Illinois Power Agency
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Request for Stakeholder Feedback: Large Customer Self-Direct Program

NRG appreciates this opportunity to respond to the Illinois Power Agency's solicitation for comments for the Large Customer Self-Direct RPS Compliance Program. NRG anticipates that the Agency will be able to use the longer lead time allotted to craft a robust, transparent, and market-based program that will encourage more private sector development of renewable energy resources in Illinois. NRG's comments appear below in **blue**.

CUSTOMER ELIGIBILITY

Section 1-75(c)(1)(R)(1) allows for "multiple retail customer accounts under the same corporate parent" to be aggregated to meet the law's 10,000 kilowatt peak demand participation threshold.

1) How should the IPA determine whether multiple retail customer accounts indeed connect back to the same corporate parent?

   a. What documents would constitute appropriate proof of such affiliation, and allow that affiliation to be understood as connecting back to that customer's utility account?

      NRG recommends that accounts controlled by an entity with the same Tax ID number filed with the utility should be allowed to aggregate volumes to meet the 10,000 kW peak demand threshold for participation in the self-direct program. Additionally, NRG recommends that the IPA also allow customers to submit a sworn affidavit to the IPA to demonstrate that a collection of accounts controlled by a common owner.

   b. For multiple aggregated accounts, should the 10,000 kW threshold based on coincident or non-coincident "total highest . . . demand" peak demands?

      NRG recommends that non-coincident demand be used to qualify for aggregated demand of more than 10,000 kW. Additionally, NRG strongly recommends that the IPA adopt rules that ensure that a customer will not lose eligibility for participation in the program if demand of identified accounts drops below 10,000 kW as a result of demand response, energy efficiency, onsite generation, or other operational changes.

PROJECT ELIGIBILITY

Section 1-75(c)(1)(R)(2) requires that RECs "be sourced from new utility-scale wind projects or new utility-scale solar projects," but "new" is not defined within Section 1-75(c)(1)(R). The Agency is proposing to utilize the "new" project definition found in Section 1-75(c)(1)(C)(iii) (energized after June 1, 2017) in applying subparagraph (R), with geographic eligibility determined by the application of Section 1-75(c)(1)(I) of the IPA Act as interpreted through the Agency's Commission-approved Long-Term Renewable Resources Procurement Plan in place at the time of contract execution (with

the IPA's Initial Long-Term Plan's determinations applicable to contracts executed before that Plan's formal approval).

2) Is this approach to determine whether a project is "new" the correct approach?

   a. Should the Agency instead consider "new" as a facility that had not yet been energized as of the effective date of P.A. 102-0662?

NRG recommends that the IPA use the same definition of "new" projects as currently defined in the Illinois Power Agency Act, 20 ILCS 3855/1-75(c)(1)(C)(iii), "new wind and photovoltaic projects" means renewable energy projects energized after June 1, 2017, this recommendation is consistent with Advanced Energy Economy.

3) For geographic qualification, would facilities qualifying under Section 1-75(c)(1)(I)'s new provisions for electricity transmitted to Illinois-based HVDC converter stations also qualify (once such converter stations are built and qualified)?

NRG recommends that the IPA allow facilities qualifying under Section 1-75(c)(1)(I) include those renewable energy facilities that transmit electricity into Illinois via high-voltage, direct current transmission systems. NRG's recommendation is consistent with the enactment of the Climate Equity and Jobs Act's goal to encourage the transmission of renewable energy into Illinois from surrounding states, see Section 20 ILCS 3855/1-5 (10.5)

PROGRAM SIZE

Section 1-75(c)(1)(R)(3) requires that the Agency "annually determine the amount of utility-scale renewable energy credits it will include each year" from the program, with that determination made through evaluating "publicly available analyses and studies of the potential market size for utility renewable energy long-term purchase agreements by commercial and industrial energy customers." Program size should also take into consideration the overall market size or share of eligible self-direct customers—but that market size has proven difficult to determine, as many smaller retail customer accounts may qualify once aggregated through corporate affiliation.

4) How should the IPA handle this requirement for establishing program size?

   a. What such publicly available analyses and studies are available to the Agency in determining self-direct program size?

