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Illinois Power Agency  
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160 North LaSalle Street  
Chicago, Illinois 60601

Attention: Mario Bohorquez,  
Planning and Procurement Bureau Chief  
Via email: [mario.bohorquez@illinois.gov](mailto:mario.bohorquez@illinois.gov)

Re: Comments on Draft Long-Term Renewable Resources Plan

Dear Director Star:

The following individuals are jointly submitting comments on the IPA's Draft Long-Term Renewable Resources Plan:

Kimberly Wasserman - Little Village Environmental Justice Organization  
Veronica Kyle – Faith In Place  
Keith Harley - Chicago Legal Clinic, Inc.

Each of these individuals is a Governor-appointed member of the Illinois Environmental Justice Commission. The EJ Commission submitted comments to the IPA in May, in advance of IPA's publication of the Draft Plan. Although the EJ Commission itself will not be submitting additional comments, these individual Commissioners have continued to discuss EJ aspects of the IPA's Draft Plan and together developed the following specific comments.<sup>1</sup> These comments only represent the point of view of these individual Commissioners, not the EJ Commission as a whole nor any other Commission member.

### **Proposed Approach for Defining Environmental Justice Communities**

- **Summary:** Proposed Approach for Defining Environmental Justice Communities. The individual Commissioners strongly supports the Illinois Power Agency's use of a methodology sourced from the CalEnviroScreen approach to mapping environmental justice communities, including the use of federal databases for the listed key indicators listed for environmental and demographic, which follows the recommendations of the EJ Commission submitted to the Illinois Power Agency in May 2017. The list of indicators,

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<sup>1</sup> The Illinois Environmental Justice Commission met to discuss the IPA's Draft Plan on October 4, 2017. The Environmental Justice Commission formed a work group, consisting of Commissioners and interested individuals, to review the IPA's Draft Plan. This work group met on October 13, October 18, October 24 and October 27. The Commission as a whole met again on November 3<sup>rd</sup> and November 9<sup>th</sup>. The November 9<sup>th</sup> meeting did not have a quorum, and therefore, was unable to conclude any action related to the IPA's Draft Plan. Consequently, these comments in no way represent any action by the Illinois Environmental Justice Commission, but rather, are jointly submitted by three individual Commissioners and solely represent their point of view and recommendations to the IPA. These comments do not purport to represent the views of any other Commissioner. The only action by the Illinois Environmental Justice Commission related to this matter is the May, 2017 letter to the IPA that addresses potential protocols for identifying environmental justice communities.

themselves, is also strongly supported by the individual Commissioners, as they line up closely with what is utilized in the CalEnviroScreen methodology. The inclusion of minority percentage in the list of demographic indicators is strongly supported by the individual Commissioners as it follows closely to the U.S. Environmental Protection Agency definition of “overburdened community.”<sup>2</sup> Additionally, the individual Commissioners recommend the inclusion of eight additional demographic & environmental indicators and a change from Census tracts to Census blocks in the methodology, as well as a process for testing the model and ongoing evaluation of the mapping process moving forward. The individual Commissioners believe that they can be used in the methodology through the refining process to see if they affect the overall method of designating EJ communities.

- **Chapter and Section:** Chapter 8, Section 8.15.2 Proposed Approach for Defining Environmental Justice Communities.
- **Sentence(s) and Page Number(s):** “The Agency proposes to determine Environmental Justice Communities by analyzing data from Illinois Census tracts for the following environmental and demographic indicators, as described by the EJ SCREEN Tool:
  - National-Scale Air Toxics Assessment (NATA) air toxics cancer risk
  - NATA respiratory hazard index
  - NATA diesel PM
  - Particulate matter
  - Ozone
  - Traffic proximity and volume
  - Lead paint indicator
  - Proximity to Risk Management Plan sites
  - Proximity to Hazardous Waste Treatment, Storage and Disposal Facilities
  - Proximity to National Priorities List sites
  - Wastewater Dischargers Indicator

And the following demographic indicators also used by EJSCREEN:

- Percent Low-Income
- Percent Minority
- Less than high school education
- Linguistic isolation
- Individuals under age 5
- Individuals over age 64

