

**To:** Illinois Power Agency  
**From:** MeLena Hessel, Environmental Law & Policy Center  
Will Kenworthy, Vote Solar  
Brad Klein, Environmental Law & Policy Center  
**Date:** July 22, 2019  
**Subject:** Response to June 2019 LTRRPP Workshops Follow-Up Request for Comments

The Environmental Law and Policy Center and Vote Solar (ELPC/VS) appreciate the opportunity to comment ahead of the Illinois Power Agency's (IPA or Agency) development of its first draft update to the Long Term Renewable Resources Procurement Plan (Plan). It has been more than two 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 a huge amount of work by the Agency) to carry them out. As we stand at the eve of the first Plan update, we are faced not only by programs and procurements that are still getting off the ground or that did or did not work well - as could be expected for any new initiative - but also by an imminent budget squeeze and uncertainty around legislative proposals that could not only dramatically reduce that budget squeeze, but also substantially change the renewables targets as well as the parameters of the community solar program *in the middle of the process* to update the Plan. The political winds could also shift and those same legislative proposals could also look far more certain to pass or far more certain to flounder in another month or two. Developing a Plan that will be able to withstand this uncertainty is a difficult task.

In the face of uncertainty, it is essential that the IPA consider and actively plan for different scenarios to "future proof" not only the Plan, but where appropriate, the planning process, as much as possible. For example, the Agency should consider establishing triggers to pause or potentially re-open Plan elements depending on various contingencies that may occur regarding the available budget or other legislative action. The Agency should strive to avoid duplication of effort to the extent possible, both for itself and stakeholders. However, the Agency should also structure its process in a way that does not unnecessarily delay needed near-term updates to the Plan that are necessary to keep all renewable energy sectors moving in early 2020.

Ultimately, the goal of the update should be to build on the elements of the first Plan that worked well and correct those elements that were less successful. A number of the renewable procurement approaches approved through the first Plan *do* appear to be working well. The utility-scale procurements have all been successful and come in at competitive prices. Deployment of small-scale distributed generation (DG) is expanding rapidly and large-scale DG deployment appears to be working well enough: while there was an initial rush, there is no backlog. And the decision to eschew spot procurements has also proved correct. Had the IPA embarked on those procurements, budgets would have been millions of dollars lighter but Illinois would be facing the exact same long-term REC gap that it faces today with no reductions in pollutants, no increase to generation diversity, no enhancement of the distribution system,

and no progress toward a cleaner and healthier environment. These are all plan elements that should carry forward in this update.

Of course, some elements of the initial Plan did not work as well. The community solar program was wildly successful in some ways and missed the mark in others. Despite a program waitlist that is far, far too long, the applications to the initial blocks of the program left community-driven and urban projects behind. And the lack of budget safeguards in the face of the rush on both this program and the large distributed generation program has pushed the Illinois solar market through a boom and to the brink of a bust. Furthermore, this boom has fully ensnared the state's interconnection process, leading to unforeseen negative consequences for both the Adjustable Block Program and interconnection. All of these elements should be addressed and corrected through the Plan update. Additionally, the IPA will have to decide how to update Plan elements for important programs and procurements for which outcomes are still significantly unknown, including the Illinois Solar for All program and the Brownfield Photovoltaic procurement.

#### **A. Overview of the Renewable Portfolio Standard (“RPS”) and the Long-Term Renewable Resources Procurement Plan; RPS Budgets; Utility-Scale Procurements**

- 1. Budget.** ELPC/VS have not done a detailed analysis of the RPS budget, but the Agency's budget presentation from the June 20th workshop largely aligns with the analyses we have performed. The Agency's budget presentation indicated that without utilizing utility-held Alternative Compliance Payments (ACPs), the IPA has virtually no budget to add new programs or procurements that will require payment for renewable energy credits (RECs) in 2021-22, 2022-23, or 2023-24 and limited or virtually no ability to add new programs or procurements that will require payment for RECs in 2024-25.

