

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

ILLINOIS POWER AGENCY	:	
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Petition for Approval of the 220 ILCS 5/16-111.5(d)	:	Docket No. 11-0660
Procurement Plan	:	
	:	

**RESPONSE TO OBJECTIONS
OF THE ENVIRONMENTAL LAW & POLICY CENTER**

The Environmental Law & Policy Center (ELPC) respectfully submits its response to parties’ objections to the Illinois Power Agency’s 2012 Power Procurement Plan. ELPC’s response is focused on the IPA’s recommendation to develop a procurement program for distributed solar renewable energy credits (SRECs).¹ ELPC strongly supports the development of a distributed solar procurement program as a means to procure “cost-effective renewable energy resources”, as provided by the statute. Properly designed, the distributed solar procurement program would be cost effective through a competitive, auctioned-determined price; expanded universe of suppliers, balancing the renewable energy portfolio across all sizes of solar deployment; and additional value and reliability for Illinois consumers from the unique benefits of distributed solar PV.

ELPC agrees with Staff and several other parties that the Commission should establish a workshop process to design a distributed solar program for inclusion in the IPA’s 2013 procurement plan. We also support Staff’s suggestion for a pilot program on a shorter time frame in order to help inform the development of the full-scale program. In addition to the workshop topics suggested by Staff (which ELPC supports), the Commission should ensure that the workshops are used to study and report on the various operational and grid cost-benefits of

¹ The Plan defines “distributed SREC” as “the renewable energy credit associated with the output of a solar PV system interconnected to the electric distribution system in Illinois and located on the customer’s side of the electric meter.” IPA Plan at 54.

adding distributed solar to the distribution grid in Illinois. This information will help the IPA and interested parties develop a cost-effective renewable energy procurement strategy that will benefit Illinois ratepayers over the long term.

I. The IPA's Procurement Strategy To-Date Has Functionally Excluded Distributed Generation.

The IPA Act requires the IPA to procure "cost-effective renewable energy resources" according to a statutorily-mandated schedule and includes a specific "carve-out" for solar energy resources.² The Solar Carve Out requires that in 2012, 0.5% of renewable resources procured for RPS compliance must come from solar photovoltaics (PV). The requirement increases to 1.5% in 2013, 3% in 2014, 6% in 2015 and each year thereafter.³ We estimate that in Plan Year 2016, the IPA, on behalf of the utilities, will be required to procure SRECs equivalent to the annual output from approximately 211 MW of solar.⁴ The IPA signed two long-term Power Purchase Agreements (PPAs) in 2010 that will satisfy approximately 11% of this requirement.

Until now, the IPA's renewable energy procurement strategy has focused exclusively on RECs generated by large utility-scale renewable energy projects developed by companies such as Exelon Energy (one of the largest electric generating companies in the country), NextEra (operating revenues of more than \$15 billion and generating capacity of 42,500 MW), Invenergy (the largest independent wind developer in the country), and Iberdrola Renewables, (a Spanish company that has successfully developed forty utility-scale renewable energy projects across the United States). These companies have the professional energy traders, attorneys, credit reserves and cash balances necessary to successfully compete in the IPA's highly complex auction

² 20 ILCS 3855/1-75(c).

³ Since the overall renewable energy requirement continues to grow through 2025, the amount of solar the IPA needs to procure to comply with the Act continues to increase.

⁴ With the addition of the alternative retail electric suppliers' (ARES) solar obligation, we estimate that the annual output of approximately 750-800 MW of solar PV must be procured to comply with the Illinois Solar Carve out in 2016.

process. In contrast, smaller-scale producers such as Illinois homeowners, small business owners, school districts, housing authorities, retail chain stores and other small energy companies, do not have the resources to meaningfully participate in the IPA's auction-based procurement process. *See* Staff Objections 18. Bidding requirements are too complex and transaction costs are too high to justify participation for small projects. *Id.* Although the IPA did not set an explicit minimum-size threshold for the procurements, the bidding and negotiation process effectively excluded smaller potential suppliers. As explained below, a few revisions to the process would include smaller potential suppliers of SRECs and thereby increase the cost effectiveness of the procurement.

