

Wind on the Wires' Comments on Staff's Straw-Man Rule for Certification of Utility-Scale Solar and Wind Project Installers

NOW COMES Wind on the Wires comments on Staff's proposed straw-man rule for utility-scale solar and wind project installers, enacting 200 ILCS 5/16-128A(g) which was approved in Public Act 99-0906. It is Wind on the Wires' understanding that the statute intends for electricians who construct the interconnection point of the wind or solar project to the transmission grid to have a level of competence measured through knowledge, skill, training, experience or demonstrated competency levels. See 220 ILCS 5/16-128(a).

Wind on the Wires is a not-for-profit corporation providing outreach, education and advocacy for renewable energy resource's access to the electric transmission system and wholesale electric market throughout the Midwest. Our members include wind and solar developers, energy storage owners/operators, environmental organizations, tribal representatives, clean energy advocates, and businesses providing goods and services to the wind industry across the country. Members of Wind on the Wires operate wind and solar plants in Illinois and as a result of P.A. 99-0906 intend to add new facilities to meet Illinois' demand for renewable energy resources. Wind on the Wires wind and solar developers typically build larger-size projects that would typically interconnect to the bulk electric system.

Below are Wind on the Wires comments with proposed revisions to the rule. Attached is a redline of the rule consistent with the comments.

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COMMENTS

1. The Rule Should not Require the Applicant to be the Developer of the Solar or Wind Project

This rule applies to utility-scale wind or solar projects that are 2 megawatts (MW) and above. Projects under 10 MVA can interconnect to the local utility distribution system, however, Wind on the Wires would expect most applicants under this rule intend to sell their energy into the wholesale electric market and thus its interconnection will be coordinated with either PJM LLC or Midcontinent Independent System Operator (MISO). Most of Wind on the Wires' members will be developing projects larger than what would be interconnected to the local utility's distribution system. Given the likely size of the projects Wind on the Wires' members would be developing, in nearly all instances they will be hiring a general contractor who will hire an electrical subcontractor to construct the wind or solar project and its interconnection to either the distribution system or the bulk electric system (BES) (via an interconnection substation). Wind on the Wires expects that most of the smaller developers would at a minimum hire an electrical contractor. Thus, the entities who will be constructing the wind or solar project will be a general contractor or an electrical subcontractor and they are the ones who would have knowledge of and about the electricians who will work on the project. They are most likely to have knowledge necessary to sponsor the certificate required under this proposed rule. It is possible that a developer may have a large enough staff to include employees who would actually perform the install, however, an informal poll of some of Wind on the Wires members revealed that none of them use employees to perform electrical work related to the installation of a project.

The Staff's straw-proposal for the rule is broad enough to allow either the developer, general contractor or subcontractor be the Applicant. Typically the general contractor is responsible for applying and obtaining all licenses and certifications related to a project, knows which contractors are on-site, and the electrical subcontractor knows the electricians on-site and their qualifications. Wind on the Wires agrees with the rules flexibility on who the Applicant may be though we anticipate in nearly all instances it will be either the general contractor or the electrical subcontractor applying for the certificate.

2. Purpose of Section 16-128A(g) is to Certify the “Install” not the Maintenance of the Interconnection Point

The purpose of the statute is to oversee the install of the electrical components of the wind or solar plant, not the maintenance or continued operation of the project or the substations therein. The statute giving rise to this rule also requires the Commission to establish competency levels for electricians who install distributed generation facilities (§16-128A(a)) and electric vehicle charging stations (§16-128A(d)).

The language in section 16-128A(g) states that:

the Commission shall adopt rules . . . establishing a process for entities installing a new utility scale wind project or a new utility scale solar project to certify compliance with the requirements of this section.(emphasis added).

If the Illinois General Assembly had intended the Commission to regulate maintenance and operation of the wind or solar project it would have used language similar to what it used for electric vehicle charging station installers:

the Commission shall initiate a rulemaking proceeding to establish certification requirements that shall be applicable to persons or entities that install, maintain, or repair electric vehicle charging stations. §16-128A(d)(emphasis added).

Furthermore, the definition of “install” in the proposed rule clearly indicates an intent to regulate the electrical work at point of interconnection. The point of interconnection will be maintained by the utility for continuing operation, management and maintenance. Thus, none of the potential applicants -- general contractor, subcontractor or developer -- would be responsible for ongoing maintenance of facilities at the point of interconnection.

