

# Arcadia

February 28, 2022

## **Arcadia Power, Inc.'s Comments on the Illinois Power Agency's Draft 2022 Long-Term Renewable Resources Procurement Plan**

### **Introduction**

Arcadia Power, Inc. (Arcadia) appreciates the opportunity to comment on the Illinois Power Agency (IPA) draft 2022 Long-Term Renewable Resources Procurement Plan (LTRRPP). Through the passage of the Climate and Equitable Jobs Act (CEJA) and the hard work of the IPA, the Illinois Commerce Commission (ICC), and numerous policy and market stakeholders, Illinois has created the framework for a successful program to encourage the development of community solar and in so doing, increasing equity and access for solar energy in Illinois. Together with those agencies and other stakeholders, Arcadia shares the common goal of seeing Illinois take a national leadership position in solar development, as envisioned by CEJA.

Achieving that common goal will require major work, the dedication of significant resources, and the commitment of substantial investment. For that to happen, program design is key, with a particular focus on:

- Understanding and facilitating the practical aspects of how community solar subscriptions work;
- Establishing clear rules of the road and processes for resolving issues quickly and fairly;
- Reducing regulatory complexity; and
- Facilitating appropriate consumer protections without overburdensome or unnecessary regulation.

Arcadia offers these comments with those principles in mind, in an effort to encourage modifications to the LTRRPP that will better facilitate the overall success of community solar in Illinois.

In addition to submitting these comments, Arcadia supports the comments submitted by the Joint Solar Parties (JSP), which includes the following leading solar industry stakeholders: the Solar Energy Industries Association, the Coalition for Community Solar Access, and the Illinois Solar Energy Association. Arcadia's comments supplement the feedback included in the JSP's comments.

## **Background**

Founded in 2014, Arcadia offers the first nationwide digital energy services platform. We connect both residential and commercial utility customers with clean energy technologies while helping them save money. Arcadia is the largest manager of residential community solar subscribers in the U.S.

Arcadia facilitates community solar by finding subscribers and managing all processes related to the subscribers' experience. Specifically in this regard, Arcadia:

- Markets community solar to potential customers;
- Provides all communications required by regulation;
- Enrolls subscribers in projects;
- Determines the appropriate allocation size for each subscriber;
- Communicates allocation sizes to the utility;
- Checks that the utility has accurately applied credits to subscribers' bills;
- Collects subscription fees from subscribers; and
- Transmits those fees to the community solar project.

Arcadia also operates a customer experience team that responds to any questions from subscribers to ensure they understand the impact their community solar subscription has on their energy bills and their community's power system.

Arcadia performs these functions for more than 600 megawatts of community solar, spread across projects in eight states. Ultimately, these projects will serve about 100,000 subscribers. In Illinois, Arcadia is managing over 100 megawatts of community solar projects and 20,000 customers. These projects have saved Arcadia's Illinois customers hundreds of thousands of dollars, made the grid greener, and created hundreds of local jobs.

## **Comments on the LTRRPP**

The remainder of Arcadia's comments respond to specific elements of the LTRRPP. The order of the issues addressed, and the related section numbering and headings, correspond to the draft LTRRPP. Importantly, the issues are not discussed in order of priority to Arcadia. Additionally, Arcadia reserves all rights, inclusive of its right to supplement these written comments to address ABP documents and other issues in this proceeding, and in associated proceedings and other forums, that may not be apparent or identified at this time. Arcadia's silence on other sections of the LTRRPP or components of the Adjustable Block Program (ABP), does not mean that Arcadia is in full agreement with all LTRRPP sections or ABP components on which Arcadia does not comment here.

## 7.2 Program Administrator

Arcadia is registered as a Designee with the ABP and has first-hand knowledge and experience dealing directly with both the IPA and Program Administrator. Over the past two years we have spent countless hours and valuable company resources to keep up with the ever-changing regulatory regime in Illinois. Arcadia's experience is that the ABP is far and away the most complex regulatory regime for community solar in the country. We have multiple full-time employees spending significant time addressing regulatory compliance for Illinois, in addition to employing outside counsel. Although regulatory compliance is, of course, a necessary company function, the extent of compliance requirements in Illinois has reduced the resources Arcadia has been able to dedicate to substantive community solar activities.

### *The Program Administrator should not be serving in an adjudicatory and enforcement capacity*

A significant source of the unnecessary regulatory burden in Illinois has been an over-delegation of authority to the Program Administrator in a manner that exceeds the scope of the role that the Illinois General Assembly established for the Administrator. The IPA Act authorizes the IPA to "retain one or more experts or expert consulting firms to develop, administer, implement, operate, and evaluate the [ABP]." (20 ILCS 3855/1-75(c)(1)(M).) However, the ABP Guidebook and other program materials grant the Program Administrator significant *investigatory, adjudicatory, and enforcement authority* and relegate the IPA itself to the position of conducting, at best, an appellate-type review of the Program Administrator's actions. This arrangement is problematic as a practical matter. It also raises serious legal issues that may require further disposition to resolve.