Without a separate procurement program for distributed solar resources, it is very likely that the Illinois Solar Carve Out will be met entirely with SRECs from large, utility-scale developments. This would result in a highly imbalanced procurement strategy that could lead to higher costs for Illinois ratepayers in the long run. In 2010 alone, the U.S. solar industry installed 890 MW of grid connected PV. More than two-thirds of these capacity additions – or 609 MW – were distributed systems installed on residential, commercial and industrial sites.⁵ A balanced procurement strategy that supports *both* utility-scale and distributed solar development is necessary to spur competition and lower costs across the industry. As Constellation Energy explained in its comments to the IPA:

A competitive DG market in Illinois will spur significant competition, as the barriers to entry for developing small systems are far lower than for large scale generation. This competition will bring downward pressure to costs for the solar industry throughout Illinois, and benefit ratepayers accordingly.⁶

⁵ More than two-thirds of the new solar capacity installed in the United States in 2010 (or 609 of approximately 890 MW) came from distributed solar systems installed on residential, commercial and industrial sites. *See The Interstate Renewable Energy Council*, "US Solar Market Trends 2010." Page 4. <http://irecusa.org/wp-content/uploads/2011/07/IREC-Solar-Market-Trends-Report-revised070811.pdf>

⁶ Comments to the IPA of Constellation Energy Commodities Group, Inc. and Constellation NewEnergy, Inc., p. 19, (available at <http://www.icc.illinois.gov/electricity/ProcurementProcess2012.aspx>).

The IPA's proposal to procure at least 25% of its solar renewable energy procurement obligation from distributed resources will help the Agency prudently balance its renewable energy portfolio and fulfill its statutory duty to develop electricity procurement plans that will "ensure adequate, reliable, affordable, efficient, and environmentally sustainable electric service at the lowest total cost over time." 20 ILCS 3855/1-20(a).

II. A Distributed Solar Program Will Create Benefits for the Electricity Grid and Illinois Ratepayers.

Distributed solar resources provide consumer and grid benefits because they generate electricity when it is needed most (i.e., at or near times of peak demand) with less need for transmission and distribution infrastructure. As Exelon explains:

Distributed generation can reduce the need for new transmission lines, reduce line losses, reduce the need for distribution upgrades, and enhance distribution system performance. Distributed generation can help protect appliances by providing improved power quality that defends against surges and sags. Distributed generation also has a significantly lower environmental footprint than other forms of renewable generation.

ExGen Objections at 10. The Solar Alliance similarly observes that:

A DG program will promote a well-balanced solar industry, while providing enhanced value for Illinois. Benefits of a DG program include: 1) distribution and transmission savings, 2) generation savings, 3) line loss savings, 4) capacity value, and 5) fixed operations and maintenance savings.

Solar Alliance Objections at 6.

Most parties recognize the benefits of a well-balanced procurement strategy that includes distributed generation, even if they oppose the specifics in the IPA's Final Plan. For example, Staff "supports the IPA's objective" to procure distributed solar SRECs and recommends a workshop process to develop a "fully thought-out" program even though it considers some of the details in the IPA Plan to be "too underdeveloped" for approval at this time. Staff Objections at 19-20. Exelon acknowledges the "numerous consumer benefits" of distributed generation and

recommends stakeholder workshops to further explore the issue. ExGen Objections at 10-11. ICEA “recognizes the policy and operational arguments in favor of distributed generation” and supports workshops to discuss future DG procurement. ICEA Objections 8-9. Ameren also voices support for workshops to enhance the development of a more detailed distributed solar program. Ameren 7-8. Even ComEd, which objects to the current form of the IPA’s proposal, would “gladly participate” in a workshop process to help the IPA develop a distributed solar program. ComEd Objections at 30. Dozens of other parties filed comments with the IPA supporting a distributed solar procurement program because of the benefits such a program would create for Illinois residents and businesses.⁷

ELPC is pleased that so many of the parties to this docket recognize the value of distributed generation and are willing to participate in workshops to develop a distributed solar procurement program in Illinois. We recommend that, at a minimum, the Commission approve the IPA’s planned workshop process to design a distributed solar procurement program for inclusion in the 2013 Plan. Additionally, we support Staff’s suggestion for a “relatively modest pilot program” which could be introduced in 2012. *See* Staff Objections at 19. A pilot program of perhaps 1-2 MW of solar in 2012 would enable the IPA, the expanded universe of solar suppliers and the utilities to gain experience and prepare for full program implementation in 2013 with only a minimal, if any, impact on the IPA’s overall budget.

