency take stakeholder feedback at that time, not only on the size of blocks, but also on which categories within the Adjustable Block Program should receive additional capacity, for funding availability above a minimal floor. The Agency should analyze data on the implementation of the initial blocks, consider remaining available capacity in existing blocks, the demand for initial blocks, and take comment on anticipated future demand for each of the categories and groups before exercising its discretion to equitably allocate funds. Therefore, ELPC/VS suggest the following changes to IPA's draft plan:

Section 6.3.1, p. 113: Prior to opening any new blocks (which will likely require identification of additional funding through changes in utility load forecasts, clarification of the use of utility-held ACPs, or legislative changes to the RPS funding structure), the Agency will seek stakeholder comment on which categories (small DG, large DG, community solar) should receive additional capacity, evaluate demand as demonstrated in the initial blocks, and determine whether the block size should be adjusted from the

original block sizes (22 MW for Group A, 52 MW for Group B). Stakeholder feedback may not be solicited at the Agency's discretion if additional funding availability results in one block or less in each group for Large DG and Community Solar categories.

3) The next community solar projects selected through the Adjustable Block Program must correct the starkly uneven geographic distribution of projects to date.

As ELPC/VS will demonstrate below, the current community solar program lacks the geographic diversity mandated by law. Our organizations ultimately want to see every viable community solar project on the waitlist move forward; however, even under the most optimistic circumstances for additional funding, only a small fraction of those on the waitlist will receive ABP funding. Therefore, while we would ideally prefer to see the waitlist projects move forward alongside an influx of more geographically diverse projects, in the absence of the budget to do that, we recommend advancing only projects that address the geographic diversity deficiency, until that deficiency is resolved.

The projects currently selected for the community solar program fail to provide the geographic diversity mandated by law.

The definition of geographic diversity encompasses not just the location of projects, but also the character of land use in those locations. Understanding geographic diversity in this way is more relevant to the people whom community solar projects serve.

Using data from the National Land Cover Database, we identified an uneven distribution of community solar projects between urban and rural areas. This uneven distribution conflicts with the statute's requirement for geographic diversity within the Adjustable Block Program, quoted above.

a) Measuring urban/rural, defining the character of land use

We based our analysis on the National Land Cover Database 2016 (NLCD) – a definitive nationwide land cover dataset derived from satellite imagery and other data, published at 30m resolution in 16 classes of land cover by the Multi-Resolution Land Characteristics consortium (Fig. 1). The NLCD is used in a variety of applications bearing on spatial patterns and land management policy by Federal, State, local, and nongovernmental organizations.