Well-settled Illinois law precludes governmental agencies from delegating the power they derive from the legislature to private entities. (*People ex rel. Chicago Dryer Co. v. City of Chicago*, 413 Ill. 315 (1952) (striking down a law that improperly delegated statutory power to private individual); *People ex rel. Rudman v. Rini*, 64 Ill. 2d 321 (1976) (invalidating a law delegating executive appointment authority).) Here, the IPA has delegated to the Program Administrator the authority (i) to create the processes and standards by which program participants will be investigated and disciplined and (ii) to enforce those processes and standards. This amounts to an impermissible delegation of governmental power to a private entity, as it cannot be disputed that the Program Administrator is a private, for-profit company. Agency enforcement decisions must be carried out by the agency itself. (*Heckler v. Chaney*, 470 U.S. 821, 831 (1985) ("an agency's decision not to prosecute or enforce...is a decision generally committed to an agency's absolute discretion.")). The Program Administrator cannot be vested with the power to write the "rules of the road" for ABP enforcement actions and then actually enforce the rules after they have been adopted.

In this next phase of the ABP, the IPA should look to the model of other states with successful community solar programs, such as Massachusetts, where the Program Administrator appropriately serves solely in an *administrative* capacity.

*Registering individual customers in two separate portals is duplicative, burdensome, and costly*

The current ABP imposes burdensome and redundant requirements for double registration of individual customers. This requirement is unnecessary, is not required by any other community solar program across the country; and creates an undue burden on projects. Approved Vendors or their Designees are already registering and inputting customer-specific data into the local electric distribution utility (*i.e.*, ComEd and Ameren) portals. The IPA should allow Approved Vendors or their Designees to send the Program Administrator the customer list based on the data exported from the utility portal instead of having to individually upload customers to the IPA ABP portal. This would allow the Program Administrator to verify customer and project information without the current level of redundancy. Currently, Approved Vendors and Designees spend a significant amount of time and back-and-forth with the Program Administrator at the end of each quarter while preparing quarterly reports because they are managing two portals, rather than one. Utilizing the single portal that each utility has built out with ratepayer collected funds would create operational efficiencies, and therefore reduce costs, for all parties involved -- Approved Vendors, Designees, the IPA, the Program Administrator, and the utilities.

### **7.5.6 Community Solar**

The IPA has suggested reducing small subscriber adders as a result of theoretical cost savings associated with online marketing and enrollment processes. Arcadia does not support reducing small subscriber adders in the LTRRPP. At this stage, any assumption that online marketing and enrollment results in cost saving to community solar providers is premature and unsupported by empirical data.

First, Arcadia is unaware of any data that online marketing provides cost savings over more traditional marketing channels. Possible cost savings is an assumption that may not be reflected in the actual market. Use of online marketing by community solar involves substantial upfront programming costs to navigate and comply with marketing requirements and the relatively complex and technical enrollment process mandated by the LTRRPP. Moreover, although online marketing may appear to involve lower incremental costs than other methods (such as door-to-door sales), it is quite likely that the lower labor costs

are offset by the correspondingly lower sign-up rate. That is, direct sales have a much higher conversion than online advertisements.

Second, there is a range of diverse customers across the State of Illinois -- meaning that different customers have different responses to different types of marketing. It would be premature for the IPA to make any recommendation that favors one marketing channel over another. In particular, the Illinois General Assembly's recent CEJA enactment focuses on increasing equity and access to clean energy in the State. Arcadia has anecdotally observed that low- and medium-income customers may be less responsive to online marketing. The ABP is still in its infancy and we recommend against making any material changes to the compensation structure before the IPA has had the opportunity to collect significant data to support the changes for the small subscriber adder.

Third, Illinois has a relatively complex enrollment process that requires each customer to sign an individual disclosure form. This process can be challenging when exclusively using online marketing, so the GTM Research and midpoint range of costs may not be an accurate reflection of the true cost of acquiring customers via online marketing in Illinois. The LTRRPP also cites Minnesota's residential adder as similar to the one the IPA proposes for Illinois. Arcadia would caution against comparisons across states on this particular issue, as all community solar programs have unique elements that make an "apples-to-apples" comparison on costs quite difficult.

