



## **RESPONSE TO ELIGIBILITY CRITERIA FOR EQUITY ELIGIBLE CONTRACTOR REQUEST FOR COMMENTS ON BEHALF OF NEXAMP**

**May 5, 2023**

Nexamp appreciates the opportunity to provide comments to the Illinois Power Agency regarding proposed changes to the eligibility criteria for Equity Eligible Contractors (EECs).

Nexamp is a vertically integrated clean energy company with an Illinois Office located in Chicago with over 50 employees. Nexamp manages the complete project lifecycle of solar plus storage assets from design and construction to customer acquisition and management, operations, and maintenance. Since 2019, Nexamp has been proudly offering its flexible community solar program to Illinois residents and small businesses, providing guaranteed energy savings, with no sign-up costs, no credit checks, and no long-term contracts.

As a steering committee member of the JSP and a Board Member of both the Coalition for Community Solar Access and the Solar Energy Industries Association, Nexamp is supportive of the comments filed by the Joint Solar Parties (JSP). We submit these comments to provide an additional point of view.

### **Introduction**

Nexamp strongly supports the goal of CEJA to create opportunities for Equity Investment Eligible Communities and community members by expanding equitable access to public health, safety, a cleaner environment, quality jobs, and economic opportunity. We believe that all Illinois residents – regardless of where they live – should be able to benefit from clean energy savings and participate in the clean energy economy.

The IPA is actively working to fully reduce and eliminate barriers to participation in the Adjustable Block Program. For the Equity Eligible Contractor (EEC) category in particular, one major barrier is financing. Section 1-75(c)(1)(K)(vi) and the Long-Term Renewable Energy Resources Procurement Plan allow for up to 50% of contract value to be advanced to an EEC Approved Vendor (AV), but the EEC cannot request those funds until they have submitted their Part I application. All the money spent by the EEC leading up to submittal of a Part I application is at risk. If the project fails after the contract is signed, the advanced payment will be at risk too.



The advance of capital is also not guaranteed; nor is a timeframe given for how long it will take to receive the funds if granted. Developer partnerships between EEC AVs and non-EEC AVs provide financial support for EECs as they develop early-stage projects. With a well-positioned non-EEC partner, financing can be obtained at highly competitive interest rates, with flexible terms designed to encourage and accelerate efficient development practices and optimize total project value, allowing EEC partners a stable and responsible environment in which they can grow.

Several other barriers for EECs exist, including the ability to navigate the Illinois Shines Program rules, potentially the absence of internal policy and program management support, subscriber procurement, construction, and asset management. Non-EEC AVs typically have designated policy and regulatory teams working to navigate the ABP Program Guidebook, Long-Term Renewable Resources Procurement Plan, Consumer Protection Handbook, prevailing wage requirements, and the weekly updates and announcements from the Program Administrator. This expertise can support EEC AVs as they navigate a complex program. Standard documentation for customer contracts, marketing plans, policies and procedures, and other functions are expensive to develop and requires expertise not readily available to all new entrants.

In Illinois, our projects incur significantly higher fees for basic management (CS, Regulatory) because the ABP program design has several items that increase required time, cost, and effort to manage the operating asset. For example:

- Disclosure forms require re-signature at much higher rates than seen in other similar CS markets (account number changes, main contact changes all require re-signature).
- The program administrator's portal has changed multiple times and requires consistent coordination between the utility, our systems, and the administrator. We must maintain constant vigilance on the portal and utility, two systems outside of our control.

Established Community Solar developers, like Nexamp, can provide development, construction, engineering, and policy expertise to EEC AVs. For example, through developer partnerships, Nexamp aims to extend access to those same resources to a growing network of mission-driven solar, energy storage, and EV infrastructure teams advancing the clean energy economy.

Below are Nexamp's responses to the IPA's questions on potential changes to EEC Eligibility Criteria.

