



CITIZENS UTILITY BOARD

Fighting for Illinois Consumers

Comments of the Citizens Utility Board

On the Long-Term Renewable Resources Procurement

Draft Revised Plan for Public Comment

September 30, 2019

The Citizens Utility Board (CUB) is glad to provide comments on the Illinois Power Agency (Agency)'s Long-Term Renewable Resources Draft Revised Plan for Public Comment (Draft Plan). CUB has appreciated the consistent commitment to stakeholder feedback as part of the Draft Plan update process.

Section 6: Adjustable Block Program

6.13: Customer Information Requirements/Consumer Protections

The Agency acknowledges that despite not acting as a regulatory agency, in being tasked with overseeing the Adjustable Block Program (ABP), it has a responsibility to the ratepayers funding the program to uphold “a transparent, positive experience for system hosts and subscribers.”¹ CUB agrees that first and foremost, the ABP should bring value to consumers, and appreciates all efforts toward this end, including adopting the Title 83, Part 412 rules of the Administrative Code in the marketing standards for Approved Vendors selling systems and shares below 25 kW. CUB especially appreciates the stated principle of requiring Approved Vendors to answer for the behavior of “their agents, subcontractors, or designees.”² Drawing from experience with Alternative Retail Electric and Gas Suppliers (ARES and ARGS), CUB believes that companies should be held accountable for consumer protections violations of their third-party agents.

As laid out in the Draft Plan, the Illinois General Assembly passed Senate Bill 651, or the Home Energy Affordability and Transparency Act (HEAT Act), this spring, which was then signed by Governor Pritzker on August 27th, following publication of the Draft Plan. The

¹ Draft Plan, p.139.

² Ibid., p.142.

legislation, which will take effect January 1, 2020, provides much-needed consumer protections within the retail energy supply market. CUB awaits the new draft of the marketing guidelines to be published following the Revised Plan’s approval by the Commission, and appreciates the promised opportunity to provide stakeholder feedback.

Recognizing that the Part 412 rules were adopted at the Agency’s discretion with approval from the Commission, and that community solar projects may not be associated with an ARES, CUB would like to highlight certain components of the HEAT Act which would benefit consumers of the ABP.

Title 83: Public Utilities, Part 412: Obligations of Retail Electric Suppliers

Section 412.110: Minimum Contract Terms and Conditions

The Agency elected to adopt 412.110 (a)-(i) in the guidelines placed on Approved Vendors. CUB appreciates many of the already adopted consumer protections of the community solar marketing guidelines, including that “account numbers or information obtained for this purpose [to collect historical usage information when signing someone up for community solar] shall not be used to solicit or offer any ARES supply service.”³ CUB has heard numerous complaints of slamming, or signing up consumers for an ARES or ARGS plan without their consent. Additionally, in the case of a community solar subscription being jointly offered with an ARES plan, the Standard Disclosure Form must include the “initial energy supply rate,” as well as “the specific method and formula used to determine the energy supply rate over all the years of the community solar contract.”⁴

The sections of Part 412.110 that the Agency adopted for Approved Vendors did not include disclosure (j): “If an RES represents that a customer will realize savings under any conditions or circumstances, the RES...shall disclose the entity or entities and price or prices to which the RES is comparing its own offer for purposes of assessing or calculating savings.”

³ “Adjustable Block Program Guidelines for Community Solar Marketing Materials and Marketing Behavior,” p.8.

⁴ Ibid., p.4.

The HEAT Act requires that the Price to Compare (PTC), or the sum of the utility supply rate and the transmission services charge at the time of solicitation, be disclosed on all ARES/ARGS marketing materials, as well as utility bills.⁵ CUB has already seen marketing materials from entities working with Approved Vendors soliciting community solar subscriptions which promise savings. Even without a promise of savings, marketing materials advertising either DG or community solar for small residential subscribers should include the PTC.

Ultimately, the value of an investment in a DG system is dependent on the net metering rate, which is in turn dependent on the supply rate; therefore, a customer installing a DG system or subscribing to community solar will be affected by the supply rate. If a customer participating in the ABP switches suppliers, any accumulated net metering credits will be lost. In order to minimize circumstances which would lead to lost credits, savings, and customer satisfaction, customers should be given adequate information upfront, before credits begin to accumulate.

