

April 23, 2020

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Illinois Power Agency
Marketing Materials & Marketing Behavior Process
Request for Comments - April 3, 2020

Thank you for the opportunity to provide feedback to the IPA on the customer disclosure form utilized for subscriptions to community solar projects and the related Marketing Guidelines requirements. As community solar projects in Illinois are poised to begin coming online in a few months, now is a critical time for refining the program rules and guidelines. The IPA should be commended for thinking critically about these issues in response to stakeholder feedback in order to ensure that community solar is a success in Illinois and that the agency can carry out its statutory mission while supporting the public policy that wants residents to have access to community solar. Arcadia has also provided input to the Joint Solar Parties (JSP) comments and is generally supportive of their response.

Arcadia is supportive of a thorough stakeholder process, but given the impact this proceeding has on the customer signup process, we request a response and conclusion from the IPA no more than 30 days after responses from stakeholders are due. Given the risk of delays resulting from the pandemic, it is especially important to ensure the disclosures do not become a bottleneck.

While not specifically requested, we believe that upon conclusion of this stakeholder process when modifications are accepted by the IPA, the IPA should produce a revised Program Guidebook. The latest update to this document was in May 2019¹ and an update would ensure consistency across all program materials.

Background

Founded in 2014, Arcadia is the first nationwide digital energy services platform. We 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, and community solar. We currently have more than 400,000 customers, spread across all 50 states, 130 employees, and are headquartered in Washington, D.C.

Arcadia is the market leader in managing residential community solar subscriptions. We have more than 23,000 customers signed up to join community solar projects across

¹ http://illinoisabp.com/wp-content/uploads/2019/05/Program-Guidebook-2019_05_31.pdf

DC, CO, IL, MA, MD, NY, and RI, and more than 200 MW of community solar projects under management, with 50 MW in operation and already providing savings to subscribers. In Illinois, Arcadia is already serving more than 8,000 residential customers who are slated to be offered a spot on a community solar project as soon as commercial operation dates approach. Our first project, in the Ameren territory, is expected to commence operation by the first week of July. By December 2020, we expect to serve more than 15,000 residential customers subscribing to community solar projects across several Approved Vendors in the Ameren and Commonwealth Edison territories.

We have developed the most consumer-friendly approach to community solar in the market, providing a simple, two-minute sign-up with guaranteed savings, no credit checks, and no cancellation fees. Our proprietary software includes algorithms that automatically match customers to projects, manage churn replacement, optimize allocations across every subscriber, and check for billing errors, every month, to ensure full subscription rates without imposing any risk on the customer.

Introduction

We have included detailed responses to the questions included in the IPA's request for comment, but first want to highlight our key responses. Our comments were informed by the underlying belief that the IPA should have the discretion to approve modified disclosure forms and related processes. Specifically, the IPA could benefit consumers with increased flexibility around sequencing of disclosure forms and related processes and customization of tools for creation, execution, and submission of those disclosure forms. We believe that these process changes are possible while still ensuring that customers are protected. Such flexibility is consistent with the IPA's statutory obligation to establish the conditions of participation "with a goal to expand renewable energy generating facility access to a broader group of energy consumers, to ensure robust participation opportunities for residential and small commercial customers and those who cannot install renewable energy on their own properties." See 20 ILCS 3855 1-75(c)(1)(N). The IPA should ensure that its process does not inadvertently block participation with unnecessary regulatory hurdles.

1. **The IPA has the discretion to approve alternate methods for display and acceptance of the disclosure form and modifications to the disclosure form itself. The IPA should retain a standard model disclosure form but provide the opportunity for market participants to obtain approval of modifications to the standard disclosure form.** As it exists today, the disclosure form process makes it difficult for customers to complete their enrollment. This will in turn make it harder to keep projects fully subscribed, which provides a perverse incentive to restrict subscribers' ability to leave or switch projects - an anti-consumer outcome. A model disclosure form provides a straightforward way for market

participants to comply, but customers may benefit from other approaches that meet the same objectives.

