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**ILLINOIS POWER AGENCY****Rationale Document:**

Solar Restitution Program

(Illinois Shines &amp; ILSFA)

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In the 2024 Long-Term Renewable Resources Procurement Plan (“2024 Long-Term Plan”), the Illinois Power Agency (“IPA” or “Agency”) proposed the creation of a solar restitution program (“Restitution Program”) for customers harmed through their participation in Illinois Shines or Illinois Solar for All. The Agency issued a stakeholder feedback request on September 16, 2024, and has reviewed the provided feedback, considered the issues, and made final determinations regarding details of the Restitution Program.

See Section 9.9 of the [2024 Long-Term Renewable Resources Procurement Plan](#) (“2024 Long-Term Plan”) and the [stakeholder feedback request](#) for additional background information.

This rationale document discusses the stakeholder feedback received by the Agency and explains the Agency’s decisions made with respect to the development of the Restitution Program.

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**Background, Funding, & Eligibility**

The stakeholder feedback request first summarized the background and context that lead to the development of the Restitution Program and explained that successful Restitution Program claims will be paid for from forfeited collateral from solar projects that have failed to satisfy the requirements of the applicable procurement process. In the stakeholder feedback request, the Agency noted its intention that “restitution payments for harm arising from participation in the Illinois Shines program will draw from Illinois Shines forfeited collateral, and that payments for harm arising from participation in the Illinois Solar for All will draw from ILSFA forfeited collateral.” After discussions with the utilities and further consideration of the associated administrative burden, the Agency has decided that the forfeited collateral from both Programs and utility-scale procurements held by the electric utilities will be made generally available for restitution claims for both Programs.

One commenter suggested that the Agency explore additional funding sources for the Restitution Program. As noted in the stakeholder feedback request, the Agency intends to revisit the topic of funding for the Restitution Program in the 2026 Long-Term Renewable Resources Procurement Plan.

One commenter requested that the Agency clarify whether fees for work performed by the Program Administrator to implement and administer the Restitution Program would be paid from forfeited collateral or if these costs would be included on normal monthly invoices to the utilities. The Agency clarifies that the Program Administrator’s fees for implementing the Restitution Program would be handled the same as other fees for the Program Administrator’s implementation of the Program.

The stakeholder feedback request also summarized the 2024 Long-Term Plan’s explanation of which customers would be eligible to submit a claim for restitution. For example, at minimum, the following determinations will be required for customer eligibility:

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- The customer was financially harmed by an Approved Vendor's or Designee's violation of Program requirements (or the violation of an unregistered entity acting on behalf of an Approved Vendor or Designee with whom the customer contracted); and
- There is no reasonable likelihood that the Approved Vendor or Designee (or unregistered entity acting on behalf of the Approved Vendor or Designee with who the customer contracted) that caused the harm will make the customer whole.

As explained in the 2024 Long-Term Plan, the amount of the restitution payment would be limited to actual economic damages. The Agency further clarifies that the Restitution Program is intended to address *direct* economic damages related to the solar project or solar installation contract, and is not intended to address claims for other types of damages, such as emotional damages, physical injury, or indirect or consequential damages. For example, if a customer submits a claim because the Approved Vendor did not make a promised pass-through payment of \$8,000, the customer could be eligible for \$8,000, but not for additional indirect damages from the customer not being paid on-time. Further, a customer's restitution payment may be decreased if another entity involved in the transaction mitigates the economic damage or makes the customer whole.

In addition, the 2024 Long-Term Plan explained that the valuation of actual damages may be discounted if a customer did not take reasonable actions to limit the harm. One commenter raised concerns about this approach and sought additional information on how it would be applied. The Agency understands these concerns and included a relevant example in the draft Consumer Protection Handbook published for stakeholder comment on March 7, 2025, which was retained in the final Consumer Protection Handbook published April 17, 2025. The Agency intends that a claim would only be reduced from the total amount of direct economic damages if the Program Administrator determined, and the Agency agreed, that it was clear that the customer did not act reasonably.

The 2024 Long-Term Plan states that restitution payments are capped at \$30,000 per project and at \$200,000 cumulatively based on a single Approved Vendor's or Designee's (or other entity's) conduct. The Agency received some comments on the caps, which were established in the 2024 Long-Term Plan. One stakeholder expressed concerns about the cap for payments based on the conduct of a single Approved Vendor or Designee, while another stakeholder supported this cap. A stakeholder also commented on the individual project cap, stating that it should be lower if the customer has not obtained a court judgment in its favor. As explained in the Long-Term Plan, the Agency decided to take the conservative approach of starting the Restitution Program with caps based on review of similar restitution programs and discussions with the agencies involved with them. The caps are established in the current Long-Term Plan and therefore cannot be modified without Commission approval. The Agency will monitor how the Restitution Program works in practice and may revisit the caps in future Long-Term Plans.