## **Responses to Specific Questions**



**1. Should an Equity Eligible Person be able to serve as the qualifying EEP for more than one Equity Eligible Contractor?**

For financing purposes, it is helpful to have the ability for one managing entity to control multiple AVs, so that program revenues are directed into the financing structure. In that way, the managing entity can enter into separate financing arrangements for separate projects more easily. For this reason, Nexamp itself manages multiple AVs, so it likewise does not object to the same Eligible Person (EP) owning portions of multiple EECs. These EECs would be affiliated, so the modified developer cap concept proposed by the JSP would provide the appropriate control to ensure a small number of EPs are monopolizing the program benefits.

**2. Should the Agency require additional demonstrations of equitable impact for companies seeking EEC certification based on majority-ownership of a silent partner Equity Eligible Person? If so, what might those entail?**

For companies where the minority share is owned by another company, not a natural person, Nexamp is supportive of the IPA requiring the applicant to demonstrate that the company employs local residents, dislocated energy workers, and/or that the company employs an elevated percentage of EEPs above the minimum equity standard.

On top of the additional showings for companies seeking EEC certification, for companies where the minority share is owned by a non-EEC AV, the IPA should require that the company demonstrate bona fide contributions to workforce development efforts and investment of capital and other resources into local communities consistent with the policy goals designated for Equity Investment Eligible Communities, as well as a proven track record of building up local partners, businesses, and nonprofits within the community. If the EEC is certified as an EEC based on their residence, this could be their own EIEC. If they are not, this could be another EIEC in the state. This could be recorded through an outreach plan that's submitted with a company's Part I application. For example, working with educators to ensure that local students have meaningful access to information about professional careers in renewable energy and by creating a pipeline to participate in the CEJA job training programs. The statutory objective of the designation of certain Approved Vendors as Equity Eligible Contractors is "advancing priority access to the clean energy economy for businesses and workers from communities that have been excluded from economic opportunities in the energy sector, have been subject to disproportionate levels of pollution, and have disproportionately experienced negative public health outcomes." This would ensure benefits of the program are flowing back to communities.



Moreover, companies where the minority share is owned by a non-EEC AV, the company should be required to meet the Minimum Equity Standards. Ensuring that the financial benefits are not just going to one EP certified as an EEC and the AV structure is not used to evade Minimum Equity Standards by non-EEC AVs.

**3. To increase the transparency regarding companies that qualify as an Equity Eligible Contractor and submit projects to the Equity Eligible Contractor Category, what information might the Agency require be published on the ABP website?**

To increase transparency the IPA should require the name of companies certified as EECs to be published on the ABP website. This list should be updated at a regular cadence and posted on the [Equity Accountability System](#) page. As of March 28, 2023, there were only 11 EECs publicly available. It's unclear if there are only 11 EECs total or if only 11 have chosen to be publicly listed.

Nexamp supports the disclosure of the name of the non-EEC minority owner if it is an Approved Vendor or affiliated with an Approved Vendor.

Nexamp supports EECs reporting the basis upon which the majority-owner(s) qualified as an EEP if they wish to report this. However, this should not be required.

- 4. What forms of documentation could IPA require all companies applying for certification as an Equity Eligible Contractor to submit that would verify the claimed ownership structure? Options include, but not limited to:**
- a. Articles of incorporation**
  - b. Governance documents**
  - c. Tax documents (?) form W9 yes, not actual tax returns**

Nexamp is supportive of Articles of Incorporation and a Form W-9s being required. We are not supportive of governance documents or tax returns being required. These documents are generally confidential business information and should not be publicly available or discoverable.

- 5. Are there variations on the above that strike a better balance? For example, the Agency could implement a prioritization system within the Equity Eligible Contractor category based on the above factors, providing bonus points for EECs that meet one or more of those criteria and selecting projects based on points received. Alternatively, the Agency could reserve a portion of that capacity for entities that meet some of the above factors – what might be a reasonable reserve portion to ensure state incentives benefit the intended actors?**



The Illinois Shines program is already very complicated, adding an additional scoring system would introduce an additional and inherently subjective layer of complexity that would likely entail unintended consequences despite laudable aims. Objective standards and clear enforcement are most likely to achieve the policy and deployment objectives of the Illinois Shines program.