A comparison to Minnesota is particularly problematic, since Minnesota community solar subscribers are not required to execute a disclosure form prior to enrolling in a project. Not only does this reduce the complexity of the enrollment process for the customer, but it also reduces the operational complexity to manage that particular customer's subscription. In addition, there is no third-party Program Administrator. Instead, all those involved in the market work directly with the utility (Xcel Energy) within a utility portal to manage and update subscribers' information. Changes to a customer's subscription size or project can be made within this portal, and do not require an additional form executed by the customer. These three important distinctions between the Minnesota and Illinois programs -- no executed disclosure form, no third-party Program Administrator, and working directly with the utility -- clearly demonstrate how costs can vary depending on market requirements and why the IPA should not use Minnesota's residential adder as a model for the Illinois small subscriber adder.

#### **7.11.4 Additional Requirements for Community Solar Projects**

The LTRRPP states that the calculation of the maximum number of RECs due payment is determined by the project's subscription level after one year of operation. (LTRRPP, page 192.) The LTRRPP also states that, for purposes of determining the contract payment amount based on a project's subscription level, (i) the contract price for a delivery year shall be based on subscription levels as measured on the higher of the first business day of the delivery year or the first business day 6 months after the first business day of the delivery year and (ii) subscription of 90% of nameplate capacity or greater shall be deemed fully subscribed. (LTRRPP, pages 192-193, *citing* 20 ILCS 3855/1-75(c)(1)(L).)

Arcadia appreciates the flexibility the IPA has introduced for the calculation of the maximum number of RECs due payment determined by the project's subscription level after one year of operation. However, it is unclear how this applies to the current *quarterly* reporting process. The language in this section of the LTRRPP deems a project to be fully subscribed if there are subscription levels of 90% of nameplate capacity or greater; it does not specify if this also updates the threshold for quarterly reporting.

Arcadia urges the IPA to include explicit language on the quarterly reporting process in the LTRRPP as it is a critical element considered in the final REC payment made at the one-year mark of operation for a project. Currently, the quarterly reporting measurement for project subscription levels occurs on a single day. If several customers request to cancel or unenroll from the project on the day reporting closes, the Approved Vendor or Designee would be unable to refill that project to the previous subscription level because the time it takes to process a customer's enrollment would extend past the deadline. Nothing in the policy underlying the program goal requires such an explicit focus on a particular point in time to determine the subscription level.

There are two potential solutions to this problem. The first would be to give Approved Vendors or their Designees a 5-day grace period to enroll waitlisted customers onto projects. The second would be for the IPA and Program Administrator to recognize project waitlists that recognize that the project will be returned to its 100% subscription level within a few days from the deadline.

Implementing one of these solutions would reduce regulatory burden while conforming to CEJA's intent. While it is understandable the IPA and Program Administrator want to work to verify subscription levels, as they impact REC payments to Approved Vendors, the General Assembly intended, through CEJA, for those subscription levels to reflect the subscribed capacity over the quarter as a whole rather than a 24-hour snapshot in time.

This is also critically important as there is now a 50% small subscriber requirement for all projects. Residential subscribers, which make up a substantial percentage of small subscribers, move or have changes in their usage patterns that affect over subscription levels on a project. Meeting this 50% requirement at one specific moment in time creates an unreasonable burden on projects.

### **7.15 Annual Report**

Arcadia recommends that the IPA remove the subscriber turn-over rate from the list of items that must be included in annual reports.

The LTRRPP requires ABP participants to report on a detailed set of project-specific metrics to the IPA on an annual basis. Those metrics include RECs delivered by each system; the status of all systems that have been approved, but not yet energized; energized systems that have not delivered RECs in the year; and the balance of collateral held by each utility. (LTRRPP, page 200.) As a general matter, Arcadia supports reasonable reporting requirements as a condition of state solar program participation, as the provision of detailed information to the administering agency can lend itself to programmatic improvements and greater transparency. Here, Arcadia is concerned that a new proposed metric for community solar projects will not serve these objectives, and may actually undercut CEJA's goal of enhancing access to renewables.

The LTRRPP proposes the disclosure of subscriber turn-over rates in annual reports on community solar projects. Arcadia is concerned that such a disclosure requirement may ultimately impact the mix of subscribers that are pursued for Illinois community solar projects in the ABP.

Historically, persons who rent their homes comprise a significant portion of the small subscribers for community solar. Renters move more frequently than homeowners and, as such, a community solar project with a renter-heavy subscriber mix will, all things equal, have a higher turn-over rate than a project with greater homeowner subscription activity. In Arcadia's experience, the turnover resulting from renter moves is a manageable aspect of community solar. However, because high turn-over rates may leave policymakers and regulators with the impression that a project is unstable -- even if the proper management of the project subscriptions demonstrates quite the opposite -- companies will be discouraged from promoting community solar subscriptions to renters. Additionally, low-income customers are more racially diverse and move more frequently between rented residences than do more affluent populations and homeowners. Because this requirement would push projects towards seeking homeownership customers as opposed to renters, it



would systematically exclude lower-income and more diverse communities from participating in community solar. Ultimately, this hinders one of the overarching purposes of CEJA, which is to improve access to renewable energy, particularly among persons who have historically lacked such access, renters included.

