



September 4, 2020

Brian Granahan
Illinois Power Agency
Program Guidebook Update
Request for Comments - August 6, 2020

Thank you for the opportunity to provide feedback to the IPA on the draft updated Adjustable Block Program Guidebook ('Program Guidebook'). As community solar projects are coming online across the state, now is a critical time for refining program rules to provide developers and others in the market the clarity necessary for a thriving community solar market in Illinois. Arcadia has also provided input to a set of joint comments signed by other Illinois community solar developers and is supportive of their response.

The current program guidebook contains requirements that create significant challenges for customer acquisition, which elevates the risk that the program will not reach the state's objectives. Arcadia's comments below contain specific details on ways the IPA should avoid creating unnecessary obstacles for customers signing up for a community solar project in Illinois while also ensuring adequate customer disclosure.

Arcadia is supportive of a thorough stakeholder process but, given the impact this proceeding has on the entire community solar program, we request a response and conclusion from the IPA no more than 30 days after responses from stakeholders are due.

Introduction to Arcadia, the largest manager of residential community solar subscriptions in the United States

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 27,000 customers matched to community solar projects across DC, CO, IL, MA, MD, NY, and RI, and more than 260 MW of community solar projects under management, with 50 MW in operation and already providing savings to subscribers. In Illinois, Arcadia is already serving nearly 10,000 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, commenced operations 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.

Background: The Program Guidebook has direct links to the Marketing Guidelines currently under review

Among other things, the Program Guidebook at issue in this proceeding details the process of a customer submitting a disclosure form. Importantly, the content of these disclosure forms follow the IPA's currently applicable Community Solar Marketing Guidelines, and updates to these Marketing Guidelines are currently being discussed in an open stakeholder comment proceeding. We would like to be mindful of these concurrent proceedings, and as such, incorporate by reference our comments submitted in the Marketing Guidelines proceeding.¹

Arcadia believes both the content and process for creation and submission of the disclosure form are crucial to the success of community solar in Illinois, which involves providing adequate consumer protection while also ensuring a seamless customer experience. Arcadia understands that the IPA currently requires that a disclosure form be initially generated in the ABP portal through the IPA's chosen vendor and provides no opportunity for an alternative signature process, even if the chosen method provides equal or better customer disclosure. The IPA should change this approach to allow equally effective methods of customer disclosure.

While Arcadia's comments below primarily focus on the method of creating and executing the disclosure form, the IPA should make two other changes as well. *First*, the Program Guidebook states that "if the AC size of a community solar subscription submitted to the Program Administrator differs by more than the greater of 1kW or 5% from the subscription size noted in the subscriber's corresponding disclosure form, a new disclosure form is required."² Presenting a customer who is signing up for community solar with a disclosure form early on in the process is the right thing to do in

¹ Arcadia Comments on Marketing Guidelines and Community Solar Disclosure Form (May 2020), .

² Illinois Adjustable Block Program Draft Program Guidebook (August 2020), Page 59, https://illinoisabp.com/wp-content/uploads/2020/08/Draft-Program-Guidebook-2020_08_06.pdf.

terms of consumer protection, but it does mean there will need to be flexibility for certain aspects of the form, including with respect to the customer's subscription size. When an Approved Vendor is presenting the initial customer disclosure form, estimating an accurate subscription size is nearly impossible, and it is in the best interest of the customer to have that subscription size adjusted at a later point (and periodically updated) to most accurately reflect their monthly usage. So long as the underlying terms and savings structure of the subscriber agreement remains the same, there is no need for an additional disclosure form to be executed when an update is made to the customer's subscription size. In fact, requiring a new disclosure form would disincentivize Approved Vendors from making updates to subscription sizes that would ultimately protect the customer from an over-sized allocation (in the case of decreases in consumption) or improve the customer's experience and result in a higher level of customer savings (in the case of an under-sized allocation due to increases in consumption).

Second, as we stated in comments on the Marketing Guidelines and joint comments with other IL developers in this proceeding, the IPA should pre-approve any disclosure form that includes the use of To Be Determined ("TBD") for project-specific information, Approved Vendor information, and/or customer subscription size on the disclosure form (and otherwise matches the standard form), irrespective of whether such form is created within the ABP portal. While TBD would be the preferred solution, a solution that would require a schedule of potential projects and/or vendors to be included on the customer disclosure form would also be acceptable. The assigned project and/or Approved Vendor and subscription size would be communicated to the customer via email prior to project energization.