**Claim Prioritization**

In the stakeholder feedback request, the Agency proposed a specific claim prioritization approach when the cap for claims against a specific Approved Vendor or Designee could be or is reached. Specifically, anytime a claim is submitted, there is an initial "waiting period" of 30 days. If no other claims are filed against that entity, the claim can be paid out (if it is valid and approved). If another claim that appears to meet threshold eligibility requirements is filed against the entity within the first 30 days, then there is an additional waiting period of 60 days (for a total of 90 days) for additional customers to file claims. At the end of the 90 days, any claims that are approved can be paid out. If

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the sum of these claims reaches the cap, the claims will be paid out pro-rata. In other words, each approved claim will be funded at the same percentage. The Agency intends to move forward with the described prioritization approach.

There was stakeholder support for this general approach of prorating claims. To respond to a stakeholder question about how the proration would work: for example, if the approved claims total \$400,000, and the cap is \$200,000, each customer will receive 50% of their claim. The \$200,000 would not be spread equally amongst the claimants (unless all claimants happened to have approved claims for the same amount). To respond to another comment, the Agency does not intend that receipt of a prorated payment would in any way prevent a customer from pursuing other legal remedies for the remainder of their damages. One commenter suggested that instead of the proposed approach, that upon the first customer claim, the Program should determine if the claim was likely based on a “one off” issue, and if so, to use a first come, first served approach. The Agency is concerned that it may be difficult to determine when an issue may be widespread or not, and would prefer a single approach for all claims for ease of administration of the Restitution Program.

Some stakeholders proposed an annual budget for the Restitution Program, and/or payment of claims on a pro rata basis at the end of the year. The Agency is not persuaded that an annual approach would be preferable. For example, if claims were paid out pro rata at the end of the year, some customers could have to wait up to a year to have their claim paid. It is also not clear how an annual budget would be set. If the budget each year were based on the amount of forfeited collateral in that year, then the amount of money available to customers could vary widely each year, which could result in the unfair distribution of funds. If the budget were set another way, it would be difficult to predict in advance how many claims are likely to be received by the Restitution Program each year.

One commenter noted that the reasonableness of the waiting periods may depend on what kind of notice is provided to customers about the Restitution Program. The Program Administrator will provide notice to customers who have been identified as potentially being eligible for restitution claims, as well as customers who have asked to be notified when the Restitution Program launches.

In the stakeholder feedback document, the Agency proposed that if a customer submits a claim but does not answer follow-up questions or provide required information or documentation in a reasonable amount of time, the Program Administrator may “close out” that request and prioritize the payment of other later-filed claims. The Agency sought feedback on what a reasonable time period would be. Two commenters suggested 30 days as a reasonable timeframe, and the Agency has decided to proceed with 30 days.

The Agency also sought feedback on whether, if the Program Administrator receives Restitution Program claims submitted after an Approved Vendor cap is reached, the Program Administrator should fully investigate the claim at that time, even though there would not be available funding to pay out the claim at that time. Stakeholders supported the Program Administrator investigating claims at the time of submission. The Agency intends to move forward with this approach. Results of these investigations will be kept on file in case additional funding is later made available to fulfill these claims.

**Limitations on Claims**

The 2024 Long-Term Plan also discussed time limitations on when a restitution claim (and the preceding underlying complaint) can be submitted. In order to be eligible for the Restitution Program, a customer must have filed a complaint with the Program Administrator, and the complaint

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must have been closed out as unresolved. The 2024 Long-Term Plan explained that to be eligible for the Restitution Program, a customer would have a maximum limit of two years to file a *complaint* with the Program, starting with either when the harm occurred or when the Restitution Program opened for that type of harm, whichever was later. One commenter supported this approach, and one commenter suggested that a shorter period might encourage quicker resolutions. This time limit was set in the 2024 Long-Term Plan and cannot be changed at this time.

The stakeholder feedback document explained that the Agency also intended to set a deadline for customers to file a *restitution claim* after notice that their complaint has been closed as unresolved (or, for customers whose claim was already closed prior to the opening of the Restitution Program, the time would begin to run when the Restitution Program opened for the customer's type of harm). The Agency proposed a deadline of six months or one year and requested feedback. One commenter suggested that if the customer's complaint was closed as unresolved *prior* to the launch of the Restitution Program, the customer should have two years to file their claim, but if the complaint was closed after the Restitution Program was established, the customer should have six months. The Agency decided to move forward with a six-month period for customers to file claims in both situations, and does intend to provide outreach to customers who may be interested in filing a claim.

The Agency acknowledged in the stakeholder feedback document that it is possible that delays in processing a customer's complaint could potentially contribute to a customer not submitting a restitution claim in time to receive a payment. One commenter suggested that the Program Administrator should extend the deadline for filing a claim where a delay in complaint processing is not caused by the customer. While the Agency understands the concern, the Agency believes it would be administratively unworkable to comprehensively track every delay in a complaint investigation and fairly and consistently make determinations about when the total delay was significant enough to extend the deadline for a claim. In addition, the only time a delay in complaint investigation could lead to a customer missing a deadline would be in the case of the Approved Vendor cap protocol, in which case extending the deadline would also have the negative effect of delaying payment for other customers. The Program Administrator will make all reasonable efforts to process complaints in a timely fashion and to use consistent and fair processes for customer complaints.

