

## CONSUMER PROTECTION WORKING GROUP AGENDA

Friday, November 4, 2022

<b>TOPIC 1</b>	<b>Proposed Update: Draft Disciplinary Matrix for Responses to Consumer Protection Issues</b>
<b>BACKGROUND &amp; PROPOSAL</b>	<p>Section 9.3.3 of the 2022 Long-Term Renewable Resources Procurement Plan outlines the Agency’s intent to provide more clarity and process around responses to consumer protection issues, for both the Adjustable Block Program and Illinois Solar for All:</p> <p>“The Agency plans to develop additional guidelines to ensure that, as the Programs continue to expand and address a growing number of complaints, disciplinary responses continue to be carried out in a fair and consistent manner. Using a transparent stakeholder feedback process, the Agency plans to develop a matrix laying out the types of consumer protection issues and program violations that have arisen or may arise and progressive disciplinary responses, including the process provided to the alleged offender and whether an appeal is available.”</p> <p>A draft disciplinary matrix developed by the IPA and the Program Administrators for stakeholder feedback is provided in <b>Exhibit 1</b>.</p> <p>The proposed draft matrix includes:</p> <ul style="list-style-type: none"> <li>• Increased formalization and tracking of “non-disciplinary” corrective actions</li> <li>• Elimination of “probation” as a Program response to consumer protection violations</li> <li>• Publication of a summary of warning letters on Program websites</li> <li>• A list of factors that will be considered in determining the appropriate response to a Program violation</li> </ul>
<b>ISSUES/QUESTIONS FOR DISCUSSION</b>	<ul style="list-style-type: none"> <li>• Is this the right level of process / notice for each type of response?</li> <li>• Are there other disciplinary actions that should be considered?</li> <li>• Are there steps in the matrix that are unclear?</li> </ul>

<b>TOPIC 2</b>	<b>Community Solar Billing Discussion: Consumer Protection Implications of Utility Portal Issues/Delays</b>
<b>BACKGROUND</b>	The Agency and Program Administrators have heard reports of instances when community solar providers are unable to receive information needed to bill customers from the utility portal in a timely manner. The Agency is concerned

	<p>about consumer protection implications, such as community solar providers billing customers for multiple months at a time.</p> <p>An issue of delayed billing has been addressed in part, as it pertains to Illinois Solar for All, in Section XI of the Consumer Protection Handbook, which states: “If ILSFA community solar subscribers begin receiving community solar bill credits from a project before the community solar provider begins billing the subscribers, the provider may not later charge subscribers for a subscription fee for previous months before billing began.”</p> <p>The Agency would like to better understand whether there are ongoing problems with community solar providers accessing information through utility portals and how this may affect customers, and what solutions or Program guardrails could be implemented.</p>
<p><b>ISSUES/QUESTIONS FOR DISCUSSION</b></p>	<ul style="list-style-type: none"> <li>• What operational issues do community solar providers encounter when accessing information in the utility portal? How frequent / pervasive are these issues?</li> <li>• Do community solar providers sometimes bill customers for multiple months at once? Are there other issues with community solar billing not “syncing” with utility bills?</li> <li>• Should the Programs create additional restrictions/requirements to address consumer protection issues, such as billing for multiple months, that may arise due to issues with utility portals?</li> </ul>

<p><b>TOPIC 3</b></p>	<p><b>New Requirement Proposal: Automatically Providing Copies of Signed Disclosure Form and Contract / Agreements to Customer</b></p>
<p><b>BACKGROUND &amp; PROPOSAL</b></p>	<p>The Program specifically requires that Approved Vendors and Designees have a new customer sign a Disclosure Form before signing the installation or subscription contract (see Consumer Protection Handbook, Section V). Section IX of the Consumer Protection Handbook also requires that “Upon the customer's request, the Approved Vendor or Designee shall provide the customer with a copy of that customer’s fully executed contract via e-mail, U.S. mail, or facsimile within twenty-one calendar days.”</p> <p>The Program documents do not explicitly require Approved Vendors and Designees to automatically provide a copy of the Disclosure Form and contract to the customer after execution.</p> <p>It has come to the attention of the Agency that some Approved Vendors and Designees do not provide copies of the Disclosure Form and contract to the customer after execution. The Agency is considering creating a new requirement that Approved Vendors and Designees must provide copies of the executed documents to the customer shortly after execution. This would ensure that customers have ready access to important information included in</p>

	their Disclosure Form and contract, including their rights, responsibilities, warranty information, and contact information.
<b>ISSUES/QUESTIONS FOR DISCUSSION</b>	<ul style="list-style-type: none"> <li>• Are there benefits to the customer of automatically receiving executed copies of these documents?</li> <li>• Are there operational / logistics concerns that should be considered?</li> <li>• What would be an appropriate time limit for how quickly the documents have to be sent to the customer?</li> <li>• If implemented, should the requirement extend to documents like agency agreements that the customer is required to sign for some community solar offers?</li> </ul>