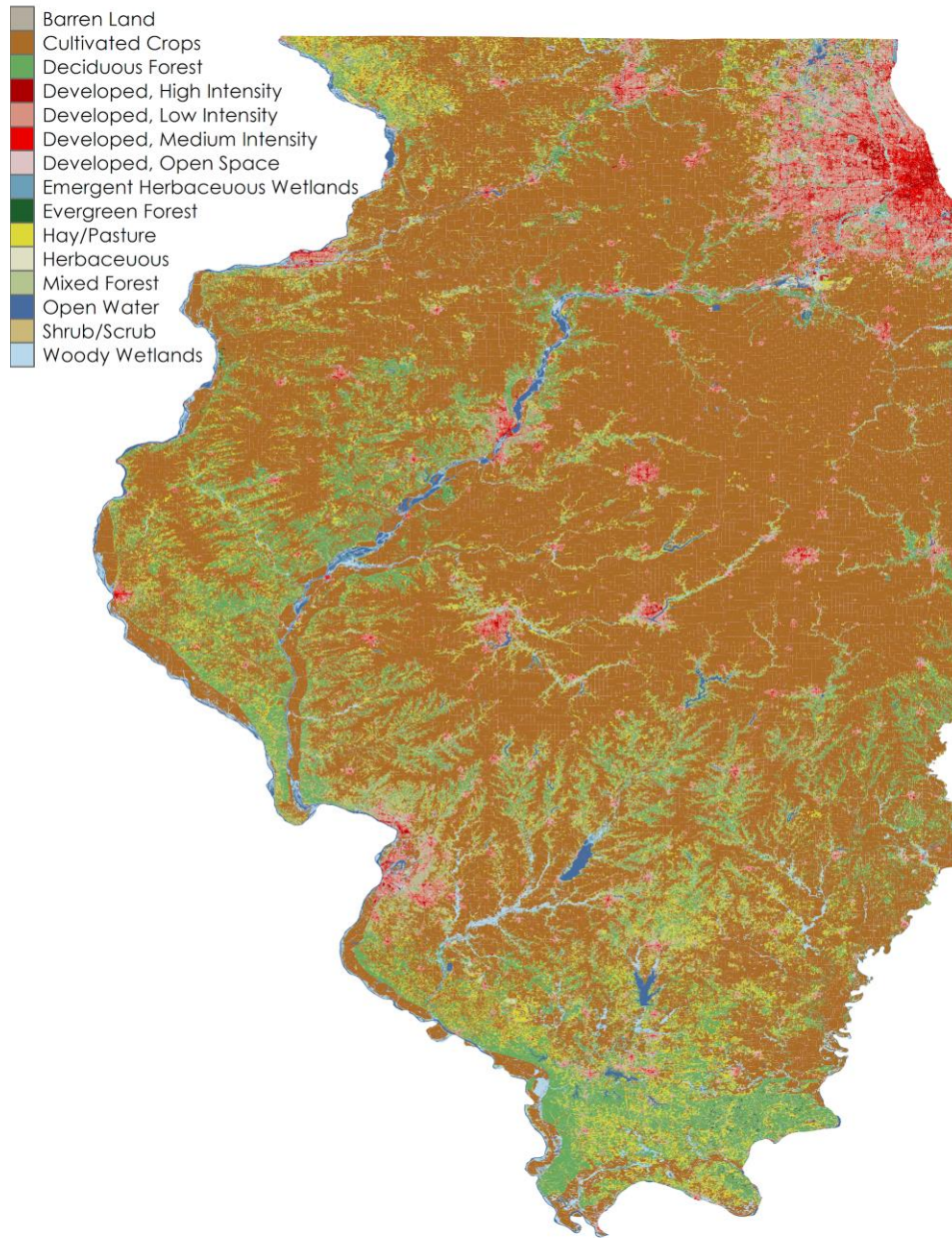


Figure 1: Illinois land cover from NLCD 2016.

In order to distinguish urban from rural areas, we reclassified the four “Developed” land-cover classes of the NLCD with a numeric value (1-4) according to intensity of development, which can be aggregated at any scale to generate a “Development-Density Score” for a given geography (Fig. 2).

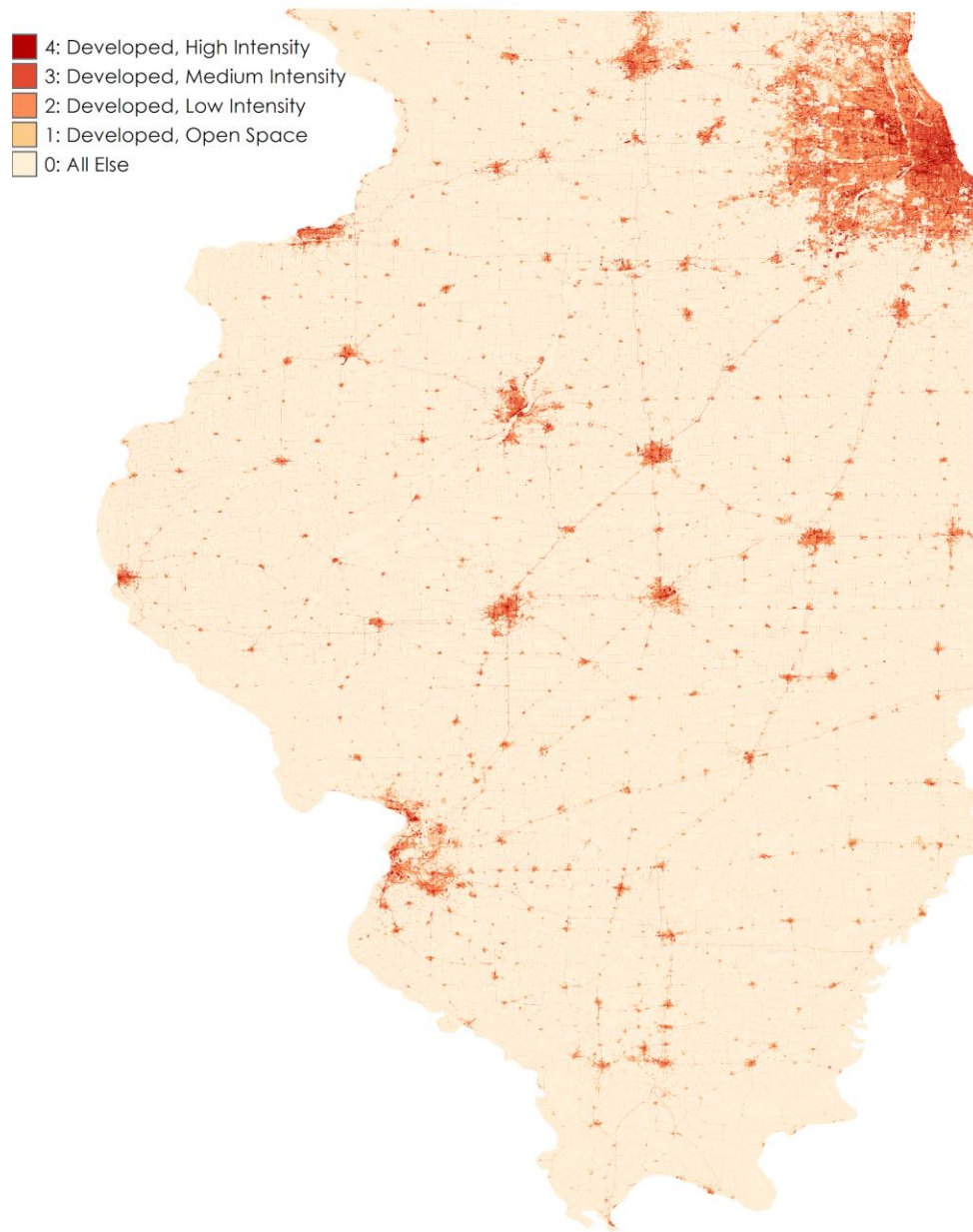


Figure 2: NLCD land-cover classes reclassified according to intensity of development.

b) Comparison with community solar projects shows an uneven distribution

To enable comparison with the distribution of community solar projects (currently available only by ZIP code), we aggregated development scores by ZIP codes, normalized by total area, and

separated ZIP codes into classes of increasing development-density². Figures 3-4 clearly show that the current distribution of community solar projects is concentrated in ZIP codes with low density of development, in contrast to where most Illinoisans live.