Thus, Arcadia recommends that the IPA remove the subscriber turn-over rate from the list of items that must be included in annual reports.

### **9.1 Consumer Protection Requirements under Prior Long-Term Plans**

Arcadia is fully aligned with the IPA's view that the development of safeguards for consumers is a vital component in ensuring the success of the ABP. However, we want to work with the IPA to strike an appropriate balance between the protection of consumers and the avoidance of confusing or onerous requirements that bottleneck community solar participation. Arcadia strongly believes in program rules and guidelines that are balanced and proportionate to consumer protection rules.

For example, the IPA has acknowledged in the LTRRPP how onsite solar (or a rooftop system) is a different risk than subscribing to a community solar project. However, the IPA also includes a comparison between subscribing to a community renewable generation project and enrolling for retail electric supply service from an Alternative Retail Electric Supplier ("ARES"). We understand the desire to make a comparison to another industry with established consumer protections to draw from, but this comparison is not accurate. Under the dominant community solar subscription model in the Illinois market, a subscription to a community solar project is a no-risk proposition to the customer. This model includes no upfront cost, no exit fee, and guaranteed savings on the customer's monthly bills. This is fundamentally different from the ARES market where there are different pricing models, and many customers have the risk of price volatility and the potential to pay more than the utility Price-to-Compare or "PTC" and termination fees are common.

Because the community solar product guarantees customer savings, the regulatory regime should reflect that customers financially benefit from participation, and thus proportional requirements regarding customer sign-up rules. Such proportional rules will also facilitate a key community solar goal: expanded, equitable access for all Illinois residents. To reach the most customers, the burden on the customer during the enrollment process needs to be minimized.



Rather than looking to other energy markets in Illinois, the IPA would be better served looking at how other states, such as Massachusetts, have managed to provide a positive customer experience without weakening consumer protections in their community solar markets.

Rather than focus on the current cumbersome processes, such as a lengthy Disclosure Form and onerous signature requirements, that impose unnecessary program costs and barriers to participation, the IPA should focus on the substance of the community solar offering. To meet the goals of the IPA Act, the IPA should require higher procedural safeguards for customer offers that pose the risk of financial harm to customers. Offerings that guarantee savings and eliminate termination fees (*i.e.*, the current community solar subscription offerings in Illinois) are fundamentally different in kind than offerings that pose a risk of customer harm and should be subject to a different procedural regime.

### **9.3.3 Disciplinary Determinations**

Arcadia appreciates the IPA's efforts to generally describe in Section 9.3.3 of the LTRRPP the procedural steps for disciplinary action. These steps include written notification to the affected party describing the alleged offense, providing the allegedly offending party with an opportunity to respond, and more.

However, if the IPA (or the IPA's Program Administrator) at some later juncture deems it appropriate to change those procedural steps -- which no doubt have a bearing on the due process rights of Approved Vendors and Designees -- the IPA must propose those changes as amendments to the LTRRPP, subject to ICC approval. Such a process would ensure that stakeholders have proper notice and opportunity to comment and voice any potential concerns with such changes with both the IPA and the ICC, in accordance with fundamental administrative due process requirements.

Such an approach is consistent with recent amendments to the IPA Act. As the IPA is well-aware, the Illinois General Assembly in its very recent CEJA enactment amended the IPA Act to require the IPA to follow that process:

***The [IPA] and its Program Administrators*** for both the Adjustable Block Program and the Illinois Solar for All Program, consistent with the requirements of this subsection (c) and subsection (b) of Section 1-56 of this Act, ***shall propose the Adjustable Block Program terms, conditions, and requirements***, including the prices to be paid for renewable energy credits, where applicable, ***and requirements applicable to participating entities*** and project applications, ***through the development, review, and approval of the [IPA's] long-term renewable resources***

**procurement plan** described in this subsection (c) and paragraph (5) of subsection (b) of Section 16–111.5 of the Public Utilities Act.

(20 ILCS 3855/1-75(c)(1)(M) (emphasis added).)

In summary, any future proposed changes to the LTRRPP’s provisions on disciplinary action must be presented to stakeholders for comment, and reviewed and approved by the ICC.

The IPA is not currently following this process. For example, recent modifications to the ABP Guidebook create a “probationary” status for Approved Vendors and Designees, which is not subject to appeal. (ABP Guidebook, December 10, 2021, page 41.) This type of unilateral adoption of new program rules and disciplinary procedures is precisely what CEJA’s changes to the LTRRPP process were intended to prevent.