3. The Need for Recertification

Recertification is needed for Certificate Holders who will work on multiple installs over multiple years. The Future Energy Jobs bill (P.A. 99-0906) provides a goal of 6,000,000 MWh per year of renewable energy credits coming from new wind and solar projects in Illinois or states adjacent to Illinois by 2026. 20 ILCS 3855/1-75(c)(C)(ii). Of that amount, approximately 3 million MWhs per year will come from utility-scale wind projects and 1.2 million MWhs per year will come from utility-scale solar projects. Assuming the average generating capacity of wind and solar projects built to comply with the RPS are 150MW and 25 MW, respectively, that will be approximately 6 to 8 wind projects and 20-22 solar projects under construction in the next 8 years. Given that number of projects being constructed in the relative near term, recertification is beneficial for general contractors or subcontractors who will be working on

multiple projects. As noted above, none of the potential Applicants will be responsible for maintenance of the interconnection substation, so there is no need for recertification and regulatory oversight of the maintenance of the interconnection substation through this rule.

4. Revisions to the Definition of “Install”

The definition of “install” in the proposed rule refers to the point at which the wind or solar project interconnects the project to the distribution system. As noted above, some of these projects will interconnect to the bulk electric system. Therefore, the first paragraph of the definition should acknowledge the possibility of interconnecting to the bulk electric system, and the first *sub*paragraph reference to “on the electric distribution system” should be removed. Removing that clause from the first subparagraph exempts all utility workers from this certification process regardless of whether the project is interconnecting to the distribution or transmission system.

The definition proposed by Staff also limits “install” to the electrical work at the point of interconnection. Wind on the Wires supports that position and finds that to be a reasonable application of the statute. It is consistent with the fact that the developers of these wind and solar plants are independent power producers whose plants are under FERC authority. If Staff’s intent is to regulate the point of interconnection then a paragraph should be added clearly stating that work outside of the point of interconnection is excluded from the definition. If that is not the intent of Staff, then “at the point of interconnection between the project and the utility” in the first paragraph should be deleted (that edit is not reflected in the revisions proposed below).

Consistent with the discussion above, Wind on the Wires’ proposes the following revisions to the definition of “install”, as follows:

"Install" means to perform the electrical wiring and connections necessary to interconnect the new solar or new wind project with the electric utility's transmission or distribution system at the point of interconnection between the project and the utility. The meaning of "install" in this Part specifically does not include:

Electrical wiring and connections to interconnect the new solar or new wind project performed by utility workers ~~on the electric utility's distribution system~~;

Electrical wiring and connections internal to the new solar or new wind project performed by the manufacturer; ~~or~~

The on-site construction and installation of a wind turbine and its electrical components and non-electrical parts, or solar panel and its electrical components and non-electrical parts and the collector substations; or

Tasks not associated with the electrical interconnection of the new solar or new wind project and the utility, including those relating to planning and project management performed by individuals such as an inspector, management planner, consultant, project designer, contractor or supervisor for the project.

5. Revisions to the Definition of “Qualified Person”

The definition of “Qualified Person” currently refers to distributed generation training programs and those references can be removed. Such programs are inapplicable for an electrician who would be constructing utility-scale wind or solar projects and an interconnection substation to the bulk electric system. Instead, Wind on the Wires recommends that the primary criteria be an experience standard of three years working on the same type of technology. Section 16-128A is to ensure electricians have a level of competency required under section 16-128(a) (220 ILCS 5/16-128(a)). ARES that operate “electric generation, transmission or distribution facilities that it owns, controls or operates in serving . . .” also have to employ electricians that comply with section 16-128(a). The three years proposed by Wind on the Wires exceeds the two years experience required of ARES under Part 455 Subparts B and C.

Some states (e.g., Iowa and Wisconsin) license their electricians and the rule should acknowledge that. Wind on the Wires has proposed broad language -- “state mandated apprentice of training programs” -- that includes any changes or updates a state requires for electrician certification and training without Staff having to update the rule.