“The Agency would then weight each factor using an approach adapted from CalEnviroScreen: Census tracts would be ranked for each environmental and demographic indicator, a resulting percentile score would be found for each tract, and

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<sup>2</sup> U.S. Environmental Protection Agency. *EJ 2020 Glossary*. Retrieved from: <https://www.epa.gov/environmentaljustice/ej-2020-glossary>

the percentile scores would be averaged, resulting in an environmental and demographic score for each tract. The two averages would be multiplied together to determine a score.” (p 165-166)

- **[Alternative and Supplementary Wording Proposed]:**

*[SUPPLEMENTARY, ADD]*

- “Individuals over age 64”

And the following demographic indicators for Sensitive Population Characteristics sourced from the Illinois Department of Public Health and the Illinois EPA:

- Asthma Emergency Department Visits (IDPH)
- Low Birth Weight Infants (IDPH)
- Drinking Water Watch (IEPA)
- Site remediation program (IEPA)
- Leaking Underground Storage Tank Incident Tracking ("LUST") (IEPA)
- State Response Action Program (IEPA)
- Solid Waste facilities (IEPA)

The Agency proposes to determine Environmental Justice Communities by analyzing data from Illinois Census blocks for the following environmental and demographic indicators, as described by the EJ SCREEN Tool:”

“The Agency would then weight each factor using an approach adapted from CalEnviroScreen: Census blocks would be ranked for each environmental and demographic indicator, a resulting percentile score would be found for each block, and the percentile scores would be averaged, resulting in an environmental and demographic score for each block. The two averages would be multiplied together to determine a score.”

- **Discussion, Data or Detailed Analyses:**

- **On addition of Sensitive Population Characteristics for asthma, low birth weight infants:** As identified in CalEnviro Screen 3.0 Identification Methodology, Illinois should also consider Sensitive Population Characteristics. Asthma Emergency Department Visits and Low Birth Weight Infants should be considered as additional indicators. The Illinois Department of Public Health (IDPH) maintains data on asthma and has incorporated it into an interactive map, which can be found here: <http://www.healthcarereportcard.illinois.gov/map>. The IDPH is a member of the EJ Commission and will continue to be a valuable resource concerning the asthma data that it collects. Low birth weight infants data can be pulled from birth records, as well as hospital discharge records. There are some statistics at the county level posted on the IDPH Birth Statistics webpage, under the heading “Birth Characteristics”:

<http://www.dph.illinois.gov/data-statistics/vital-statistics/birth-statistics/more-statistics>

- **On use of census blocks instead of census tracts:** The individual Commissioners note that the draft Long-Term Renewable Resources Plan states that demographic and environmental factors will be evaluated at the census tract level, when USEPA EJ SCREEN utilizes census blocks. It is the individual Commissioner's recommendation that demographic and environmental factors be evaluated at the census block level in accordance with USEPA EJ SCREEN measures. The primary rationale for this is that census blocks are the smallest available unit of land for both sets of indicators, and inclusion of data that is aggregated for larger units of land in census tracts may dilute how closely indicators approximate very local environmental justice community impacts for census blocks directly adjacent to census blocks that are less impacted by specific indicators.
  
- **On addition of the Drinking Water Watch:** The individual Commissioners note that currently the priorities only include one database for water issues. The Drinking Water Watch database <http://water.epa.state.il.us/dww/index.jsp> gives access to Water System Facilities, Sample Schedules, Sample Results and Violation/Enforcement Actions. These factors can possibly aid in designating environmental justice communities as part of the equations IPA has created and as part of self-designation.
  
- **On the addition of Illinois EPA Bureau of Land database information:** Of the Eleven environmental indicators utilized in USEPA EJ SCREEN, only one, proximity to National Priorities List ("NPL") sites, directly concerns remediation activities. Illinois EPA's site remediation database, Leaking Underground Storage Tank Incident Tracking ("LUST") database and state sites in Illinois EPA's State Response Action Program are sources of information that could augment the designation process and paint a fuller picture of environmental conditions in Illinois. Additionally, the Illinois EPA issues permits for the management of non-hazardous waste at landfills, transfer stations, compost, and waste storage, treatment, processing, and recovery facilities and that information is accessible via the solid waste database. Solid waste permit information is another source of information reflective of the relative environmental burden impacting a community.
  