Arcadia notes that both of these proposals are consistent with the best practices for community solar disclosure in other states. No other state where Arcadia operates requires a new disclosure form to modify subscription size if that action is otherwise consistent with the Subscriber Agreement. Similarly, other states have accepted that projects may be unknown at the time the customer enrolls and accepts disclosure forms that reflect that fact. The New York Department of Public Service authorizes such practices for Community Distributed Generation (CDG) projects and allows for customers to be assigned to a specific project after accepting the customer disclosure form. Per the CDG customer disclosure form's instructions, "If the customer has not been assigned to a specific project at the time the form is provided, the customer must be contacted when the customer is assigned to the project and provided information on the project location, the final allocation, and the expected in-service date."³ In Maine there is also an approach that allows more flexibility on the customer disclosure form to reflect the uncertainty in the solar development process and timeline. The Maine community solar regulations simultaneously create a standard disclosure form and

³ Distributed Energy Resource Regulation and Oversight, New York Department of Public Service. CDG Disclosure Form and CDG Disclosure Form Instructions:
<http://www3.dps.ny.gov/W/PSCWeb.nsf/All/EAB5A735E908B9FE8525822F0050A299?>

delegate authority to Commission staff to approve modifications of the form⁴. In fact, the Maine Public Utilities Commission approved our modified disclosure form in April 2020⁵. The IPA should follow this model to ensure that the market is a success. We have included a redline of the relevant sections of the Program Guidebook in Appendix A.

Forcing Approved Vendors to create disclosure forms in the portal is a bad customer experience that holds back community solar with no corresponding benefits

Using the ABP portal requires customers to step outside a single platform for the sign up process, which creates a confusing and unnecessarily complicated onboarding process. This will inevitably lead otherwise interested customers to not complete the enrollment process. While individual customers are harmed because they will not enjoy the benefits of community solar, a negative customer experience has an impact on the broader market. Every Approved Vendor whose project was selected in the lottery process designed their project with a certain expectation of customer acquisition costs. Any requirement that makes it harder to fully enroll customers will cause projects to exceed their expected acquisition costs, which may undermine the overall economics of the project and ultimately cause the developer to abandon the project. Given that the stated objective of the program is to encourage private investment in renewable energy resources, stimulate economic growth, enhance the continued diversification of Illinois' energy resource mix, and protect the Illinois environment, any abandoned projects makes it hard to achieve the program objectives.⁶

The portal requirement is unnecessary because alternatives can ensure equally effective customer disclosure

While the ABP portal and associated validation process of customer disclosure forms is one way to ensure customer protection, it is not the only way. In our comments below, we describe both principles for evaluating what is a “functionally equivalent” process and present a specific example of such a process. The IPA should recognize that a fundamentally equivalent process that meets the same goals of customer disclosure should be accepted.

⁴ Maine Public Utilities Commission, Chapter 313 of the PUC Rules: Customer Net Energy Billing, Page 13: <https://www.maine.gov/mpuc/electricity/renewables/documents/Chapter313NEB.pdf>

⁵ Maine Public Utilities Commission, Order Approving Modification of Standard Disclosure for Net Energy Billing: <https://mpuc-cms.maine.gov/CQM.Public.WebUI/MatterManagement/MatterFilingItem.aspx?FilingSeq=106680&CaseNumber=2019-00197>

⁶ 220 ILCS 5/16-107.5. In addition to its substance and potentially harmful effects on customers, Arcadia is concerned that this requirement may exceed the lawful scope of the IPA's authority and be inconsistent with the letter and intent of the law.

Notably, no other state has created such a rigid and inflexible procedural approach to consumer disclosure. Illinois stands alone in requiring participants in the community solar space to generate forms using software through a government-selected vendor that creates significant obstacles to the success of community solar. States with years of community solar experience have recognized that adequate customer disclosure does not require such a step. Particularly given the relatively new status of community solar in the state, the IPA should be cautious before adopting an approach that is untested anywhere in the country.⁷

The IPA is not required to attempt to prohibit functionally equivalent processes

The IPA need not attempt to prohibited alternate methods for display and acceptance of the disclosure form. The process described in the current Guidebook is not the result of a statutory requirement or regulatory requirement from the Illinois Commerce Commission, and our understanding is that the IPA unilaterally designed many operational elements of the Adjustable Block Program. Indeed, it is not clear that the law allows for such a limitation. The IPA should use this flexibility to write a Guidebook that supports a successful program, which includes accepting functionally equivalent disclosure form processes.

This language fits within the IPA's purview. Adopting a flexible process that maintains discretion to approve both future modifications to the disclosure form itself and the method with which the form is submitted to the IPA will ensure a healthy and robust community solar market in Illinois.