2. **The IPA should pre-approve any disclosure form that includes a schedule of projects and/or schedule of Approved Vendors (and otherwise matches the standard form), irrespective of whether such form is created within the ABP portal.** As our response details below, the flexibility to include a schedule of projects and/or a schedule of Approved Vendors on the disclosure form is in the best interest of both the customer and overall program efficiency.
3. **The IPA should pre-approve any alternate method for the display and acceptance of the disclosure form if the following three criteria are met which ensure that the customer receives comparable disclosure to the current process used in the ABP portal:**
 - a. An affirmative action is required for the customer to acknowledge receipt of the disclosure form. This action should be verifiable, with documentation that can be presented to the IPA upon request, such as an electronic record of acceptance.
 - b. A link to read or download the disclosure form is clearly and conspicuously displayed for the customer's review, similar to the way a download link is currently displayed to customers in the ABP portal signature page. The link should also be accompanied by similar language to that which is found on the ABP portal signature page.
 - c. A legally valid electronic signature² method is used by the customer to accept the disclosure form.
4. **Customers and other market participants benefit from a simple and efficient method to enroll in projects.** As one of the largest managers of residential community solar subscribers in the country, we have had success with our signup process in multiple states and know that success in community solar requires avoiding cumbersome or unintuitive enrollment processes, while continuing to provide the necessary customer disclosures.

Responses to IPA Questions (Disclosure Forms)

1. Currently, an Approved Vendor must offer a disclosure form to a customer identifying a 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.

² See, e.g., 15 U.S.C. § 7001 et seq. (Federal E-SIGN Act).

- a. Should a schedule of projects be allowed in lieu of a specific project? If not, why?
- Yes, a schedule of projects should be allowed in lieu of a specific project. This is in the best interest of the customer, as it connects them with a community solar project as soon as possible. If multiple projects are available but not yet energized, a customer may be connected to the first project to come online (or the next project with availability). We agree with the IPA's assessment that, in general, the value proposition of community solar currently is driving subscription decisions rather than a customer's desire to be associated with a specific project. However, while we anticipate customers with a strong project preference will be in the minority, customers can and should be able to select a project preference and the Approved Vendor should honor that request. In that circumstance, the most convenient way for a customer to be able to switch projects is to have early disclosure of various available projects. There is ample opportunity for the customer to learn the details of the project and develop a connection to the project at a later date, once the specific project has been selected. For example, Arcadia customers can view details about the project they are subscribed to on their Arcadia dashboard. This dashboard provides project generation data, details on the location of the project, a photo of the project, and more.
- 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?
- When the customer is signing up for community solar, the customer should receive a schedule of possible projects, along with an explanation of why multiple projects are listed. Once a specific project is selected for the customer, the customer should be notified of the particular project at least 5 days before the customer's subscription is set to commence with the utility. The specific processes for selection and assignment will vary by Approved Vendor, and the IPA should not prescribe business practices that will make it more difficult for businesses to serve their customers. We do recommend, however, that customers should be able to freely switch among projects at their election, dependent on availability and eligibility requirements for particular projects.

- 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?
 - A new disclosure form should only be required if changes are made to the savings or fee structures included in the original disclosure form presented to the customer. A change in the project itself should not require a new disclosure. However, if the customer objects to the reassigned project and prefers to cancel the subscription, there should be no cancellation fees or other financial penalty.
 - d. What other concerns should the IPA be aware of in this vein?
 - Nothing to add at this time.
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?
 - Yes, a schedule of Approved Vendors should be allowed in lieu of requiring a specific Approved Vendor. This mirrors our previous recommendation for a schedule of projects. Allowing a schedule ensures program efficiency, which delivers value to the customers. In addition, in many cases, a parent company may own multiple projects in a portfolio. In those cases, Approved Vendors are not always created at the parent company level, but rather the project level. As a result, allowing a schedule of Approved Vendors is necessary in order for the IPA to allow customers to see a schedule of projects. It would be arbitrary and disadvantageous to customers to limit the potential projects they could join to a single 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?

