COMMENTS OF VISTRA CORP.
ON LARGE CUSTOMER SELF-DIRECT RPS COMPLIANCE PROGRAM
QUESTIONS POSED BY THE ILLINOIS POWER AGENCY

Vistra Corp. (Vistra) is submitting the following comments in response to certain of the "Large Customer Self-Direct RPS Compliance Program Questions" posted by the Illinois Power Agency (IPA) for Stakeholder feedback on November 12, 2021. Vistra appreciates the opportunity to comment on these important implementation topics.

IPA Questions and Vistra Comments

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 1-7S(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 energizedas of the effective date of P.A. 102-0662?

Vistra Comment: Yes - Only renewables projects energized after the effective date of P.A. 102-0662 should be considered "new" for purposes of the Self-Direct program. This approach would be consistent with the overall objectives of the legislation to increase the amount of RECs (and therefore the amount of clean energy provided) from new renewable energy projects, while giving large users in Illinois opportunities to procure electricity from renewable facilities in an efficient and cost-effective manner, thereby helping these customers to maintain their overall competitive positions and cost structures. Renewables projects that were previously developed and placed in service based on other objectives should not be considered "new" for purposes of the Self-Direct program.

PROGRAM SIZE

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?
   b. 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?

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

Vistra Comment: In choosing between/among individual customers in each category (industrial, commercial), the IPA should give some preference or additional weight to customers such as hospitals, universities, governmental entities, and similar not-for profit customers (so long as the customer demonstrates it meets the 10,000 kW/10-year contract/40% of usage criteria); *and* to eligible customers that will be purchasing RECs from new renewables projects to be located in areas in which it may be difficult to locate such projects, such as environmental justice communities, equity eligible communities, and areas that are eligible for clean energy transition grants. The latter preference will support the objective of developing new renewables projects in such areas.

The IPA should not maintain a wait list (which gives preference to wait-listed customers and projects in each successive year); customer proposals that are not selected in a year due to selected customer proposals reaching the maximum amount of RECs for the year should be required to reapply in the following year (or a subsequent year), if still interested. This would be similar to the approach used in the Illinois Solar for All program. This approach will also allow new customer applicants for the program each year to potentially be selected, rather than being foreclosed by customers and projects in a lengthy legacy wait list. Finally, Vistra notes that maintaining a wait list would not result in significant program administration savings, because the IPA will have to process the wait-listed customers each year to verify that the customers continue to satisfy the program eligibility criteria.

BILL CREDITING

Vistra does not have any comments on the Bill Crediting questions at this time.

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?
   d. Should these steps be completed contemporaneously?
   e. By when should applications open?
   f. For how long should the application window stay open for a given delivery year?

Vistra Comments: Vistra believes the application process should be one-step only. Vistra does not see a need for a two-step process, in which the first step would consist of the customer demonstrating that it has a demand of at least 10,000 kW. Submittal of support to show that the customer meets this criterion can readily be included in a single step along with information on the customer's specific plan to purchase RECs equal to at least 40% of its annual usage from a qualifying renewable facility pursuant to a 10-year (or longer) contract.

The application process should be open for a specific window of time, such as two

months, in each year. The IPA should announce, well in advance of the start of an application window, when the application window will open and close, so that potential applicants have adequate time to prepare the necessary information for a successful proposal, including negotiations with the proposed renewables facility. For reasons similar to those in previous comments, above, Vistra believes that a wait list should not be used, but rather that customers whose self-direct proposals are not accepted in a particular year should be required to re-apply in the next (or a subsequent) application window.

Section 1-75(c)(1)(R)(5)(ii)-(v) references "proof' or "supporting documentation" required for compliance demonstration.

9) How should the Agency determine whether an applicant is indeed compliant?
   g. What types of documentation should the Agency seek?
   h. For the prevailing wage and equity standards requirements in 1-75(c)(1)(R)(2)(vii),how might the applicant prove compliance?
   i. What confidentiality considerations apply to the receipt of this information?

Vistra Comments: A customer applying for this program should be required to provide billing information showing the customer's demand exceeds 10,000 kW (whether from a single site or multiple sites of a common parent entity); and showing the customer's total annual usage (again whether from a single site or from multiple sites of a common parent entity), both based on the applicable 12-month periods specified in the statute. Presumably this information can be provided from the customer's own billing records or from billing data obtained from the customer's delivery utility.

The customer should be required to provide documentation establishing that the proposed renewables facility is located in Illinois or, if located in an adjacent state, that it meets the IPA's criteria for qualifying adjacent-state facilities; and that the facility will be "utility-scale." The customer should also be required to submit an executed term sheet for its purchase of RECs from the proposed renewable facility, sufficient to show that the RECs to be contracted for will exceed the 40% of annual usage minimum requirement. The customer should not be required to negotiate and execute a complete REC/power purchase agreement as a condition of selection, as a negotiated REC/power purchase agreement will have price terms that are very time-sensitive.

For a customer relying on multiple locations/accounts of a common parent entity to meet the 10,000 kW demand requirement, the customer should be required to submit corporate documentation sufficient to show that the multiple locations are in fact facilities owned by a common parent entity.

The above information must, of course, be certified by the customer to the extent specified in the statute.

With respect to the prevailing wage and equity standard requirements applicable to the developer/owner of the renewable energy facility, the customer should be required to submit documents from the developer/owner showing how the developer/owner plans to comply, verified by an appropriate executive of the project developer.

Finally, all customer usage and REC/power pricing information, including the billing data that the statute requires the customer to submit, should be maintained as confidential. Many customers are extremely protective of such information, for competitive and other reasons, and might actually elect not to participate in the Self-Direct program if they saw risks that their usage and pricing information could be disclosed.

Vistra stands ready to discuss its comments with the IPA, to provide additional information in support of its comments, or to respond to additional questions from the IPA. Please contact the undersigned representative.

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