This translates to no new IPA-supported renewables programs or procurements for at least another five years if the IPA does not use utility-held ACPs and the legislature does not amend the law to address the budget “rollover” and long-term budget gap.

Of course, the small distributed generation category of the Adjustable Block Program would likely continue running for some time under this scenario, as it still has plenty of funding from the capacity blocks allocated through the initial Plan. Furthermore, the ACPs are available for use for utility-scale renewable procurements, today. This means the market segments that will most feel the budget squeeze, at least initially, are large distributed generation and community solar.

- 2. Utility-held Alternative Compliance Payments.** Before commenting on whether clarifying restrictions around the use of Alternative Compliance Payments is appropriate, it is worth understanding what those funds would mean for different market segments. With \$95 million in funding, overall, the ACPs provide more than enough money to fund ongoing annual large utility-scale wind and solar procurements, and, likely, of brownfield

procurements as well. The same is not true for the Adjustable Block Program (ABP). If devoted in full to a single category and assuming no changes to the program or applicant characteristics, the ACP funds could keep any market segment moving through the budget squeeze, albeit at a much slower pace than the 74 MW/year that was originally proposed for all three ABP categories. The ACP funds are certainly not enough to address the community solar waitlist in any significant way. In short, the ACP funds are potentially meaningful to all RPS procurement/program categories, but are not enough to carry all market segments through every budget squeeze-impacted year.

There are several factors that created the budget constraints that the program is currently facing, including:

- Uncertainty about the costs of the program when FEJA was being written. For example, final REC prices for the Adjustable Block Program were not set until a year after the effective date of FEJA. Likewise, the REC prices for the competitive procurements were unknown.
- The limitation on the use of rollover balances in subsequent years after the 2021/2022 Delivery Year.
- The rate impact cap on the RPS funds collected by the utilities.
- The amount of time that it took for the program to be initiated, which was longer than anticipated, and thus resulted in the spend down of the rollover starting later than expected, ultimately resulting in a mismatch between when funds are available vs. needed.

The projection that there are no funds available to commit to additional procurements or ABP blocks is based on the lack of funds available in the first year after any rollover funds would be refunded from the fund in Delivery Year 2021/2022. In that year, payments from the funds for contracts resulting from the initial blocks and previous competitive procurements are estimated to utilize all of the utility-collected funds through RPS riders.

In light of this constraint, ELPC/VS believe the IPA should focus on the next two year planning period, rather than the entire five to six-year budget squeeze period, and work to keep all market segments moving to put Illinois in a position to hit all of its RPS targets and goals over the long-term. Any other approach - cutting off funding to a market segment or trying to apportion too few funds out over too long a time span - only locks us into a scenario where it is impossible to reach our goals and targets. The next Plan update should strive to build out the diverse renewables market that the legislature envisioned when it passed the Future Energy Jobs Act. Only by getting our renewables market to scale will Illinois be able to achieve our ambitious renewables goals and targets. Specifically, this means ELPC/VS recommend the IPA should:

- *Seek flexibility on the use of the ACP funds to enable the use of some of those funds for the Adjustable Block Program.* ELPC/VS believe the approach put forward by the IPA in its request for comments is appropriate.

- *Continue competitive procurements.* It may be necessary to hold procurements less frequently to free up budget for other purposes, but competitive procurements cannot be abandoned. These procurements are key to developing enough new renewable resources to fill in the gap between RECs under contract and our renewable goals over the long-term.
- *Keep all ABP segments moving over the next two years.* This means an infusion of ACP funds for the large distributed generation and community solar programs. At present, large DG is the most cost-effective of the ABP categories, making it an important investment in a budget-constrained environment to meet our distributed generation goals. And on the community solar side, funding for new projects is necessary if that program is going to achieve the goal of geographic diversity included in FEJA (discussed further below). ELPC/VS is unsure if the small DG category will need additional near-term funding given its ability to access rollover dollars, but we support monitoring and deploying more funds to this category if necessary.

3. **Adjacent state criteria.** ELPC/VS agree with the Agency that the current approach to the adjacent state criteria is working effectively and does not need to be updated.