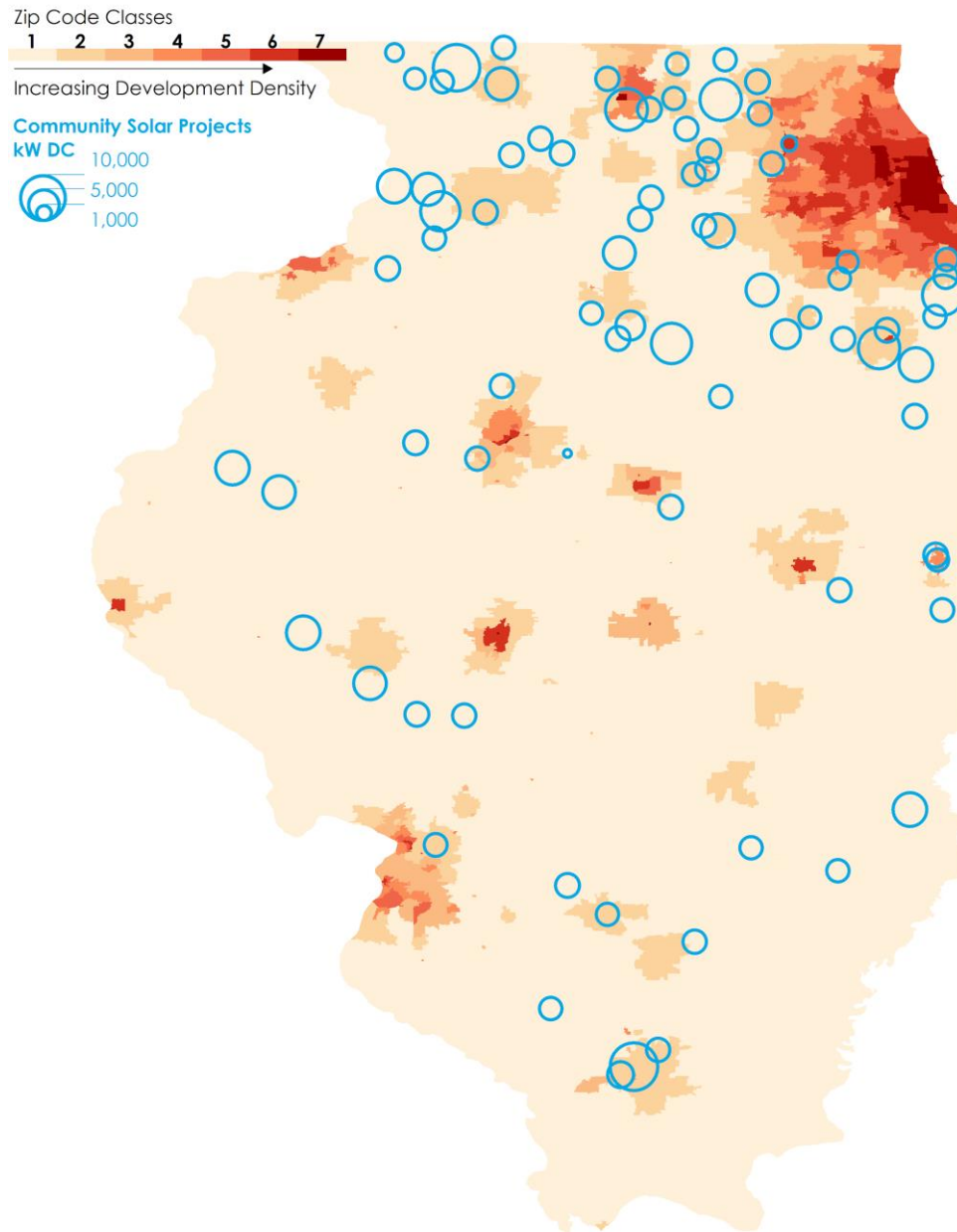


Figure 3: Illinois ZIP codes classified by relative development density compared to the distribution of community solar projects.

² ZIP code is not our preferred analytical unit. ZIP codes are not representative of geographic realities or human behavior. They are, rather, address groups or delivery routes. Using them for geospatial analysis and decision making can efface real patterns and produce unwanted outcomes.