- The databases include: [www.epa.illinois.gov/topics/cleanup-programs/bol-database/index](http://www.epa.illinois.gov/topics/cleanup-programs/bol-database/index)
  
- Site remediation program: [epadata.epa.state.il.us/land/srp/index.asp](http://epadata.epa.state.il.us/land/srp/index.asp)
  
- The Leaking Underground Storage Tank Incident Tracking ("LUST") database: [www.epa.illinois.gov/topics/cleanup-programs/bol-database/leaking-ust/index](http://www.epa.illinois.gov/topics/cleanup-programs/bol-database/leaking-ust/index)

- State sites in IEPA State Response Action Program: [epadata.epa.state.il.us/land/ssu/index.asp](http://epadata.epa.state.il.us/land/ssu/index.asp)
- Solid waste facilities: [epadata.epa.state.il.us/land/solidwaste/index.asp](http://epadata.epa.state.il.us/land/solidwaste/index.asp)

## **Environmental Justice Community Designations**

- **Summary:** The individual Commissioners strongly support the Agency’s proposal to post on its website draft maps and data and invite stakeholders to review and comment on the results, as well as utilization of this as an initial opportunity to request self-designation as an environmental justice community, in addition to semi-annual updating of maps to reflect self-designation changes. The individual Commissioners also support the Agency’s proposal that community boundaries could be changed or expanded to better align with real-world understandings of geographic, cultural, and other factors by residents of the boundaries of environmental justice communities. In addition, the individual Commissioners recommend a sample test of the mapping methodology prior to the commencement of a proceeding run in collaboration between the Agency and the EJ Commission, as well as ongoing evaluation moving forward every two years.
- **Chapter and Section:** Chapter 8, Section 8.15.3 Environmental Justice Community Designations.
- **Sentence(s) and Page Number(s):** “The Agency will undertake the analysis described in Section 8.15.2 after this Plan (and thus the inputs and methodology) is approved by the Commission. The Agency will publish on its website draft maps and data and invite stakeholders to review and comment on the results. This will also provide an initial opportunity for communities to request self-designation as an environmental justice community. The Agency will review the feedback received and then publish final maps and lists of the designated environmental justice communities. The maps will be updated on a semiannual basis to reflect any additional requests for self-designation.” (p 167)

- **[Alternative and Supplementary Wording Proposed]:**

“The maps will be updated on a semiannual basis to reflect any additional requests for self-designation.” The Agency will run a sample community through the proposed methodology listed in the Plan and will share the results of the sample run with the Illinois Commission on Environmental Justice. The Agency and the EJ Commission will collaborate to evaluate the model prior to the commencement of a proceeding in front of the Illinois Commerce Commission. Additionally, the Agency will review the methodology for identification of environmental justice communities every two years in collaboration with the EJ Commission and interested community stakeholders, which is to include a public process where comments are solicited on the model and what additional indicators should be included moving forward.

“This will also provide an initial opportunity for communities to request self-designation as an environmental justice community.” Communities requesting self-designation will be able to submit qualitative and quantitative evidence for purposes of describing environmental harms in their communities and subsequent impacts. Communities may include descriptions of personal experiences of environmental harms and/or health and economic consequences by community members, media coverage of relevant situations of environmental harms or impacts, and any other relevant evidence submitted and designated as such by community members of any community requesting self-designation.

- **Discussion, Data or Detailed Analyses:**
  - The individual Commissioners request that the Illinois Power Agency run a sample community analysis for a single community using the proposed methodology with the addition of proposed indicators and share the results of such an analysis with the EJ Commission. We strongly recommend that the EJ Commission and Illinois Power Agency continue to collaborate to refine the methodology for Illinois and determine how the method approximates qualitative understandings of environmental justice communities in the state leading up to the initiation of a case process at the Illinois Commerce Commission. In addition to the initial proposed feedback process already listed in the Plan, the individual Commissioners also strongly recommend that the Environmental Justice community designations methodology be subject to an evaluation every two years in collaboration with the EJ Commission and interested community stakeholders from environmental justice communities to ensure that additional indicators are being incorporated where relevant.