4. **Meeting annual RPS percentage goals.** ELPC/VS strongly object to the idea of the Agency revisiting the prioritization of available funds to the development of new renewable resources. The development of new renewable resources is a very clear goal of P.A. 99-0906 and *only* through catalyzing the development of new renewables does the procurement of RECs achieve the goals of that Act:

The Agency shall design its long-term renewable energy procurement plan to maximize the State's interest in the health, safety, and welfare of its residents, including but not limited to minimizing sulfur dioxide, nitrogen oxide, particulate matter and other pollution that adversely affects public health in this State, increasing fuel and resource diversity in this State, enhancing the reliability and resiliency of the electricity distribution system in this State, meeting goals to limit carbon dioxide emissions under federal or State law, and contributing to a cleaner and healthier environment for the citizens of this State. (20 ILCS 3855/1-75(c)(1)(I))

The issue of spot procurements was heavily litigated during the approval of the initial long-term Plan and the Commission decisively canceled those procurements due to the very clear reality that Spot Procurements neither forward the goals of P.A. 99-0906 by contributing to the development of new renewables nor contributes to the achievement of the RPS goals over the long-term. The IPA programs and procurements approved through the last Plan put the state's utilities on track to procure roughly 9 million annual RECs each year for the next 15 years - contributing to meeting the RPS percentage goals in every one of those years. Had the IPA also facilitated utility purchases of RECs

through spot procurements, we would be in the exact same place, with 9 million annual RECs retired on behalf of ratepayers, except with millions more dollars spent. Furthermore, the new wind and solar projects that will be developed in Illinois in lieu of spot procurements will lead to cleaner air, a stronger economy, and a healthier environment for Illinois long after the projects stop delivering RECs for RPS compliance.

RECs from spot procurements would have cost much and done literally nothing to advance Illinois' long-term goals from either a numeric "REC-gap" perspective or a broader public policy perspective. The IPA should definitely not revisit the idea of spot procurements.

5. **Contingency procurements.** If a competitive procurement conducted by the Agency fails to meet its targeted procurement quantity, or if the Agency learns that projects that were awarded contracts from previously conducted procurements are not going to be completed (and thus will not be delivering anticipated RECs), ELPC/VS support the Agency having the latitude to conduct a contingency procurement at their discretion. In these cases, the Agency should consider the nature of what leads a procurement to fail to meet its projected quantity or for projects to fall through. When procurements fail, stakeholder feedback is warranted to understand what about procurement design or marketing was ineffective and the Agency should take steps to correct these issues. Projects falling through will occur. When a project falls through, the Agency should consider whether the project's failure represents one of the vagaries of the development process that will occur from time to time but is unlikely to be a systematic problem, versus whether there is a flaw in the procurement eligibility criteria that will regularly result in the failure of winning bids. In most cases, it will be the former and the Agency should conduct a new procurement in as quick a time frame as is reasonably possible to meet the RPS targets as close to on time as possible.

With regard particularly to the failed brownfield procurement for which a replacement procurement currently underway, ELPC may make further recommendations during the comment period on the draft plan, depending on the success of that procurement.

6. **Contracts and credit/collateral requirements for competitive procurements.** No comment.
7. **Project application requirements.** No comment at this time.

**B. Illinois Solar for All.** ELPC/VS support the comments of the Illinois Solar for All Working Group concerning the Illinois Solar for All Program.

