

To: Illinois Power Agency
From: Environmental Law & Policy Center, Natural Resources Defense Council, Prairie Rivers Network, Vote Solar
Date: December 3, 2021
Subject: ELPC, NRDC, Prairie Rivers Network, Vote Solar – Response to ABP (CDCS) Comment Request.

The Environmental Law and Policy Center (ELPC), the Natural Resources Defense Council (NRDC), Prairie Rivers Network, and Vote Solar (VS), appreciate the opportunity to comment ahead of the Illinois Power Agency’s (IPA or Agency) development of its 2022 revision to the Long-Term Renewable Resources Procurement Plan (Plan or LTRRPP).

The passage of the Climate and Equitable Jobs Act (Public Act 102-0662) this fall requires significant expansion and reimagination across the renewables programs and procurements outlined in the IPA’s Plan. It is an exciting and busy time and the IPA has a lot on its plate. With this in mind, the Joint NGOs urge the Agency to anticipate the need for continued growth and evolution even after the final Plan has been approved by the Illinois Commerce Commission. This need for ongoing evolution will be particularly true for the new community-driven community solar program, where the state still has much to learn about what a successful community-driven project looks like (and potentially for other new programs where there is still much to learn).

These comments include both high-level feedback regarding the Community-Driven Community solar category of the Adjustable Block Program, as well as responses to the direct questions posed by the Agency. Our organizations look forward to working constructively with the Agency and other stakeholders through the Plan’s update process and beyond to make Illinois’ renewables programs and procurements a success and achieve the goals of the Climate and Equitable Jobs Act.

Community-Driven Community Solar

In passing PA 102-0662, the Illinois legislature introduced a significant evolution to Illinois renewables policy. For the first time, Illinois’ Renewable Portfolio Standard attempts to center equity considerations and community benefits *alongside* environmental benefits. This addition to the public policy goals sought from renewables projects will require additions to the project application and evaluation process from what the IPA has previously utilized.

For community-driven community solar, in particular, the state will be breaking new ground, seeking to drive the proliferation of project models that do not currently exist in Illinois. Furthermore the IPA is directed to maximize a range of often qualitative factors in its project selection process rather than procure a single, clearly defined product. The fact is, nobody

knows the full answer to questions like “what does community ownership look like?” or “how should the Agency define community wealth-building?” The sector is too nascent and there are likely to be a range of answers to these questions.

Thus, in order to make the Community-Driven Community Solar (CDCS) category of the Adjustable Block Program (ABP) successful, the IPA must embrace flexibility and an intent to learn in this first implementation of the program. To facilitate this approach, it may be helpful to explicitly think of these first two years of the CDCS category as a pilot time period, from which there will be successes, failures, and lessons learned that will allow the IPA to refine their approach to CDCS in future plans.

Most critically, our organizations urge the IPA to open the door to some qualitative evaluation of CDCS project applications. Qualitative evaluation is a common approach to evaluating community solar projects in other states that have sought public policy goals above and beyond deployment. For instance New Jersey’s pilot community solar program involved qualitative evaluations of criteria, including criteria related to community engagement.¹ Our organizations are aware of the challenges involved in introducing any exercise of judgement into the project selection process. However, in this case, not introducing judgement is the riskier choice. If the IPA eschews the exercise of judgment because it fears it lacks perspective to do so, there are other options. For instance, the IPA could appoint and/or solicit applications to a committee to help with the scoring process that incorporates the perspective it lacks. An example of a similar approach can be seen in DTE territory in Michigan where as part of a settlement agreement in their Voluntary Green Pricing Program application, DTE agreed to creation of a “Low Income Community Solar Council” (LISC) that will provide meaningful stakeholder and community input into selection of sites for three low-income community solar pilot projects in DTE’s service territory.² Setting hard limits for every scoring criterion at the outset, when understanding of the types of projects that might meet these criteria is so limited, almost guarantees that the IPA will either foreclose on unique pathways to meeting these criteria, be unable to award more points to markedly more community beneficial projects, or both.