### **Low Income Community Solar Project Initiative**

- **Summary:** Low Income Community Solar Project Initiative. It is imperative that the term “community stakeholder” be defined such that project vendors are partnering with stakeholders that have a long-standing commitment to community residents and addressing community issues that are identified and defined by residents.
- **Chapter and Section:** Chapter 8, Section 8.6.2 Low Income Community Solar Project Initiative.
- **Sentence(s) and Page Number(s):** Chapter 8, Section 8.6.2 Low-Income Community Solar Project
  1. “For the first provision, all Approved Vendors submitting a Low-Income Community Solar Project will need to include in their application a description of a partnership with community stakeholders in the community where the project will be located. While the Act does not define the term “community stakeholders,” guidance could be found in the federal Elementary and Secondary Education Act, which defines a “community-based organization” as “a public or private nonprofit organization of demonstrated effectiveness that (A) is representative of a community or significant segments of a community; and (B) provides

educational or related services to individuals in the community.”

“Additionally, the National Community–Based Organization Network (NCBON) defines a community-based organization as one in which:

- The majority of the governing body and staff consists of local residents,
- The main operating offices are in the community,
- Priority issue areas are identified and defined by residents,
- Solutions to address priority issues are developed with residents, and
- Program design, implementation, and evaluation components have residents intimately involved, in leadership positions.” (p 148)

- **[Alternative Wording Proposed]:** Chapter 8, Section 8.6.2 Low Income Community Solar Project Initiative.
  1. (p 148) “For the first provision, all Approved Vendors submitting a Low-Income Community Solar Project will need to include in their application a description of a partnership with community stakeholders in the community where the project will be located. While the Act does not define the term “community stakeholders,” primary guidance for this term pursuant to this Act shall be found in the National Community–Based Organization Network (NCBON) definition. The NCBON defines a community-based organization as one in which:
    - The majority of the governing body and staff consists of local residents,
    - The main operating offices are in the community,
    - Priority issue areas are identified and defined by residents,
    - Solutions to address priority issues are developed with residents, and
    - Program design, implementation, and evaluation components have residents intimately involved, in leadership positions.”
- **Discussion, Data or Detailed Analyses:** It is the perspective of the individual Commissioners that the latter definition of a “Community-Based Organization” from the National Community-Based Organizing Network serves as the strongest guidance on how to identify what bodies are identified as community stakeholders. Thus, the plan should change the order to indicate primary guidance from the NCBON definition.

### **Environmental Justice Communities 25% Goal**

- **Summary:** The individual Commissioners support allocating 25% of the Agency’s annual budget in accordance with the 25% goal per the statute for environmental justice communities for the Low-Income Distributed Generation Incentive, the Low-Income Community Solar Project Initiative, and the Incentives for Non-profits and Public Facilities as specified in the Plan. However, the individual Commissioners recommend amendment of the structure for reserving such funds as subsequently detailed in order to allow for appropriate capacity-building needed for the process of proposing projects. Additionally, the individual Commissioners support the prioritization of grassroots

education funding for environmental justice communities and recommends further specifications on the meaning of prioritization below.

