

To: InClima, Program Administrator, Illinois Adjustable Block Program
From: Juliana Pino, Little Village Environmental Justice Organization
& Participants in the Illinois Solar for All Working Group
Date: 12/10/2018
Re: Illinois Solar for All Working Group Comments on Community Solar Consumer Protection & Marketing Guidelines Draft Documents and Illinois Adjustable Block Program Draft Guidebook

Dear InClima Administrative Team for the Illinois Adjustable Block Program:

The Illinois Solar for All Working Group is pleased to deliver the enclosed comments on the Community Solar Consumer Protection & Marketing Guidelines Draft Documents and Illinois Adjustable Block Program Draft Guidebook. This memo describes an overview of the Illinois Solar for All Working Group.

Background: Illinois Solar for All Working Group

The Illinois Solar for All Working Group (the Working Group) formed from a subset of members of the Illinois Clean Jobs Coalition, who had comprised an Environmental Justice-Solar-Labor Caucus (the Caucus) during the negotiation of policies that would become the Future Energy Jobs Act (FEJA). The group formed in order to bring the best practices and policies to the Illinois energy landscape that would serve to maximize benefits to the economically disadvantaged households and communities that targeted programs are intended to serve. The group was co-facilitated by a representative of a solar company, Amy Heart of Sunrun, and a representative of an environmental justice group, Juliana Pino of the Little Village Environmental Justice Organization.

Following passage of FEJA in December 2016, the Caucus expanded into the Illinois Solar for All Working Group, an open membership group including experts on environmental justice, environmental advocacy, consumer protection, solar business, low-income solar policy, energy efficiency, job training, program design, and other areas, who have substantive research and experience to bring to bear on implementation of Illinois Solar for All. Over 75 participants include representatives from the following organizations and others:

BIG:Blacks in Green	Natural Resources Defense Council
Environmental Law & Policy Center	People for Community Recovery
Groundswell, Inc.	Seven Generations Ahead
Illinois Environmental Council	Sierra Club, Illinois Chapter
Illinois People's Action	Southeast Side Coalition to Ban Petcoke
Little Village Environmental Justice Organization	The People's Lobby

Working Group Process

The Working Group began convening in January 2017, and has had monthly full-group meetings until the present time. In tandem, the Working Group operates with sub-teams that focus on specific areas relevant to the policies at hand and future work on the program. These sub-teams include: Program Administration & Evaluation, Consumer Protection & Financing, Education & Engagement, Job Training, and Project Workshop. Each sub-team was facilitated by leads and co-leads and meets between monthly full-group meetings with frequency depending on the time of year.

A draft White Paper was delivered to the IPA on May 5, 2017. Many Working Group participants attended IPA's May 2017 workshops and helped develop responses to IPA's June 6, 2017 Request for Comments on the Long-Term Renewable Resources Procurement Plan.¹ A final White Paper was published on July 11, 2017 on lowincomesolar.org.² The Working Group also submitted a response to the Draft Long-Term Renewable Resources Procurement Plan on November 13, 2017.³

Program Principles for Illinois Solar for All

During the negotiation of FEJA, the Caucus membership collectively agreed upon the following policy principles to guide our work moving forward. These principles were rooted in the *Low-Income Solar Policy Guide* authored by GRID Alternatives, Vote Solar, and the Center for Social Inclusion; further adapted through iterative deliberations in the Caucus; and ultimately adopted by the Working Group. The principles include:

- **Affordability and Accessibility.** Offers opportunities for low-income residents to invest in solar through a combination of cost savings and support to overcome financial and access challenges. Creates economic opportunities through a job training pipeline. Supports skill development for family-supporting jobs, including national certification and apprenticeship programs.
- **Community Engagement.** Recognizes community partnerships are key to development and implementation, ensuring community needs and challenges are addressed. Strive to maximize projects located in, and serving, environmental justice (EJ) communities. Allows for flexibility for non-profit/volunteer models to participate, and strives to meet potential trainees where they are, with community-led trainings.
- **Sustainability and Flexibility.** Encourages long-term market development, and will be flexible to best serve the unique low-income market segment over time and as conditions change. Program administrator ensures community engagement, statewide geographic equity, and flexibility to meet

¹ <https://www.illinois.gov/sites/ipa/Documents/ILSfA-Working-Group-Response-RequestforComments.pdf>

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http://www.lowincomesolar.org/wp-content/uploads/2017/07/20170711-ILSfA-Working-Group-White-Paper_Final_wAppendices.pdf

³

<https://www2.illinois.gov/sites/ipa/Documents/2018ProcurementPlan/2018-LTRenewable-Illinois-Solar-for-All-Working-Group-Comments.pdf>

⁴ www.lowincomesolar.org

goals. Job training program includes all training partners in design and implementation. Training offerings should come through diverse channels including utilities, unions, tech schools, non-profits, government agencies, and existing community-based job training organizations.