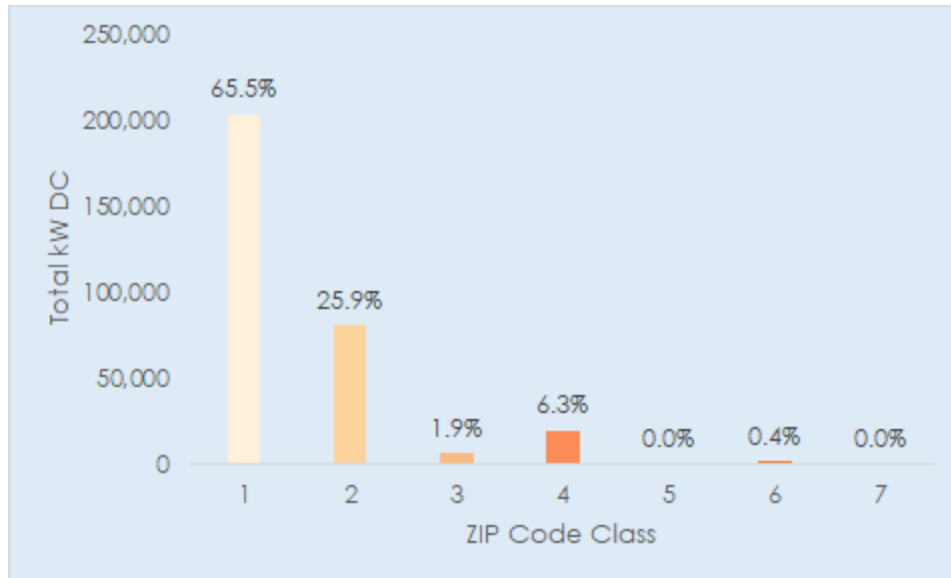


Figure 4: Total generation by community solar projects by ZIP code development density class in Fig. 3.

In other words, over 90% of projects are located in the two most rural classes of ZIP codes. This overwhelming concentration clearly demonstrates that the projects currently selected for the community solar program fail to provide the geographic diversity mandated by law. This failure should be recognized directly in the Plan, as follows:

Section 2.5.1.1, p. 35-36: The Agency has spent time reviewing the geographic distribution of projects supported thus far through the Adjustable Block Program, and has found that while the combined Program (small and large distributed generation plus community solar) generally features very strong geographic diversity, this is not true for every category. 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, bringing that program out of compliance with the statutory requirement for geographic diversity. – but the IPA has generally been pleased with the degree to which the thousands of projects supported to date through the Adjustable Block Program demonstrate geographic diversity.

Additionally, the failure of the initial program design to promote the geographic diversity required by law means that the next projects selected for the community solar program must rebalance the geographic diversity of the program to bring it in line with the law. ELPC/VS present several options for rebalancing the geographic diversity of the community solar program below.

- c) Option 1: Identify geographic voids and require all projects in the next community solar block be located in those voids to rebalance the program.*

Below ELPC/VS outline a potential methodology for executing this option. We have attempted to set forth this methodology in the style of alternative wording that could be easily adapted into the Plan, as required by law, however, we would like to stress that this methodology is just one of many potential ways to identify and prioritize projects in geographic voids.

Alternative wording: County subdivisions (townships/precincts) are appropriate geographic units by which to analyze land use and identify voids in the locations of community solar projects.

Township/precinct boundaries better circumscribe relative densities of development across Illinois (than do ZIP codes, for example) and have political salience. They are, therefore, more appropriate analytical units for measuring geographic diversity. Moreover, townships/precincts are drawn at a convenient scale for the present application - they are inclusive of more and less densely developed areas, providing space and land for community solar projects even in the densest classes (see Fig. 5), land and space that would be limited if the geographic unit was smaller in scale (e.g., census tract) possibly inhibiting community solar project siting.

To characterize the urban/rural quality townships/precincts and identify those where community solar projects will be prioritized to rebalance the program, ELPC/VS propose:

1. Assign a “Development-Density Score” to each township/precinct equals the sum of reclassified NLCD developed-land classes divided by the land area.
2. Classify townships/precincts by development-density score into four classes according to the goodness of variance fit (Jenks natural breaks classification system; Fig. 5).
3. For subsequent blocks of the community solar program, reserve capacity for projects located in each of the three under-represented classes (class 2, 3, and 4) until each of those classes contains at least 10% of all community solar projects but not more than 70% in any density class.