We further recommend that the Commission include, as part of the scope of any IPA workshop process, an assessment of the various grid and cost benefits of distributed generation in Illinois. Other state utility commissions have developed methodologies to estimate the benefits of distributed

⁷ *See generally* Comments on Draft Procurement Plan, available at <http://www.icc.illinois.gov/electricity/ProcurementProcess2012.aspx>.

generation.⁸ This kind of assessment (which could be informed by the various efforts in other state commissions) would be extremely useful in the IPA's development and the Commission's review of future renewable energy procurement plans.

III. ComEd's Legal Objections to the IPA's Distributed Solar Program Are Premature and Without Merit.

The IPA Plan calls for a series of workshops between January and May 2012 to help design its proposed procurement program for distributed SRECs. The Plan includes a number of discussion topics for the workshops and identifies two "broad program types" for further consideration:

- (1) A fixed price, long-term, standard offer contract program in which initial contract prices are based on the auction clearing price for SRECs from the IPA's Spring 2012 auction, and contract price offers are adjusted over time to track the market;
- (2) An auction for long-term SREC contracts in which participation is limited to aggregators of SRECs from multiple small and mid-size distributed solar systems in Illinois.

IPA Plan at 53-54.

Several parties express concern that the details of these program options are too vague to be approved here.⁹ ComEd goes further and suggests that, with the uncertainties about how the program would be implemented, a separate procurement program for small and mid-sized SRECs is "illegal and unreasonable." ComEd Objections at 24. All of ComEd's legal objections are premature. The IPA has not proposed a final distributed solar program. It has announced a series of workshops to design a program in the future. ComEd can participate in the workshops

⁸ Distributed Renewable Energy Operating Impacts and Valuation Study, (Prepared for Arizona Public Service by R.W. Beck), January, 2009; The Value of Distributed Photovoltaics to Austin Energy and the City of Austin (Prepared for Austin Energy by Clean Power Research, L.L.C.), March 17, 2006; Assessment of High Penetration of Photovoltaics on Peak Demand and Annual Energy Use (Prepared for the Public Service Commission of Wisconsin & The Statewide Energy Efficiency and Renewables Administration by Kevin S. Myers, S.A. Klein and D.T. Reindl, Solar Energy Laboratory, University of Wisconsin-Madison) January, 2010.

⁹ Staff Objections at 20; ICEA Objections at 7; ExGen Objections at 9.

and the Commission can review the final program to ensure that it is consistent with all statutory requirements. There is no basis for the Commission to issue an advisory opinion about the legality of a distributed solar procurement program before the program is even fully specified.

Furthermore, ComEd's argument that the IPA's proposal creates an illegal "preference" for small solar resources fails to consider that the existing IPA procurement strategy (which functionally excludes distributed solar projects) is essentially a "preference" for utility-scale projects. The IPA's distributed solar proposal is an effort to increase the cost-effectiveness of the procurement by correcting this problem and *expanding* the resources currently able to participate in the procurement process. Similarly, ComEd provides no support for its argument that a distributed solar program will "raise costs to consumers by limiting participation in the bidding process." ComEd at 26. In reality, an imbalanced portfolio that relies exclusively on utility-scale resources will fail to capture the various benefits of distributed generation and could lead to higher costs for Illinois ratepayers, in this procurement as well as over the long term.

Staff does not challenge the authority of the IPA to develop a distributed solar procurement program, but recommends that the Commission withhold the approval of any specific program design "until it is comfortable with whatever procurement programs the IPA devises." Staff Objections at 20. ELPC agrees that the Commission should have the opportunity to approve the details of a distributed solar program before it is opened up for broad participation. This could be accomplished with minor edits to the Plan. First, the Commission could clarify the timeline to (1) conduct workshops as proposed in January-May 2012, (2) roll-out a modest pilot program in late 2012, and (3) include full program details for Commission approval as part of the IPA's 2013 Plan. The Commission could also clarify that the IPA will

consider “at least” the two identified program options without excluding consideration of other appropriate options.

