

September 18, 2019

Comments of Arcadia Power regarding Adjustable Block Program Publishing of Consumer Complaints

Thank you for the opportunity to comment on the process for publishing consumer complaints. This is an important issue for consumers, businesses, and policymakers, and we believe that there is a reasonable path forward that meets the interests of all interested parties.

Background

Arcadia Power is the first nationwide digital energy services platform. Our job is to connect residential utility customers with clean energy while helping them save money. Depending on the local market structure, we provide a number of services to our customers, including renewable energy credit purchasing, retail supply brokerage, zero-downpayment energy efficient products, and community solar. We currently have more than 300,000 customers, spread across all 50 states. More than 17,000 of those customers are in Illinois.

We are particularly active in Illinois' community distributed generation market as a subscriber acquisition partner for project owners. We are contracted to perform subscriber acquisition and management for new community solar projects.

Introduction: The ideal complaint system involves investigation and documentation before publication

The fundamental goal of the complaint process should be to help consumers identify good actors and bad actors in the market. That goal is best met by a system that includes accurate information that consumers can trust. The most accurate and trustworthy complaint system is one that only includes complaints whose sources have been verified and whose legitimacy has been investigated by an impartial third party. We believe the IPA should build a system like this for publishing consumer complaints related to community solar.

The process flow for a complaint being published in this system would include these steps:

1. A complaint is submitted. The most likely source of a complaint is a customer, but other market participants can alert the IPA to inappropriate activity in the market.
2. The IPA verifies the source of the complaint. The source should be a real person with firsthand knowledge of inappropriate behavior. To make this simple for the IPA, we recommend that the complaint form require the customer to attest to the legitimacy of the complaint (likely via a checkbox) and to include some sort of unique identifier, like a utility account number.
3. The IPA investigates the complaint. This includes fully understanding the complaint and interviewing (either via phone or email) the target of the complaint.

4. The IPA decides if the complaint is legitimate. Ideally, this is not a judgment call for the IPA. “Legitimacy” should be decided by whether or not the behavior violates the letter of the program rules.
5. If appropriate, the IPA and target agree on remedial action. This could include a change in future practices for the target or a financial remuneration for the source of the complaint. Our assumption is that the IPA does not have the authority to issue fines, and complaints that warrant a fine would be elevated to another government agency with that authority.
6. The complaint is published. The published complaint would include the type of source (i.e., a customer or another market participant), a description of the complaint, a description of any remedial action, and a response from the target of the complaint.

The investigation part of this process is extremely important because there are likely to be customer complaints that derive from a misunderstanding of the program. For example, a customer may be unhappy that they’re not receiving RECs from the community solar project even if appropriately marketed and made clear by the Approved Vendor. Since the program rules explicitly prohibit the RECs being delivered to subscribers, this is not a legitimate complaint (assuming the project developer marketed the project appropriately) and should not be published. The investigation process will also illuminate issues that can guide future policy decisions around program expansion and design. Finally, the investigation can identify and consolidate multiple complaints from the same consumer about the same issue.

There are other ways to publish complaints, but none of them are as useful as the system described above. For example, the IPA could develop a website that published “ratings” instead of “complaints”, similar to Yelp, Tripadvisor, Angie’s List, and countless other review sites. This is a clear second choice because it could still be influenced by program misunderstandings and anonymous complaints (potentially from fake users trying to influence the market). This style of website would also likely be a much more significant undertaking to build.

The other option would be a public complaints site. This option is unworkable and should not be pursued. First and foremost, a complaints-only site (as opposed to a rating site) will inevitably punish companies with more customers, assuming that all companies have a similar rate of dissatisfied customers. Second, a public complaints site (as opposed to an investigated complaints site) won’t yield useful policy learnings without an IPA investigation. Third, a public complaints site will likely include “complaints” from imaginary users who are solely interested in harming a market participant. Fourth, a complaints-only site doesn’t offer any opportunity for a company to respond to the complaint or to remediate the complaint issue. None of these risks can be overcome without the investigated complaints process described above.

Finally, the system should allow for complaints about all market participants, not simply Approved Vendors and their designees. Many potential complaints about a community solar program could relate to the regulated utility, such as improper allocation of credits or an

unacceptable lag time between when power is generated and when credits appear on the bill. It's important that a complaint database be used to hold all market participants accountable.