The IPA should outline a set of guidelines for a “functionally equivalent” process to the current portal

Allowing providers the option to choose between either the existing process or receiving pre-approval for a functionally equivalent process is consistent with the approach other states have taken with their community solar programs and, in our view, with the purpose and language of Illinois law⁸. The IPA should explicitly state that providers can generate the disclosure form outside the ABP portal if the following 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;

⁷ In addition to its substance and potentially harmful effects on customers, Arcadia is also concerned that this requirement may exceed the lawful scope of the IPA's authority and be inconsistent with the letter and intent of the law.

⁸Maine Public Utilities Commission, Order Approving Modification of Standard Disclosure for Net Energy Billing: <https://mpuc-cms.maine.gov/CQM.Public.WebUI/MatterManagement/MatterFilingItem.aspx?FilingSeq=106680&CaseNumber=2019-00197>

- A link to read and download the disclosure form is clearly and conspicuously displayed for the customer's review;
- A legally valid electronic signature method is used by the customer to accept the disclosure form.

If these 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.

Arcadia Sign-up Process Provides Customer Disclosure that is Equal or Superior to the IPA Portal

Arcadia has already designed a functionally equivalent process that adheres to the principles above for use in other states. While we are not seeking formal approval for this process at this time in Illinois (we would seek that approval per a new process created by amending the program guidebook), the IPA should consider it as it reviews the contents of the Guideline. The program administrator should leverage best practices across well-developed community solar markets, such as in MA, MD, and NY, where third-party generation and execution of customer disclosure forms is standard practice, in order to validate/verify the signed forms.

Appendix B to this filing provides screenshots of the customer disclosure that operates in the Arcadia sign-up process where customers are presented with, and accept, the customer disclosure form in a manner substantially identical, if not superior, to the current ABP portal. Arcadia would continue to work with IPA staff (and program administrator staff) to implement this approach. It would ensure that customers receive the relevant information without creating the obstacles that exist in the current process. Notably, Massachusetts is the only other community solar state that affirmatively requires submission of disclosure forms to the relevant state regulator. Arcadia has explained this process to the Massachusetts regulator and it has been accepted as a means to display and execute disclosure forms for Massachusetts's community solar program.

In this process, a customer signs up for Arcadia, views a complete disclosure form, and acknowledges receipt of the disclosure form via an electronic signature.

Images of each screen in this process are included as Appendix B. To make the flow simple to follow, we have included prominent text from the relevant web page in each step below.

Step 1: *Community Solar Terms 1*

- This screen will include the community disclosure form in the grey box. The disclosure form as well as the community solar subscription agreement are also available to download as a PDF via the links at the bottom of the page.
- Notice the check box is locked -- it is greyed out and cannot be checked.
- The customer must manually scroll, or click the “click to sign” button to auto-scroll, to read or scan the document.
- Once they read or scan to the bottom of the document, the check box is unlocked as shown on the next page.

Step 2: *Community Solar Terms 2*

- This is the view a customer sees after they have read and scrolled through the entire document, unlocking the check box.
- The customer must then check off the terms and conditions box that affixes their e-signature to the form and click to create the account.
- Under no condition can the customer check the box to provide their e-signature until they have scrolled through the entire document, thereby reading or scanning the disclosure form.
- Once the customer has scrolled to the bottom they have the option to click the “back to top” button to read the disclosure again.

Step 3: *Welcome to Arcadia!*

- This is the page a customer sees after completing their account creation.

As you can see, this process achieves all of the policy objectives of the disclosure form and the portal but allows a customer to receive the form and sign up for community solar as part of a seamless experience.

The IPA should not create the same process for distributed generation and community solar because those programs do not pose the same risk of customer harm

While the Program Guidebook also lays out rules for new small and large photovoltaic distributed generation (“DG”) projects, the recommendations we are offering in these comments only apply to the community solar portion of the Adjustable Block Program. The IPA appears to create a similar process for distributed generation and community solar, but the agency should recognize that the policy objectives for the disclosure form process are quite different. These are distinct markets with distinct customer offerings, and the IPA should recognize these differences in the Program Guidebook. It is likely much easier to create a functionally equivalent process for community solar than it is for

distributed generation, given that the underlying risk to the customer is much lower with community solar.

Our comments are informed by the nature of Arcadia's community solar product offering. 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, no cancellation fees, and of course no physical presence on the customer's property. This type of zero-risk community solar offering has a completely different risk profile than that of a distributed generation project. DG projects require a large upfront investment on behalf of the customer, and the immediate interaction between project installers and the homeowners demands a different level of scrutiny for the disclosure form than that which is applied to community solar subscribers. Community solar projects have a much lower risk profile than distributed generation, and, as a result, should have a more flexible customer disclosure form process.

