RESPONSE TO ILLINOIS POWER AGENCY REQUEST FOR COMMENTS ON BEHALF OF THE SOLAR ENERGY INDUSTRIES ASSOCIATION, THE COALITION OF COMMUNITY SOLAR ACCESS, AND THE ILLINOIS SOLAR ENERGY ASSOCIATION

November 17, 2021

The Solar Energy Industries Association, the Coalition of Community Solar Access, and the Illinois Solar Energy Association (collectively the "Joint Solar Parties" or "JSP") appreciate the opportunity to respond to the Illinois Power Agency's most recent solicitation for comments for the Waitlisted Community Solar Capacity Allocation.

As an initial matter, the Joint Solar Parties appreciate that the IPA is soliciting comments by necessity following the passage of the omnibus energy legislation. Unlike many of the other requests for comments, the waitlist clearing process subject to the present comments are a one-off matter that will not be revisited in the LTRRPP because the waitlist allocation program was designed to work before the LTRRPP is approved by the Commission.

Due to the time constraints and the importance of stability and predictability for market transactions, the Joint Solar Parties' comments generally speaking favor a "simpler is better" approach to waitlist capacity allocation.

A. After allocations, but prior to Approved Vendors providing project portfolios back to the IPA, should Approved Vendors be permitted to transfer allocated capacity to other Approved Vendors?
    a. If transfers of allocated capacity are permitted, what documentation should the transferor and transferee be required to provide to the Program Administrator to substantiate the transfer? Would an acknowledgement form executed by both transferor and transferee that outlines the amount of capacity transferred and includes the Approved Vendors' information be sufficient?
    b. Should the IPA impose limitations on the amount of capacity that can be transferred? Should the Agency instead ensure that only marginal shares of allocations that would otherwise not be filled may be transferred (and if so, at what threshold would a share be considered "marginal")?

    JSP RESPONSE: The Joint Solar Parties strongly support the ability for Approved Vendors to transfer projects (with or without a capacity allocation) from one Approved Vendor to another, as well as allocated capacity unbundled from particular waitlisted projects or portfolios. The Joint Solar Parties believe this will make it easier for the best projects to go forward. The Joint Solar Parties suggest that the Program Administrator track the transactions via simple forms generated by the Program Administrator signed by both buyer and seller Approved Vendors that a certain amount of allocated capacity is transferred from the seller Approved Vendor to the buyer Approved Vendor. The Joint Solar Parties note there is already a procedure (subject to certain restrictions) for transfer of waitlisted projects and projects in an approved Batch.

The Joint Solar Parties oppose imposing limits on transfers between Approved Vendors. Many early-stage developers' primary market participation is developing projects to the point they can be sold, which is usually after a system is approved for a REC Contract by the applicable program. If transfers of allocated capacity are permitted, the early-stage developer has more options for *how* to sell and long-term owner/operators are better able to buy only what they need (an allocation, or perhaps an allocation and some projects) and not what they do not—which, of course, will vary by Approved Vendor.

B. If an Approved Vendor (and its affiliates) presently has more than 20% share of a waitlist's capacity, should that excess allocation automatically be reapportioned to other Approved Vendors? Or should that allocation above 20% instead be available to the original Approved Vendor for transfer, with a requirement instead that the original Approved Vendor's final portfolio of projects does not exceed 20%of waitlist capacity?

JSP RESPONSE: Yes to the first question above. If any Vendor is above the 20% cap, its excess capacity should be reallocated to other vendors. To make this as simple as possible, the Allocation Cap should be applied on a single date (December 14) based on information provided from Vendors by November 23rd.

C. Should the confirmation of affiliations of Approved Vendors include adjustments made between September 15, 2021, and the due date for confirmation of responses, whether due to the sale of either specific projects, or changes in the ownership of Approved Vendors?

JSP RESPONSE: Yes. Not accounting for these transfers would result in inaccurate application of the Allocation Cap. The Joint Solar Parties are aware that waitlisted projects (and possibly ownership of Vendors themselves) have transferred between Approved Vendors after September 15, 2021. To assess the Allocation Cap adequately, the Agency must account for these transfers and apply the Cap when it makes final allocations on December 14th.

For instance, if a Vendor held 6 MW of Group A waitlisted projects on Sept 15th, acquired 150 MW of projects in early October, then informed IPA of those acquisitions on November 23rd, the Vendor would hold more than 20% of Group A on the Allocation Date. But if the Agency did not account for those transfers, the Vendor would not exceed the Cap. Conversely, a Vendor and affiliates could have held 156 MW on September 15th, sold 100 MW in early October and informed IPA on November 23rd. Under this scenario, the Vendor and affiliates would hold less than 20% but still *would* exceed the cap. Any dispute about these matters could result in time-consuming debates and delay as the Agency, Administrator and stakeholders face tight statutory deadlines. The Agency should have ample time after November 23rd to include any adjustments from Vendors, assess the final cap, and provide final allocations on December 14th.

D. Are the Agency's proposed guidelines for project nameplate capacity and expected production adjustments appropriate?

JSP RESPONSE: Yes. The Joint Solar Parties do note that some changes may be needed to REC Contract #2 (as pointed out by the Joint Solar Parties in their REC Contract comments) to effectuate the IPA's proposal.

E. Should Approved Vendors be allowed to propose projects based on an overall award of capacity (with that capacity allocated taken from a proportionate amount of each waitlist), regardless of the Group (i.e., geographic location) of those projects? If so, how can the Agency maintain the integrity of the 30% Group A/70% Group B split outlined in Section 1-75(c)(1)(G)(iv)(3)(A)?

