Chapman Energy Strategies LLC
4842 N. Talman Ave #3
Chicago, IL, 60625
847.404.0170
Jeff@chapmanenergystrategies.com

Comments on Adjustable Block Program Approved Vendor Application Process and Marketing behavior and Materials

Chapman Energy Strategies ("CES") would like to commend the Illinois Power Agency ("IPA") and it Program Administrator, InClime, for their ongoing work to promote a healthy and long-term solar market in Illinois through the Adjustable Block Program ("ABP"). We would also like to thank all of the stakeholders for their comments and engagement. CES welcomes the opportunity to comment on the ABP Approved Vendor application and standards as well as the marketing behavior and materials. CES is a consulting firm which advises clients, in relevant part, on utility regulation and renewable energy policy.

In summary, CES generally supports the Marketing Materials and Behavior, and the Approved Vendor ("AV") Application and Standards. Our comments cover the following topics:

- The IPA has found a good balance between protecting customers from abuses, such as those found in Illinois' Alternative Retail Electric Suppliers ("ARES") market, and allowing the solar market to flourish. CES does recommend adding Third Party Verification calls to the marketing requirements.
- CES recommends allowing some of the requirements (e.g., being registered in PJM-GATS and M-RETS) to be satisfied at the parent level (i.e., not at the Special Purpose Vehicle ("SPV") level); however, this must allow the IPA to subject the parent company to some IPA jurisdiction, such as to its collateral and any clawback provisions.
- For the market to flourish education and transparency is key. The IPA should help maximize transparency in the market for AVs and downstream marketer and installers.
- The IPA must ensure they impose penalties for bad faith actors that go beyond barring the AV from being able to be selected for *future* ABP funding.

<u>Marketing Materials and Behavior</u>

CES commends the standardized brochure and disclosure forms that can be easily used through the ABP website by AVs and, if separate, their marketers as well. This is a good step towards transparency for the customer while also being mindful of the compliance burden.

CES certainly understands the frustration with marketing requirements on behalf of some of the companies, particularly those do not engage in marketing and its associated liability. We also understand that finding off takers can be a significant challenge, especially in a new market or one with low electricity prices like Illinois.

We strongly believe that robust marketing requirements are essential for the protection of a healthy and long-term solar market. The Illinois Commerce Commission ("ICC") has struggled with Alternative

Chapman Energy Strategies LLC
4842 N. Talman Ave #3
Chicago, IL, 60625
847.404.0170
Jeff@chapmanenergystrategies.com

Retail Electric Suppliers ("ARES") marketing for years[1] and recently had to update[2] its ARES marketing rules, 83 Illinois Administrative Code Part 412 ("Part 412"), to try and mitigate the harm caused to customers by bad faith marketing. Annual reports from the ICC on the ARES clearly illustrate the harm that can stem from low customer understanding and bad faith marketing. Ratepayers have been tricked into contracts that have lost them large amounts of money in the ARES market.[3] A recent Crain's article[4] shows the lengths that marketers are alleged to have gone to sell their products, all while under the new, stricter marketing rules. The Illinois market cannot suffer from these same mistakes on a product that is much more important than alternative supply.

Illinois should have favorable conditions to grow the market. Illinois is currently at the end of its so-called "solar wars" and the market has anticipated pent up demand. Advocates are also pitching in to promote solar through their own websites and initiatives. Without question, large amounts of incentive dollars will be available for years to come. CES believes that with the proper amount of transparency and education that the Illinois solar market will thrive and that strict marketing rules will help and not hinder long-term market success. If the market does struggle to find willing customers ready to take on the benefits and cost of solar, relaxing the information that customers get and removing best practices for marketing will not sustainably remedy the problem.

CES believes that the IPA did a great job of using the updated Part 412 rules to formulate behavior rules and standard forms which should help protect customers and mitigate the sizeable counterparty risk associated with providing 15-years' worth of REC incentives upfront or within the first five years of energizing the system. Most of the requirements are common sense, from properly disclosing contract terms and properly identifying sales agents to marketing when it is safe to do so and terminating a contact with a customer who cannot properly understand what is being sold to her.