#### **9.4.1 ABP Program Requirements**

The IPA has created various documents containing ABP requirements for Approved Vendors and Designees, including the ABP Guidebook, Guidelines for Marketing Materials and Marketing Behavior (“Marketing Guidelines”), Standard Disclosure Forms, and Minimum Contract Requirements. To date, these documents have been developed and routinely modified outside of the ICC approval process. This appears to be of concern to Illinois legislators, as they directed the IPA to make the documents part of the LTRRPP and therefore subject to ICC review and approval. Specifically, CEJA states that the IPA’s LTRRPP must include ABP “terms, conditions, and requirements” and “requirements applicable to participating entities and project applications.” (20 ILCS 3855/1-75(c)(1)(M).) The ABP Guidebook, Marketing Guidelines, Standard Disclosure Forms, and Minimum Contract Requirements fall squarely within such statutory categories. As such, to comply with CEJA, they must become part of the LTRRPP and if the IPA wishes to modify them, the modifications must be filed with the ICC for approval.

Moreover, to the extent that the IPA wishes to enforce the contents of these documents, the IPA can only properly do so if those documents are also promulgated as rules pursuant to the requirements of the Illinois Administrative Procedure Act, 5 ILCS 100/1- 1 *et seq.* (“IAPA”). (See 20 ILCS 3855/1-30.1 (“The provisions of [IAPA] are expressly adopted and incorporated into [the IPA Act], and apply to all administrative rules and procedures of the [IPA].”). Part of the IAPA rulemaking process involves a review by a bi-partisan legislative committee known as the Joint Committee on Administrative Rules and includes public notice-and-comment periods and, oftentimes, public hearings. (5 ILCS 100/5-40.) This process applies to “rules,” which IAPA broadly defines as “agency statement[s] of general applicability that

implement[], appl[y], interpret[], or prescribe[] law or policy.” (5 ILCS 100/1-70.) The ABP documentation, including the ABP Guidebook and Marketing Guidelines, clearly falls under this description. Further, where a state agency such as the IPA is exercising discretionary powers in the implementation of rules, the IAPA requires that the standards by which the agency will exercise the power be included in the rule. (5 ILCS 100/5-20.)

### **9.5.1 ABP Disclosure Forms**

Arcadia appreciates the opportunity to provide feedback on the Disclosure Form contents and process. Our experience is that the IPA has created a Disclosure Form regimen that is overly burdensome for all involved parties, resulting in the denial of the benefits of community solar to customers who would like to enroll. At a high level, the current process involves creating a customer-specific form via a portal managed by the IPA, having the customer sign the form in an IPA-prescribed format, and submitting a signed form via the IPA-managed portal. Each of these steps is unique among community solar programs across the country, even in states with active third-party administrators.

Each step of the process creates a roadblock to robust community solar participation. For example, creating a customer-specific form in the IPA-managed form is frequently met with delays, often so lengthy that the customer stops the enrollment process before the form is created. We also find that requiring the customer to sign a new form when immaterial elements of their subscription change creates a significant barrier to participation.

The net effect of all of these barriers is that Arcadia has approximately 2,000 customers in Illinois who have done everything necessary to demonstrate interest in community solar *and who would be enrolled in community solar in any other state*, but who are denied the opportunity to benefit from community solar due to an overly burdensome Disclosure Form process.

In this section, Arcadia proposes multiple steps to improve this process and encourage greater community solar participation.

#### ***The Disclosure Form execution requirement should be eliminated***

One of the most effective ways to reduce the operational and administrative challenges associated with the Disclosure Form is to remove the requirement that the form be executed by the customer. For example, the program could have a rule that the customer Disclosure Form be *delivered* to the customer, not executed via a specific software

implementation and filed with the Administrator<sup>1</sup>. The goal of this form is to disclose information about the program and potential savings -- but it is not a contract. Such an approach appears to be the process contemplated by the legislature. The IPA Act states that “[t]o discourage deceptive marketing or other bad faith business practices, the IPA may require direct program participants, including agents operating on their behalf, to provide standardized disclosures to a customer prior to that customer’s execution of a contract for the development of a distributed generation system or a subscription to a community solar project.” (20 ILCS 3855/1-75(c)(1)(M)(iii).) As such, the law requires disclosures but does not require customer document execution.

*A standardized Disclosure Form should be adopted and the process whereby forms are created in the IPA portal should be eliminated*

Arcadia proposes an additional fundamental process modification to facilitate customer access to community solar: the Disclosure Form should not be customer-specific or utility account-specific, but rather be designed as a tool to explain the terms of the contract. This would conform with the IPA Acts requirements of “standardized disclosures to a customer prior to that customer’s execution of a contract...” (20 ILCS 3855/1-75(c)(1)(M)(iii).)

So long as contract terms remain the same, there is no need to create a new and dynamic form for each and every customer or account. This “new form” requirement imposes administrative and operational challenges associated with creating and executing forms. With a standardized form, there would no longer be a need for the form to be generated via a third-party portal because there is simply one standardized form (unless contract terms differ).

