RESPONSE TO WORKSHOP #1 REQUEST FOR COMMENTS ON BEHALF OF THE SOLAR ENERGY INDUSTRIES ASSOCIATION, THE COALITION FOR COMMUNITY SOLAR ACCESS, AND THE ILLINOIS SOLAR ENERGY ASSOCIATION

The Solar Energy Industries Association, the Coalition for Community Solar Access, and the Illinois Solar Energy Association (collectively the Joint Solar Parties) appreciate the opportunity to respond to the Illinois Power Agency's most recent solicitation for comments for the next LTRRPP revision.

As an initial matter, the Joint Solar Parties appreciate that the IPA is soliciting comments by necessity during a period of uncertainty as to when (or if) omnibus or narrower energy legislation will pass. Many of the issues raised—particularly improvements of equity/diversity, labor standards, and utility-scale project selection—are addressed in great detail in potential legislation. The Joint Solar Parties, like the IPA, are addressing these comments to the state of the law as it exists today. The positions taken by the Joint Solar Parties may change with legislation, depending on its content, and Joint Solar Parties would request the opportunity to comment on these issues again if/when legislation passes.

In addition, the Joint Solar Parties appreciate that the IPA (and, at the IPA's suggestion, the Commission) made clear that the current RPS funding issues are a crisis for industry. The Joint Solar Parties wish to reiterate that the funding crisis not only prevents new project selection but also imperils both Energized projects and projects that are working toward Energization. In addition, the funding crisis does add a layer of difficulty to attract new entrants (including MWBEs) to the market. While the Joint Solar Parties do not wish to belabor the issue because the IPA is already well aware and has been supportive in attempting to resolve it, solving the funding crisis through legislation remains the most important issue facing the industry's present and future in Illinois, and is the most critical piece in maintaining and increasing diversity in the solar industry.

A. Strengthening equity, diversity, and labor standards in the renewable energy industry

1. The Agency has allowed for smaller initial blocks of project submittals for Minority/Women-owned Business Enterprise (MWBE) Approved Vendors in the Adjustable Block Program, and added points in the Illinois Solar for All Program Project Selection Protocol (to date only used for low-income community solar projects and projects for non-profits and public facilities) for MWBE Approved Vendors, or Approved Vendors who make binding commitments to utilize MWBE sub-contractors. While pending legislative proposals include new provisions including prevailing wage and project labor agreement requirements for many project categories, dedicated Adjustable Block Program blocks for projects submitted by equity eligible contractors, and increasing annual commitments for work to be conducted by equity eligible persons and contractors, under existing statutory authority, are there additional approaches that the Agency could include for project eligibility that could help remove barriers and/or

encourage participation by MWBE firms? If so, what approaches, and under what authority could those approaches be implemented? [See Slide 34]

JSP RESPONSE: The Joint Solar Parties believe strongly in ensuring the opportunities of the Adjustable Block Program and Solar for All create a climate where existing and new MWBEs enter the market and thrive. The Joint Solar Parties strongly supported and continue to support ensuring any energy legislation create the best possible structure for MWBEs—and in particular BIPOC-owned business enterprises—to succeed.

The industry fully supports the components in the proposed legislation, including standards to increase hiring employees and subcontractors from Environmental Justice communicates, specific funding to support BIPOC-owned Approved Vendors, creation of a Green Bank, and additional support and industry connections to the solar training programs.

While omnibus legislation would radically change how IPA programs interact with MWBEs, more limited but still meaningful initiatives that the IPA could implement under the law as it exists today include the following:

Incentivizing Approved Vendors to utilize MWBE sub-contractors. In the past, the Joint Solar Parties have identified options to incentivize Approved Vendors such as REC adders. While the Joint Solar Parties believe the experience of the ABP with small subscribers shows that REC adders work, that approach is not the exclusive pathway to incentivize Approved Vendors. The Joint Solar Parties suggest that the IPA include an explicit cure period for work done by MWBEs—particularly those that are within their first five years of working with Approved Vendors[1]—to remedy any issues with ABP or SfA program rules that are not imposed by statute, as long as the remediation is undertaken by an MWBE.