   The IPA should develop a public comment process which allows customers to express a non-binding interest and potential level of participation in the self-direct program.

   b. By when each year should the Agency make this determination, and using what process?

   The IPA can provide the highest level of certainty to consumers and developers by establishing procurement targets for the program for at least 3-5 years in advance. The IPA could then update these projections through the regular Long Term Renewable Resources Procurement Plan process.

c. Should the Agency publish the initial delivery year self-direct program size as part of its upcoming Long-Term Plan?

NRG recommends the IPA not publish the initial delivery year self-direct program size in the upcoming Long-Term plan and instead conduct outreach by which interested parties should express non-binding interest in the program. The IPA should consider customer demand for the self-direct program prior to publishing the program size to avoid sizing the program too big or small.

d. Given that customer account size does not account for permitted account aggregation by corporate affiliates, how can the IPA best assess the size of the retail customer market eligible for self-direct RPS compliance?

Again, NRG recommends that the IPA develop a public comment process which allows customers to express a non-binding interest and potential level of participation in the self-direct program. The IPA should consider customer demand for the self-direct program prior to publishing the program size to avoid sizing the program too big or small.

Section 1-75(c)(1)(R)(3) also provides provisions for ensuring that "participation is evenly split between commercial and industrial users" in the case of more applicants than the program size could accommodate.

5) If the IPA receives applications for the program which exceed the amount of RECs it will include each year, how should the Agency choose between competing applicants?

a. While the law indicates that the Agency "shall ensure participation is evenly split between commercial and industrial users," how should the Agency choose between individual commercial or industrial users within that category should applications exceed program capacity?

NRG recommends that the IPA adopt a selection process based on a first come/first served basis.

b. Should the Agency maintain a program waitlist for qualified applicants, with preference for waitlisted applicants when the program next reopens for applications?

NRG recommends that the IPA adopt a waitlist process that periodically eliminates projects that fail to meet clear and measurable criteria for continued consideration.

BILL CREDITING

The amount of avoided RPS costs credited back to the customer shall be "equivalent to the anticipated cost of renewable energy credit deliveries under contracts for new utility-scale wind and new utility scale solar entered for each delivery year after the large energy customer begins retiring eligible new utility scale renewable energy credits for self-compliance." The Agency understands this to mean that it would be providing credit levels each year for the upcoming delivery year, which vary by the delivery year in which the customer begins self-compliance REC retirements. Thus, for a customer which begins retiring RECs for self-compliance in 2023, an individual rate would apply and would change year-over-year as anticipated new utility-scale wind and solar costs grow (as additional contracts are entered into and additional retirements occur). Alternatively, for a customer which

begins retiring RECs for self-compliance in 2024, a different rate would apply, as only contracts entered into after the "delivery year after the large energy customer" began retiring RECs for self compliance would count toward the anticipated cost rate. Thus that 2024 customer's annual self direct credit rate would be almost certainly be different than the 2023 customer's annual self-direct credit rate.

The phrasing "entered for each delivery year" found in Section 1-75(c)(1)(R)(4) contains some ambiguity, and the IPA believes that the most appropriate approach is to interpret this passage as a) meaning "entered into for" and b) not counting costs from those contracts until such costs occur (i.e., not until the delivery year in which deliveries from those contracts are expected to commence). This reading is further supported by statutory language on what costs are excluded as well.

6) What is the correct approach to determining bill credit levels? Do commenters agree with the IPA's statutory interpretation? What other interpretations could be offered to this language? The law further provides that while the Agency shall ultimately determine the self-direct credit amount(s), it should be filed with the Commission as a compliance filing—but must be approved by the Commission by June 1 of each year beginning in 2023.