- **Compatibility and Integration.** Low-income program adds to, and integrates with, existing renewable energy and energy efficiency programs, and supports piloting of financing tools such as pay-as-you-save, on-bill financing, PACE or community-led group buy programs. Jobs training program will strive to ensure low-income solar installations incorporate workforce development, including coordinating opportunities for job training partners and individual trainees from the same communities that the low-income solar program aims to serve.

The Working Group researched and prepared the enclosed comments to deliver high quality information and recommendations on considerations for the Illinois Adjustable Block program making note that consumer protections set for the program will be the baseline for consumer protections for the Illinois Solar for All Program. The contents are not intended to reflect universal consensus on any point amongst working group members. These contents reflect extensive deliberation regarding aspects that the Working Group believes are important to the Program's success moving forward.

In closing, we make these recommendations and comments to ensure high-quality implementation for Illinois communities. Communities throughout Illinois need the opportunities and services the Illinois Solar for All Program will provide and the support of groups with substantive experience in the solar industry and low-income solar in particular. Please do not hesitate to contact us with questions or comments in regards to this matter.

Dear InClimate Administrative Team for the Illinois Adjustable Block Program:

The following comments have been prepared in response to the Draft Adjustable Block Program Guidelines for Community Solar Marketing Materials and Marketing Behavior. These comments are intended to provide guidance on how the Illinois Solar for All Working Group (hereinafter “Working Group”) views the best practices for administration of Community Solar subscriptions through the Illinois Solar for All program. Our goal is to advance the principles outlined in the enabling statute; “The objectives of the Illinois Solar for All Program are to bring photovoltaics to low-income communities in this State in a manner that maximizes the development of new photovoltaic generating facilities, [and] to create a long-term, low-income solar marketplace throughout this State...”. 20 ILCS 3855/1-56(b)(2).

The focus of our comments is with respect to the appropriate requirements for disclosure by Approved Vendors, reasonable cancellation terms, and contract duration.

To summarize the suggestions outlined below, the Working Group believes that while consumer protection is critically important, Community Solar Approved Vendors should not be subject to overly burdensome disclosure requirements for potential subscribers. In order to strike some balance, it is crucial that low-income subscribers are able to cancel their subscriptions without undue burdens in the event of financial necessity. This balance protects investors in community solar projects while ensuring that the core purpose of the Illinois Solar for All programs is accomplished.

Disclosure Requirements

The Working Group believes that it is important to balance between proper disclosure to potential subscribers and the ease through which Approved Vendors may sign potential subscribers up for Community Solar subscriptions.

Proper disclosure to potential subscribers is, of course, a necessary step in allowing them to make a reasonably informed purchase of a Community Solar subscription. As such, we support the Program Administrator’s suggestions regarding the terms and conditions that should be included in the “Draft Illinois Adjustable Block Program Community Solar Disclosure Form”. Informing subscribers as to their rights under the contract, expected savings, and financial risk associated with the subscription is important for informed consent.

However, the “Guidelines for marketing behavior” subsection of “Draft Adjustable Block Program Guidelines for Community Solar Marketing Materials and Marketing Behavior” may be overly burdensome for solar developers. Specifically, Item 7 in the marketing behavior subsection is ambiguous as to *when* the potential subscribers are required to sign the disclosure form – the language seems to indicate the signature may be required from the first contact that the Vendor has with the subscriber. The Working Group is concerned that this may result in an overly burdensome sales process that discourages subscriptions.

Our recommendation is to require that the Vendors provide potential subscribers with a copy of the disclosure form prior to signing the subscription agreements, and require that the Vendor keep a signed disclosure form by that subscriber on file for inspection by the Agency. In this, we are in alignment with the draft marketing guidelines. However, so long as the Vendor provides the disclosure form to the subscriber and gives them a chance to ask questions about the program prior to signing the document, we do not believe it should matter *during which contact* the subscriber signs the disclosure form. As such, this would allow for the subscriber to still receive the necessary program disclosures, but to do so without making the initial contact overly burdensome.

One reason why requiring signatures at first contact of potential subscribers is that it likely discourages subscriptions. Potential subscribers will likely find that sales people who push them to sign a form (regardless of the form's purpose) at first contact to be more aggressive and less trustworthy. This may result in lower subscription rates.

While some may argue that serious up-front disclosures are necessary to avoid misleading subscribers, the Approved Vendors in the Adjustable Block Program are already required to demonstrate a reasonable level of credibility to the Program Administrator for certification. Likewise, the Working Group is fine with requiring Approved Vendors to provide the disclosure forms at first contact, but we believe it is a mistake to mandate signature of the disclosure form at first contact; the value of ensuring 100% of first contacts contain disclosure is not worth the cost of discouraging subscriptions.