Allowing newer MWBE entrants a cure period will make their work more attractive to long-term owner-operators and financing parties. This is because typical purchase and financing transactions require the seller/seeker of financing to rep and warranty that the system is in compliance with all ABP or SfA requirements. That structure advantages experienced subcontractors over new market entrants or other vendors attempting to break into working with Approved Vendors. However, if mistakes made by newer MWBE entrants are curable (by that or another MWBE), the developer or seeker of financing takes far less risk. In turn, the newer MWBE entrants will gain valuable experience and relationships, but far less financial exposure for the natural learning curve that all new entrants face in a highly regulated industry. By the time the newer MWBE entrants' initial five years runs out, the Joint Solar Parties expect they will have the experience and relationships to compete with other established subcontractors.

The Joint Solar Parties note that allowing for such a cure period imposes no financial burden on the RPS budget.

Facilitating Relationships Between Approved Vendors and MWBE Subcontractors: In addition, the Joint Solar Parties recommend the IPA host a database where MWBE subcontractors could

[1] The Joint Solar Parties' initial suggestion is five years, but the Joint Solar Parties are open to supporting a longer time period.

indicate their services, geographic scope, and qualifications for Approved Vendors that are looking to expand their subcontractor relationships and Approved Vendors could indicate their interest in introductions to MWBE subcontractors that provide certain services or within certain geographies. While there are certainly other ways that MWBE subcontractors can meet Approved Vendors, the database would be an additional way for MWBE subcontractors to meet potential clients and Approved Vendors to meet potential subcontractors.

Providing Technical Assistance for MWBE Subcontractors: In the past, MWBE subcontractors have expressed to members of the Joint Solar Parties the steep learning curve when seeking to participate in the Adjustable Block Program. In fact, some subcontractors may be new to the industry. One recommendation to address this knowledge gap barrier is for the IPA to provide technical assistance programming for MWBE subcontractors. The technical assistance can take the form of sharing information and expertise, instruction, skills training and transmission of working knowledge via a regularly scheduled webinar.

Facilitating Relationships Between MWBE Approved Vendors And Subcontractors. The Joint Solar Parties note that because renewable energy development frequently involves several transactions, industry relationships and vision into the nested series of transactions are absolutely critical for success. For instance, while two Approved Vendors may be equally good at designing small commercial rooftop systems and selling them to customers, the Approved Vendor with good financing, O&M, Approved Vendor-as-a-Service, and other contacts will be able to offer customers a far better experience than one that does not have those relationships. New entrants from outside the solar industry—such as MWBE-owned Approved Vendors built around existing MWBE-owned businesses that are not currently engaged in the solar industry—will have to develop many if not all of those relationships while competing for program capacity. The Joint Solar Parties note that MWBE-owned new entrants must build the proverbial plane as they are attempting to take off so they may compete with more established Approved Vendors.

The Joint Solar Parties recommend that the IPA provide information to potential or new MWBE Approved Vendors with contacts from other Approved Vendors or designees in the Adjustable Block Program to facilitate meetings and interactions that will allow MWBEs entering the market to grow their network.

> 2. The Revised Long-Term Plan includes a requirement that Approved Vendors report on an annual basis information on the diversity of their workforce. [See Slides 35/6]
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> > a. What additional reporting requirements should the Agency consider? For example, reporting on the diversity of the ownership of Approved Vendors and their Designees (e.g., installers or marketing firms), or reporting on workforce diversity on a project level rather than an annual portfolio level.

JSP Response: The Joint Solar Parties recommend no changes at this time to the annual report diversity reporting. In particular, the Joint Solar Parties note that many Approved Vendors are SPEs, while some are (at times after tax equity financing) are owned by funds that have either diffuse ownership or are owned by publicly traded companies. While looking at ownership is instructive for an entity seeking to confirm MBE/WBE status (or if omnibus legislation passes,

other ownership-based status), the complex corporate structure of financing and owner/operators means that Approved Vendor ownership information does not provide useful information in many cases.