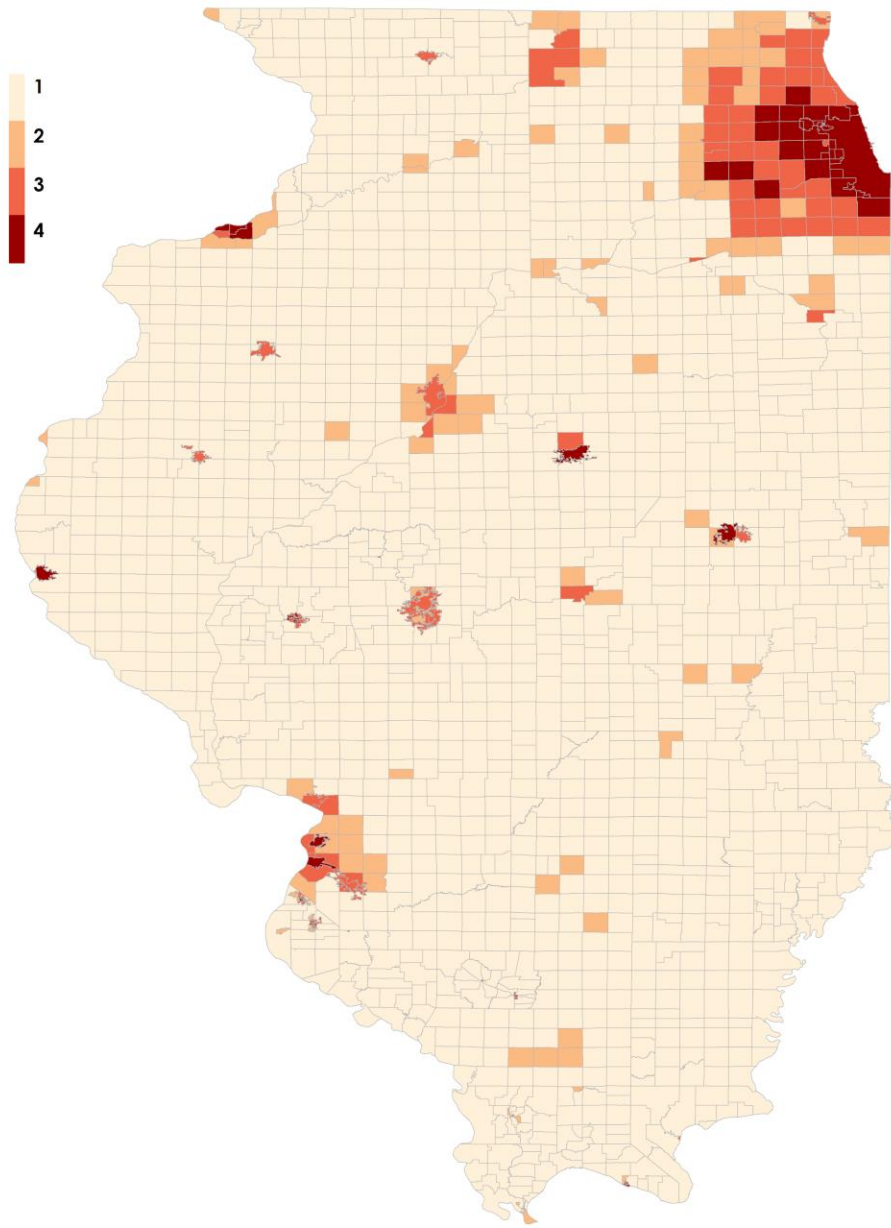


Figure 5: Townships/precincts grouped into four development-density classes.

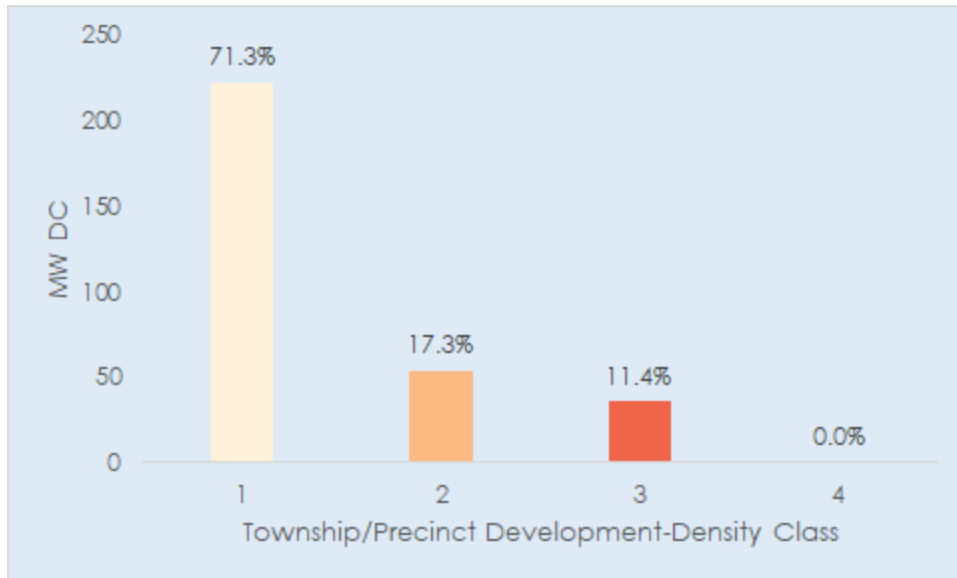


Figure 6: Estimated³ total generation by township/precinct development-density class.

While identifying geographic voids and only allowing projects to move forward in those voids until the community solar program achieves geographic diversity is a straightforward approach to rebalancing the program alone ELPC/VS believe Illinois will see a microcosm of the same behavior already seen: projects will locate close to the edge of the voids, in the most rural settings possible, rather than truly locating in areas with urban characters. Therefore ELPC/VS believe Option 2, below, would more effectively achieve the geographic diversity envisioned by law.

d) Option 2: Pair geographic boundaries that would push the next block of community solar projects out of rural areas with additional criteria that would actively pull community solar projects into the urban fabric.

Under this scenario, projects selected for the next block of the community solar program would have to both be located in geographic voids and meet one of the following criteria:

- Subscriber proximity commitments: projects that voluntarily commit to serve subscribers from the same county subdivision or minor civil division as the project is sited - in the case of minor civil divisions totaling less than 25 square miles, projects may meet this requirement by committing to subscribe from a 2.8-mile radius;
- Development in response to a site-specific Request for Proposals from a public entity or community organization; or
- Projects majority-subscribed by constituencies of a community organization sited with input from that community organization.

³ Actual generation by township/precinct is not available because community solar project data is currently only available by ZIP codes, which do not align with township/precinct boundaries.

Adopting these criteria alongside geographic boundaries would help attract projects into urban areas, ensuring the community solar program meets the spirit of the geographic diversity requirement in the law. Each of these criteria is intended to strengthen the connection of community solar projects to the populace and to particular constituencies. Urban areas of the state are far more likely to have the populace and constituencies to support community solar projects and, through influencing siting decisions, have a strong potential to attract community solar projects significantly further into the urban fabric than projects sited without regard to the population or particular constituencies.

4) Community solar REC prices -

In the initial plan, the IPA adopted a REC pricing tool based on the National Renewable Energy Laboratory's Cost of Renewable Energy Spreadsheet Tool ("CREST"). ELPC/VS believe that the initial pricing mechanism provided a fair and transparent method for setting initial REC prices in the initial blocks, but subsequent pricing changes should be guided by market response rather than a bottom-up pricing model.