Illinois Law Prohibits an Overly Restrictive Signature Process

As the IPA is aware, it is bound by the requirements of the Illinois Administrative Procedures Act (IAPA). Indeed, the IAPA applies "to all administrative rules and procedures of" the agency. 20 ILCS 3855/1-30.1. Among other requirements, the IAPA mandates that rules go through a rigorous review process by the Joint Committee on Administrative Rules (JCAR). Rules that have not been through the JCAR process are invalid and unenforceable. 20 ILCS 100/5-6. The IPA does not appear to have submitted the Guidebook, the Marketing Guidelines, or other components of the ABP through the JCAR process.

Under Illinois law, any "agency statement of general applicability that implements, applies, interprets, or prescribes law or policy" qualifies as a rulemaking. 5 ILCS 100/1-70. While the statute includes an exception for the prescription of standardized forms, any requirement about the mechanism for (a) generating or (b) executing such a form fall well outside such a narrow exception. Thus, requirements that outline rigid and inflexible signature processes would constitute a rulemaking under Illinois law. An Illinois agency cannot avoid the requirements of the IAPA simply by issuing a "Guidebook" if it treats the content of the Guidebook as a binding legal requirement.

In contrast, Arcadia's proposed solution would fully comply with Illinois law by avoiding the constraints of the IAPA. The IPA would not engage in a rulemaking if it takes a flexible approach that accepts signatures on forms where customers engage in an affirmative act to execute the form, the form is displayed for the customer's review, and the customer executes the form using a legally valid signature method.

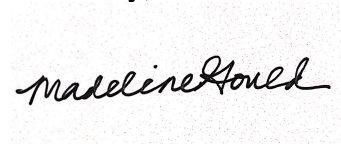
Conclusion

In summary:

- This proceeding on the draft Program Guidebook has direct links to the Marketing Guidelines proceeding, in which there has yet to be a decision published.
- The IPA should pre-approve any disclosure form that includes the use of TBD for project-specific information, Approved Vendor information, and/or customer subscription size on the disclosure form (and otherwise matches the standard form), irrespective of whether such form is created within the ABP portal.
- Forcing Approved Vendors to create disclosure forms in the portal is a bad customer experience that holds back community solar with no corresponding benefits.
- Requiring the forms to be generated in the portal is unnecessary because alternatives can ensure equally effective customer disclosure.
- The IPA is not required to attempt to prohibit functionally equivalent processes and should outline a set of guidelines for a “functionally equivalent” process to the current portal.
- The IPA should accept a disclosure form generated via a functionally equivalent process to the one in the IPA’s ABP portal. The IPA should explicitly state that it has the discretion to approve alternate methods for display and acceptance of the disclosure form.
- An example of a functionally equivalent process:
 - An affirmative action is required for the customer to acknowledge receipt of the disclosure form. The action should be verifiable, with documentation presented to the IPA, such as an electronic record of acceptance.
 - The disclosure form is clearly and conspicuously displayed for the customer’s review. The customer should also have the ability to download the form, similar to the way a download link is currently displayed to customers in the ABP portal signature page.
 - A legally valid electronic signature method is used by the customer to accept the disclosure form.
- The IPA should not create the same process for DG and community solar because these programs do not pose the same risk of customer harm.

We appreciate the opportunity to provide these comments and would be happy to answer any questions you may have. Please do not hesitate to contact Madeline Gould at madeline.gould@arcadia.com or (713) 248 0481 if you would like to discuss anything stated in our response further.

Sincerely,

A handwritten signature in black ink that reads "Madeline Gould". The signature is written in a cursive, flowing style. It is positioned on a light gray rectangular background.

Madeline Gould
Policy Specialist
Arcadia

Appendix A^{9 10}

A completed disclosure form is required for submission of a Part I application. The disclosure form ~~must~~ **may** be generated using the disclosure form portal at the Program website, **or a functionally equivalent process, which must receive approval from the IPA.** The portal contains an interactive form that can be completed by either the Approved Vendor or one of its approved Designees which upon completion can either be e-signed using the portal e-signature functionality or printed, signed, scanned, and uploaded. The information on the disclosure form is automatically transferred to the application portal to start a Part I application for DG systems. Approved Vendors are not authorized to use their own versions of the disclosure form, nor are they authorized to edit in any way the disclosure form generated in the portal. Approved Vendors may employ commercially available e-signature systems for customer signature of the disclosure form but must submit the audit/signature information page with the e-signed disclosure form. More information on the specific content of the disclosure form can be found in the distributed generation and community solar marketing guidelines on the Program website (<http://illinoisabp.com/>).^[1]

^[1] All disclosure forms submitted to the Program require a customer e-mail address. If the customer does not have an e-mail address, the Program offers a waiver that the customer can sign confirming that they do not have an e-mail address. The Approved Vendor must submit this waiver along with the customer's disclosure form.