In terms of information about Designee ownership, the Joint Solar Parties understand that if MWBE Designees are subject to different standards (such as the cure period recommended above) then ownership is relevant and should be confirmed at registration. Any additional reporting would be redundant and unduly burdensome because tracing ownership through a complex corporate structure of joint ventures, corporate ownership, diffusely held shares, etc. means the burden of reporting across the board outweighs any useful information.

The Joint Solar Parties strongly urge the IPA to keep reporting on an annual portfolio level and not on an individual project level. While individual project reporting may be relatively less burdensome for a select few Approved Vendors (for instance ones with a very few large community solar systems), it is too administratively burdensome and too much of a departure from current practices for Approved Vendors to track on a project level. In addition, for developers of smaller systems, project-level reporting does not reflect how companies assign and track work among employees, and thus would lead to significantly increased costs for employee and vendor tracking and reporting. Finally, the Joint Solar Parties note that for smaller systems like residential systems, the increments of time (measured by 0.1 FTEs) are likely to be so small per project, per employee as to be undetectable in most cases.

> b. Should the Agency expand reporting requirements to utility-scale projects that participate in future procurement events?

JSP Response: The Joint Solar Parties do not oppose additional reporting requirements for utility-scale projects. The Joint Solar Parties note that any operating utility-scale company is required to report to the Commission about supplier diversity pursuant to Section 5-117 of the Public Utilities Act as it exists today. While the proposed legislation would create a path or process for utility-scale hiring reporting requirements, the Joint Solar Parties are open to extending parallel reporting, through the IPA, for the development cycle once the REC Contract is awarded. This ensures equitable treatment and reporting requirements for all industry participants in Illinois' RPS program.

> 3. Section 1-75(c)(7) of the IPA Act requires that RECs from new solar projects "must be procured from devices installed by a qualified person in compliance with the requirements of Section 16-128A of the Public Utilities Act and any rules or regulations adopted thereunder." We have nevertheless seen complaints filed with the Illinois Commerce Commission regarding the workforce used to support the development of certain new solar projects. Under current law, what additional approaches can and should the Agency consider to ensure that workers on projects utilizing state-administered financial support leverage qualified personnel being paid fair and competitive wages?

JSP Response: The Joint Solar Parties anticipate that the General Assembly may address this issue through pending legislation. In the meantime, the Joint Solar Parties recommend that the IPA continue to allow the complaints filed with the Commission to work their way through the

litigation process at the Commission. To the Joint Solar Parties' knowledge, most of the complaints against DG Installers have been voluntarily dismissed and none have proceeded to a decision on the merits to date. Deferring for the time being allows the IPA to observe the outcome of those complaints so the IPA does not inadvertently impose a policy that conflicts with (or at minimum is inconsistent with) the Commission's eventual determination.

Responding further, the Joint Solar Parties are unaware of additional steps that the IPA might take on such workforce issues. Qualified Persons requirements are specifically defined in statute, and regulated by the Commission. The Joint Solar Parties do have recommendations for the Commission—such as issuing individual certifications to Qualified Persons claimed by a licensed DG Installer so that any inquiring third party can instantly confirm that individual's status as a Qualified Person. The Joint Solar Parties are willing to discuss its concerns in this venue before the IPA but recognize that the primary authority on these issues is with the Commission.

The Joint Solar Parties do not support Adjustable Block Program requirements related to labor and wage requirements without explicit statutory direction on these issues. If and when omnibus legislation passes, the Joint Solar Parties believe that labor and wage requirements, such as project labor agreements and prevailing wages, may well be included. The Joint Solar Parties recommend that the IPA review prevailing wage rates and use those to modify the inputs to the CREST model when resetting REC prices, among other inputs that may need updating