ELPC/VS continue to support the policy for price adjustment described in ELPC's comments on pricing matters in the draft of the initial Long-Term Plan in 2017:

Furthermore, ELPC supports the IPA's intent to carefully monitor market response to inform adjustments to ABP prices (Plan at Section 6.8, p. 105). The model is useful to the extent that it helps the IPA identify starting prices for the ABP that are "in the ballpark." Once the ABP opens, market response and program structure should drive the prices, not the model. Over time, the market response to the ABP should tend to reach an equilibrium that balances supply with demand at the pace necessary to maximize the various program goals within the budget available. If the market is overheated or underperforming, then the Agency should act quickly to make adjustments to keep the program on track.⁴

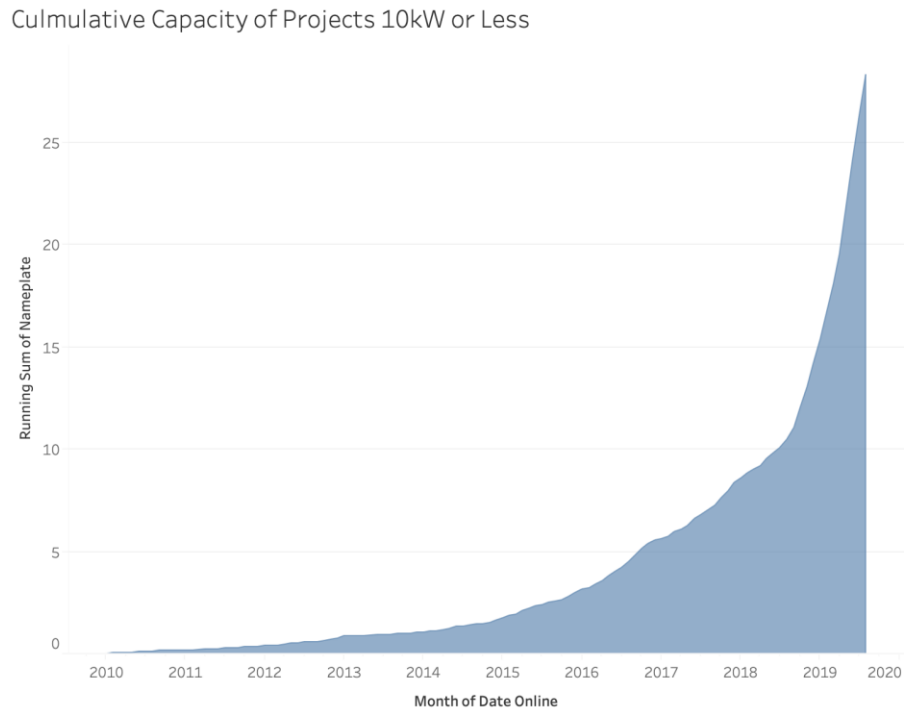
As the Agency subsequently recognized in the Initial Plan, administratively setting prices always presents risks of either overpricing for RECs (which would result in a surplus of interest in the program and effectively overpaying for the capacity targets set by policy) or underpricing the RECs (which would result in program utilization that would not achieve the state's policy targets). Going forward, the Agency should consider market conditions for various categories and groups in setting REC prices.

The IPA exercised its discretion after the deadline for initial applications last spring to allocate additional capacity to satisfy the demand for additional Large DG demand by releasing Block 4 of the Large DG category to satisfy demand in both Groups. As a result, as of the release of the Draft Plan Update, Large DG capacity is still available at Block 4 pricing in both Group A and

⁴ Environmental Law and Policy Center, *Comments of Environmental Law and Policy Center on the Illinois Power Agency's Draft Long-Term Renewable Resources Procurement Plan*, pp. 12-13. ([Link](#))

Group B. Moreover, applications to fill that capacity have continued, indicating that there continues to be projects available for which the REC incentive provides the marginal benefit needed to spur the desired investment. We interpret this as approximating an equilibrium that results in new DG investment without overpaying for RECs.

Likewise, we have observed an increase in the rate at which Small DG projects are being registered in PJM-GATS, which is an indicator that the statewide capacity for installing projects in this category is accelerating. (See Figure 7).



Cumulative Capacity of Projects 10kW or less registered in Illinois in the PJM-GATS registry through August 31, 2019.

Source: <https://gats.pjm-eis.com/gats2/PublicReports/RenewableGeneratorsRegisteredinGATS>

Figure 7: Cumulative Capacity of 10 kW and Small Projects Registered in PJM-GATS

While this only shows part of the picture, since projects may either be registered in PJM-GATS or MISO MRETS to be eligible for the Adjustable Block Program, PJM GATS registrations illustrate the rate of acceleration of Small DG projects. Unlike in the Large DG category, the Small DG category is extremely labor-intensive for both sales and installation. As the capacity to sell and install Small DG ramps up it the state, we expect the Small DG blocks to be utilized as well. That said, the fact that there is still a significant amount of capacity available in Block 1 for both Groups A and B may indicate that that segment of the market could benefit from a stronger price signal in the form of slightly higher prices.

Thus, we generally agree with the IPA's proposal to maintain the prices for open blocks and continue the 4% per block price decrease for any new blocks in the Small DG and Large DG categories. Additionally, we agree that it is appropriate to reconsider pricing for the community solar blocks in both Groups.