- **Chapter and Section:** Chapter 8, Section 8.15.4 Environmental Justice Communities 25% Goal
- **Sentence(s) and Page Number(s):** Chapter 8, Section 8.15.4 Environmental Justice Communities 25% Goal.
  1. “For the Low-income Distributed Generation Incentive, the Low-Income Community Solar Project Initiative, and the Incentives for Non-profits and Public Facilities, the Agency will reserve 25% of each category’s annual budget to support projects in environmental justice communities. In each delivery year, for each category, if after nine months these reserved funds are remaining and unallocated to projects in environmental justice communities, the funds will be released for use by projects not in environmental justice communities. If the funds are fully allocated to projects in environmental justice communities, then subsequent projects in environmental justice communities would still be eligible using the general available budgets.” (p 167)
  2. “The Act also directs the Agency to “allocate up to 5% of the funds available under the Illinois Solar for All Program to community-based groups to assist in grassroots education.” As noted in Section 8.8, that funding will be prioritized towards Environmental Justice Communities to help meet this goal.” (p 167)
- **[Alternative Wording Proposed]:** “For the Low-income Distributed Generation Incentive, the Low-Income Community Solar Project Initiative, and the Incentives for Non-profits and Public Facilities, the Agency will reserve 25% of each category’s annual budget to support projects in environmental justice communities. In each delivery year 2018, 2019, and 2020 for each of the three aforementioned incentives, the reserved funds will be preserved through the end of the delivery year and rolled over into the budget for the next delivery year until the following delivery year for projects in environmental justice communities. A review of the reallocation process and program years selected will be included in the next iteration of plan development in 2019. Beginning with delivery year 2021, the Agency will reserve 25% of each category’s annual budget to support projects in environmental justice communities, and if after nine months these reserved funds are remaining and unallocated to projects in environmental justice communities, the funds will be released for use by projects not in environmental justice communities. In all delivery years, if the funds are fully allocated to projects in environmental justice communities, then subsequent projects in environmental justice communities would still be eligible using the general available budgets.” (p 167)

“The Act also directs the Agency to “allocate up to 5% of the funds available under the Illinois Solar for All Program to community-based groups to assist in grassroots education.” As noted in Section 8.8, that funding will be prioritized towards Environmental Justice Communities to help meet this goal. For the purposes of prioritization, 3% of the funds available under the Illinois Solar for All Program will be directed toward Environmental Justice Communities to help meet this goal. The Agency

will utilize results from the Environmental Justice Community Designations (Chapter 8, Section 8.15.3 Environmental Justice Community Designations) of this Plan to identify the communities from which community stakeholders will be prioritized in receiving funds to assist in grassroots education under the prioritized funds. Funds may be used for activities including research in preparation of materials for communities, community meetings or forums hosted to disseminate materials, printing costs, and translation costs of materials for communities requiring materials in languages other than English. The Agency will collaborate with the EJ Commission for technical assistance on best practices to connect communities with the opportunity to engage in grassroots education. The Agency will allocate 1% of the funds available under the Illinois Solar for All Program for grassroots education for each of the first five program years - 2018 through 2022 - such that grassroots education funding be available to community stakeholders for the outset of the program and to prevent early exhaustion of the funds. The Agency will solicit proposals from communities in the first quarter of each program year beginning in 2018 until funds are exhausted. Materials developed for grassroots education under this funding will be made available to members of the public on the Agency's website so that community stakeholders from economically disadvantaged communities throughout Illinois can utilize and adapt these materials for their community's use in grassroots education even if such communities are not direct recipients of grassroots education funds.

- **Discussion, Data or Detailed Analyses:**

- **On changes to reservation and reallocation of funds:** The individual Commissioners recommend that reallocation of reserved funds not commence until after the first three program years of the IL Solar for All program, and be accompanied by an evaluation of how the mechanism is functioning as part of the next iteration of the development of the Long-Term Renewable Resources Procurement Plan in 2019. The rationale comes directly from representatives of environmental justice communities throughout the state who are concerned that rural communities, smaller communities without local organizations working on environmental justice issues, and communities needing to go through the self-identification process prior to submitting projects for reserved funds will need additional time to prepare to submit projects. These communities will also need the opportunity to grow their capacity to manage project submissions and respective partnerships; and take the time needed to vet solar energy concepts, specific project ideas, and respective characteristics with members of their communities. This time will be needed most at the front end of deploying the program.
- **On grassroots education prioritization and selection:** The individual Commissioners recommend specificity about the amount of funds that is intended by prioritization of EJ Communities, how recipients of funds will be identified, how funds can be used, and what process will be used is critical to the function of the education component. The individual Commissioners recommend a timeline and model for the utilization of funds to maximize the ability of

community stakeholders to engage in grassroots education for the outset of the program and to prevent funds from being exhausted early in the program period. Additionally, transparency, consistency, and public availability of materials developed for these programs will be key, and this will maximize the use of the money toward grassroots education for the benefit of economically disadvantaged communities throughout the state.

