



April 25, 2019

Anthony Star, Director
Illinois Power Agency
105 W. Madison Street, Suite 1401
Chicago, IL 60602

Via Electronic Mail

RE: Response to Request for Comments – Draft Community Solar Disclosure Form

Administrator Star:

As a leading national solar developer, Nexamp appreciates the opportunity to provide comments in response to the Illinois Power Agency’s (“IPA”) request for comment on the revised Adjustable Block Program (“ABP”) Draft Community Solar Disclosure Form.

Nexamp is grateful for the many opportunities to comment on ABP program details that the IPA has provided the developer community, and this opportunity is no exception. Nexamp provided feedback on the Community Solar Disclosure Form for the 2019 program year last spring and submitted additional detailed comments on the form in our response to the proposed 2019 Illinois Long-Term Renewable Resources Procurement Plan Update last July.

As one of the largest community solar developers in the country, Nexamp has developed, built, manage, and own 150 MW of community solar assets across the country. The growth and success of our program can be attributed to our fair and equitable subscription platform, which allows all people to support clean energy regardless of income or credit history, something few community solar providers can offer. Further, we have some of the most the flexible agreement terms in the industry, providing customers a subscription agreement without cancellation penalties.

Because customer satisfaction with our product is paramount to the success of our platform, we are especially sensitive to how regulatory requirements impact the customer experience. We appreciate the need to protect consumers from unfair contract terms, but we have also seen how overly complex consumer protection standards can *cause* customer confusion, not alleviate it. We are happy the IPA is requesting feedback again on the community solar customer disclosure and offer specific feedback below on the questions posed by the IPA. First, we address the biggest issues we have experienced with the current IL Shines Community Solar Disclosure Form.



In every market where we offer our community solar product, we have a regulatory obligation to provide customers with a disclosure form like is required by the ABP. We believe these disclosures, when crafted properly, serve a valuable purpose in providing customers with a concise description of what their subscription will provide them. However, as a preliminary matter, we continue to believe the IPA's Illinois Shines disclosure form has a fatal flaw—its length. [REDACTED]

[REDACTED] The IL Shines disclosure is seven pages; a long disclosure is not necessarily problematic, but much of what is in the IL Shines disclosure is irrelevant to our (and likely other Approved Vendors') subscription model and repeats much of what is covered in the Illinois Shines brochure.

[REDACTED]

The practical effect of a long disclosure is that it undermines the value of agreements like Nexamp's which we have worked hard to make clear and concise. Instead of encouraging companies to offer concise and straightforward agreement terms, the disclosure treats all agreements the same. What that means for our company is that most of the disclosure is not relevant to our agreement, creating the risk of customer confusion.

Much of the material in the IL Shines disclosure is a repetition of content in the IL Shines Brochure, which is required to be presented to the customer at first contact. We have feedback about the process by which the brochure is presented (detailed in our marketing guidelines comments), but we believe it, too, serves an important purpose in a program like the ABP that is REC-based. We have seen some community solar companies makes promises that are in direct conflict with what the IPA permits in marketing materials. We therefore agree that there is a need to explain and distinguish the compensation mechanism that supports the program and is available to developers of these programs from the actual benefits the customer will receive. To minimize confusion and shorten the length of the disclosure, we recommend the IPA revise the disclosure to only communicate relevant agreement/contract terms. Any discussion of RECs or general ABP information should be communicated through the brochure. The disclosure should continue to include the provision that affirms the customer has received the IL Shines brochure, to ensure that all customers receive the same salient details about the ABP program mechanics. Alternatively, the content of the Illinois Shines brochure could be included in the disclosure form, and if so, we suggest removing the requirement of presenting the brochure at first contact.

We suggest additional changes below with the aim of ensuring a consumer-friendly, accessible community solar marketplace in Illinois that will allow for a burgeoning and successful clean energy future for the state.



1. *Currently, an Approved Vendor must offer a disclosure form to a customer identifying the specific project connected to the subscription. The IPA is considering allowing for the inclusion of a schedule of potential projects on the disclosure form to allow for downstream assignment of a customer to an individual project.*

a. *Should a schedule of projects be allowed in lieu of a specific project? If not, why?*

No. A Disclosure Form is meant to provide to the customer details about the specific offering from a community solar provider, and that may be tied to the economics of a specific individual project. By listing the specific project, an Approved Vendor is making clear to the customer and to the IPA that this is a project that the Approved Vendor is already capable of operating under the ABP and/or is a project from which customers can receive Community Solar Subscriptions under this Approved Vendor's subscription model with a specific savings benefit and contract terms.

