

**COMMENTS ON BEHALF OF
THE ENERGY RESOURCES CENTER & MIDWEST COGENERATION ASSOCIATION**

December 13, 2021

TO: Celia Johnson, SAG Facilitator
Members of the Illinois Stakeholder Advisory Group

FROM: Cliff Haefke, Director, Energy Resources Center
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RE: **Comments of the Energy Resources Center and Midwest Cogeneration Association on a Proposal Before the Illinois Stakeholder Advisory Group: Proposed Policy for Eligibility of Renewable Measures in Illinois Energy Efficiency Incentive Programs**

The Energy Resources Center (“ERC”) and Midwest Cogeneration Association (“MCA”) and appreciate this opportunity to provide comments on the Proposed Policy Positions provided for SAG Member review in an October 20, 2021 Guidehouse Memorandum titled “Proposed policies for allowing renewable measures under EE programs.”

While ERC and MCA appreciate the work of the SAG Committee Members who developed this proposed policy, we have several concerns about regarding this proposal and request that it be subject to further review by the SAG before it is adopted, included in the SAG Policy Manual, or be relied upon by any Illinois utility as a basis for determining the eligibility of any measure for the energy efficiency incentive programs authorized under Illinois law.

In particular, ERC and MCA believe the following questions must be given further consideration:

- 1. Does a utility have the authority to deny an EE incentive to a qualifying Energy Efficiency (EE) measure simply because it is defined as a “Renewable Energy Resource” under Illinois law?**

The referenced June 21, 2021 Guidehouse Memorandum “Eligibility of Renewable Energy Measures within Energy Efficiency Programs” starts with the following premise: *“It seemed to [the] group that it is appropriate that measures that receive funding through a renewable energy pathway should not also get funding through the energy efficiency pathway. However, it was not clear where the dividing line should be for a variety of measures that might see [sic] support via energy efficiency.”* The purported

need to put any given measure into one pot or the other seems to be premised on an assumption that Illinois law prohibits incentivizing a clean energy project under both Illinois' renewable and energy efficiency programs. But, to our knowledge, Illinois law does not prohibit a measure from being incentivized both as a renewable measure and as an energy efficiency measure. As stated in the October 20, 2021 Memorandum, *“Guidehouse reviewed CEJA and did not identify any language that bans leveraging solar or other renewable source as an energy efficiency measure.”* Indeed, historically clean energy measures have qualified for multiple types of incentives created under Illinois law and there are a number of other new incentives created in CEJA that may provide multiple layers of support for a given measure.

Therefore, as an initial matter, we think the SAG needs to step back and ask some fundamental questions before adopting this policy:

- Is this policy necessary?
- Is it consistent with Illinois law?
- Do the SAG and the utilities (or even the ICC) have the authority to deny an Illinois EE incentive to a project that qualifies as “energy efficiency” simply because it also qualifies as a “renewable energy resource”?

2. What is the intended scope of this proposal?

The focus of this policy seems to have been derived from concerns about certain solar energy measures and an effort to find a pathway for those measures to participate in the Illinois EE programs. But the policy as written is not limited to those solar energy measures, and what might be characterized as opening the Illinois EE programs to certain new measures, also appears to close those programs for other measures.

The June 21, 2021 Guidehouse Memorandum expressly states that Table 1 (which lists potential measures subject to this new policy) *“does not necessarily represent all such measures but provides a range to illustrate the technical issues that have come to light in the beginning of research”* and *“[t]he evaluation working group should consider defining rules that will cover more than just these specific measures but provide general principles for determining eligibility.”* Is the October Guidehouse Memorandum intended to be that broader policy? It appears to be applicable to any “renewable measure” – although that term is undefined.

Assuming that the scope of this proposal extends to any clean energy project which qualifies as a “Renewable Energy Resource” (“RER”) under the definition in the Illinois Power Act (as suggested by the July 14, 2021 Guidehouse PowerPoint presentation), ERC and MCA are concerned that nothing has been provided to the SAG which shows consideration was given to the impact of this policy and the conditions it contains on other RERs , such as Combined Heat and Power (“CHP”) and Waste Heat to Power

(“WHP”). This is a fundamental issue as the policy would actually preclude many of those resources that have in the past been eligible for the Illinois EE programs. For example, is this policy intended to apply to CHP systems that utilize municipal biogas? Those systems have long been defined as RERs and have also been eligible for Illinois EE program incentives.

We are also concerned that the Committee that developed this policy may not have been aware of the changes made in CEJA (effective September 15, 2021) which added both “Qualifying Combined Heat and Power” and “Waste Heat to Power” to the definition of “Renewable Energy Resources” in the Illinois Power Act. Given this change in the law, would this policy apply to all CHP and WHP projects?