## **Evaluation**

- **Summary:** The individual Commissioners support the use of a public stakeholder process to develop criteria for the independent evaluator to use in review of and reporting on the program and performance of the third-party administrator. The individual Commissioners recommend supplementary measures be taken to facilitate meaningful participation of EJ Communities in the process, and suggests one category of measures to be included in the initial list in the Plan.
- **Chapter and Section:** Chapter 8, Section 8.17.
- **Sentence(s) and Page Number(s):** Chapter 8, Section 8.17. Evaluation.
  1. “Section 1-56(b)(6) requires that this Plan include an approach for independent evaluation of the Illinois Solar for All Program. Specifically, it calls for:

At least every 2 years, the Agency shall select an independent evaluator to review and report on the Illinois Solar for All Program and the performance of the third-party program administrator of the Illinois Solar for All Program. The evaluation shall be based on objective criteria developed through a public stakeholder process. The process shall include feedback and participation from Illinois Solar for All Program stakeholders, including participants and organizations in environmental justice and historically underserved communities. The report shall include a summary of the evaluation of the Illinois Solar for All Program based on the stakeholder developed objective criteria. The report shall include the number of projects installed; the total installed capacity in kilowatts; the average cost per kilowatt of installed capacity to the extent reasonably obtainable by the Agency; the number of jobs or job opportunities created; economic, social, and environmental benefits created; and the total administrative costs expended by the Agency and program administrator to implement and evaluate the program.” (p 168)
- **Alternative Wording Proposed:** “Section 1-56(b)(6) requires that this Plan include an approach for independent evaluation of the Illinois Solar for All Program. Specifically, it calls for:

At least every 2 years, the Agency shall select an independent evaluator to review and report on the Illinois Solar for All Program and the performance of the third-party program administrator of the Illinois Solar for All Program. The evaluation shall be based on objective criteria developed through a public stakeholder process. The process shall include feedback and participation from Illinois Solar for All Program stakeholders, including participants and organizations in environmental justice and historically underserved communities. The report shall include a summary of the evaluation of the Illinois Solar for All Program based on the stakeholder developed objective criteria. The

report shall include, but is not limited to, the number of projects installed; the total installed capacity in kilowatts; the average cost per kilowatt of installed capacity to the extent reasonably obtainable by the Agency; the number of jobs or job opportunities created; economic, social, and environmental benefits created; measures to evaluate partnerships between developers and community stakeholders, and the total administrative costs expended by the Agency and program administrator to implement and evaluate the program. The independent evaluator will take additional measures based on recommendations specified in the *Model Guidelines for Public Participation*<sup>3</sup> developed by the National Environmental Justice Advisory Council to the U.S. Environmental Protection Agency to facilitate meaningful involvement in the public participation process by environmental justice communities and community stakeholders that participated in the program, including the meaningful involvement of environmental justice communities and economically disadvantaged communities in development of stakeholder developed objective criteria or other measures used in evaluation of the program." (p 168)

- **Discussion, Data or Detailed Analyses:** The individual Commissioners recommend supplementary measures be taken to facilitate meaningful participation of EJ Communities in the process and directs the Agency to best practices developed for use in regulatory public participation for the U.S. Environmental Protection Agency, which can be adapted for use in the public process around program evaluation. The individual Commissioners suggest that a category of measures to be included in the initial list in the Plan to reflect the need to consider how partnerships in and with EJ Community stakeholders are working in evaluating the performance of the program.

### **Consumer Protection Requirements**

- **Summary:** These comments address the IPA's consumer protection proposals for the Adjustable Block Program, Community Renewable Generation Projects, and the Illinois Solar For All Program. Each of these initiatives will create new interactions and transactions between businesses and consumers, customers and communities. The individual Commissioners support the purpose of these initiatives to provide the benefits of clean, renewable energy in communities. Having said this, the individual Commissioners agree with the Agency that proactive consumer protections are essential to avoid unfair business practices that could harm vulnerable Illinois residents and consumers. Like the Agency, the individual Commissioners are aware of unfair, recurrent practices that have characterized some alternative retail energy business initiatives.
- Additionally, EJ Communities are particularly vulnerable to violations of consumer protection due to the economic status of residents, previous exposure to coercive

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<sup>3</sup> National Environmental Justice Advisory Council, A Federal Advisory Committee to the U.S. Environmental Protection Agency. *Model Guidelines for Public Participation*. Retrieved from: <https://www.epa.gov/sites/production/files/2015-02/documents/recommendations-model-guide-pp-2013.pdf>

financial mechanisms and predatory practices in economically disadvantaged communities, and the consequences of environmental harms for resident health, trust or mistrust of government institutions, and more.