"A signed disclosure form is required in order for a given subscriber to count towards a community solar project's subscriber tally in either an annual or quarterly report. ~~If the AC size of a community solar subscription submitted to the Program Administrator differs by more than the greater of 1 kW or 5% from the subscription size noted in that subscriber's corresponding disclosure form, a new disclosure form will be required."~~

⁹ Illinois Adjustable Block Program Draft Program Guidebook (August 2020), Page 39-40, https://illinoisabp.com/wp-content/uploads/2020/08/Draft-Program-Guidebook-2020_08_06.pdf.

¹⁰ Ibid, Page 59.

Appendix B

Image 1



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Solar Terms

This agreement says you will support a local solar farm and receive savings on your utility bill. You can cancel for any reason. Please scroll through and check the box to participate.

Illinois Shines Community Solar Standard Disclosure Form

This form gives consumers who are considering subscribing to a community solar project clear information about their system and their transaction. Community solar is an arrangement by which multiple customers share the economic benefits from electricity produced by a solar photovoltaic ("PV") system located in the same utility service territory as the subscribers. Execution of this form is required for Illinois Shines, a state-administered incentive program.

Illinois Shines (also known as the Adjustable Block Program) provides payments for the sale of Renewable Energy Credits ("RECs") produced by new community solar projects. RECs are created when solar panels generate electricity. 1,000 kilowatt-hours of solar production equals one REC. RECs represent the environmental value of solar power. RECs are separate from the electricity and can be bought and sold separately; whoever owns the RECs has the legal right to say they used that solar power.


Through Illinois Shines, all RECs from the community solar project that you subscribe to will be sold to Illinois utilities for 15 years. The community solar provider may use the money from REC sale to reduce the cost of your subscription.

If you subscribe to a community solar project, you will receive bill credits (measured in dollars) from your energy supplier for the electricity output (measured in kilowatt-hours) attributable to your subscription. Community solar subscriptions can be arranged in many different ways, with different terms, payments arrangements, and durations. These include: 1) as a single, upfront payment for bill credits; 2) as a subscription with a fixed monthly payment for bill credits; 3) as a subscription with a variable monthly payment for bill credits.

☐ I have read the [Illinois Shines Community Solar Standard Disclosure Form](#) and the [Community Solar Subscription Agreement](#). By proceeding, I will be submitting my e-signature.

Agree

Image 2

 Arcadia

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Solar Terms

This agreement says you will support a local solar farm and receive savings on your utility bill. You can cancel for any reason. Please scroll through and check the box to participate.

payment? Will you take out a loan to make the payment? What are the terms of the loan? How do those loan payments compare to projected reductions in your monthly electric bill?

- If you're paying a monthly subscription fee, how much is it? How does that compare to projected reductions in your monthly electric bill from your community solar subscription? Do you have to put money down at the start?
- If you're making monthly payments, does your contract include an escalation clause that increases the amount of payments over time? If so, by how much do payments increase?
- If you're paying a fixed rate for each kilowatt-hour generated by the community solar project, how does that rate compare to your existing rate from your electric supplier?

Compare your subscription's size and your electricity supply rate (which may change over time) to your subscription's cost to determine if savings exceed cost.

- **How much electricity will you receive from the community solar project? Is this the right amount, given how much electricity you use?**
If your contract provides more electricity than you use over the course of a year, you may not receive credit for all the electricity generated.

to resolve it with your community solar provider or the Approved Vendor. If you can't agree about how to solve the problem, **you may contact the Illinois Shines/Adjustable Block Program Administrator** by emailing admin@illinoisshines.com or by calling 877-783-1820.


If you have been subject to fraudulent or deceptive sales practices, the Illinois Attorney General's Consumer Protection Division may be able to help. Customers can contact it at:

Chicago
800-386-5438 | TTY: 800-964-3013

Springfield
800-243-0608 | TTY: 877-844-5461

Carbondale
800-243-0607 | TTY: 877-675-9139

Spanish Language
866-310-8398


ILLINOIS POWER AGENCY

For more information, go to www.illinoisshines.com

Illinois Shines is administered by InClimo, Inc. on behalf of the Illinois Power Agency.

FEBRUARY 2019

☒ I have read the [Illinois Shines Community Solar Standard Disclosure Form](#) and the [Community Solar Subscription Agreement](#). By proceeding, I will be submitting my e-signature.

Agree

Image 3