Consistent with the discussion above, Wind on the Wires’ proposes the following revisions to the definition of “qualified person” as follows:

"Qualified person" means any and all electricians-person who performs the installations on behalf of the certificate holder and who has satisfactorily completed state mandated apprentice or training programs for an electrician in another state, or has at least three years work experience in electricity project installation, or is directly supervised by a person who has at least three years work experience in electricity project installation,

or has completed at least one of the following programs requiring lab or field work and received a certification of satisfactory completion: an apprenticeship as a journeyman electrician from a DOL registered electrical apprenticeship and training program or a North American Board of Certified Energy Practitioners (NABCEP) appropriate ~~distributed generation technology certification program.; an Underwriters Laboratories (UL) distributed generation technology certification program; an Electronics Technicians Association (ETA) distributed generation technology certification program; or an Associate in Applied Science degree from an Illinois Community College Board approved community college program in the appropriate generation technology.~~ To be considered a "qualified person", the experience and/or training relied upon must be with the same type of generation technology for which the qualification status is sought.

6. Support the Definition of “new solar or new wind projects”

Wind on the Wires’ supports the definition of “new solar or new wind projects” as presented in Staff’s straw-man rule, and that it clearly defines that the rule only applies to projects that begin construction after June 1, 2017:

“New solar or new wind projects” means Utility-scale solar projects or Utility-scale wind projects where the installation begins on or after June 1, 2017.

7. Revisions to “Certification Requirements”

Section 50(b) has multiple issues. First, section 50(b) requires the Certificate Holder ensure that the “qualified person” did the work properly. In effect, that requires the “Certificate Holder” to be a “qualified person” or meet the qualifications of “qualified person.” Such redundancy in knowledge, skills, and competence is unnecessary. The purpose of hiring a “qualified person” is that said person has the knowledge, skills and competence to perform the work in the manner being prescribed in section 50(b). It is improper for the Certificate Holder to have to inspect the work of the “qualified person” so as to ensure it was done pursuant to the National Electric Code, the manufacturers installation instructions and recognized industry standards.

In comparison, ARES are not required to ensure their employees actions comply with certain standards, they demonstrate compliance with section 16-128(a) by certifying their employees have the “the requisite knowledge, skills, and competence to perform” a function:

451.20(d) The applicant shall demonstrate that:

- (2) ***The employees*** of the applicant that will be installing, operating, and maintaining generation, transmission, or distribution facilities within the State of Illinois, or any entity with which the applicant has contracted to perform those functions within the State of Illinois, ***have the requisite knowledge, skills, and competence to perform those functions*** in a safe and responsible manner in order to provide safe and reliable service in accordance with the criteria stated in Section 16-128(a) of the Act [220 ILCS 5/16-128(a)]. (emphasis added)

Wind on the Wires proposes that a similar level of scrutiny be applied to the utility-scale qualified installer. The Certificate Holder should certify that the employees it used on the job site meet the qualification of a “qualified person.” And Section 50(d) has the Certificate Holder certifying just that -- they certify that the install was performed by a “qualified person.” Thus, Section 50(b) is unnecessary and can be deleted. See Proposed Language A below.

Second, if section 50(b) is not deleted, then subsection 50(b)(3) should be deleted. It is unclear what type of work subsection 50(b)(3) is intended to certify that is not already subsumed within subsections 50(b)(1) and (2). Thus, we recommend its removal, or that staff explain what functions, responsibilities or work that provision might account for. See Proposed Language B below.

Third, if subsection 50(b)(3) is not deleted, That language should be changed to focus on the work meeting “recognized industry standards.” Subsection 50(b)(3) has the Applicant certify that its employees or qualified persons are limited to only working on installing new solar and wind projects and not allowing him/her to work on other projects. That language should be changed so it focuses on the work the employee or qualified person performs is meeting “recognized industry standards.” See Proposed Language C below.

Subsection 50(d) includes requirements that would be repetitive of what Wind on the Wires’ proposes be added to the “Qualified Person” definition, thus a good portion of the language in (d) can be deleted.

Consistent with the issues discussed above, Wind on the Wires’ proposes the following revisions to section 50, as follows:

PROPOSED LANGUAGE A -- If section 50(b) is deleted:

a) The applicant certifies that it will remain in compliance with all applicable laws and regulations and Commission rules and orders, including, but not limited to, the requirements of Sections 16-128(a) and 16-128A of the Act and this Part.