CES does recommend one addition. We recommend that third party verification calls, as discussed in ICC Docket No. 15-0512 and approved twice by the ICC therein,[5] should be added as a check that they customer understands what she is purchasing. The disclosure forms and brochure would make this process fast and easy since the information is all there. CES notes that while it is great that the customer is provided this information what is most important is that she understands it. CES believes this is the

[1] See E.g., Docket No. 15-0512, Commissioner Opinion (Comm'r del Valle Dissenting) (Oct. 19, 2017), at 1-2. ("The record of this rulemaking identifies significant problems with RES marketing practices, particularly around the customer's understanding of the transaction. The Commission's Consumer Services Division had received over 6,300 informal complaints against RESs over a mere 4 year period.")
[2] ICC Docket No. 15-0512
[3] See E.g., Office of Retail Market Development 2018 Annual Report at 20. ComEd customers have lost money every year since June 2014 and during June 2016 to May 2017 lost over $150 million and the following year almost $140 million. (https://www.icc.illinois.gov/downloads/public/2018%20ORMD%20Section%2020-110%20Report.pdf)
[4] Steve Daniels, Inside the lives of the folks knocking on your door to sell you power, Crain's Chicago Business, October 5, 2018 https://www.chicagobusiness.com/utilities/inside-lives-folks-knocking-your-door-sell-you-power
[5] See Docket No. 15-0512, Second Notice Order (June 1, 2017); Docket 15-0512, Commissioner Opinion (Comm'r del Valle Dissenting) (Oct. 19, 2017)

Chapman Energy Strategies LLC
4842 N. Talman Ave #3
Chicago, IL, 60625
847.404.0170
Jeff@chapmanenergystrategies.com

best way to ensure customers get the most benefit themselves from the REC dollar incentives that all ratepayers have been funding.

The IPA should accommodate Special Purpose Vehicles by engaging with Parent Companies

At the October 10, 2018 workshop held at the James R. Thompson Center to discuss these requirements, some stakeholders questioned how the requirements would affect a corporate structure with parent companies and SVP. Among the questions, some wondered if the parent had to be registered in Illinois. Others wondered if the parent company could be the entity registered with M-RETS or PJM-GATS even if the SPV was the approved AV.

CES understands that it is often customary for systems to be held in SPVs for liability or other business purposes unrelated to the ABP. We assume that the IPA does not have reason to want to disrupt this, if it is a normal practice. We recommend allowing relationships which meet a certain ownership threshold (e.g., 100% or 51%) to enjoy some flexibility when it comes to which entity is meeting which AV requirements. We believe this should only be allowed, however, if each entity involved, including intermediaries, are subject to IPA's jurisdiction as it relates to the ABP (E.g., to ongoing good standing of the AV, any collateral obligations, production requirements, and any clawback provisions). In this way, the corporate structure can engage in its usual practices when it comes to business risk outside of the IPA ABP, but from within the ABP the IPA's umbrella reaches all those who affect the customer's experience and does not allow for the siloing of, and potential jettisoning of, liability for the ABP.

If these companies are voluntarily applying for SREC incentives funded by Illinois ratepayers then all decision makers should have obligations to the same.

Education is Key for Companies as well as Customers

Having a non-vertically integrated business model does not mean that the AV is not responsible for what happens during marketing or development. For Illinois solar incentive dollars this liability cannot be avoided.

Therefore, CES recommends that the IPA and solar stakeholders brainstorm on ways that any guide material maximize the amount of education, standards, and indicative templates for companies "upstream" and "downstream", if you will.

The marketing behavior strawman makes clear that even though the AV and those selling the systems may be from separate companies, the employees doing the selling are, for the purposes of receiving ABP incentive dollars, the AV's agents.

Since Illinois is a new market and the ABP is a new program it may be the case that AVs will not know how to price of operationally handle the risk they are taking on by attesting to the marketing behavior of

Chapman Energy Strategies LLC
4842 N. Talman Ave #3
Chicago, IL, 60625
847.404.0170
Jeff@chapmanenergystrategies.com

other companies. At the same time marketing companies or installers may not understand the obligations that the AV takes on for them.

Because of this dynamic, CES recommends that the IPA and its Program Administrator work to optimize the information, and possibly employ web platforms, for all companies trying to transact in the market. The goal is to reduce the uncertainty and transaction costs for the new market so customers can best benefit from the solar incentives in Illinois.

Examples could include providing a platform to connect companies with narrower business models to the partners they need to participate in the ABP. It could be a sort of Pluginillinois.com for ABP companies. It could include sample contracts and indicative terms for companies unsure of how a 15-year obligation for another company may affect the price they can offer the customers to which they are selling systems, for example. Most certainly the IPA's training and materials will include the marketing behavior that is expected of marketers so they can easily attest to the AV they are in full compliance. But CES recommends, to the extent possible, the IPA provides ways for these companies to make it as easy and seamless as possible for AVs to engage with them (hopefully reducing transaction costs). For example, in the guide and training, the IPA could include not only a sample marketing materials and behaviors checklist but also sample formats that allows for easy upload of marketing materials through the AV to the ABP website system.

We understand that there is a fine line between making too much work for the IPA and Administrator and helping streamline and standardize the regulatory process. Our hope is that some innovative and simple ideas can be found that make it easier for companies up and downstream to provide the benefits of solar to Illinois customers at the lowest possible cost.

Thanks for the opportunity to comment.

Sincerely,

Jeff Orcutt

President
Chapman Energy Strategies LLC