- The individual Commissioners affirmatively support strong consumer protection provisions in the Plan and specifically supports recommendations around Consumer Protection submitted in comments by the Illinois Solar for All Working Group.
- **Chapter and Section:**
  - Chapter 6, Section 6.13, pp. 113.
- **Sentence(s) and Page Number(s):**
  - The IPA proposes that Approved Vendors “...will be expected to comply, at a minimum, with marketing standards equivalent to Commission-approved rules for marketing practices by alternative retail electric suppliers where applicable. (83 Ill. Admin. Code Part 412, Subpart B).”
- **[Alternative Wording Proposed]:**
  - The Agency specifies that Approved Vendors will be required to comply, at a minimum, with Part 412 consumer protection regulations. For entities operating in the Adjustable Block Community Renewable General, and Solar for All programs that are not subject to Part 412 consumer protection regulations, the Agency identifies the following relevant consumer protection requirements as mandatory: 83 Ill. Admin. Code Sections 412.100 - 412.340, consisting of Subpart B, Subpart C and Subpart D of Part 412.
- **Discussion, Data or Detailed Analyses:** This standard – based on “an expectation” and “equivalence” with Part 412 - should be strengthened because it is vague, subjective and could be interpreted as merely an aspiration. The individual Commissioners recommend that the IPA specifically identify the regulated entities in the Adjustable Block, Community Renewable Generation and Solar For All initiatives that are subject to Part 412 consumer protection regulations and explicitly assert that these entities are required to meet these standards. For entities that will operate in these programs that are not subject to Part 412, the Agency should specifically identify relevant Part 412 consumer protection requirements, incorporate them by reference and mandate that these entities must comply with these standards. This will create more objective and verifiable consumer protection standards. The individual Commissioners agree with the Agency that additional, tailored consumer protections - beyond the baseline Part 412 requirements – are also appropriate and necessary.

### **Monitoring of Consumer Complaints**

- **Summary:**
- **Chapter and Section:**
  - **Chapter 6, Section 6.13.2. Monitoring of Consumer Complaints**
- **Sentence(s) and Page Number(s):**
  - If warranted, the Program Administrator will refer complaints to the Agency and

to appropriate state and federal agencies, including the Consumer Protection Division of the Illinois Attorney General’s Office, or the Illinois Commerce Commission (e.g., for failure of installers to maintain their status as Certified Distributed Generation Installers).” (p 113)

- **[Alternative Wording Proposed]:**

- If warranted, the Program Administrator will refer complaints to the Agency and to appropriate state and federal agencies, including the Consumer Protection Division of the Illinois Attorney General’s Office, or the Illinois Commerce Commission (e.g., for failure of installers to maintain their status as Certified Distributed Generation Installers).
- The Program Administrator should be directed to maintain a public database of all consumer complaints (excising, as appropriate, private consumer information). The information in this database should be integrated with information about complaints received directly by the Illinois Attorney General, Illinois Commerce Commission and other state regulatory and enforcement agencies. The public database should identify practices that give rise to consumer complaints by category, location and business.
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- **Discussion, Data or Detailed Analyses:** This comprehensive, integrated database will enable a systematic analysis of business practices that give rise to consumer complaints by category, location and business. This will enable appropriately scaled regulatory and enforcement responses to recurrent consumer complaints, while also informing members of the public as they participate in interactions and evaluate potential transactions with business entities.