The IPA observed that the Joint Solar Parties made the case for using higher land and interconnection costs in their latest comments. (Draft Plan at 117) Using these higher input values would result in higher REC prices for community solar projects in future blocks. However, as noted above, ELPC/VS suggest that the Agency moves to a more market-based approach to REC pricing. Given the overwhelming waitlist for community solar projects, it is clear that the demand for developing projects at the given price point dramatically exceeded the supply of projects at that price level. Clearly, some reduction in the price is warranted. REC prices should be lower in order to allow the most economic projects to move forward.

5) Portability/transferability

The Agency identified a number of issues that have been raised with respect to the portability and transferability of community solar subscriptions that could benefit from clarification in the plan update. For example, in a case when a subscriber moved from a larger home with a CS subscription sized to that home's load to a smaller home, condominium, or apartment with significantly lower load. Similarly, FEJA requires that subscriptions be transferable,⁵ but there may be conditions when community solar companies should have input into the circumstances or eligibility of subscribers to whom subscriptions are being transferred. The 2018 Approved Plan simply said that subscribers "may assign or sell the subscription to another person within the same utility service territory, without any fee owed to the subscription counterparty."⁶

With this in mind, the Agency is seeking comment on the issues of transferability and portability of subscriptions in the community solar program.

Through this Plan revision process, the Agency hopes to provide more clarity around what restrictions on the portability and transferability of community solar subscriptions should be acceptable under the Adjustable Block Program and Community Renewable Generation Program, and it welcomes ideas from stakeholders in providing feedback on this draft Revised Plan. (Draft Plan at 39)

The Agency holds that FEJA "did not envision completely unconditional portability or transferability." (Draft Plan Update at 38) ELPC/VS acknowledge that there are important considerations about portability and transferability. Importantly, while we agree that FEJA did not envision "unconditional" portability and transferability, the statutory policy is clear:

⁵ 20 ILCS 3855/1-75(c)(1)(N).

⁶ Approved Plan at 153.

Any plan approved by the Commission shall allow subscriptions to community renewable generation projects to be portable and transferable. For purposes of this subparagraph (N), "portable" means that subscriptions may be retained by the subscriber even if the subscriber relocates or changes its address within the same utility service territory; and "transferable" means that a subscriber may assign or sell subscriptions to another person within the same utility service territory. (20 ILCS 3855/1-75(c)(1)(N).)

In addition, the Agency further elaborated on the statutory requirement for portability and transferability in the section of the Draft Plan on marketing to small subscribers:

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) 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. 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. (Draft Plan Update at 170)

ELPC/VS agree that contract terms for small subscribers should ensure the protection of these rights. Moreover, we see no reason why these general terms should not also be required for large subscribers, although we recognize that larger subscribers are in a better position to protect their interests than small subscribers.

In general, we believe that if a community solar company establishes clear eligibility requirements for a class of customers applicable to all its customers at the time the customer subscribes, the customer should be able to transfer the subscription to any other customer meeting the same eligibility requirements in effect at the time of subscription. In addition, the community solar company should be able to waive eligibility requirements to accept a wider range of subscribers but should not be able to restrict the transfer of subscriptions through more restrictive eligibility requirements.

6) Less concern regarding small subscribers than during the initial Plan, but significant uncertainty warrants continued monitoring.

A key goal of the community solar program created by statute is 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. (20 ILCS 3855/1-75(c)(1)(N))

The Agency should closely monitor small customer participation in the community solar program to ensure it remains “robust” as required by law.

As the Agency notes in its Draft Plan, early results from the initial blocks point to strong small subscriber participation. Every community solar project selected through the lottery and all projects moved off the waitlist, to date, have expressed an intent to serve at least 50% small subscribers. There were a few factors that theoretically pushed community solar developers to serve small subscribers: the small subscriber adder, higher bill credits for default customers, and the lottery preference for projects with at least 50% small subscribers. However, in practice, based on our conversations with community solar developers, ELPC/VS understand that the lottery preference was the critical driver of these small subscriber commitments with the adder and the bill credits serving as distant additional considerations.

Given that the lottery preference, not the adder, was the key motivating preference behind small subscriber commitments, and that those commitments have yet to materialize into actual subscriptions, it is impossible to say with certainty that the adders are sufficient or insufficient to ensure small subscriber participation, going forward. Thus it is very difficult to provide reasoned feedback on the changes contemplated by the Agency to the small subscriber adder, including eliminating the higher small subscriber adder for projects with over 50% small subscribers and recalibrating the adder by adjusting it down in line with GTM Research findings and/or making it more granular. Nonetheless, ELPC/VS agree with the Agency’s implied goal of not “over-incentivizing small subscriber participation to the detriment of participation of larger subscribers while creating outsized impacts on available funding.” (Draft Plan at 121)

Regardless of what path the Agency adopts with regard to the small subscriber adder, and in light of the uncertainty surrounding the adder, monitoring the actual participation of residential and small commercial customers in the program will be important. To that end ELPC/VS recommend the following language be added to the Plan:

Section 6.5.3, p. 121: To ensure that the benefits of solar energy are widely shared by Illinois residents, the Adjustable Block Program offers an additional incentive for community solar projects with a higher level of small subscribers (residential and small commercial customers with subscriptions below 25 kW). The IPA or its Program Administrator will also monitor small subscriber participation in the community solar program, including monitoring residential and small commercial participation separately, and report participation levels on the Adjustable Block Program website.