**C. Adjustable Block Program structure; REC Pricing Model; Distributed Generation**

1. **Geographic Diversity.** ELPC/VS believe the current grouping of projects into either Group A or Group B does ensure sufficient geographic diversity of behind-the-meter projects. A preliminary review of the data released through the IPA's Project Application Reports indicates that there is a good spread of both small DG and large DG projects throughout the state. As has been discussed above and will be discussed further below, the same is not true for community solar projects. (See Exhibit 1) Urban areas of the state are conspicuously underserved by community solar applications and applications are also heavily concentrated in certain areas. For instance, the 62458 zip code in St. Elmo, Illinois (slightly west of Effingham) had applications for 56 MW of community solar capacity - this is more capacity than was available in all of Blocks 1-3 for community solar in Group A territory, combined.
2. **Batch Structure.** No comment.
3. **REC Pricing.** The REC pricing in the Adjustable Block Program should be set to mimic competitive markets instead of using a bottom-up cost model based on average development costs. The IPA has a fixed supply of REC contracts - in the case of the initial Plan, the original intention was 74 MW of capacity per ABP category per delivery year - and the ability to set prices. The (difficult) trick, therefore, is to set prices such that market demand for REC contracts roughly matches supply.

In its initial Plan, the IPA chose to utilize a bottom-up cost model to set REC prices for the first few blocks of the program. While a reasonable option, there is nothing sacred or even necessarily accurate about the REC pricing model - if it does not work to match supply and demand, the IPA should absolutely move on to the next option.

It is overwhelmingly clear that, in the case of the community solar program, the REC prices set based on a bottom-up pricing model did not work to match supply and demand. This is not surprising. The winners of the utility-scale competitive procurement did not bid "average" prices - they bid competitive prices. The ABP REC prices should likewise attempt to reflect the REC prices that a competitive market would deliver in light of the overall REC supply and budget available. The IPA should move on to another price-setting mechanism for this market segment. That mechanism could be to cut prices, to take a leaf out of Massachusetts's book and set initial ABP price levels through a competitive procurement event, or some other mechanism.

Furthermore, once a new mechanism is chosen and prices are set, there is still no guarantee that those prices will be correct, so the IPA must be willing to actively manage - *adjust* - prices. The IPA's goal should be to manage the block sizes and REC prices in the ABP to eventually achieve the overarching ABP policy goals in the Act, namely: (1) a "transparent schedule of prices and quantities;" (2) that "enable the photovoltaic market to scale up;" and (3) that facilitates the "automatic opening of the next steps as soon as the nameplate capacity and available purchase prices for an open step are fully

committed or reserved.” 20 ILCS 3855/1-75(c)(1)(K). ELPC/VS, therefore, urge the IPA to consider the framework for active management of ABP REC pricing and add such a discussion to its draft Plan update.

In the case of the Small and Large DG categories of the ABP, ELPC/VS believe the jury is still out as to whether the REC pricing model resulted in effective prices. In the case of Small DG, the program is proceeding roughly as expected - with applications increasing at an exponential rate and a program that remains open to new applicants. (See Exhibit 2). For this category of the ABP, where it will literally take thousands of applications to fill a normal-sized block, the IPA should not be overly concerned about needing to adjust prices upward so long as the breadth of the market is being served and applications continue to roll in at a robust pace without a “bust” on the horizon. Nonetheless, it may be prudent to temporarily increase REC prices using rollover funds that would otherwise be returned to utilities in order to explore whether doing so increases the pace of small DG development.

In the case of Large DG, the IPA’s initial category blocks were oversubscribed. However, with the release of the discretionary capacity, there is now capacity remaining in this category. This situation could indicate that prices were set more or less correctly, but that there was pent-up demand at the start of the program leading to a limited rush on the program; however, it could also indicate that solar companies’ sales teams stopped marketing to large customers in Illinois once it became clear that the initial blocks would be oversubscribed and have not started back up, yet. ELPC/VS recommend that the Agency carefully monitor this category of the program and particularly the largest slice of projects within the category, as any future blocks of capacity are added in the future.

- 4. Project Application Requirements.** One of the thorniest issues in the allocation of the initial blocks of the Community Solar category was the adverse interaction between the Adjustable Block Program’s requirement for a signed interconnection agreement as a condition for submitting a Large Block or Community Solar application to the ABP. Given the significant demand for Community Solar, especially in concentrated areas with undeveloped land near existing distribution system infrastructure, this meant that:
1. many more projects needed to move through the sometimes expensive interconnection process than could possibly receive REC allocations, thus resulting in wasted developer and utility resources;
  2. because such long queues formed on some feeders and substations, the interconnecting utilities were unable to give accurate and predictable interconnection cost estimates; and
  3. once the allocations were made, there were many projects in the interconnection queue that did not receive REC allocations that had (still have?) to make a decision about whether to move forward before projects lower in the queue that

did receive allocations could receive realistic distribution facilities upgrade cost estimates and make informed project viability determinations.