In addition to lightening the administrative burden on parties seeking to sign up customers for community solar subscriptions, this change would improve the customer experience because it will allow the form to be shortened and streamlined, which simplifies the customer experience and increases the ability for customers to understand the information presented to them. The standardized form would still explain to the prospective subscribers how savings for their subscription would work through an example based on 10,000 kWh/year (or \$100/month of credits). This puts the savings into terms that are straightforward and easily translated to that specific customer’s usage.

A standardized form would also remove the technical challenges associated with generating the form via the IPA portal. The IPA states that “[t]he [IPA] shall strive to minimize administrative expenses in the implementation of the Adjustable Block Program.” (20 ILCS

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<sup>1</sup> See Appendix A for the standardized disclosure form template from Maine’s Net Energy Billing Program. This is the form delivered to community solar subscribers that does not require the customer to execute the form.

3855/1-75(c)(1)(M).) Having a standardized, non-dynamic form would significantly reduce the administrative expenses associated with the program (without sacrificing the legislative intent of consumer protection), and therefore should be a priority for the IPA moving forward.

To demonstrate how a standardized form will work, we have provided the form used in Maine in Appendix A as an example of a standardized form that is currently used in active and successful community solar programs.

*If the IPA does not standardize the Disclosure Form, then increased flexibility should be introduced into the process*

If the IPA does not standardize the Disclosure Form, then, at a minimum, increased flexibility should be incorporated into the process to reduce the administrative and operational burdens that are directly impacting potential and current subscribers, and other market stakeholders.

Arcadia and other stakeholders have worked closely with the IPA to align the current Disclosure Form with actual practices in the field, as this is a developing market. For example, the now-revised Disclosure Form allows for flexibility in (i) the identification of the specific community solar projects and (ii) the adjustment of subscription size to “right-size” the customer’s subscription. These were critical modifications that reflect how the market has developed. However, additional modifications and flexibility for further facilitate customer access to community solar.

*The IPA Disclosure Form process should allow for subscription sizes to be updated without triggering the need for a new Disclosure Form*

While the IPA’s previous update to create a 2 kW or 10% band that allows the modification of a customer’s subscription size without triggering the need for a new Disclosure Form was helpful, in practice there are still a significant number of customers that fall outside this band. Arcadia understands the intent to accurately inform the customer of their updated subscription size with a new form, but this can be accomplished more effectively and much more efficiently via email communication. An update to the customer with additional information on why their subscription might have been adjusted (either up or down) would provide them with a greater understanding of how this change might impact their expected savings from their subscription.

Currently, the additional administrative burden of executing a new Disclosure Form is serving as a deterrent from right-sizing customer subscription sizes, and in many cases reducing the customer’s overall benefit from the subscription. This is due to the

burdensome nature and prescriptive process laid out for the execution of the customer Disclosure Form.

As the subscriber manager, Arcadia has identified instances where a customer's subscription size should be increased (due to increased usage or more customer data that allows us to better size their subscription), but that change is not being made due to the difficulty of getting a customer to re-execute the Disclosure Form. The result of this requirement is that customers are receiving less savings from their subscription than they would if their subscription was appropriately sized to their usage (without the need for a new Disclosure Form). There are also other scenarios where we might not be able to serve a customer at all even if there is open capacity on a project because the subscription size on a customer's Disclosure Form is larger than the available space on the project. With the modification of this burdensome requirement, Arcadia and similar market participants would be able to partially serve that customer (and therefore deliver savings and other benefits of the subscription) until more capacity on that project, or another, opened up.

This documentation requirement also impacts the ability to keep projects fully subscribed. The ABP, and community solar in particular, is targeted at increasing access and participation among all Illinois residents -- even those who have traditionally not been able to access renewable energy. It is very common for renters to make up a substantial portion of residential or small subscriber participation on these community solar projects. As typical renters move more frequently than typical homeowners, renters might move out of a particular utility territory, and therefore must cancel their subscription. In this case, the Approved Vendor or their Designee must find a replacement customer with the exact same size subscription (within the narrow 2 kW or 10% band). This is extremely complex to manage and results in difficulties maintaining that 100% subscription level.

*The IPA Disclosure Form process should allow for the customer's project to be updated without triggering the need for a new Disclosure Form*

Community solar in general, and customer experience and savings opportunities specifically, would be improved by giving Approved Vendors and their Designees flexibility to allow them to switch the project with which a subscriber is enrolled. This would ensure that projects remain fully subscribed and subscribers receive the maximum benefit from their subscription. Particularly among small subscribers who might have usage fluctuations, they may be better suited to be moved to a project that could accommodate an increase in their subscription size.