Along with a strong recommendation to introduce qualitative scoring criteria, we suggest several other improvements to the proposed scoring process.

- **Prioritize primary criteria over secondary criteria.** Statute lays out two sets of criteria for engaging in community-driven community solar project selection. The first set focuses on the goals of community benefit and connection and the IPA labels this set as “primary criteria.” For these primary criteria, statute simply states: “Selection criteria

¹ <https://njcleanenergy.com/renewable-energy/programs/community-solar>

² Order Approving *Ex Parte* Application and a Contested Partial Settlement Agreement, *In the matter, on the Commission's own motion, regarding the regulatory reviews, revisions, determinations and/or approvals necessary for DTE ELECTRIC COMPANY to comply with Section 61 of 2016 PA 342*. Michigan Public Service Commission, docket Number U-20713. June 9, 2021. <https://mi-pse.force.com/sfc/servlet.shepherd/version/download/068t000000PPEkMAAX>

shall include,” before listing criteria (20 ILCS 3855/1-75(c)(1)(K)(v)). The second set of criteria focus on attributes that increase the variety of community solar locations, models, and options in Illinois and the IPA labels this set as “secondary criteria.” For these secondary criteria, statute states “Selection criteria may also prioritize projects that,” before listing criteria (20 ILCS 3855/1-75(c)(1)(K)(v)). Through making the primary criteria required and the secondary criteria optional, the legislature clearly indicated that the first set of criteria, and the goals they support of community benefit and connectivity are more important for CDCS projects than the second set of criteria, and the goals of increasing community solar variety. The current-proposed scoring approach does not appear to credit the importance of the primary criteria over the secondary criteria. The IPA should amend their proposed approach to operationalize this prioritization. This could be done a number of ways, including but not limited to:

- Awarding more points to primary criteria than secondary criteria,
 - Requiring a minimum score from the primary criteria, in addition to the general-proposed minimum score,
 - Creating different project application windows such that projects that score no points through primary criteria are not eligible to apply until closer to the end of the annual block’s timeline, or
 - Some combination of the three.
- **Consider a site-specific RFP as one way to meet the criterion for meaningful community involvement in development, not as its own criterion.** A site-specific RFP is one way to demonstrate community involvement in project development, but it is not necessarily more community beneficial or community-connected and, depending on how it is executed, may include less community involvement than other routes. Given this, it does not make sense to separate the site-specific RFP criterion from the broader criterion for community involvement. In fact, doing so could result in the perverse outcome of projects with less community connectivity or benefit advancing over projects that involved the community in the development process in ways other than through a site-specific RFP. In considering an award of points for a site-specific RFP, the Agency should require evidence that community members to be served by the project were engaged in the development of the RFP.
 - **Decrease or eliminate points for small projects.** Our organizations have serious doubts about whether small projects, in isolation, have greater community benefit or connectivity. As such, this criterion leaves the CDCS category open to applications by projects that fail to either benefit communities or demonstrate greater community connectivity. While it is true that, in addition to the primary goals of community benefit and connectivity, the statute includes the goal of increasing “the variety of community solar locations, models, and options in Illinois,” we are skeptical that awarding points to small projects will advance that goal (20 ILCS 3855/1-75(c)(1)(K)(v)). Once the IPA incents developers to pursue smaller projects, we worry that it will more often incent

project development in similar locations, with the same community solar models as are already developed in Illinois. The IPA should therefore lower the points available for this criterion relative to other criterion or, better, eliminate this criterion altogether. In lieu of awarding points to small projects, the IPA should advance small projects out of turn at the end of the program year, when such projects can fully utilize the program budget where larger projects cannot, as currently proposed. If the IPA fails to eliminate the small project criterion, action should be taken to limit the ability of small projects to earn points in other categories by virtue of their smallness (as the IPA correctly identifies is a risk for the subscriber proximity criterion).