- Once the customer is officially subscribed to a project with an Approved Vendor, details on the specific Approved Vendor should be included with the project-specific communications to the customer (as described above).
 - 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?
 - No, the procedural requirement should be the same as stated above for switching customers between projects. Unless there are substantive changes made to the savings or fee structure included in the original disclosure form, a new disclosure form should not be required.
 - d. What other concerns should the IPA be aware of in this vein?
 - Nothing to add at this time.
- 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?
 - a. We believe the current process presents a barrier to customer acquisition, as it does not reflect current technology or customer expectations for disclosure.³ Instead of a single process, the IPA should give providers the option to choose between either using the existing process or receiving pre-approval for a substantially equivalent process. In order to ensure that

³ The IPA's questions on agency are outside the scope of this stakeholder process and, as such, Arcadia will not address them here. When and how a customer may sign disclosure forms through an agent raises complicated legal questions, including questions relating to the IPA's jurisdiction. If the IPA adopts a more flexible approach to the disclosure form, including case by case consideration of different disclosure methods, it need not address questions relating to agency at this time.

that the current process does not continue to be a barrier to customer participation, the IPA should clarify that it has the authority to approve alternative forms of disclosure proposed by market participants. Such an approach exists in other states. For example, the Maine community solar regulations create a standard disclosure form but also delegate authority to Commission staff to approve modifications of the form.⁴ The IPA should follow this model to ensure that the market is a success.

- b. Furthermore, in order to avoid any additional delay, the IPA should explicitly state that modified disclosure forms will be allowed if the following three criteria are met which ensure that the customer receives comparable disclosure to the current process used in the ABP portal:
 - An affirmative action is required for the customer to acknowledge receipt of the disclosure form;
 - A link to read the disclosure form is clearly and conspicuously displayed for the customer's review; and
 - A legally valid electronic signature method is used by the customer to accept the disclosure form.

If these three requirements are met, the disclosure process is no less robust than exists in the current ABP portal and the agency can be confident that it has appropriately balanced the needs of consumer protection and the objective of ensuring a well-functioning market for community solar in Illinois.

- c. Such flexibility is particularly appropriate given the range of offers in the market because it would provide the IPA the opportunity to consider the details of the customer offer and the actual risk of customer harm in making determinations about disclosures. Customers face far more risk from subscriptions that do not guarantee savings, that include early termination fees or that limit customers' ability to cancel for any reason. Additional scrutiny on modifications to the disclosure form may be appropriate in cases of higher consumer risk or in cases where the disclosure form is the only source of relevant information about the project.
- d. Attachment A to this filing provides screenshots of a potential alternative approach to customer disclosure that could operate in the Arcadia signup process where customers are presented with, and accept, the customer

⁴ 65-407 C.M.R. 313 § 4(E), available at <https://www.maine.gov/mpuc/electricity/renewables/documents/Chapter313NEB.pdf>

disclosure form in a manner substantively identical to the current ABP portal. If the IPA has flexibility to approve an alternative disclosure process, Arcadia would continue to work with IPA staff to implement this approach. It would ensure that customers receive the relevant information without creating the obstacles that exist in the current process.

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?
 - a. The IPA should not require that the disclosure form be generated within the ABP portal. Generating forms within the ABP portal is not required to ensure customer protection, prevents effective and timely customer acquisition, and will lead to far fewer community solar program sign-ups and therefore fewer viable projects. From our experience signing up over 400,000 Arcadia customers, we have learned that customers demand a seamless onboarding process. This is generally effectuated by remaining on a single platform, and not stepping outside the process to an outside website. The current process of having the disclosure form as a separate step outside the process to sign up will have a major impact on the rate of customers signing up for the program and create greater customer confusion.
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?
 - a. Nothing to add at this time.
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?
 - a. Nothing to add at this time.