~~b) The applicant certifies that it will ensure that its employees, agents or contractors, or the employees, agents or contractors of any entity, agent or contractor with which it has contracted to perform those functions within the State of Illinois, shall:~~

~~1) Comply with applicable building and electrical codes, including those contained in the NEC;~~

~~2) Comply with manufacturer's installation instructions;~~

~~3) Install only new solar or wind projects to meet recognized industry standards; and~~

~~34) Ensure that all obligations required under this Part and Sections 16-128(a) and 16-128A of the Act are met prior to placing into, or returning into, use any new solar or wind project that the certificate holder installed.~~

be) The applicant certifies that it will comply with applicable licensing and municipal bonding requirements to do business in the State of Illinois.

cd) The applicant certifies that every installation of a new solar or new wind project will be performed only by:

~~1) a qualified person; or~~

~~2) an electrical contractor who is not a qualified person, provided he/she is directly supervised by a qualified person; or~~

~~3) a person who is not a qualified person but is enrolled in a training program that, upon satisfactory completion, will meet the requirement to become a qualified person~~

~~provided he/she is directly supervised by a qualified person.~~

- de) The applicant certifies that it is licensed to do business in the State of Illinois.

PROPOSED LANGUAGE B -- If section 50(b) is not deleted, but section 50(b)(3) is deleted:

- a) The applicant certifies that it will remain in compliance with all applicable laws and regulations and Commission rules and orders, including, but not limited to, the requirements of Sections 16-128(a) and 16-128A of the Act and this Part.
- b) The applicant certifies that it will ensure that the qualified persons~~its employees, agents or contractors, or the employees, agents or contractors of any entity, agent or contractor with which~~ it has contracted to perform an install~~those functions~~ within the State of Illinois, shall:
- 1) Comply with applicable building and electrical codes, including those contained in the NEC;
 - 2) Comply with manufacturer's installation instructions;
 - ~~3) — Install only new solar or wind projects to that meet recognized industry standards; and~~
 - 34) Ensure that all obligations required under this Part and Sections 16-128(a) and 16-128A of the Act relative to an install ~~were~~ met prior to placing into service, ~~or returning into, use~~ any new solar or wind project ~~that the certificate holder installed.~~
- c) The applicant certifies that it will comply with applicable licensing and municipal bonding requirements to do business in the State of Illinois.
- d) The applicant certifies that every installation of a new solar or new wind project will be performed only by:

- 1) ~~a qualified person; or~~
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- 2) ~~an electrical contractor who is not a qualified person, provided he/she is directly supervised by a qualified person; or~~
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- 3) ~~a person who is not a qualified person but is enrolled in a training program that, upon satisfactory completion, will meet the requirement to become a qualified person provided he/she is directly supervised by a qualified person.~~

e) The applicant certifies that it is licensed to do business in the State of Illinois.

PROPOSED LANGUAGE C -- If section 50(b) is not deleted, but section 50(b)(3) is corrected:

- a) The applicant certifies that it will remain in compliance with all applicable laws and regulations and Commission rules and orders, including, but not limited to, the requirements of Sections 16-128(a) and 16-128A of the Act and this Part.
- b) The applicant certifies that it will ensure that the qualified persons~~sits employees, agents or contractors, or the employees, agents or contractors of any entity, agent or contractor with which~~ it has contracted to perform an install~~those functions~~ within the State of Illinois, shall:
 - 1) Comply with applicable building and electrical codes, including those contained in the NEC;
 - 2) Comply with manufacturer's installation instructions;
 - 3) Install ~~only~~ new solar or wind projects ~~to that~~ meet recognized industry standards; and
 - 4) Ensure that all obligations required under this Part and Sections 16-128(a) and 16-128A of the Act relative to an install ~~were are~~ met prior to placing into service, ~~or~~

~~returning into, use~~ any new solar or wind project ~~that the certificate holder installed.~~

- c) The applicant certifies that it will comply with applicable licensing and municipal bonding requirements to do business in the State of Illinois.
- d) The applicant certifies that every installation of a new solar or new wind project will be performed only by:

~~1) a qualified persons; or~~

~~2) an electrical contractor who is not a qualified person, provided he/she is directly supervised by a qualified person; or~~

~~3) a person who is not a qualified person but is enrolled in a training program that, upon satisfactory completion, will meet the requirement to become a qualified person provided he/she is directly supervised by a qualified person.~~

- e) The applicant certifies that it is licensed to do business in the State of Illinois.