### **Residential Subscribers**

- **Summary:** The individual Commissioners acknowledge the Agency’s work to develop the omnibus list of existing federal and state laws that are designed to protect consumers from unfair business practices.
- **Chapter and Section:** Chapter 7, Section 7.6.2. Residential Subscribers.
- **Sentence(s) and Page Number(s):**

**Table 7-1: Federal Statutes that Apply to Community Solar**

<b>Statute</b>	<b>Topic</b>
<b>CAN-SPAM Act</b>	<b>Electronic marketing</b>
<b>Consumer Leasing Act</b>	<b>Leasing disclosures</b>
<b>Electronic Funds Transfer Act</b>	<b>Consumer rights in electronic fund transfers</b>
<b>Equal Credit Opportunity Act</b>	<b>Discrimination in credit transactions</b>

<b>Fair Credit Reporting Act</b>	<b>Collection and use of consumer information</b>
<b>Federal Trade Commission Act</b>	<b>Unfair and deceptive trade practices</b>
<b>Magnuson-Moss Warranty Act</b>	<b>Consumer product warranties</b>
<b>Right to Financial Privacy Act</b>	<b>Financial privacy from government intrusion</b>
<b>Truth in Lending Act</b>	<b>Lending disclosures and standardization</b>
<b>Telephone Consumer Protection Act</b>	<b>Telemarketing and automated telephone equipment</b>
<b>Unfair Deceptive Practices Act (UDAAP)</b>	<b>Misleading financial products and services</b>
<b>Uniform Commercial Code</b>	<b>Sales and commercial transactions</b>

**Table 7.2 Illinois Statutes that Apply to Community Solar**

<b>Statute</b>	<b>Topic</b>
<b>Consumer Fraud and Deceptive Business Practices Act (815 ILCS 505)</b>	<b>Enrollment, marketing, billing, and collection by electric service providers</b>
<b>Electronic Mail Act (EMA) (815 ILCS 511)</b>	<b>Regulates e-mail solicitations</b>
<b>Telephone Solicitations Act (815 ILCS 413) and the Restricted Call Registry Act (815 ILCS 402)</b>	<b>Regulates telemarketing practices</b>
<b>Personal Information Protection Act (815 ILCS 530)</b>	<b>Requires companies that collect personal information to take reasonable measures to protect it and report unauthorized access to consumer's personal information.</b>

**[Alternative Wording Proposed]:** “These laws and regulations provide a starting point for protecting consumers, but their enforcement agencies typically only track and enforce good marketing practices if triggered by consumer complaints. In order to ensure that subscribers are well-informed and thus afforded adequate consumer protections, the Agency will require that all projects adhere to the following terms and conditions for subscriptions.” As part of its submission to the ICC, the IPA will include an Appendix that identifies the most important protections in the referenced consumer protection laws.

- **Discussion, Data or Detailed Analyses:** The individual Commissioners encourage the

Agency to identify the most important, substantive aspects of these existing consumer protection statutes that apply to the Adjustable Block, Community Renewable Generation and Solar For All initiatives. This will enable the ICC and public participants to identify and comment on inconsistencies, redundancies and gaps in the complete package of consumer protections that would apply to interactions and transactions between businesses and consumers.

### **Consumer Protections**

- **Summary:** The individual Commissioners acknowledges the Agency’s work to develop enhanced consumer protection protocols for Solar For All initiatives in environmental justice communities.
- **Chapter and Section: Chapter 8, Section 8.14. Consumer Protections.**
- **Sentence(s) and Page Number(s):** “Marketing and contractual materials must be in the language spoken by the customer.” (p 162)  
**[Alternative Wording Proposed]:** All communications between business entities and consumers as part of the Adjustable Block, Community Renewable Generation and Solar for All Initiatives, as well as all marketing and contractual materials, must be in the language elected by the consumer.
- **Discussion, Data or Detailed Analyses:** The individual Commissioners approve of the “language elected by the customer” standard because it is objective and verifiable. This standard is qualitatively better than the ARES-derived alternative - what a “reasonable person” would conclude is the correct language to use to transact business. “Elected by the consumer” is also a more protective standard than “spoken by the consumer” because an interaction may be initiated in English, causing a consumer to continue in English, even though that individual may prefer to interact and conduct business in another language.

Thank you for your consideration of these comments.

Sincerely,  
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