7) Municipal aggregation could offer a pathway to more community- and consumer-centered community solar.

Municipal aggregation has the potential to be a potent tool for communities to leverage their bargaining power to drive greater community benefits from community solar projects. For many communities, the theoretical advantages of community solar include not just their members supporting renewables development and receiving bill credits, but local siting, employment, and

educational opportunities, as well as potential synergies with other community priorities, such as reusing vacant/brownfield land, infiltrating stormwater, or progress toward climate goals. Municipal aggregation is a tool that can help turn these theoretical advantages into practical realities. Furthermore, if aggregation is not open to community solar, it does not mean that communities will stop pursuing these goals, but just that they may do so in less effective ways, with aggregation through ARES that may bring the same consumer risks.

Furthermore, with regard to consumer risks, ELPC/VS are not convinced that municipal aggregation does not offer some advantages. Collective bargaining can sometimes lead to more negotiating power and municipality-wide energy purchases may be attended by greater scrutiny of terms and conditions, combined with greater expertise on those terms and conditions, on behalf of households, than every household may bring on its own.

Ultimately, it should be to the advantage of consumers, communities and the environment to tackle the complexities around combining municipal aggregation, including opt-out municipal aggregation, with the community solar program to ensure communities can utilize this tool without sacrificing adequate information disclosure or strong consumer protections.

ELPC/VS do not have a full proposal to share with regard to the complexities of combining municipal aggregation and the community solar program. In the absence of a full proposal from other parties or the IPA, we recommend the IPA host a workshop on this issue and develop a proposal based on input received from stakeholders at said workshop. This could be recognized in the Plan as follows.

Section 2.5.2.2, p. 39: 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 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, Community Renewable Generation Program, and Illinois Solar for All Program, ~~this raises, at minimum, two questions: the prospect of combining opt-out municipal aggregation with community renewable generation involves a number of complexities around issues like information disclosure and the need for small-subscriber adders. At the same time, the agency recognizes that municipal aggregation could offer a pathway to more community- and consumer-centered community renewable generation. To address this the Agency will host a stakeholder workshop to explore the various complexities of combining community solar with opt-out municipal aggregation and develop a proposal for how to combine community renewable generation with opt-out~~

~~municipal aggregation, while still retaining specific consumer protection requirements—including its standardized brochure and the receipt and execution of a disclosure form.~~

~~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?~~

~~While 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), arguably, only the second of these questions falls within the scope of this Plan.¹²⁷ On that question, the Agency’s disclosure form requirements found in Chapter 6 are~~

~~fundamental to subscribers receiving standardized information. It constitutes 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 through its programs. Thus, even if some colorable argument could be made that community solar subscribers could be enrolled without each individual subscriber having offered its direct consent to a given subscription, the Agency would not allow for its program-specific consumer protection requirements—including its standardized brochure and the receipt and execution of a disclosure form—to be waived.~~

8) Stronger project maturity requirements are warranted to the community solar program but should not be unduly restrictive

ELPC/VS believe that stronger project maturity requirements could benefit the community solar program, in particular, but urge thoughtfulness when considering these requirements. Not being developers ourselves, we cannot provide a full range of feedback about various permits listed by the Agency in section 6.12.1 of the Draft Plan, but do offer the following flags on issues with which we have some familiarity.

Ground-mounted systems over 25 kW: ELPC/VS are unsure if permits are helpful for all ground-mounted systems over 25 kW. In particular, it may be worth considering whether the system size cutoff for needed permits should be higher than 25 kW and when such permits are pertinent for all larger distributed generation projects versus just those that are not behind a customer’s meter.

An Environmental Site Assessment clear of recognized environmental conditions: Based on our experience working on brownfield solar in urban areas, including the City of Chicago, ELPC/VS are concerned this could unintentionally knock out sites with some level of recognized environmental issue that may nonetheless be appropriate for solar development and could stifle development of both brownfield solar and ground-mounted solar in the City of Chicago and potentially other long-settled urban areas.

9) Areas of Support

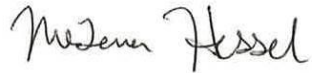
While ELPC/VS generally support the Draft Plan put forward by the Agency, notwithstanding suggestions made above, there are a few approaches we wanted to highlight as both accurate in the understanding of the law and likely to be effective in successfully implementing the RPS and achieving statutory goals. These include the Agency's proposals to:

- Align the effective date of the balancing requirement with the new required date for first deliveries under initial forward procurement contracts under statute (Section 2.2.5.2, p. 16)
- Correct unintended consequences of MidAmerican's changed load forecast approach (Section 3.4.
- Use utility-held ACPs after the use of rollover funds for both the Adjustable Block Program and Forward Procurements (Section 3.19)2)
- Maintain the adjacent state eligibility criteria established under the initial Plan (Sections 4.1 through 4.1.2)
- ELPC/VS also support the Agency's decision *not* to propose spot procurements of renewable resources.

10) Conclusion

In conclusion, ELPC and Vote Solar appreciate the effort the IPA has put into developing the Draft Plan and the effort it will make over the upcoming weeks to consider commenters' feedback and refine the Plan. Our organizations will continue to work, alongside other stakeholders, to ensure the final revised Plan will maximize the benefits of renewable energy to development for the people and the State of Illinois.

Respectfully submitted,



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