<b>TOPIC 4</b>	<b>New Requirement Proposal: Restrictions on Marketing of Alternative Retail Electric Supplier (ARES) Offers in Conjunction with ILSFA offers</b>
<b>BACKGROUND &amp; PROPOSAL</b>	<p>The Agency is aware that some entities that market community solar offers may also market Alternative Retail Electric Supplier (ARES) offers.</p> <p>Section VIII of the Consumer Protection Handbook addresses interactions between ABP, ILSFA, and ARES offers. Specifically:</p> <ul style="list-style-type: none"> <li>• “No Distributed Generation offers (under ABP or ILSFA) shall require the customer to sign up for service from any specific Alternative Retail Electric Supplier.”</li> <li>• “Community solar offers under the ABP or ILSFA may require a customer to receive electric service from a specific, designated supplier if the requirement does not violate 220 ILCS 5/16-115E(a) (which restricts ARES from enrolling customers who received financial assistance in the previous 12 months from the Low Income Home Energy Assistance Program or who participate in the Percentage of Income Payment Plan).”</li> </ul> <p>The Agency has concerns that marketing campaigns that offer ARES products in conjunction with solar offers may not clearly explain that switching to an ARES is <u>not</u> a requirement for <u>any</u> Distributed Generation offer. The Agency is also concerned that campaigns may market ARES offers to customers who cannot enroll in an ARES offer under 220 ILCS 5/16-115E(a) (which restricts ARES from enrolling customers who received financial assistance in the previous 12 months from the Low Income Home Energy Assistance Program or who participate in the Percentage of Income Payment Plan). Marketing ILSFA offers with ARES offers can create the perception that signing up with the ARES is a requirement to access the guaranteed savings of ILSFA.</p> <p>The Agency proposes the following for discussion:</p>

	<ul style="list-style-type: none"> <li>• A prohibition on marketing ARES offers in conjunction with ILSFA distributed generation offers</li> <li>• For Approved Vendors or Designees that offer or market ARES offers in conjunction with community solar subscriptions, a prohibition on knowingly offering or marketing the ARES product to customers who cannot be enrolled with an ARES under 220 ILCS 5/16-115E(a)</li> <li>• A requirement that Approved Vendors or Designees in ILSFA that also offer or market ARES products (such as an ILSFA Approved Vendor that is also an ARES) must sign an attestation stating their understanding with these prohibitions and an agreement to comply</li> </ul>
<p><b>ISSUES/QUESTIONS FOR DISCUSSION</b></p>	<ul style="list-style-type: none"> <li>• Are there additional consumer protection concerns and/or restrictions that the Agency should consider related to offering/marketing/bundling ARES offers with ILSFA or ABP offers?</li> <li>• Are there any unintended consequences of the requirements proposed for discussion?</li> </ul>

# EXHIBIT 1

Illinois Power Agency (IPA)  
**DISCIPLINARY ACTION MATRIX - DRAFT FOR STAKEHOLDER FEEDBACK**  
 for the Illinois Shines and Illinois Solar for All programs  
 Version: 9/22/22