Moreover, requiring signatures on disclosure forms at first contact may have a disproportionately negative impact on communities in which English is not the primary language. Requiring signatures by potential subscribers who do not have the language skills necessary to entirely understand the disclosure forms is quite likely to depress subscriptions. Additionally, many of these areas overlap with Environmental Justice and low-income community areas, which are intended to be the beneficiaries of Solar for All programs.

In sum, we believe that up-front signature requirements for disclosure forms are counter-productive to the mission of the Solar for All program and the benefits do not outweigh the harms. As such, we recommend requiring proof of disclosure only before contracts are finalized.

Community Solar Brochure Requirements

For similar reasons to those listed above, it is also the opinion of the Working Group that Approved Vendors should not be required to get signatures from potential subscribers certifying that they received the Community Solar Brochure at first contact. A sworn affidavit from the Approved Vendor stating that the Brochures were provided to each subscriber prior to contract signing should be sufficient. This option was suggested by the Agency and the Adjustable Block Program Administrator at the November 30, 2018 stakeholder meeting, and the Working Group agrees that it is a reasonable solution. Given the certification and screening of Approved Vendors, as well as the decreased likelihood of selling subscriptions with a burdensome first-contact, the costs outweigh the benefits of requiring a Brochure signature during the first contact.

Contract Duration & Cancellation

As stated in the enabling statute, “Contracts under the Illinois Solar for All Program shall include an approach, as set forth in the long-term renewable resources procurement plans, to ensure the wholesale market value of the energy is credited to participating low-income subscribers or organizations and to ensure tangible economic benefits flow directly to program participants...” 20 ILCS 3855/1-56(b)(2). In order for these economic benefits to reach participants, it is crucial that subscribers are not left attached to subscriptions that become too expensive or for some reason do not fit the needs of an individual subscriber. The Working Group believes that the proper solution to this is to require that subscription contracts allow for easy cancellation without a cancellation fee, and that contracts with shorter periods be preferred.

There are several reasons why zero-cost cancellation is both justified and makes good policy. First, while disclosure is one way to protect subscribers from programs that do not serve them well, a far better method to protect subscribers is to ensure they have the right to end their subscription to a program that does not serve their interests. The right to transfer a subscription does offer some flexibility to *individual subscribers*, but it does not protect the *public* against projects that have serious problems, and it is vital to the success of Illinois Solar for All that subscribers are never unduly burdened. Bad projects with subscribers who cannot exit their contracts could both harm low-income subscribers and damage the public perception of the programs; these outcomes must be avoided.

Additionally, zero-cost cancellation is the appropriate measure to take when serving subscribers that are more burdened by up-front payments than higher-income individuals. Community Solar subscribers that qualify for subscriptions without any up-front investments should not be locked into a subscription simply because they cannot afford to leave the program; this would directly contradict the mission of extending the benefits of clean energy to individuals who have traditionally been underserved by the energy industry.

With respect to the contract duration, the Agency should prioritize applications which have shorter contract durations. This offers subscribers the ability to reevaluate whether their subscription is meeting the advertised needs. However, the Working Group is not opposed to contracts that include provisions which detail an automatic-renewal so long as subscribers are notified that their renewal is approaching prior the automatic renewal taking effect. Since there is competition among Community Solar Vendors, the Working Group is not seriously concerned with contract duration, but where appropriate, shorter-term contracts should be preferred as they are better for low-income subscribers.

As stated earlier, these recommendations are designed to balance the interests of Approved Vendors with the goals of providing affordable clean energy to low-income single family and multifamily subscribers. The Working Group believes that the cancellation right is essential to ensuring that Community Solar subscriptions are in fact providing affordable clean energy.

Summarized Suggested Marketing & Contract Requirements

To properly serve low income subscribers, the Working Group recommends the following program elements:

- Require Approved Vendors to obtain a signed disclosure form from all subscribers prior to finalizing the subscription contract. However, the disclosure form should not need to be signed at the first contact with the potential subscriber.
- Do not require Approved Vendors to obtain a signed Community Solar Brochure at first contact. A sworn affidavit stating that the Brochure was provided to potential subscribers is sufficient.
- Require Community Solar subscription contracts to include a provision which grants a zero-cost cancellation right to the subscriber.
 - In the alternative, this could be a right guaranteed only to low-income subscribers. This offers investors a marginally lower risk while protecting the most economically vulnerable subscribers, as is mandated in the law.
 - As a secondary alternative, if cancellation rights cannot be included, we ask that the Agency prioritize applications that have subscription contracts with a relatively short duration (e.g. 2 years). Automatic renewal of contracts is acceptable so long as subscribers are notified.

These recommendations have been written for the purpose of ensuring that affordable clean energy is accessible by all subscribers to Community Solar programs. The Working Group believes that by creating a program which serves subscribers well, the positive experiences that subscribers have will lead to increased public interest in Community Solar, and in turn, to increased subscriptions which support numerous Community Solar projects across Illinois.