Similar to the proposal to notify a customer via email when a subscription size change is made, Arcadia proposes email notification for communicating a change in the project to which a customer is assigned. In our experience, subscribers have not shown preference or

requests to be connected with specific projects; rather they prefer to be connected quickly with a project, and to receive the benefits associated with that subscription. Currently, in order to move a customer between projects, Approved Vendors must terminate the customer's current subscription and have the customer execute a new Disclosure Form. This harms customers in the event of an outage or other issue with their current project.

To summarize, new Disclosure Forms should not be required for updates to a customer's subscription size or project. These updates can be effectively communicated via email and this would reduce the administrative and operational costs to the IPA and Program Administrator while creating a more streamlined process for customers.

*The Maine Net Energy Billing Disclosure Form is a good model*

As the IPA is reexamining how to streamline and shorten the current Community Solar Disclosure Form, Arcadia would urge the IPA to first look to Maine's Net Energy Billing Disclosure Form. We believe this to be the most streamlined and straightforward disclosure form and Maine's program has been successful in expanding and growing the past few years. As referenced earlier, a copy of this Disclosure Form can be found in Appendix A.

*Requiring a specific e-signature software is expressly prohibited by federal law*

Arcadia's in-house e-signature platform that has been explicitly prohibited in Illinois is in use in 49 states, with acceptance by the Massachusetts Department of Energy Resources to execute community solar disclosure forms. To Arcadia's knowledge, no other state requires the use of a specific e-signature software, likely because federal law prohibits doing so<sup>2</sup>. Access to community solar would be helped if the IPA would reverse its position on this issue, thus eliminating a complex barrier to customer participation, as well as a barrier to additional market entrants (including smaller local vendors) who in many cases do not have the regulatory infrastructure to navigate Illinois' complex requirements, such as the e-signature requirements.

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<sup>2</sup> The Electronic Signatures in Global and National Commerce Act, 15 U.S.C. § 7001 *et seq.* (the "ESIGN Act"), generally prohibits the denial of legal effect to electronic signatures. The ESIGN Act states that "a contract relating to [a transaction in or affecting interstate or foreign commerce] may not be denied legal effect, validity, or enforceability solely because an electronic signature or electronic record was used in its formation," and defines those signatures as requiring only a connection to the record and the signer's intent. (15 U.S.C. § 7001(a)(2); 15 U.S.C § 7006(5) ("The term 'electronic signature' means an electronic sound, symbol, or process, attached to or logically associated with a contract or other record and executed or adopted by a person with the intent to sign the record.")) The ESIGN Act also contains an express preemption provision. (15 U.S.C. § 7002(a).)



## **9.8 Consumer Protection Working Group**

Arcadia strongly supports the implementation of a consumer protection working group that allows all entities expressing an interest in representing consumer interests to participate. This would be an ideal forum to voice some of the concerns and issues we have set out in our comments herein and, moving forward, would help to address matters in “real-time.” Arcadia would benefit from hearing directly from the IPA and other stakeholders about problems and success stories in the market, enforcement decisions, and practical advice that allow industry participants to review their own operations and practices and better inform their decision-making.

## **Conclusion**

Arcadia appreciates the opportunity to submit these comments and respectfully requests that the IPA modify the LTRRPP consistent with Arcadia’s positions herein.

Respectfully submitted,

Arcadia Power, Inc.



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Madeline Gould Laughlin  
Policy Manager, Arcadia Power, Inc.

## Appendix A

### Maine Disclosure Form

#### Consumer Disclosure Form for Marketing Shared Net Energy Billing Projects in Maine

Please make sure to read all of this material as well as any additional material including your contract, disclosures, and other material provided by your project sponsor carefully so that you will fully understand your rights, obligations, and risks before signing any agreement. You may also find additional information about this program and other programs that may be available to you at <https://www.maine.gov/mpuc/electricity/renewables/>.

*In 2019, the Maine legislature passed legislation to encourage the development of community solar and other small renewable energy projects by allowing Maine electricity consumers to share in the costs and benefits of such renewable projects. One of the programs established by the legislature is the Shared Net Energy Billing Program.*

*Under this program, an electricity consumer may make an arrangement to share in (or "subscribe to") a portion of a community solar or other small renewable generation project. The consumer's portion of the output of this project will be reflected as a kWh credit on the consumer's monthly electricity bill.*

*You have received this document because a project marketer, Arcadia, is marketing a share of such a Shared Net Energy Billing project to you.*

*This document outlines some of the project information, contract terms and general risks and rewards of the arrangement being offered, but does not include many of the details of the proposed arrangement, or the potential risks and rewards based on your specific usage. Additional details will be provided to you by your project sponsor in a customized disclosure of the specific risks and rewards to you and in the details of the proposed contract covering the terms of the arrangement.*

#### **1. Project Description**

Refer to Exhibit A for a schedule of potential projects, including their sizes, estimated output, locations, and expected in-service date ranges. All potential projects are solar energy facilities.