JSP RESPONSE: While two unaffiliated Approved Vendors should be free to "swap" capacity for the same reason an Approved Vendors should be able to sell capacity allocations, the Joint Solar Parties note the 70-30 split is explicit in the statute and allowing Approved Vendors to choose means some choices are likely to have to be rejected if the 70-30 statutory requirement is to be respected.

Responding further, the Joint Solar Parties recommend that the IPA arrive at individual Approved Vendor (and affiliate) allocations using the following approach:

- For Group A, calculate the percentage that 75 MW (30% of 250 MW) is of the total eligible waitlist capacity (the "Allocation Percentage")
- Apply the Allocation Percentage to each Approved Vendor (and affiliates) to come up with an initial allocation for each Approved Vendor (and affiliates)
- Identify each Approved Vendor (and affiliates) to which the Allocation Percentage multiplied by their total capacity is below 500 kW (the "Shortfall AVs")
- Identify the amount of capacity required to increase each Approved Vendor (and affiliates) that would have been entitled to less than 500 kW to 500 kW (the "Shortfall Capacity")
- Subtract Shortfall Capacity from 75 MW (the "Modified Capacity")
- Calculate the percentage that Modified Capacity is of the total waitlist capacity minus 500 kW for each Shortfall AV
- Repeat identification of Shortfall AVs, Shortfall Capacity, and Modified Capacity until there are no more Shortfall AVs.
- Allocate the final Modified Capacity amongst all non-Shortfall AVs on a *pro rata* basis
- Check for whether any Approved Vendors (and affiliates) hold more than 20% of the allocation (an "Overflow AV").
- Remove the capacity from Overflow AVs only to the extent necessary so that each Overflow AV (and its affiliates) has exactly 20% of the Group A capacity, and allocate the capacity removed from Overflow AVs to all Approved Vendors that are not Shortfall AVs.
- Repeat the same sequence for Group B, except use 175 MW (70% of 250 MW) instead of 75 MW.

In other words, allocations should be done individually for each Group. This is an alternative to the IPA looking at an Approved Vendor's (and affiliates) total project

capacity across both groups, allocating based the overall waitlist capacity of Groups A and B combined, and then after a total allocation is given to an Approved Vendor (and affiliates) to impose a 70-30 split upon that capacity.

The Joint Solar Parties recommend their proposed approach for two primary reasons. First, it assigns capacity in the groups where the individual Approved Vendor (and affiliates) have invested. It also prevents the absurd result of a (hypothetical) Approved Vendor having 50 MW in Ameren and zero in ComEd, but receiving 70% of its allocation to Group B. Second, it is consistent with application of the statutory developer cap, which is applied on a Group (not overall program) basis. (*See* 20 ILCS 3855/1-75(c)(1)(G)(iv)(3)(B)(1).)

The Joint Solar Parties note that whatever methodology is chosen, reducing Approved Vendors (plus affiliates) to not more than 20% allocation from a Group has the effect of adding capacity available to others while giving certain developers a minimum of 500 kW has the effect of taking capacity otherwise available to other Approved Vendors. The Joint Solar Parties chose to focus on ensuring that all Approved Vendors (and affiliates) receive the minimum 500 kW as a first step and then applying the developer cap as a final step. The Joint Solar Parties appreciate that the process is iterative, although it is designed to balance the potential number of iterations with adherence to the statutory requirements.

F. Should a 500 kW minimum award apply across both waitlists for Approved Vendors eligible for a minimum award from each? Stated differently, if an Approved Vendor has only one project on each waitlist, should a 500 kW allocation be made for each? If not, how should the Agency determine to which group the allocation is made?

JSP RESPONSE: The Joint Solar Parties note that if the minimum allocation is 500 kW across both territories, it is unlikely that may Ameren projects will be built because to the Joint Solar Parties knowledge based on feedback from member companies it is a very niche market to construct and finance single 150 kW (or even 350 kW) systems. Most common tax financing approaches are unlikely to be commercially available for a single 500 kW allocation across two systems. A better approach is, as the IPA proposed, 500 kW per Group where the developer (and its affiliates) have at least one project because the 500 kW allocation is both easier to sell to interested third parties and also easier to finance as a project as part of a larger portfolio.

The Joint Solar Parties note that the process described in E *supra* is intended to include the 500 kW per Group minimum for each Approved Vendor (and affiliates)

G. Are there additional aspects of capacity allocation that the Agency should consider to ensure that all capacity can be used by waitlisted projects to fill the 250 MW total block capacity?

JSP RESPONSE: The Joint Solar Parties urge the IPA to allow developers to maximize the number of viable projects that can be developed and energized within this 250 MW tranche by imposing few if any restrictions on how an early-stage developer can sell or transfer the assets related to the waitlist clearing process (i.e. the allocation itself, projects

paired with allocations, projects sold for the sole purpose of being a backup in case the buyer Approved Vendor's site(s) have interconnection costs over $0.30/W, etc.). Offering flexibility for Approved Vendors to buy, sell, trade, etc. will ensure that viable and efficient projects are less likely to be "stranded" as a function of ownership.

In addition, while some Approved Vendors found great success in the initial lottery, others had bad luck, and faced substantial financial challenges due to a low number of systems being selected. While the Joint Solar Parties are not asking for special treatment of such Approved Vendors, the Joint Solar Parties do believe having a simple, straightforward process for selling allocated capacity will particularly help those Approved Vendors.