

# RESPONSE TO DRAFT PROGRAM GUIDEBOOK REQUEST FOR COMMENTS ON BEHALF OF THE SOLAR ENERGY INDUSTRIES ASSOCIATION, COALITION FOR COMMUNITY SOLAR ACCESS, AND ILLINOIS SOLAR ENERGY ASSOCIATION

March 27, 2024

The Solar Energy Industries Association, Coalition for Community Solar Access, and Illinois Solar Energy Association (collectively the “Joint Solar Parties” or “JSP”) appreciate the opportunity to respond the Illinois Power Agency’s (the “IPA”) request for comments regarding the Draft Program Guidebook for the 2024-25 Program Year (the “Draft Guidebook”).

The Joint Solar Parties note and appreciate that timing on release of the Draft Guide is challenging for the IPA given that the LTRRPP Final Order was released on February 20, 2024, the compliance LTRRPP could not be completed until after the window to submit an application for rehearing closed on March 21, 2024. Simultaneously, in order to release the final Program Guidebook 45 days before the beginning of Program Year 2024-25 (a timeframe the Joint Solar Parties support), working backwards there was necessarily a limited window for comment. While in an ideal world the final compliance LTRRPP would have been released prior to the Draft Guidebook, the Joint Solar Parties understand why that was not the case this year.

However, though not the fault of the IPA, review of the Draft Guidebook was more challenging without the final compliance LTRRPP. The Joint Solar Parties thus reserve the right to identify any inconsistency between the final compliance LTRRPP and the 2024-25 Program Guidebook and looks forward to working collaboratively with the IPA to resolve inconsistencies (if any) that may come up.

## Comments

The Joint Solar Parties’ comments are limited to four topics:

- Clarification of a sentence that appears to have an errant break and internal capitalization;
- Memorializing a change from the LTRRPP litigation regarding EEC “ownership” issues;
- Opposition to the immediate renewal application for Approved Vendors; and
- Conforming corrections to Appendix E related to Traditional Community Solar (“TCS”) scoring criteria.

*First*, the Joint Solar Parties note that a passage on page 9 of the Draft Guidebook (clean version) states as follows: “For decisions related to consumer protection Unless otherwise specified by the Program Administrator, the deadline to submit an appeal is two weeks after the determination.” It appears that the IPA may have intended that there be a comma after “protection” and that “Unless” was not intended to be capitalized—in other words, that this may have been a simple formatting error. If so, the IPA should correct it. However, if there were additional words intended after “protection” and that “Unless” was intended to start a new sentence, the IPA should revise both sentences.

*Second*, the Draft Guidebook states: “If an **EEC project** is assigned under the 2021 or 2022 REC Delivery Contracts to a non-EEC Approved Vendor before Part II verification, it will have failed

to meet EEC requirements, will not be Part II verified, and will be removed from REC contract with forfeiture of collateral.” (Draft Guidebook (Clean) at 18 (emphasis added).) However, as the Commission described in the Final Order:

The Agency clarifies that the edit in the filed 2024 Plan that changed the word “project” to the word “contract” in the description of the required 6-year delay of any transfer was a clarification edit to align that provision with the existing position that the AV does not need to own the physical project or installation.

(Final Order at 53 (summary of IPA position on draft LTRRPP for Commission Approval dated October 20, 2023 at 182).) The Commission approved this clarifying edit. (*See id.*) The Draft Guidebook passage does not comport, however, with the draft LTRRPP for Commission Approval as adopted by the Final Order, and should thus be modified to change “project” to “contract.” The Joint Solar Parties further note that the Final Order “encourages the IPA to make any other necessary conforming changes to the Plan as well” (*id.*); the Joint Solar Parties thus recommend making further conforming changes to the Program Guidebook as well if necessary.

*Third*, in Section 2.A, there are new requirements for Approved Vendors must not only notify the Program Administrator (as they must today) but also “promptly submit a renewal application” even if a renewal application is not otherwise due. (*See* Draft Guidebook at 31.) Those immediate renewal application triggers include a change in ownership of 50% or more, a change in name or d/b/a, or a change in questions regarding company and affiliate history (including if a previous “yes” answer is for more reasons). (*See id.* at 31-32.)

The Joint Solar Parties oppose this requirement. Frequently, ownership of Approved Vendors will change at a sale or financing of systems. Those changes will be captured during the regular renewal process. Requiring that the new owners of the Approved Vendor “promptly submit a renewal application” places additional immediate post-closing burdens when the buyer of the assets is attempting to manage already complex changeovers of the customer/landowner relationships, interconnection, and other immediate issues.

In addition, the Joint Solar Parties note that the disclosure requirements are challenging for some financing parties, especially those who operate as a fund. Frequently, ownership of a fund—as opposed to the operator—is highly proprietary and it can be difficult for an Approved Vendor well down the corporate chain from a fund to obtain that information. If the IPA is going to require that buyers “promptly submit a renewal application,” it should also reform the process for disclosing ownership up to natural persons or publicly traded companies. Instead, the IPA should consider special rules for funds and privately-held companies that allow streamlined disclosures regarding silent partners or stockholders, including separate submission with predetermined confidential treatment.

*Fourth*, it appears some of the requirements of the Final Order were not picked up in Appendix E regarding TCS scoring. Specifically, disturbed lands were removed from scoring criteria 1.A in the draft LTRRPP for Commission Approval (at page 164) and the Final Order dated February 20, 2024 did not require otherwise. In addition, rooftop scoring under new criteria 1.B was three points in the draft LTRRPP for Commission Approval (at page 164), which was not modified in the Final Order dated February 20, 2024. Nevertheless, the Draft Guidebook includes disturbed

lands in scoring criteria 1.A and is completely missing the new rooftop scoring criteria 1.B. (*See* Draft Guidebook (Clean) at 131.) The Draft Guidebook should be modified so the scoring criteria is consistent with the draft LTRRPP for Commission Approval unless the draft LTRRPP for Commission Approval was modified by the Final Order.

### **Conclusion**

The Joint Solar Parties appreciate the IPA's consideration of these comments and the Joint Solar Parties look forward to ensuring consistency between the Final Order, the compliance LTRRPP (when it is released) and the Program Guidebook.