7. 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?
 - a. The revisions we are proposing ensure speed and efficiency of an online customer acquisition process. Given the ongoing COVID19 global health pandemic, and questions around the future of door-to-door marketing, it is critical to the success of the program that permanent changes are made to this process. Arcadia operates a fully digital platform and has never engaged in any door-to-door marketing in Illinois. If the IPA can be flexible in its approach, we can help ensure that community solar projects in the state are successfully developed and subscribed during this time.
 - b. The COVID19 global health pandemic will result in significant economic challenges for many Illinois residents. Participation in community solar projects will allow many of them the opportunity to save money versus their current spending. For this reason, the process should proceed quickly to allow customers the quickest opportunity to receive economic benefits.

8. 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.
 - a. Nothing to add at this time.

Responses to IPA Questions (Marketing Guidelines)

1. Are the alterations made in the draft Marketing Guidelines sufficient to capture the spirit and purpose of the HEAT Act? If not, what provisions should be included to ensure that HEAT Act protections are extended to Program participants under the Marketing Guidelines?
 - a. Yes.

2. The disciplinary process that occurs when an Approved Vendor or its designee do not act in accordance with Program requirements is now outlined in the draft Marketing Guidelines. Is this disciplinary process outlined adequately? Are additions needed to clarify this process?
 - a. Yes, no additions needed.

3. Changes were made to the section of the draft Marketing Guidelines that provide examples for what Approved Vendors and their subcontractors may or may not say about the Program in their marketing materials. These changes were made based on review of marketing materials during the first year of the Program. Are these examples sufficiently representative of expected phrasing to support to Approved Vendors in their effort to create viable marketing materials for potential Program participants? How else, or through what additional examples, should the IPA provide clarity regarding the application of its Marketing Guidelines?
 - a. Yes.

4. The IPA is considering allowing Approved Vendors to use the Illinois Shines logo on materials which state that they are an Approved Vendor in the Illinois Shines program. Under this proposal materials that use the Illinois Shines Logo (including online or social media posts) must include the legal name of the entity on behalf of whom the individual is marketing, and should also include the actual Approved Vendor participating directly in the ABP where possible, and cannot otherwise imply that the Approved Vendor is acting as a representative of the State of Illinois. Does this seem to be a viable solution to ensure that customers are able to easily identify Approved Vendors as verified and trustworthy Program participants? If you are in favor of creating this option, do you have recommendations for how to prevent the misuse or appropriation of the logo by entities not authorized to use it?
 - a. Nothing to add at this time.

5. Are there any other revisions to its Marketing Guidelines that the IPA should consider?
 - a. The IPA should reconsider its method of delivering information to customers. In Section 7(d) of the draft Marketing Guidelines, the IPA states “The Illinois Shines Informational Brochure and Standard Disclosure Form may be delivered to the customer electronically, but these two documents must be delivered to the customer **as an attachment**, or otherwise fully displayed for the customer’s review, and

not merely hyperlinked for access”⁵ This requirement is not in line with standard email service provider industry practices which often restrict the inclusion of attachments in email communications to customers. Providing documents as a link is the standard practice by all major email service providers, and allows for seamless updates on future mandatory disclosures without unnecessarily taking up space in customers’ inboxes.

- b. The use of an email service provider is a standard and essential practice for any company serving a large number of customers. Email service providers enable communications to be sent in a timely, accurate fashion to programmatically identified subsets of customers. Most personal email clients that a company would use to send emails individually have a cap on the number of emails you can send per day (e.g. 500 for Gmail) and thus are not adequate for companies managing significant volumes of consumer communications. Email service providers also allow companies to accurately track if a customer has received the email and resolve anything that goes wrong, which would be unavailable if each email were sent individually.
- c. There are specific, technical reasons that these email providers do not support sending documents as an attachment including the likelihood that emails with attachments are captured by spam filters. As a result, customers are frequently less likely to receive information sent as an attachment rather than through a link. Accordingly, community solar service providers who have developed software to manage subscribers at scale should not be required by the IPA to develop or use email practices that violate best practices in consumer email delivery and provide customers with inferior results.
- d. We have reviewed the policies of four major email service providers, Mailchimp, Constant Contact, Campaign Monitor, and Drip to validate the industry best practice. These providers, or others who offer similar services, are critical to managing community solar subscribers at scale while maintaining the customer experience.
 - i. Mailchimp (62% market share in email marketing) states, “We offer file hosting instead of traditional email attachments because attachments can slow or stop bulk email delivery, or cause security