The Agency also proposed that customers would not be eligible for a restitution payment if they were a 5% or greater owner, or a member of the highest-level management team, of the entity whose conduct caused the harm, during the time that the entity's conduct was ongoing (or a family member living in the same household as the same). Feedback was supportive of this approach and the Agency intends to move forward as proposed.

**Claims Process**

The 2024 Long-Term Plan describes the process for restitution claims, and the stakeholder feedback document provided additional proposed details. The Long-Term Plan content is in regular text below, while the italicized text adds proposed details from the feedback request:

- Customer's complaint is investigated and then closed out as unresolved
- Customer submits claim to Restitution Program
- Program Administrator reviews claim and any additional information, *starting with eligibility and determining whether any reduction is appropriate*
- Program Administrator makes recommendation to IPA on determination on claim and funding amount (if applicable) *and notifies both the customer and the relevant Approved Vendor/Designee of the recommendation*

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- *Customer and/or Approved Vendor or Designee may contest the recommendation and submit argument and/or information to the Agency within two weeks*
- *IPA reviews and approves or rejects the recommendation, with no appeal provided for customer or Approved Vendor/Designee*
- *If claim is approved, customer would assign their claim for that amount to the Restitution Program*
- *Restitution claim would be included on next memorandum to ICC for approval of projects and batches*
- *Program Administrator submits invoice to utility and utility makes payment to third-party payment processing agent (likely same agent as used for escrow process)*
- *Restitution payment made to customer by payment processing agent*

One commenter agreed that using the same third-party agent to make payments as is used for the Illinois Shines program's escrow process makes sense, noted that payment by check would be reasonable, and supported the general process.

Two commenters suggested that the utilities should transfer forfeited collateral in a lump sum to the payment processing agent, who would then manage the funds. One commenter suggested that the third-party agent make quarterly reports to the utility regarding how the funds had been used. Another commenter recommended that the IPA should be responsible for tracking the running balance of forfeited collateral. The Agency has considered these suggestions and ultimately finds that it is not appropriate for the utilities to deposit all collateral that has been forfeited under the Renewable Portfolio Standard in an account held by the payment processing agent before such time as the funds are due to be paid to a harmed customer. The Agency believes that it is appropriate for the utilities to track, manage, and account for these funds, as utility-collected and held funds are ultimately subject to the oversight of the Illinois Commerce Commission. The Agency will develop process documents to assist the utilities in understanding and carrying out their responsibilities under the Restitution Program.

One commenter requested clarification that Approved Vendors be "notified of projects for which their customers received a payment from the Solar Restitution Program." The commenter also expressed confusion about who the Approved Vendor would submit repayment to, in the situation where an Approved Vendor was suspended, restitution payments were made based on the Approved Vendor's conduct, and repayment was part of the Approved Vendor's reinstatement requirements. The commenter further noted it was unclear how the Agency would monitor if an Approved Vendor paid a customer after the customer already received a restitution payment. As the processes are currently being developed, the Program Administrator would notify the Approved Vendor or Designee if a restitution claim is submitted based on that entity's conduct and the Program Administrator determines the claim meets the basic eligibility requirements. As explained above, the Approved Vendor would also be provided a copy of the Program Administrator's recommendation to the Agency with respect to funding (or denial) of the claim. The Agency believes it is therefore very unlikely that an Approved Vendor would later make compensatory payments directly to the customer, as the Approved Vendor would be aware that the customer had already been paid through the Restitution Program. The 2024 Long-Term Plan did contemplate that an Approved Vendor could be required to make repayments as a condition of reinstatement. In the situation where the customer already received a restitution payment, the repayment of that amount would be made to the Restitution Program.

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**ILLINOIS POWER AGENCY****Phased Approach to Implementation**

The 2024 Long-Term Plan also explained that the Agency intends to implement the Restitution Program using a phased approach, with the first phase being for customers who were promised a direct REC payment lump-sum pass-through and did not receive it. One commenter opposed rolling out the Restitution Program in phases. While the Agency understands that there are additional types of harm for which customers may currently have no practical recourse, the Agency believes that the complexity of developing and implementing this initiative is such that a phased approach is necessary to ensure that it can be launched successfully and in a timely fashion.

**Restitution Program and Disciplinary Action**

The stakeholder feedback document proposed that the decision of whether or not an entity is required to repay restitution payments is made as part of the disciplinary process, rather than as a set requirement of the Restitution Program. If an Approved Vendor does repay restitution payments after the initial cap had been reached, the Agency proposed that those funds would be paid out based on the process described above. One commenter stated that it was unclear whether an Approved Vendor who sought reinstatement would make a payment to the IPA or directly to the customer. If the customer was already made whole through the payment of a restitution claim, the Approved Vendor's repayment would be to the Restitution Program. The Agency intends to move forward with these aspects of the initiative as proposed.