However, if an unexpected delay occurs in the construction or utility interconnection of the project to which a customer is originally subscribed, then the Approved Vendor should seek to assign that customer to an alternative project with an earlier energization date. If the Approved Vendor owns that alternative project and can provide the exact same savings benefits and contract terms, then the Approved Vendor should notify the customer of the change in writing, but the customer should not be required to sign a new disclosure form. This change would be to the customer's benefit and should be a seamless process for the customer.



b. *If a schedule of possible projects were to be permitted, what requirements should be put into place to ensure that the customer is notified of the specific project eventually associated with the subscription?*

Instead of allowing a schedule of projects, the disclosure form should simply allow for the Approved Vendor to assign the customer to new project, if and only if: (1) the Approved Vendor also owns that new project, and (2) if and only if the Approved Vendor can provide the same savings benefits and contract terms, and (3) if the change in project is to the customer's benefit due to an earlier estimated energization date. The customer should be notified of this change in writing by the Approved Vendor, but the customer should not need to re-sign the disclosure form.



c. *Should a new disclosure form be required if that subscriber was moved between projects? What other procedural requirements should apply if a customer's subscription is reassigned between projects?*

The customer should not be required to sign a new disclosure form, but only if (1) the Approved Vendor also owns that new project, and (2) if and only if the Approved Vendor can provide the same savings benefits and contract terms with the new project, and (3) if the change in project is to the customer's benefit due to an earlier estimated energization date. If any those preceding points are untrue, then a new disclosure form should be required.

d. *What other concerns should the IPA be aware of in this vein?*

The disclosure form is currently too complex and too long, as discussed above. Listing multiple projects that a customer could ultimately be assigned to would further confuse customers. Details should be clear, concise, and pertinent only to the specific project and specific subscription model that is being offered to the customer by the Approved Vendor. Listing information about other types of offers or other projects will confuse and mislead the customer rather than help them understand what they are signing up for.

2. *Currently, a disclosure form must identify the specific Approved Vendor connected to the subscription. It appears, however, that many Approved Vendors may instead be relying on third-party customer acquisition firms. The IPA is thus considering allowing for the inclusion of a schedule of potential Approved Vendors on the disclosure form to allow for downstream assignment of a customer to an individual Approved Vendor.*

a. *Should a schedule of Approved Vendors be allowed in lieu of requiring a specific Approved Vendor? If not, why?*

No. A Disclosure Form is meant to provide to the customer details about the specific offering with a specific project from a community solar provider, which may be available from only a specific Approved Vendor.

b. *If a schedule of possible Approved Vendors were to be permitted, what requirements should be put into place to ensure that the customer is notified of the specific Approved Vendor eventually associated with the subscription?*

A schedule of possible Approved Vendors should only be permitted if the Approved Vendors are, in fact, the project LLCs that are owned by the developer/subscription provider that is itself also an Approved Vendor.

c. *Should a new disclosure form be required if that subscriber was moved between Approved Vendors? What other procedural requirements should apply if a customer's subscription is reassigned between Approved Vendors?*



A new disclosure form should be *not* be required if the customer is moved to another project (which could be listed as an Approved Vendor itself) if and only if that new project/Approved Vendor is owned by the same developer and the subscription model is the same.

d. *What other concerns should the IPA be aware of in this vein?*

In many cases, the “Approved Vendor” is either the project LLC or the company that owns and/or subscribes customers to that project. In the cases in which the Approved Vendor is both the provider and the owner of the project, then we see our answers to this Question #2 to be the same as with Question 1.

3. *Currently, a disclosure form must be executed by the individual customer, whether through a wet signature or an electronic signature. While the IPA is extremely reluctant to allow disclosure form execution through an authorized agent, the agency would appreciate feedback on the degree to which this requirement presents a challenge or barrier in customer acquisition. Additionally, should the IPA introduce new requirements regarding e-signatures? If so, what requirements would be appropriate? What other means, besides a customer executed form, may be effective for confirming that a customer received, reviewed, and understood the disclosure form?*

It is appropriate, reasonable, and important to ask a customer to sign a disclosure form. This is not a burden to the customer nor to the Approved Vendor, since the customer should also be expected to sign a contract with the provider. If the customer isn't signing either document, it seems impossible to enforce the marketing guidelines and ensure the customer has seen and understood details about the Approved Vendor, about the project, and about the subscription model and contract terms being offered to them.

It is also important to continue to allow e-signatures, and to allow the Approved Vendor to use an e-signature platform that is scalable and integrated into the provider's existing sales process, as long as it is already legally compliant. The electronic process allows greater participation in community solar in an increasingly digital age.

4. *As customer acquisition has now commenced, is there any feedback or process improvements that could be made with respect to the streamlining of how the customer disclosure form is generated, or with the ABP portal and how Approved Vendors interact with it? What would those be and what impacts would they have to the business and the customer?*

Generating disclosure forms through the ABP portal limits the ability for the provider and for the customer to make customer-specific alternations as may be necessary when the provider and customer are reviewing the document together. For example, if the customer is a business and wishes to list their business name differently (e.g. with a D.B.A.) or to list a different phone number or email than how it was originally listed when the provider generated the form via the portal. The provider should be able to make these minor edits to the disclosure form, per the customer's request, without having to return to the portal. This means that the disclosure form generated by the portal should allow some editable fields.