⁵<http://illinoisabp.com/wp-content/uploads/2020/04/ABP-CS-Marketing-Guidelines-redline-1-31-19-final-to-4-3-20-draft.pdf>

software to completely block your email.”⁶ Email communications are a critical information pathway between the customer and provider, and file hosting ensures that the emails are not marked as spam and are delivered in a timely manner.

- ii. Another provider, Constant Contact says, “Word documents, Excel spreadsheets, PowerPoint presentations, and PDFs can be hosted in the Library and then linked in an email.”⁷
- iii. Campaign Monitor provides details on why attachments are perilous, “You can’t send attachments of any kind with campaigns or journeys. Here’s why: Email attachments are often used as a way to hide viruses and malware. Because of this, emails with attachments are more likely to get caught in spam filters, which can affect your deliverability. Large file sizes can result in bounces from email servers with low inbox or low message size limits. Attachments can slow down large campaign sends, as the time required to send each email is significantly greater. Attachments take longer for recipients to download.”⁸
- iv. And finally, Drip says “[we] do not support file attachments of any kind, including PDF files. This is in an effort to maintain good email sending practice. Email clients such as Google and Yahoo flag attachments in bulk email sending as a possible security threat. As a result, it’s much more likely that an email will end up in the spam folder, or in some cases, not delivered at all when there are files attached directly in the email. Instead of attaching files to an email, hyperlink to the content in the email body.”⁹

Conclusion

In summary:

- The IPA should adopt a flexible process that maintains discretion to approve future modifications to the disclosure form.

⁶ <https://mailchimp.com/help/share-files-with-contacts/>

⁷ https://knowledgebase.constantcontact.com/articles/KnowledgeBase/5642-upload-a-document-to-the-library?lang=en_US

⁸ <https://help.campaignmonitor.com/email-attachments>

⁹ <https://www.drip.com/learn/docs/manual/email-builder/file-attachments>

- The IPA should allow for a schedule of projects and/or Approved Vendors to be included on the disclosure form.
- The IPA should pre-approve of modified disclosure forms created outside the ABP portal, including those that include a schedule of projects and/or Approved Vendors (but otherwise match the standard form).
- The IPA should pre-approve alternate methods for display and acceptance of the disclosure form that meet the criteria identified herein.

We appreciate the opportunity to provide these comments and would be happy to answer any questions you may have.

Sincerely,

/s/ Madeline Gould

Madeline Gould
Policy Specialist
Arcadia

Attachment A (see next page): Potential Alternative Approach to Customer Disclosure



Great, let's get started

First, set up your Arcadia account. We'll connect to your electric utility on the next page.

Community Solar **\$0**
extra per month

- ✓ Monthly solar credits ⓘ
- ✓ Exclusively lower energy rates ⓘ
- ✓ No installation or cancellation fees

*Paying your power bill through Arcadia is required

Zip code: 60657
Electric utility: Commonwealth Edison

First name: [input field]

Last name: [input field]

Email: [input field]

Password: [input field with eye icon]

- I have read and agree to Arcadia's [Privacy Policy](#), [General Terms of Service](#), [Community Solar Agency Agreement](#), and [Supply Brokerage Agency Agreement](#).
- I have read and agree to the [Illinois Shines Consumer Disclosure Form](#).

Create account

As the customer considering subscribing to a Community Solar project in connection with your Arcadia account, your electronic signature is requested as part of the Illinois Shines program requirements. Please click on the link above for the Illinois Shines Consumer Disclosure Form and read through the entirety of it before proceeding. Clicking "Create account" above will submit your e-signature.

Already filled this out? [Click here](#) to get into your dashboard.

Need help?