- **Increase the weight of scoring criteria across the board**, for instance by allowing categories to earn 5 points rather than 2. This increase in weights could be coupled with the exercise of judgement to allow recognition of different gradations of community benefit from a single criterion. For example, projects may deliver different amounts of community benefits or demonstrate different levels of community connection. Those with more community benefits or connection should be awarded more points, though all projects meeting either criterion should receive some points.
- **Avoid definitions of non-greenfield projects that stigmatize solar development on farmland.** As the ELPC, NRDC, and Vote Solar, commenting together as the Joint NGOs, recommended in our comments submitted in November, focusing on projects that “do not take land out of agricultural production” perpetuates the stigma that solar is a bad thing for the Illinois agricultural community and the incorrect notion that solar expansion risks pushing vast portions of agricultural land out of production (it does not). Furthermore, it is worth noting that “greenfield” denotes more than agricultural lands, including at least parks and natural areas, as well.
- **With regard to the CDCS application window, the IPA should plan for the long-term cadence of CDCS application and evaluation that makes sense.** It is unclear whether it makes the most sense to have one project application window and scoring process per year or have more than one, with open enrollment not occurring until the last scoring process completes. The latter approach could allow the IPA to apply learnings between project application windows and/or to ease the burden of project application review, if that is a concern. It also may prove more burdensome. Either way, when it comes to the blocks of CDCS flowing out of this Plan, the IPA should consider when scoring occurred for the blocks that will be reopened later this month and plan for the next window to be spaced such that there is a regular cadence of project application windows, going forward.
- **The IPA is correct to propose a minimum score.** As discussed in earlier comments by ELPC, NRDC, and Vote Solar, commenting together as the Joint NGOs, a minimum score ensures the program avoids prioritization of a project that lacks community benefit and connectivity. Furthermore, the IPA is correct to consider lowering the minimum score at some point, in the event capacity goes unused, but that point should be as late as

feasible to avoid capacity reallocation, and the minimum score should never be lowered to zero.

Finally, the IPA may want to further consider the implications of and need for interaction between the Jobs and Environmental Justice Grant Program and/or the Clean Energy Jobs and Justice Fund and CDCS projects. Based on research into efforts to support community-driven solar in other states, seed capital is often critical for communities to be able to do the planning to realize their solar aspirations. Both New York³ and Oregon⁴ provide or have provided such capital to help community-oriented and/or affordable projects get started. The IPA should consider how similar capital can and should be utilized in Illinois and to what extent, if any, it can help facilitate community groups' awareness of and access to these funds.

Additionally, we offer the following inline responses to the specific questions posed by the IPA with regard to the CDCS category of the ABP.

Primary Criteria

- a. Related to Item (1), what does community ownership look like? The Agency is interested in different community ownership structures and/or minimum criteria for a project to qualify as community owned.

Community ownership is an exciting and still nascent area of community solar. Although our organizations are not experts on community ownership, preliminary research provides numerous examples of community-driven and community-owned solar that we believe the Agency should keep in mind. Two types of community ownership are Special Purpose Entities (SPEs) and cooperatives. SPEs are legally LLCs. In their toolkit for local governments, SolSmart describes this ownership model as follows: “The LLC is the sponsor and its members are subscribers, receiving the bill credits from the partnered utility. The LLC is responsible for making lease payments to the site host, maintaining the relationship with the utility, and operating the solar array.”⁵ In a cooperative ownership model, members/subscribers jointly own the solar array with each member/subscriber having a single vote. Examples of cooperatively owned community solar exist both in the Midwest ([Cooperative Energy Futures](#)) and elsewhere such as New England ([Co-op Power](#)), and California ([People Power Solar Cooperative](#)). Other possible models of community ownership include partnerships, community trusts, and housing associations.