**DRAFT DISCIPLINARY ACTION MATRIX**

ACTION CATEGORY	RESPONSE	DESCRIPTION	WHEN RESPONSE IS USED	PROCESS BEFORE ACTION	COMMUNICATION OF ACTION AND RECORDKEEPING	PUBLICATION	APPEAL PROCESS
No Violation of Program Requirements	<b>Informal Mediation</b>	Program Admin works with the customer and entity to attempt to informally resolve a customer's concerns / issues	For disputes / customer concerns where there does not appear to be a Program violation	None	Program Admin retains records of communications	None	None
Non-Disciplinary Action to Address Violations	<b>Corrective Action</b>	Direction from Program Admin to entity to take specific action to correct a Program violation; may include remedial actions not explicitly set out in or required by Program documents (such as notice to affected customers)	For discrete and/or less serious violations, which can be corrected on an ad hoc basis; requirement to take corrective action can also be required for more serious violations in combination with other responses	Program Admin issues Notice of Potential Violation and allows reasonable time for response. Program Admin follows notice with discussion with entity if necessary / appropriate to determine whether a violation or other consumer protection issue exists; discusses and develops corrective action and may consider input from entity	Program Admin communicates required corrective action to entity; retains copy of communications in internal disciplinary database; in the case of Designees, Program Admin sends copy of communications to AV	None	Appeal permitted to the IPA - default deadline is 2 weeks
	<b>Compliance Plan</b>	Direction from Program Admin to take affirmative ongoing actions beyond those set out in Program documents to ensure and/or monitor compliance on an ongoing basis, may also include reporting requirements	For systemic or pervasive violations that are less serious in nature; compliance plan can also be required for more serious violations in combination with other responses	Program Admin issues Notice of Potential Violation and allows reasonable time for response. Program Admin follows notice with discussion with entity if necessary / appropriate to determine whether a violation or other consumer protection issue exists; discusses and develops compliance plan and may consider input from entity	May be multiple drafts / revisions - Program Admin to send final Compliance Plan to entity; retain copy of communications in internal disciplinary database; in the case of Designees, Program Admin sends copy of communications to AV	None	Appeal permitted to the IPA - default deadline is 2 weeks
Formal Warning: Continued noncompliance will lead to disciplinary action	<b>Warning</b>	Program Admin sends formal Warning Letter to entity regarding Program violation(s)	For recurring or more serious violations or issues such that something more is appropriate than simply having entity correct the issue, or entity is unable or unwilling to correct the issue, but not rising to the severity that would warrant suspension; generally used in combination with requiring corrective action / compliance plan (unless violative conduct has already ceased)	Program Admin issues Notice of Potential Violation and allows reasonable time for response (advance notice may not be provided in emergency situations). Program Admin has discussion with entity if necessary / appropriate to determine whether a violation or other consumer protection issue exists	Program Admin will send written Warning Letter that includes explanation of violation, timeline of communications, reference to specific Program requirements, explanation of disciplinary action, information on appeal process; in the case of Designees, Program Admin sends copy of Warning Letter to AV	Summary of warning letter published on public website	Appeal permitted to the IPA - default deadline is 2 weeks
Formal Disciplinary Action	<b>Suspension (in 3mo. Increments)</b>	Suspension from participation in the Program, including marketing the Program, enrolling new customers, etc.; may allow limited activities as necessary to allow resolution of outstanding issues / to avoid harm to existing customers. Projects with disclosure forms executed prior to suspension may continue to completion, unless nature of infraction is such that it requires a pause on project completions. Time duration determined by severity of infraction. Suspensions may be extended if terms of suspension are violated and/or additional violations are found or occur during the suspension period.	For even more serious violations / Consumer Protection issues, considering actual or potential harm to customers or the Program, responsiveness of entity / willingness to resolve the issue, and duration / repetition of same or similar issues or other Consumer Protection issues; may be of varying duration depending on nature and severity of violation; may include re-entry requirements upon the end of the suspension term, including resolution of outstanding issues and complaints and/or actions to ensure compliance, may also require Corrective Actions or a Compliance Plan	Program Admin issues Notice of Potential Violation and allows reasonable time for response (advance notice may not be provided in emergency situations). Program Admin has discussion with entity if necessary / appropriate to determine whether a violation or other consumer protection issue exists.	Program Admin will send written Suspension Letter including explanation of violation, timeline of communications, reference to specific Program requirements, explanation of disciplinary action, information on appeal process; in the case of Designees, sends copy of Suspension Letter to AV	Summary of suspension published on public website	Appeal to IPA - default deadline is 2 weeks; will entertain request for stay of suspension pending appeal
	<b>Revocation of AV / Designee Status</b>	Permanent expulsion from participation in the Program	For the most serious violations / Consumer Protection issues and/or repeated / enduring violations of Program requirements with no reasonable expectation of resolution or future compliance	Program Admin issues Notice of Potential Violation and allows reasonable time for response (advance notice may not be provided in emergency situations). Program Admin has discussion with entity if necessary / appropriate to determine whether a violation or other consumer protection issue exists.	Program Admin will send written Revocation Letter including explanation of violation, timeline of communications, reference to specific Program requirements, explanation of disciplinary action, information on appeal process; in the case of Designees, sends copy of Revocation Letter to AV	Summary of revocation of status on public website	Appeal to IPA - default deadline is 2 weeks; will entertain request for stay of revocation pending appeal
Paired with Non-Disciplinary and/or Disciplinary Actions	<b>Restricted Portal Access</b>	Entity's access to portal functions are restricted	If an entity fails to respond to a Program Admin inquiry or investigation in a timely manner or by the stated deadline, the Program Admin may restrict the entity's access to portal functions until the entity becomes responsive.	Program Admin issues Notice of Potential Violation and allows reasonable time for response; if entity fails to respond, the Program Admin may restrict the entity's access to portal functions	Program Admin will send written notice of restricted access; in the case of Designees, sends copy of notice to AV	None	Appeal to IPA - default deadline is 2 weeks; will entertain request for stay of revocation pending appeal

**RESPONSE FACTORS**

Factors for Consideration in Determining Response
<p>The following is a nonexhaustive list of factors that may be considered when determining the appropriate response to a consumer protection Program violation:</p> <ul style="list-style-type: none"> <li>• Number of customers affected</li> <li>• Breadth, scope, and/or duration of issue</li> <li>• Nature and degree of actual or potential harm to customers, including negative customer experience</li> <li>• Whether the conduct attempted to take advantage of vulnerable individuals or groups of customers</li> <li>• Whether the entity self-reported the violation and sought assistance in resolving it</li> <li>• Whether the entity takes responsibility and promptly works to resolve the issue</li> <li>• Harm to the Program, including actual or potential harm to the Program's reputation or consumer / public trust in the Program</li> <li>• Entity's history of, or contemporaneous, similar or other violations or consumer protection issues</li> <li>• Whether the entity was truthful and cooperative in any investigation of the issue</li> <li>• With respect to a response for the AV (or primary Designee) based on the conduct of a Designee (or nested Designee), whether the AV (or primary Designee) knew or should have known of the conduct and/or had processes in place to prevent it</li> </ul>