As SAG Members and Illinois utilities well-know, both CHP and WHP have been included in Illinois utility EE incentive programs for many years. In fact, in 2014 the Commission issued an order specifically requiring that ComEd include cogeneration in its EE incentive programs. While one might assume that the policy was not intended to apply to already recognized EE measures such as CHP and WHP, nothing in the language of the proposal says that.

Again, the scope of this proposal is a serious concern to ERC and MCA because under the conditions stated in this proposed policy many types of CHP and WHP systems apparently would not be eligible to participate in the Illinois utility EE incentive programs. We believe such a significant change in SAG policy, especially without a statutory basis, must be closely reviewed by the SAG before this policy is adopted.

3. The specific conditions stated in this policy unnecessarily restrict the availability of EE incentives.

The proposed policy contains two conditions. The first condition restricts EE program eligibility to a measure that reduces use of grid-connected electricity or pipeline-supplied natural gas and meets one of three sub-conditions.

Condition 1(A) requires that any renewable energy conversion component must be “*integral to a single device meeting a specific end use need*”, that is “*designed, sold and installed as a single device (e.g., PV built into outdoor lighting) and not as separate components that are connected as a system.*” It appears the idea here is that if a device generates renewable energy it can nonetheless qualify as an EE measure only if that generation capacity is inseparable from the device.

The SAG must ask: Why is this “single device” criterion a necessary condition for qualification as “Energy Efficiency” as defined under Illinois law? This has never been a criterion for EE program eligibility before. We would point out that CHP and WHP

systems which are currently recognized and incentivized as EE measures in Illinois are systems with many components.

Condition 1(B) requires that qualifying EE measures must be “*specifically designed to use a form of renewable energy that is naturally available on-site*” and “*without an additional energy conversion step after capture.*” This would appear to exclude from the Illinois EE programs any CHP system that uses natural gas, biogas or hydrogen that is piped into the facility from off-site. Why this new “onsite” fuel criteria? Also, what is meant by “naturally available”? Does “naturally available” include waste heat that is generated by many industrial production processes? Does it include biogas generated at municipal wastewater treatment plants or landfill gas? We don’t know if these currently eligible RERs and EE measures were considered by the Committee. But we fear that there are those who would argue that waste heat or biogas generated by man-made processes, although eligible as an RER, is not “natural” and thus not eligible under Illinois EE programs. Finally, why restrict eligibility to measures that require an “additional energy conversion step after capture”?

These criteria are not consistent with the statutory definition of RERs and are not technically necessary distinctions or clarifications of the Illinois definition of “Energy Efficiency”. The SAG should ask: What basis does the SAG have to recommend that utilities limit access to ratepayer funded EE incentives based on a condition that has nothing to do with “Energy Efficiency”, as defined in Illinois, that would change established eligibility requirements for Illinois’ EE programs, and that discriminates against measures that the Illinois General Assembly clearly wants to incentivize?

Condition 1(C) limits eligibility to measures that “*produce a renewable energy byproduct on-site from an existing process that can be used to reduce an on-site energy need.*” This policy condition would appear to make many currently eligible clean energy projects ineligible for Illinois’ EE programs. As an initial matter, the phrase “renewable energy byproduct onsite” is undefined. But, even without a definition, the electricity CHP systems generate is unlikely to be characterized as a “byproduct” of a “process.” WHP systems do capture waste heat from a process (either an existing process or a new process) and convert it to electricity, often for use onsite, and therefore would appear to be eligible under Condition 1(C). But would this provision exclude a WHP system designed and built for a new on-site process? Why? Also, why the limitation on reducing an “onsite energy need”? This inconsistent with the current EE Programs (as reflected in the current TRM) which allow CHP and WHP projects to export power to the grid.

The SAG should consider: Do the criteria in Condition 1(C) reflect a technically or legally necessary interpretation of the Illinois definition of “Energy Efficiency”. We believe they do not.

Condition #2, which must also be met under this policy, requires that no energy can be exported to the electric or natural gas grid. Again, this is a new limitation that would restrict EE incentives for many clean energy projects that now qualify for Illinois' EE programs. As mentioned above, the TRM recognizes that CHP and WHP projects in the EE programs may export power to the grid. This new criterion would appear to prohibit even net-metering if a project seeks incentives under the Illinois EE programs.

Based on the above initial review, ERC and MCA believe this policy requires substantial review and revision, including a revisiting of its purpose and scope, its consistency with Illinois law, the limits on the SAG's and utilities' authority to apply eligibility criteria that restrict access to Illinois' EE programs, and the necessity and appropriateness of the specific eligibility criteria proposed.

Thank you for your consideration of these comments.

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