³<https://www.nyserda.ny.gov/All-Programs/NY-Sun/Communities-and-Local-Governments/Predevelopment-and-Technical-Assistance>

⁴<https://blog.energytrust.org/development-assistance-incentives-now-available-for-public-and-nonprofit-community-solar-projects/>

⁵<https://solsmart.org/solar-energy-a-toolkit-for-local-governments/community-solar/>

An interesting if nascent example of community-owned community solar is the Hough Block Club in Cleveland, Ohio.⁶ The plan is to finance the project in part with green bank funds, and to utilize a partnership flip model with the organization splitting costs with the solar developer and obtaining an option to buy the project. It would be administered by the local community organization, the Hough Block Club.⁷

Following the International Renewable Energy Agency's guidance in their *Community-Ownership Models: Innovation Landscape Brief*⁸, the IPA could set an initial guideline of community-ownership as local stakeholders owning most (51%) of a project and having the final say over development and management of the project. While this is an appropriate initial guideline, the IPA should also make room in its process for the acceptance of unique/creative projects, should one apply that qualitative evaluators judge clearly exhibits community ownership without fitting a mold set in advance. Furthermore, we are supportive of the initial implementation of community-driven community solar including models of community-ownership in which local stakeholders' ownership interest vests over time (e.g. not until after tax benefits from the investment tax credit and accelerated depreciation are realized).

- b. Related to Item (1), how should the Agency define community wealth-building? Should the project continuously build wealth in the community? Or is a one-time influx of wealth into the community sufficient? Should there be requirements regarding the recipient(s) of the wealth the project builds?

While our organizations are interested and open to feedback from other stakeholders, it would be reasonable for the IPA to require that a project continuously build wealth for the community in order for it to meet this criterion, at least for the initial implementation of this program. As long as it is generating power the project should distribute wealth (which may include energy savings) in the community. Again, we urge the IPA to leave room in whatever process it sets for unique projects that meet the spirit of legislative criteria without fitting a very specific list of requirements to advance.

- c. Related to Item (2), how should the Agency evaluate direct and indirect community benefits? The Agency is interested in proposals to define and/or establish minimum requirements for both direct and indirect community benefits.
- d. Related to Item (2), how should the Agency evaluate and score community benefits, whether direct or indirect? What might minimum requirements for community benefits look like?

⁶ <https://energynews.us/2021/09/23/in-cleveland-a-potential-model-for-equitable-community-owned-solar/>

⁷ https://ilsr.org/report-designing-community-solar-programs-that-promote-racial-and-economic-equity/?fbclid=IwAR1_zYIEaa2xy30Th7sNSGtq8M0Sd9qushZkNjw24MLBf5pqohUvHMdwYsY

⁸ https://www.irena.org/-/media/Files/IRENA/Agency/Publication/2020/Jul/IRENA_Community_ownership_2020.pdf?la=en&hash=A14542D0C95F608026457B42001483B9B82D1828

Community benefits must be evaluated both quantitatively and qualitatively. Quantitative community benefits may include but are not limited to lowering energy burdens, job creation, sharing profits, and improved environmental conditions. Similarly important are qualitative community benefits such as enhanced community knowledge, empowerment, pride, and increasing environmental consciousness. Our organizations urge the Agency to be open to the perspectives of the communities to be served by the projects. For instance, one learning related to community benefit from our own conversations with community groups is about hoped-for benefits around the experience of having their own agency in decision-making and the awareness of asset ownership, even where the ultimate financial benefit from project participation is minimal.

Additional Community Solar Requirements

At least for this initial implementation of Community-Driven Community Solar, projects should not be strictly required to have subscriptions of 25 kW or less for at least 50% of the facility's nameplate capacity, although they should be subject to the colocation limitation required of general market community solar - through the requirements of the plan if not as an explicit requirement under the law. The IPA should either not impose this small subscriber requirement on this project category through the plan, or it should be open to considering exceptions because it is simply unclear, at this point, what types of community-driven projects could emerge and whether they bring meaningful community benefit despite having higher portions of large subscribers. For instance, we could imagine a hosted community-organized project in which the anchor subscriber is a community institution (or other type of anchor) that takes more than 50% of the power, but which, by virtue of community involvement and community benefit from the remaining portion of the project, should still qualify for this category of projects. A larger anchor subscription may be needed to make these projects viable for community-based organizations by reducing the costs of administration.