Furthermore, the disclosure form includes several sections that are left blank if they are not pertinent to the provider's subscription model. Instead of confusing customers with blank line items, these entire sections should be removed. For example, several sections include the phrase "If your subscription is structured as [X, Y, or Z] . . ." If the provider indicates in the portal that their subscription model is not structured as [X or Y], then the portal should eliminate the following blanks pertinent only to X and Y and skip to showing only the outputs pertinent to structure Z.

In addition, the portal should allow for changes to the number formatting. For example, "Estimated annual production decrease of the community solar project: __%" This will be listed as 0.5% for nearly all projects, as that is industry standard with current technology. However, the number formatting from the portal forces this to appear as ".50%" which can easily be misread as 50% instead of 0.5%. In fact, this particular example could also be eliminated completely since it is not a significant data point for the customer, or it could be hardcoded in with the 0.5% format, since it is likely the same for all projects and all Approved Vendors.

5. *As customer acquisition has now commenced, is there any information not currently included on the customer disclosure form which should be included on the form? If so, what information should now be included?*

We propose including the customer's utility account number(s) on the disclosure form. This will help properly identify the customer and will ensure the appropriate information is collected during the sales process that is also ultimately needed for the provider and the utility company to manage the subscription.

We also propose including a subscription size in kW DC instead of kW AC, or perhaps in both kW AC and kW DC. Although AC figures are more commonly used in regulatory and utility tariff language, we find the DC figure to more accurately reflect the capacity of the solar project reserved for the customer and the expected benefit the customer would receive.

6. *As customer acquisition has now commenced, is there any information currently included on the customer disclosure form which is creating confusion for customers? If so, what information, and how can that information be more effectively presented to the customer?*

The Project Specifications and Subscription Specifications sections currently include three separate dates – the start date of construction, the expected date of project energization, and the estimated month when you will start receiving bill credits. Customers are often confused by seeing all three dates, and we recommend listing only the estimated project energization date, following by a note that "you will begin receiving bill credits shortly after the energization date, in accordance with utility timelines."

The NPV calculations under Net Cash Flow Estimates are blatantly misleading to the customer since they are labeled "NPV of Electricity Savings Over 15 Years." The "Savings" is not actually incorporated in the calculations, since it doesn't incorporate the provider's specific discount or other savings model. Therefore, the customer would be misled to believe they are



saving much more than in reality. Furthermore, our understanding is that the portal is generating these numbers based on an assumed average net metering credit value regardless of the customer's utility or supplier. These values could differ greatly, so using a single set of assumptions for all customers is misleading. The IPA should remove these calculations from the disclosure form; they are likely to confuse and mislead rather than educate the customer.

6. *Are there any adjustments – temporary or permanent – which the IPA should consider making to its Marketing Guidelines and disclosure form in light of the ongoing COVID- 19 global health pandemic?*

The pandemic has highlighted the importance of sharing information digitally, rather than sharing flyers in person or by mail. For example, the Illinois Shines brochure should be easily accessible electronically. Since emails with attachments are often incorrectly labeled as spam and sometimes blocked by email clients with document storage limits, all customers should be able to click a hyperlink to the brochure as long as it is clearly stated as something the customer should review. The brochure should also be made available as a hyperlink on a provider's website so the customer has an opportunity to view it even before beginning an email or phone conversation with the provider.

7. *Are there any other adjustments which you believe the IPA should make to its community solar disclosure form and related Marketing Guidelines? If so, why? Please present a detailed explanation as part of your answer and alternative language where appropriate.*

Since community solar providers are required to provide the Illinois Shines brochure as well as their own contract to the customer, the seven-page disclosure form is largely redundant and creates a barrier to participation. In just a few sentences, the disclosure form could remind the customer that they are receiving bill credits from the electricity instead of receiving RECs, and then outline the subscription model made available to them by the provider. We encourage the IPA to review the one- or two-page disclosure forms being used in other states and use a similar format that better outlines the program in a way that is concise and easy for the customer to read and understand.

Finally, we recommend that the IPA make disclosure forms consistent across the Adjustable Block Program and the Illinois Solar for All program.

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Thank you again for your consideration of our feedback. Illinois is one of Nexamp's largest community solar markets and the success of the IL Shines Program is essential to our company's continued growth and success. To that end, Nexamp and IPA share a common mission—building the future of energy so it is clean, simple, and accessible. We look forward to continuing to work together in the future.

Sincerely,

A handwritten signature in black ink, appearing to read "Kelly Friend". The signature is fluid and cursive, with a long horizontal stroke at the end.

Kelly Friend

Vice President, Policy and Regulatory Affairs