The problems with the interconnection queue were exacerbated by the fact that the interconnection rules are intentionally rigid to promote timely and fair processing.

We appreciate and support the policy intent of the project application requirements to ensure the viability and readiness of projects submitting applications, especially in the Community Solar blocks where there was a legitimate concern about project developers submitting specious, non-viable projects in order to increase their chances of winning the lottery. If the Community Solar category ABP operated as envisioned under the law as an always-open program, this would make sense. But with the introduction of random processes and wait-listing, the use of the interconnection agreement as a project readiness indicator started creating more problems than it solved and turned the Community Solar category into a pay-to-play program.

We therefore recommend decoupling the interconnection agreement from any REC allocation scheme that involves uncertainty (i.e. a lottery) or wait-listing, and instead suggest that the Agency rely on other indicators of project readiness in future allocations. For currently open blocks, the interconnection agreement is a reasonable requirement. However, if for example, one of the Large DG projects were to fill before additional blocks were open, then a project could be forced to complete an interconnection agreement (which has its own completion requirements) before knowing when the REC allocation would become available. We further recommend that the IPA initiate a discussion with representatives from the Agency, the program administration team, the utilities' interconnection teams, project developers, and other interested parties to discuss the use of the interconnection agreement as a project readiness indicator and identify other appropriate indicators that can be used in lieu of the interconnection agreement in ABP categories where uncertainty, wait-listing, or other delays are an issue.

5. **Contract structure.** No comment.
6. **Credit and collateral.** No comment.
7. **Contract non-execution/collateral non-payment.** No comment.

#### **D. Community Solar, Consumer Protections**

1. **Waitlist.** Illinois's community solar program, while wildly successful by some measures, is also the renewables program that needs the biggest revamp through this update. There are two major problems with the community solar program as it has rolled out, to date:



- (a) A huge backlog of projects that, for now, serve as invisible monuments to stranded investment and dashed hopes.
- (b) The conspicuous lack of certain types of projects, including urban projects and other projects that would provide the geographic diversity required under law<sup>1</sup>, as well as community-sited and -driven projects.

ELPC/VS would ultimately like to see all of the community solar projects on the waitlist move forward. We believe this waitlist represents an unprecedented opportunity to provide solar access to electricity users across Illinois. However, we do not think the waitlist should serve as an 800-project queue standing in front of projects that have not yet materialized and that would provide the geographic diversity required by law.

To this end, ELPC/VS recommend the IPA provide a separate pathway for projects to advance in the community solar program that help meet the geographic diversity requirement that is outside of the current waitlist and that does not put diverse projects in competition for capacity or the highest REC prices with non-diverse projects. Based on conversations with would-be market participants we believe that there was and is interest for community solar development within urban and other geographically diverse communities, but that some of these projects are community-sited and -driven many face more barriers and complexity in trying to organize. To that end, we recommend that this separate pathway for projects focus both on geographic diversity as well as on community-sited and -driven projects to most effectively advance an important swath of projects not fully represented by the current waitlist (although eligible waitlist projects should be encouraged to participate).

ELPC/VS recognize that identifying such projects may be difficult. We look forward to further dialogue on this topic with the IPA and other stakeholders through this comment process. Some ideas potentially worth exploring through dialogue include:

- Location in areas with high population density/high-intensity development land cover;
- Subscriber proximity commitments;
- Distance from other community solar project applicants;
- Development in response to an RFP from a public entity or community organization; and
- Projects hosted and/or anchored by community organizations with subscribers from related communities.