Answers to specific questions from the September 4, 2019, "Request for Comments"

- What information should be published regarding complaints received (i.e. Approved Vendor/Designee name, nature of the complaint, time and date of receipt of complaint, resolution of the complaint, identity or role of the complainant, etc.)?
 - Arcadia Power does not have feedback on this question at this time.
- Should complaints be published when received (and thus not reviewed), or only after the complaint has been investigated (and responsive actions taken by the Program Administrator, if warranted)?
 - As discussed above, the only workable solution for publishing complaints in a fair and useful way is for the complaints to be investigated first.
- Should complaints only be published from customers? Or should competitors be allowed to report on the misconduct of other Approved Vendors/designees?
 - We support allowing any market participant (including both customers and Approved Vendors and their designees) to submit complaints. The only risk to allowing complaints from Approved Vendors and their designees is that the complaint process will be used to generate an unfair and unjustified competitive advantage. This risk doesn't exist when the IPA reviews complaints before they are published. Obviously, if the IPA decides to publish complaints without an investigation, then complaints from Approved Vendors and their designees should not be allowed.
- Should Approved Vendors (and/or their designees) be allowed to provide a response to be included in the public database?
 - Yes. This is best practice in online reviews, with websites like Airbnb and Angie's List providing this functionality. The exact format in the IPA's case will likely be different, since the Approved Vendors' response will be part of an investigation. So, instead of publishing a complaint and then allowing the Approved Vendor to respond (a la Airbnb and Angie's List), the complaint and response will be published simultaneously as part of the documentation from the investigation.
- What information about a complaint would be appropriate to redact or withhold from disclosure?
 - Personally identifiable information from customers and trade secrets from Approved Vendors should be redacted or withheld.
- Are there other complaint databases which the Program Administrator should look to as models in publishing complaint information for the Adjustable Block Program?

- Looking to existing examples is a valuable exercise. There are two examples that we think are particularly useful.

First, the existing “Disciplinary Actions Report” from the IPA has several positive elements.¹ This report is issued only after an investigation, which includes giving the ABP Entity an opportunity to appeal. We also like that this has a concise description of the issue that led to a complaint.

A more in-depth example comes from the Consumer Financial Protection Bureau (CFPB). In 2012, the CFPB issued a policy statement about how credit card complaint data would be disclosed.² The key elements for the IPA to consider include:

- Verifying the legitimacy of a customer complaint
- Investigating the complaint before it’s published to the public
- Clarifying whether the issue was addressed to the customer’s satisfaction
- Only publishing complaints that the CFPB has investigated, as opposed to publishing complaints from other government agencies

One area where the CFPB process falls short is that it doesn’t explicitly address what to do in the case of a customer being dissatisfied with a product element that the company is legally bound to include. As described above, an example in Illinois could be a customer complaining about not receiving RECs from a community solar project. The IPA should go further than the CFPB and explicitly decide to not publish these types of complaints.

- Should the Program Administrator look to work with the Office of the Attorney General, the Illinois Commerce Commission, Citizens Utility Board, and other entities in attempting to create a more comprehensive database? Or only disclose those items brought directly to its attention?
 - Arcadia Power does not have feedback on this question at this time. Our only recommendation is that coordination should not hinder the investigative process.
- Are there specific risks which the Program Administrator and IPA should be mindful of in developing and publishing a complaint database?
 - A poorly-conceived or poorly-executed complaint database would very likely have a negative impact on both the ABP program and market participants.

¹ See the public report available here: <http://illinoisabp.com/disciplinary-actions-report/>

² Bureau of Consumer Financial Protection, “Disclosure of Certain Credit Card Complaint Data,” June 19, 2012, https://files.consumerfinance.gov/f/201206_cfpb_notice-of-final-policy-statement_disclosure-of-credit-card-complaint-data.pdf

For example, only showing complaints - and not “praise” or positive feedback - could lead to a backlash against the overall market. This negative perception of the market may be particularly unjustified if the complaints were illegitimate, which is why an investigation process is important.

A complaints database could also create a distorted view of market participants. Consider two Approved Vendors that receive ten complaints. If one of those Approved Vendors has 50,000 customers and the other has 1,000 customers, then the one with more customers is clearly performing better. However, without the context of the total customer count, someone looking at a simple list of complaints won’t be able to distinguish between the two companies. Again, an investigative process will help fix this potential issue.

As discussed above, allowing competitors to submit complaints could lead to misuse of the complaint process to gain a competitive advantage. This can be addressed with an investigative process.

- Should this database be located at the Adjustable Block Program website, the IllinoisShines.com website, or both?
 - As long as there is an investigative process before complaints are published, we are indifferent about which of these locations hosts the database.

Conclusion

Customer feedback is important in any well-functioning marketplace. In the case of the ABP, the only way to provide customer feedback that is unbiased and informative is to pair complaints with an investigative process. These comments have described how an investigative process should work and why alternative processes for publishing complaints are poor substitutes.

We appreciate the opportunity to provide these comments and look forward to continuing to participate in this process. Please don’t hesitate to contact Richard Caperton at richard.caperton@arcadiapower.com or 202 210 0063 if you would like to discuss these issues further.

Sincerely,

/s/ Richard W. Caperton

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