IV. Conclusion

The IPA Act requires the Commission to approve the IPA’s Plan if it will “ensure adequate, reliable, affordable, efficient and environmentally sustainable” electric service at the “total lowest cost over time, taking into account any benefits of price stability.” 220 ILCS 5/16-111.5(d)(4). The IPA’s proposed distributed solar procurement program will help the Agency achieve this standard as part of a balanced and prudent renewable energy procurement strategy for Illinois. ELPC supports the IPA’s proposed workshop process, respectfully submits that ComEd’s legal objections to a separate procurement for distributed SRECs are premature and without merit, and requests that the Commission approve the IPA’s Plan with the minor edits suggested below.

ELPC’S PROPOSED REPLACEMENT LANGUAGE

(p 53 of the IPA Plan)

In addition to the above, the IPA recommends the following:

- **Distributed SRECs.** The IPA shall design the procurement program for distributed SRECs between January - May 2012, announce the program for Commission review and approval as part of the IPA’s 2013 Procurement Plan, and initiate a pilot program for the procurement of 1-2 MW of distributed solar in 2012. ~~in June 2012 and initiate the first procurement event by December 2012~~ The procurement program will be designed to enable the Utilities to sign long-term (at least 10-year) contracts for SRECs from distributed solar systems in Illinois at prices that are competitive with the average SREC clearing price from the procurement process described above, considering the benefits of distributed generation. The IPA will consider at least the following broad program types:
 - (1) A fixed price, long-term, standard offer contract program in which initial contract prices are based on the auction clearing prices for SRECs from the IPA’s Spring 2012 auction, and contract price offers are adjusted over time to track the market;
 - (2) An auction for long-term SREC contracts in which participation is limited to aggregators of SRECs from multiple small and mid-size distributed solar systems in Illinois.

~~In order to design and announce the distributed SREC procurement program by June 2012 and initiate the first procurement event by December 2012,~~ the IPA will host a series of workshops

between January - May 2012. IPA will invite input from the public, including policy experts and solar industry stakeholders to address major program design features and other issues, including:

- Definitions for “small” and “mid-size” distributed solar systems eligible to participate in the procurement.
- The terms and conditions under which distributed SREC providers would verify SREC deliveries.
- Administrative procedures that minimize transaction costs for participants and administrative burdens for the utilities and the IPA
- A process for assessing program results, including the energy and capacity values of the distributed solar energy developed as a result of the program, and the benefits to the Illinois distribution grid.
- A process for modifying the program over time.

For purposes of this Plan, “distributed SREC” is intended to mean the renewable energy credit associated with the output of a solar PV system interconnected to the electric distribution system in Illinois and located on the customer’s side of the electric meter.

Dated: October 18, 2011

Respectfully submitted,



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VERIFICATION

I, Brad Klein, state that I have read the foregoing RESPONSE TO OBJECTIONS OF THE ENVIRONMENTAL LAW & POLICY CENTER for ICC Docket No. 11-0660, that I know the contents thereof, and that to the best of my knowledge, information and belief, based upon reasonable inquiry, the contents are true and correct.

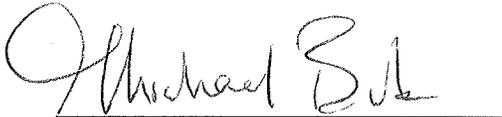


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STATE OF Illinois)
COUNTY OF Cook) SCT.

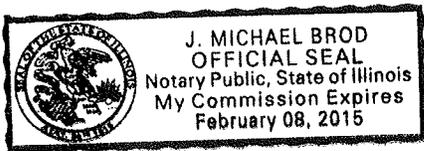
The foregoing instrument was subscribed, sworn to and acknowledged before me by

Brad Klein on this the 18th day of October __, 2011.



Notary Public

My Commission Expires: 2/8/2015



**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

ILLINOIS POWER AGENCY

Petition for Approval of the 220 ILCS 5/16-111.5(d)
Procurement Plan

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Docket No. 11-0660

NOTICE OF FILING

To: (attached service list):

Please take note that on October 18, 2011, I submitted the above RESPONSE TO OBJECTIONS OF THE ENVIRONMENTAL LAW & POLICY CENTER for filing in the above-captioned matter, via e-Docket, with the Clerk of the Illinois Commerce Commission.



Brad Klein
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CERTIFICATE OF SERVICE

I, Brad Klein, hereby certify that I served on October 18, 2011 the attached RESPONSE TO OBJECTIONS OF THE ENVIRONMENTAL LAW & POLICY CENTER upon all active parties of record identified on the included service list electronically via e-mail. Paper copies will be provided upon request.

Respectfully submitted,



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