Ultimately, it should be the IPA's goal to work through the backlog of projects, whittling down the waitlist by having projects either move forward or die. A long waitlist is bad for the IPA, developers, and the program overall. It is also clear that continuing to operate

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<sup>1</sup> See 20 ILCS 3855/1-75(c)(1)(M) requirement that projects be located "in diverse locations and not concentrated in a few geographic areas."

the program as-is will not achieve this goal - there is just too little budget. In this environment, ELPC/VS recommend the IPA prioritize the development of the separate pathway for diverse projects needed to balance the program and, if there is additional funding available for community solar beyond those funds, focus on moving the most cost-effective projects from the waitlist and any newly introduced projects forward. To the extent projects are similarly cost-effective, ELPC/VS support utilizing other criteria to select between projects including but not limited to the adoption of pollinator habitat or other more environmentally-friendly development.

When it comes to projects dropping out of existing blocks, ELPC/VS support continuing to move down the existing waitlist in the existing order.

- 2. Small Subscribers.** The nearly universal commitment to minimum 50% levels of small subscribers, while impressive on its face, is not surprising given the prioritization of projects with small subscriber commitments in the community solar lottery. This outcome will mean small electricity customers in the community solar program are slightly overserved compared to their large electricity customer brethren, but not significantly so: in the process to approve the initial Plan, the Coalition for Community Solar Access found that small-subscriber electricity customers accounted for 45% of Illinois, so 50% small subscriber participation in these projects would seem reasonable.

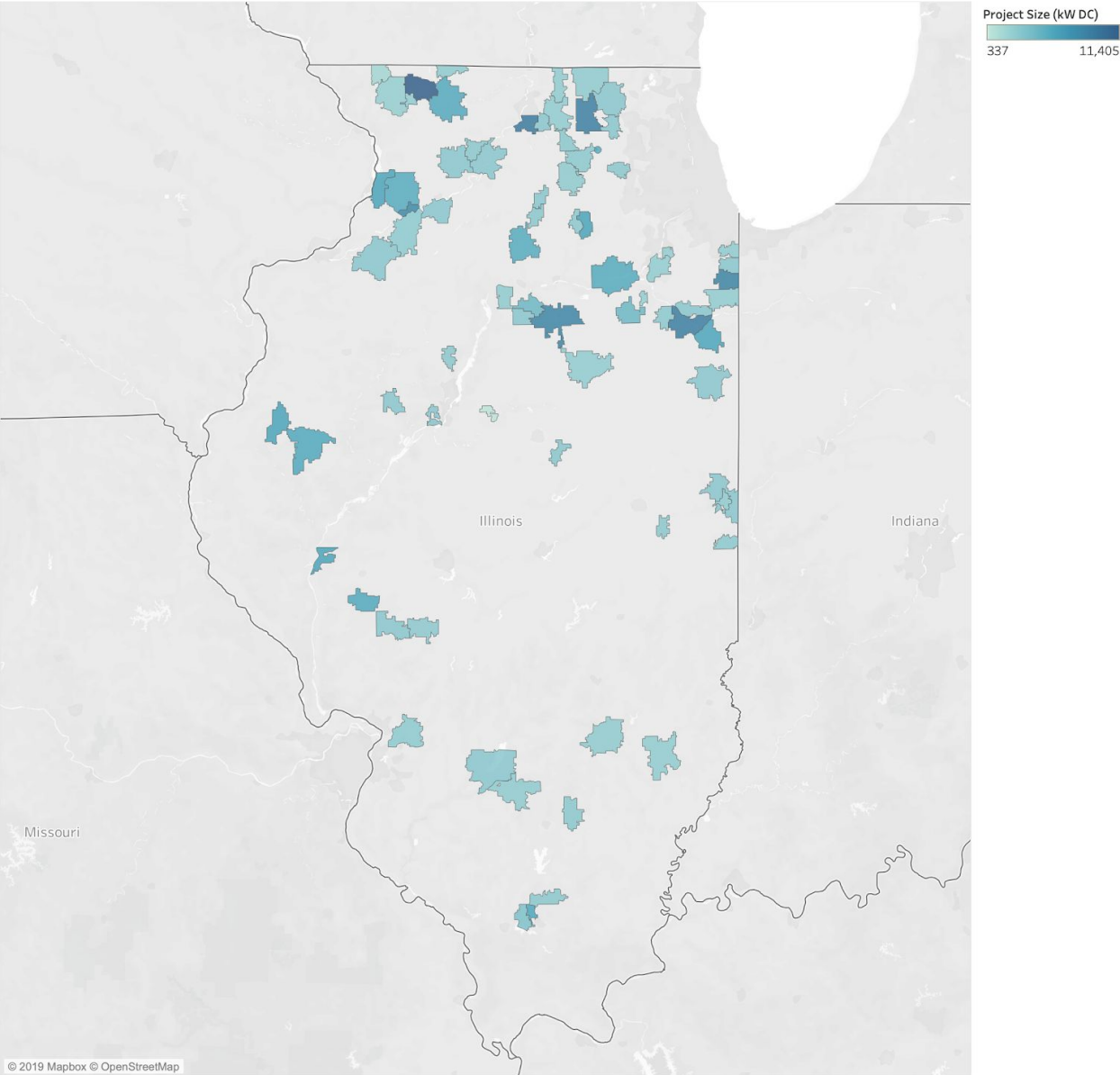
Nonetheless, ELPC continues to believe, and Vote Solar agrees, that incentivizing *all* community solar projects to have at least 50% small subscriber participation is a suboptimal outcome. Illinois would benefit from a diverse community solar market that serves residential and small commercial customers in proportion to their load, but that also invites participation from a more diverse range of projects and business models, including those with no small subscribers. To that end, ELPC and Vote Solar recommend the IPA add a 45% minimum small subscriber requirement to the community solar program, but allow projects to aggregate and bid in as portfolios to meet this 45% minimum. This would allow projects to specialize, with some fully oriented around small subscribers and others fully oriented around large subscribers. Additionally, this would allow the IPA to eliminate the small subscriber adder and instead adopt a general community solar REC price that assumes 45% small customer participation. The onus would then be on project developers to work with one another to create portfolios and split up payment for RECs as they see fit.