The PTC should be added to the Standard Disclosure Form for both DG and community solar contracts. The Approved Vendor is already responsible for writing in numerous values on the forms, so while the PTC is subject to change, it would not constitute a burden to write in the PTC value at the time a DG or community solar contract is prepared.

Section 412.170: Conduct, Training and Compliance of RES Agents

The Agency decided to include Part 412.170 in the Approved Vendor guidelines, which reflect the requirement to document agent training. The HEAT Act requires training of agents of ARES and ARGS every 6 months, and the marketing guidelines should be updated to likewise require semi-annual training for agents of Approved Vendors. Additionally, as noted in the community solar marketing guidelines, “The IPA and the Program Administrator reserve the right to produce standardized training materials and to require vendors to use those materials to supplement whatever other materials they may use.” CUB recommends that a standardized program be developed for

⁵ 815 ILCS 505/2EE(a)(iii).

training. The solar installation process is already confusing for customers who may be interested in participating in the ABP, and issuing standardized materials would help to counteract the miscommunications prevalent in a large-scale program.

Section 412.230: Early Termination of Sales Contract

The Agency did not include 412.230 in the conditions placed on Approved Vendors, electing to allow uncapped cancellation fees for distributed generation (DG) systems and community solar share subscriptions below 25 kW. CUB understands that the marketing guidelines require that if it is included in the contract, the early cancellation fee must be included in the Standard Disclosure Form.⁶

Customers electing to cancel a community solar subscription should not be penalized with excessively high fees. As of January 1, 2020, the HEAT Act eliminates termination fees or penalties for residential and small customers of both ARES and ARGS. However, the customer is still “responsible for any unpaid charges owed,” as well as “charges or fees for devices, equipment, or other services.”⁷ Before Part 412 was amended to impose a \$50 cap on termination fees for ARES and ARGS contracts, CUB heard from many consumers who were in crisis after attempting to cancel their plans and being told they owed thousands in termination fees. The \$50 fee continues to burden customers on an ARES/ARGS contract who have lost money on a bad deal. Customers who sign up for a community solar subscription may encounter a similar predicament, if cost elevator provisions in contracts transform initial savings into overpaying further into a contract term.

Cancellation fees should be eliminated for customers who choose to end their association with a community solar project, especially for community solar share subscriptions below 25 kW. Regardless of whether the fee amount is included on the Standard Disclosure Form, by the ABP Administrator’s own publication, there have already been cases of Approved Vendors signing the Form instead of the customer.⁸

⁶ “Adjustable Block Program Guidelines for Community Solar Marketing Materials and Marketing Behavior,” p.12.

⁷ 220 ILCS 5/16-119 and 220 ILCS 5/19-115(g)(5)(B).

⁸ Illinois Power Agency Adjustable Block Program, “Disciplinary Actions Report,” September 24, 2019, <http://illinoisabp.com/wp-content/uploads/2019/09/disciplinary-actions.pdf>.

Part 412.230 also requires that “any contract containing an early termination fee shall provide the customer the opportunity to contact the RES to terminate the contract without any termination fee or penalty within 10 business days after the date of the first bill issued to the customer for products or services provided by the RES.” In the current community solar marketing guidelines, Approved Vendors must provide a contract rescission period of 3 days.⁹ If cancellation fees are allowed for community solar subscriptions, customers must be allowed the 10 day rescission period, as required for ARES and ARGS.

Section 412.240: Contract Renewal

The Agency decided to include Part 412.240 for community solar subscriptions within the ABP. Beginning January 1, 2020, the HEAT Act requires any ARES and ARGS plans to clearly disclose the terms of automatic renewal, including “a separate written statement titled “Automatic Contract Renewal.”¹⁰ The marketing guidelines for community solar subscriptions already require that “automatic renewal is not permitted if the new contract’s terms differ from the existing contract’s terms.”¹¹ However, this does not address how automatic renewal is handled in the original terms of the contract. Community solar contracts should clearly disclose the terms of automatic contract renewal, and if they are not clearly disclosed at the outset, automatic contract renewal should not be permitted.

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⁹ “Adjustable Block Program Guidelines for Community Solar Marketing Materials and Marketing Behavior,” p.13.

¹⁰ 815 ILCS 505/2EE(c)(7)(A) and 815 ILCS 505/2DDD(f)(5)(1).

¹¹ “Adjustable Block Program Guidelines for Community Solar Marketing Materials and Marketing Behavior,” p.10.

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