B. Utility Scale Procurements

> 1. For procurements for RECs from new utility-scale wind, utility-scale solar, or brownfield site photovoltaic projects intended to meet future REC targets, what timing considerations should be made regarding whether and when to hold procurements over the course of calendar years 2022 and 2023? For example, do issues related to the PJM/MISO interconnection processes, identifying energy offtakers, or potential changes to Federal energy policy suggest that earlier procurement event dates (to take advantage of an expiring opportunity), or later procurement event dates (to allow for additional early-phase project development activities to reach appropriate project maturity levels) would be appropriate? In managing these considerations, how should the IPA parse issues related to when to conduct a procurement event versus determining by when first REC deliveries would be accepted or required? [See Slide 39]

JSP Response: Generally speaking, a longer time period to begin delivery and/or additional options to extend the initial delivery date are helpful in utility-scale development, where the project is substantial enough that even smaller problems (related to land or permits in a single locale) can cause substantial delays in addition to systemic issues (interconnection). The Joint Solar Parties note, however, that unless or until there is resolution of the RPS funding issues there is substantial risk that there are few or no qualifying bids due to risk premiums built into bids or usual participants declining to bid at all. While initial steps may take place first, a legislative fix to RPS funding issues is a necessary prerequisite to the actual procurement taking place.

2. Should the project application requirements for new utility-scale renewable energy projects described in Chapter 5 of the Long-Term Plan be revised? Does the Agency's current model of project maturity requirements such as site control and interconnection status, pre- and post-bid collateral requirements, and REC delivery start dates and extension options achieve a sufficient likelihood of project development completion for selected projects? [See Slide 40]

JSP Response: The Joint Solar Parties do not recommend changes at this time. However, given the challenges with the Adjustable Block Program and Energization deadlines, generally speaking the Joint Solar Parties support flexibility to extend development milestones by right, additional deposit, or on good cause shown.

3. While utility-scale procurements are for RECs only and not energy or capacity, are there considerations that could be added into the procurement process to value how new utility-scale projects could contribute to resource adequacy? For example, should procurements have quantity targets separated by RTO? Should the assessment of project eligibility in procurements include requirements related how the project will contribute to resource adequacy/maintaining reliability? [Slide 41]

JSP Response: The Joint Solar Parties appreciate consideration of the values that utility-scale solar (or any other renewable project) brings beyond the energy and capacity—and, of course, environmental attributed embodied in RECs. To the extent that those values are recognized to provide a pathway to monetization, the Joint Solar Parties look forward to continued conversations. However, to the extent that the inquiry is about how to rank or score utility-scale projects or to provide additional gatekeeping criteria, the Joint Solar Parties do not believe such an approach is merited at this time. Especially with regard to resource adequacy/reliability, the Joint Solar Parties fear that evaluation could devolve into expensive and ultimately unproductive competing studies and assessments, bringing more uncertainty to a utility-scale market that has at times failed to produce any qualifying bids at procurement events (including the most recent utility-scale wind procurement).

Responding further, unless or until the IPA procures energy or capacity products from utility-scale renewables facilities—which will likely have to look different from the current standard wholesale product procurements because of the different operating profiles of utility-scale renewables at this time—as part of its bundled customer procurements, the Joint Solar Parties do not recommendation changes at this time for how projects are considered. At such time the State or Commission considers a new program or procurement of energy or capacity products, the Joint Solar Parties recommend that aggregated distributed resources (to the extent allowed under Order 2222 implementation or similar processes) be allowed to participate as well as utility-scale projects.

4. Chapter 4 of the Long-Term Plan describes the approach to applying the statutorily mandated public interest criteria found in Section 1-75(c)(1)(I) of the IPA Act to the eligibility of RECs from projects located in states adjacent to Illinois. The approach includes a rubric for scoring those criteria as well as the minimum required score to be

eligible. Should changes be made to this approach, and if so, what changes? And why would those changes better meet the statutory intent? [See Slides 42/3]

JSP Response: The Joint Solar Parties do not have recommendations at this time other than to note that the sooner in the procurement (or pre-procurement) process the scores are calculable, the better line-of-sight a developer has to whether their project is likely to qualify for the minimum score or to compete with other potential neighboring state projects.