8. Notice of Intent to Not Recertify; Grace Period of Three Years for Reinstatement of Certification

Consistent with the premise that the Certificate Holder needs to recertify if it intends to work on multiple projects, the Certificate Holder should also be: [1] required to notify the Commission by June 1 if it does **not** intend to recertify; and [2] allowed to reinstate its certificate if substantive information in its application has not changed. A penalty fee is assessed a Certificate Holder that is late in submitting its recertification. The rule is silent on the instance in which a Certificate Holder decides to no longer maintain its certificate. The rule should be revised to require a Certificate Holder to submit to the Commission Staff, by June 1 of each year, either its recertification or a notice that it does not intend to recertify.

A Certificate Holder should be allowed to re-instate its certificate within three years of the termination of its last certificate without having to pay a new application fee. A Certificate Holder is to maintain its certification information for three years. If it secures a new

construction project within three years of the termination of its certificate and its application information has not changed it should be allowed to apply for reinstatement of its certification without penalty. The reinstatement process can follow the recertification process in subsection 70(c). Thus, a former Certificate Holder could reinstate its certificate under the following conditions: it previously possessed a Certificate within the past three years, it had properly notified the Commission of its decision to not recertify, it provides a recertification report in conformance with section 70(c) and a copy of the last certificate issued to it by the Commission. If these qualifications are not met then the Applicant has to go through a new application process and pay the application fee.

Consistent with the issues discussed above, Wind on the Wires recommends the following revisions to section 70 and the addition of a new section 80, as follows:

- a) A certificate holder shall ~~recertify~~ annually submit a statement indicating that it will or will not recertify to remain in good standing with the Commission. Recertification involves submitting a Recertification Report that includes the information required by subsection (c) and (d) of this Section and, for any late reports, any applicable late fees.
- b) A certificate holder can but does not need to recertify if it is not under contract to perform, or performing, an install for a new solar or new wind project.
- c) By June_1 of each year, each certificate holder shall submit a recertification report identified with the name of the certificate holder as it appears in the most recent Commission order granting certification under this Part. The report shall be filed with the Chief Clerk of the Commission and shall be verified by a corporate officer pursuant to Section 200.130 of the Commission's "Rules of Practice" (83 Ill. Adm. Code 200.130).
- de) The recertification report shall contain the following information:
 - 1) A statement certifying that the certificate holder continues to maintain the required qualifications for the service authority granted in its certificate;
 - 2) A statement confirming the certificate holder's continuing compliance with all requirements set forth in this Part and Sections 16-128(a) and 16-128A of the Act; and

~~3d)~~ ~~All reports shall provide~~ The name, telephone number, email address and mailing address of at least one person who is designated by the certificate holder to address questions pertaining to the report.

e) A certificate holder that does not submit a Recertification Report within 30 days of the June 1st annual recertification date is subject to late fees as specified in Section XXX. ~~120+10~~.

Section XXX.80 Reinstatement of a Certificate

A former Certificate Holder may apply for reinstatement of its certificate if it: (1) had been a Certificate Holder within the past three years; (2) had notified the Commission of its decision to not recertify in compliance with the rule; (3) provides a recertification report in conformance with subsection 70(c); and (4) demonstrates that the information it is required to provide under subsection 50 has not changed since its last valid certificate.

9. No Fee for Recertification or Reinstatement of a Certificate

In discussing the Staff's straw-man rule, the fee for recertification was unclear to most stakeholders. Section 110 should clearly state that there is no recertification or reinstatement fee.

Consistent with the issues discussed above, Wind on the Wires recommends the following revisions to section 110, as follows:

- a) The following fees shall apply:
- | | | |
|---------------|---|--------------------------|
| 1) | Application for certification | \$3,500 |
| 2) | <u>Recertification or Reinstatement</u> | <u>none</u> |
| 3) | Late filing annual recertification report | \$10/day (minimum \$100) |
| 4) | Returned check fee | \$25 |
- b) Application ~~and recertification~~ fees are nonrefundable.