The IPA's methodology should recognize and credit the costs utility-scale renewable projects self-directing customers are bringing online. It should do so in the context of its long-term renewable resources procurement plan, and should apply a consistent methodology so that a rate can reasonably be forecast throughout the life of 10 years or longer engagements that the self-directing customers are entering into. With respect to these issues, NRG generally agrees with ComEd's response:

"[T]he second sentence must also be given due consideration and effect. This sentence provides, in part, that "[t]he self-direct credit amount shall be determined annually and is equal to the estimated portion of the cost authorized by subparagraph (E) of paragraph (1) of this subsection (c) [i.e., the RPS rate cap] that supported the annual procurement of utility-scale renewable energy credits in the prior delivery year using a methodology described in the long-term renewable resources procurement plan ["LTRRPP"]...." and subject to the additional specified adjustments. 20 ILCS 3855/1-75(c)(1)(R)(4). In short, the statute unambiguously authorizes the IPA to include the proposed crediting methodology in its next revised LTRRPP, a process that enables the IPA to establish an equitable methodology and affords it the opportunity to clarify any vague or ambiguous language based on the comments it receives now and during the revised LTRRPP proceeding."

"[I]t is critical that this methodology take into account that the retail customers participating in the self-direct program are required to procure RECs "equivalent in volume to at least 40% of the eligible self-direct customer's usage," which far exceeds current and near term RPS targets (e.g., 19% for DY2021). Compare 20 ILCS 3855/1-75(c)(1)(R)(2)(iv) with 20 ILCS 3855/1-75(c)(1)(B). Indeed, the overall RPS target does not reach 40% until DY2030. This mismatch between the procurement requirement imposed on self-direct customer and the requirement imposed under the State's RPS program is further exacerbated by the fact that the State is well below achieving its applicable RPS target. Given that self-direct customers are required to

supply nearly double the amount of RECs currently required under the larger Statewide RPS, ComEd believes that the crediting methodology should reflect a credit amount at least equal to the full monthly RPS charge calculated pursuant to Section 1-75(c)(1)(E). This would also be consistent with the RPS credit methodology for net metering customers as they avoid paying RPS charges for the kWh they generate."

The law further provides that while the Agency shall ultimately determine the self-direct credit amount(s), it should be filed with the Commission as a compliance filing—but must be approved by the Commission by June 1 of each year beginning in 2023.

7) Given that the Commission does not normally approve compliance filings, how should the Agency comply with this provision?

   a. What process should the Agency propose for the Commission's review and approval of self-direct rates?

NRG recommends that the method for establishing the credit value for the self-direct program be approved as part of the regular ICC approval of the Long-Term plan.

   b. What information should the Agency include in such a filing to a) assist the Commission in making that determination and b) provide interested parties with visibility into how self-direct crediting rates are being set?

Including the method for establishing the credit value for the self-direct program as part of the regular ICC approval of the Long-Term plan would allow parties to comment raise issues for consideration in an appropriate forum.

APPLICATION PROCESS

Section 1-75(c)(1)(R)(5) could be understood as envisioning a two-step application process. First, the customer must demonstrate that it qualifies as a self-direct customer, generally by a demonstration of usage above 10,000 kilowatts by that customer or its affiliates. Next, the customer must demonstrate that its contract with a new utility-scale renewable energy facility qualifies for self-direct bill crediting (e.g., from contracts of at least 10 years and in volumes that are at least 40% of the customer's annual consumption).

8) How should the application process operate?

   a. Should these steps be completed contemporaneously?

NRG views the two-stage process as appropriate when applied on a customer-by-customer basis to allow for maximum participation and flexibility.

   b. By when should applications open?

The application process should be open – in a manner similar to the open process to be applied to the Adjustable Block Program. The IPA should strive for consistency across all RPS programs that similarly serve customer demand for renewable energy.

c. For how long should the application window stay open for a given delivery year? Section 1-75(c)(1)(R)(5)(ii)-(v) references "proof" or "supporting documentation" required for compliance demonstration.

NRG recommends that applications must be approved at least sixty (60) days prior to the commencement of any program year.

9) How should the Agency determine whether an applicant is indeed compliant?

a. What types of documentation should the Agency seek?

A redacted version of REC contracts that identify volumes, contract term, site location and provisions for retirement of RECs should be provided to the IPA.

b. For the prevailing wage and equity standards requirements in 1-75(c)(1)(R)(2)(vii), how might the applicant prove compliance?

Prevailing wage and equity requirements should be demonstrated in the same way that project developers operating under the standard IPA utility-scale procurements.

c. What confidentiality considerations apply to the receipt of this information?

NRG recommends that contract pricing, customer account numbers, and proportion of the entire renewable project attributable to the contract should be held fully confidential.

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