#### **2. General Description of Terms of Subscription**

- Your initial subscription size will be calculated by Arcadia to generate credits no greater than your estimated annual electricity usage. Arcadia may adjust your subscription size at any time without notice, provided that we will never set a subscription size that would generate credits greater than our estimate of your annual electricity usage.
- Under this arrangement, you would receive a kWh credit on your monthly electricity bill based on your share of the output of the project. The following numbers are provided for illustrative purposes. Your actual kWh credit will be based on your specific subscription size and utility rates at the time you receive the kWh credit. At current rates, the estimated value of this kWh credit is approximately \$116 per month based on an average electricity rate of \$0.166 per kWh for your rate class and an assumption that your share of the project produces approximately 700 kWh per month. This value will change with variations in electricity rates and project output. **Note: You should not subscribe to a project share that produces more kWh than your average kWh usage as any unused kWh credits will expire after 12 months.**
- You would pay an up-front amount of \$0.
- You would pay a monthly fee of 90% of the monetary value of the kWh credit that you receive. For example, if your kWh credit was \$116, you would pay \$104, and your savings would be \$12. You are always guaranteed to save 10% on the value of the solar credit produced by your subscription on your monthly electricity bill.
- Your monthly fee may increase or decrease over the term of your contract as electricity rates change, such that you are always saving 10% on your kWh credit regardless of what happens to electricity rates over time
- You would NOT be responsible for any additional project costs.

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Consumer Disclosure Form for  
Marketing **Shared Net Energy Billing Projects** in Maine

- At the end of the contract term, we may offer you the option to renew or you may subscriber to a new project if available.
- If you fail to make payments, we will terminate your subscription, and you will not incur any fee or penalty aside from owing the existing unpaid amounts.
- If you move within your utility's service territory, there is no fee to transfer your address.
- You may transfer this contract to anyone else in your utility's service territory that is qualified to participate in this program and has accepted Arcadia's terms of service and meets the eligibility requirements for your project. No fee will apply.
- You may cancel this contract. If you cancel this contract, no fee will apply.
- You are not entitled to the Renewable Energy Credits (RECs) associated with this project. (See Additional Project Information section below for more information on RECs).
- **Additional terms will apply and will be provided in subsequent disclosures and your contract.**

Consumer Disclosure Form for  
Marketing Shared Net Energy Billing Projects in Maine

**3. Additional Program Information**

- The amount of kWh credits you receive will vary based on the amount of energy produced by your project in any given month.
- You will not receive a credit until the project begins generating.
- Arcadia will choose a share on your behalf that is roughly equal or below your electricity usage as any unused credits will expire after 12 months.
- If you move from your utility's service territory, you will no longer be eligible to receive bill credits associated with the project.
- If your electricity supply is provided by a competitive electricity provider (CEP) rather than the standard offer provider, your CEP must agree to participate in Net Energy Billing arrangements in order for you to participate in this program and, your CEP charges must be included in your utility bill.
- By participating in this program, you are supporting renewable energy development but are not purchasing renewable energy. The energy generated by the project does not go directly to subscribers' homes, but instead is fed into the power grid.

**4. Project Sponsor and Marketer (if applicable) Contact Information**

In the event of any further questions on this project, you may reach out to the following:

**Project Sponsor Information**

Refer to Exhibit B for Schedule of Project Sponsors

**Project Marketer Information (if applicable)**

	Arcadia
Phone number:	866-526-0083
Address:	555 11 <sup>th</sup> St NW, Suite 400 Washington, DC 20004
Email:	solar@arcadia.com
Website:	www.arcadia.com

**Please note that the Project Marketer, Arcadia, is not a public utility, and its activities are not subject to the same regulation and oversight by the Maine Public Utility Commission (MPUC) as a public utility. Please also note that any contract with Arcadia or any of the Project Sponsors listed in Exhibit B will not replace your obligations as a customer of Central Maine Power, Versant Power – Bangor Hydro District, or Versant Power – Maine Public District, and any fees paid to Arcadia or any of the Project Sponsors listed in Exhibit B are separate from payments and obligations you have as customers of Central Maine Power, Versant Power – Bangor Hydro District, or Versant Power – Maine Public District.**

If you have questions or want more information, see the renewable program information on the MPUC's website at <https://www.maine.gov/mpuc/electricity/renewables/>, MPUC Rule Chapter 313 (<http://www.maine.gov/sos/cec/rules/65/407/407c313.docx>) or call the MPUC at 1-800-452-4699.

Consumer Disclosure Form for  
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**Exhibit A: Schedule of potential projects**

Project name	Location	MW (DC) size	MWh estimated annual output	Expected in-service date range
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██████████ ██████████ ██████████ ██████████	TBD			

**Exhibit B: Schedule of potential project sponsors**

<https://apps.web.maine.gov/online/aviewer/ME/9/list.html>