Finally, ELPC/VS note that it is worth monitoring the community solar program roll-out, to ensure the small subscriber adder is not abused and that residential customers, as a subset of eligible small subscribers, are not left in the dust by the more organized outreach to non-residential small subscribers. Among other things, the IPA may want to explore whether it would be appropriate/useful to limit small subscribers, not only to subscriptions of 25 kW or less, but also to customers in the residential or small commercial rate classes.

3. **Approved Vendors.** No comment.
4. **Illinois Shines.** ELPC/Vote Solar believe that the existence of Illinois Shines as a way to highlight the value of solar development for participating projects, despite the transfer of environmental attributes through REC sales, is important and valuable, however, we have no specific recommendation on this topic at this time.
5. **Disclosure forms.** No comment at this time.
6. **Consumer protection requirements.** ELPC/Vote Solar recognize the importance of robust community solar protections for the IPA programs and have no specific recommendations on this topic at this time.

# Exhibit 1

Allocated CS Projects  
(kW by Zip Code)

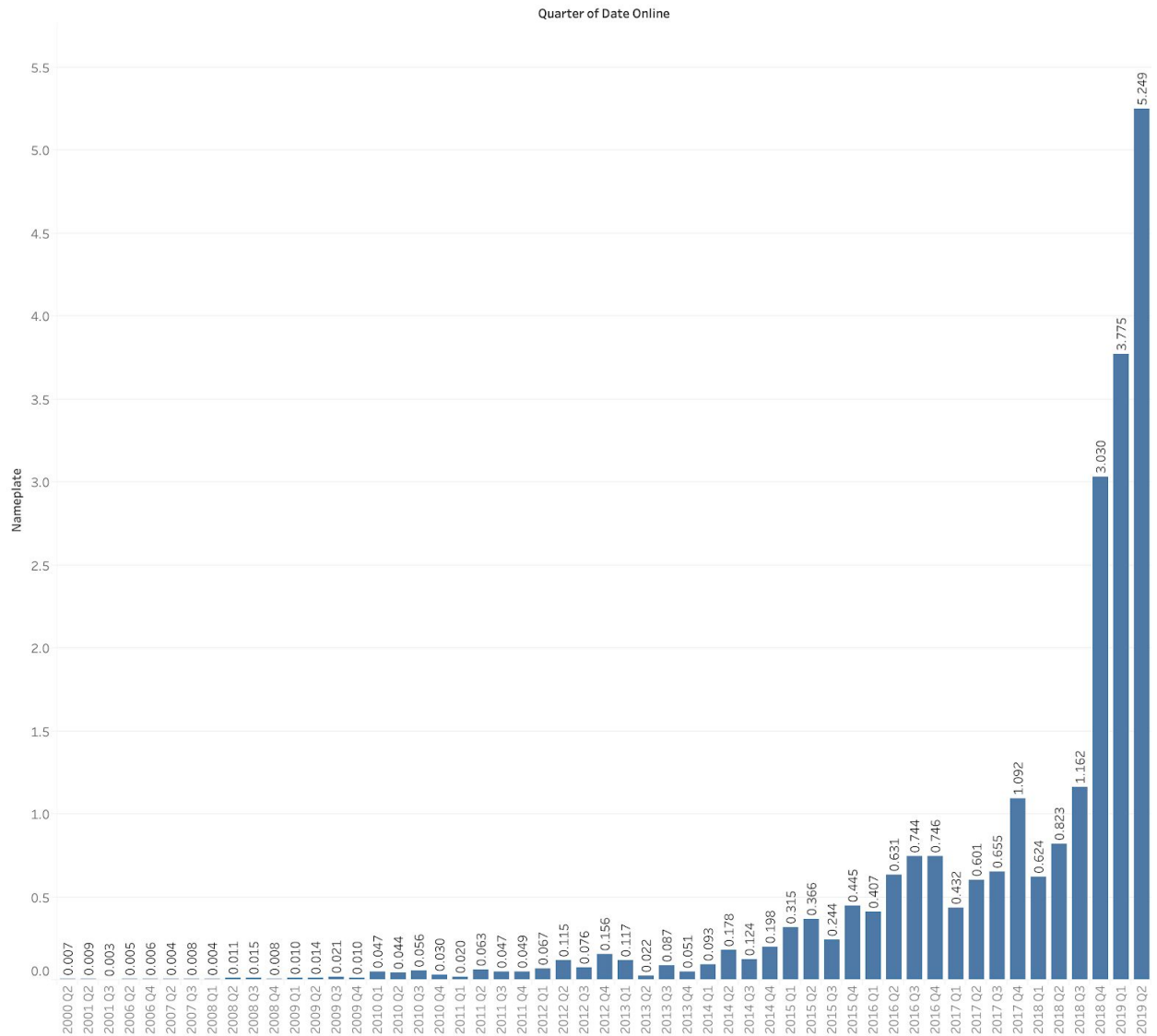


Map based on Longitude (generated) and Latitude (generated). Color shows sum of Project Size (kW DC). Details are shown for Zip Code. The data is filtered on Block and Category. The Block filter keeps 1, 2, 3 and 4. The Category filter keeps CS. The view is filtered on Zip Code, which keeps 901 of 846 members.

## Exhibit 2

### New Capacity of Solar Projects <= 10 kW in Illinois by Quarter since 2000

<10 in IL by Quarter  
Registered in PJM GATS  
(kW DC)



Sum of Nameplate for each Date Online Quarter. The data is filtered on Primary Fuel Type, State, Nameplate and Date Online. The Primary Fuel Type filter keeps SUN. The State filter keeps IL. The Nameplate filter ranges from 0.00105 to 0.01. The Date Online filter ranges from 6/1/2000 to 6/30/2019.

Source: PJM GATS Database of Registered Renewables Generators,

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