

**RESPONSE TO ILLINOIS POWER AGENCY REQUEST FOR COMMENTS ON
BEHALF OF THE SOLAR ENERGY INDUSTRIES ASSOCIATION, THE COALITION
FOR COMMUNITY SOLAR ACCESS, AND THE ILLINOIS SOLAR ENERGY
ASSOCIATION**

December 30, 2022

The Solar Energy Industries Association, the Coalition for Community Solar Access, and the Illinois Solar Energy Association (collectively the Joint Solar Parties) appreciate the opportunity to respond to the Illinois Power Agency’s (“IPA”) most recent solicitation for comments on December 2, 2022, regarding the IPA’s updated and streamline Disclosure Forms for both the Adjustable Block Program (“ABP”) and Solar For All (“SFA”) programs.¹

Since the inception of the ABP and SFA, each iteration of the Long-Term Renewable Energy Resources Procurement Plan has included a requirement that customers or subscribers must receive and execute a Standard Disclosure Form prior to signing their installation contract, lease, power purchase agreement (“PPA”), subscription, or other equivalent contract. The Joint Solar Parties appreciate the effort to streamline the Standard Disclosure Form in service of a better customer experience while giving the customer material information for a comparison between offers. In that spirit, the Joint Solar Parties offer several proposals to ensure accuracy and ease of use, particularly as it relates to actual products available on the market.

As a general matter, the Joint Solar Parties support the shortened length. As described in more detail below, some of the revisions (particularly on the ABP side) have added clarity, while the dynamic changes to the Standard Disclosure Forms to the extent they are fully implemented and functional will enhance the Approved Vendor experience. The SFA Standard Disclosure Forms have also greatly improved due to enhanced clarity and removing both technical and customer relations barriers (like disclosing the way a customer is low-income qualified). The Joint Solar Parties’ recommendations are intended to continue and improve on that momentum.

I. COMMENTS APPLICABLE TO ALL DISCLOSURE FORMS

The current LTRRPP requires a 3-calendar day rescission window for behind-the-meter systems under 25 kW (AC) of capacity and SFA low-income community solar subscriptions, while requiring a 14-calendar day rescission window for SFA low-income distributed generation. (*See* Final LTRRPP dated August 23, 2022 (unless otherwise noted, the “LTRRPP”) at 303, 311, 313.) The Joint Solar Parties first noted that the 3-calendar day rescission window is not reflected in the Solar for All low-income community solar Standard Disclosure Form. (*See* Exhibit 1 at 58-60.)

The Standard Disclosure Forms for the ABP under 25 kW behind-the-meter systems, SFA low-income community solar subscriptions, and SFA low-income distributed generation should set a rescission floor, not a fixed rescission period. While some developers may opt to allow a longer

¹ The Joint Solar Parties note that the December 2, 2022 request for comments included a number of other prompts but responses are due four weeks later. The Joint Solar Parties anticipate providing comment on those prompts closer to the January 27, 2022 deadline.

period as a differentiator, the Joint Solar Parties note that there are longer rescission periods for some transactions, such as a transaction that might qualify as a “home repair” to a person over 65 years old (which would require a 15 business day rescission window). (See 815 ILCS 513/22.) Some door-to-door sales may require a three business day rescission period under Illinois or federal law. The Joint Solar Parties note that the language on the Standard Disclosure Forms should make reference to rescission “within *your contractual rescission window or as required by law, which cannot be less than three calendar days*” or “within *the period allowed by your contract or law, which cannot be less than three calendar days.*” Because the customer contract must be consistent with the Standard Disclosure Form (see Program Guidebook (October 18, 2022 Update) at 77, 89), the Joint Solar Parties recommend allowing flexibility to extend the rescission window if required or if part of a developer’s commercial decision.

In addition, while the Joint Solar Parties appreciate the dynamic fields, given some of the extended work on the technical side for Part I applications since July, the Joint Solar Parties recommend that Energy Solutions choose volunteer beta testers from the Approved Vendor pool to test various functions. The Joint Solar Parties believe that may help reduce the cycle of rollouts followed by bugs, followed by attempts by the industry to communicate about the bugs, followed by patching and targeted fixes.

Finally, the UCC-1 is evidence of a security interest in the system. While generally speaking holding a security interest allows the secured party to foreclose under certain conditions, those conditions would be dictated by contract and would neither be every single breach of the contract. A better disclosure is that a UCC-1 would provide notice of a security interest and that the customer should consult their contract.

II. COMMENTS APPLICABLE TO LEASES AND PPAS

Some of the Lease/PPA Standard Disclosure Forms include information about the existence of a manufacturer’s warranty on the panel and inverters. While the Joint Solar Parties do understand this provision for a system purchase—although primarily for the ABP, because under the current LTRRPP each SFA consumer contract for behind-the-meter systems requires a full system warranty for 15 years (see LTRRPP at 277)—the manufacturer’s warranty is less relevant to the extent that the consumer contract for a PPA or lease includes a production or other performance guarantee. That is because under these third-party ownership models, the system owner/operator would use the resources at their disposal (which may go beyond the manufacturer’s warranty) to keep the system producing at the promised level under penalty of paying the customer the contractually-provided underperformance penalty. As a result, if the system provides a production or other performance guarantee (a separate field in the same set of disclosures), the disclosures for manufacturer’s warranty should toggle off.

For PPAs specifically, the Standard Disclosure Form does not appear to allow for pricing structures other than fixed rate with escalator. Variable rates tied to an index (such as the Price to Compare or hourly energy prices) should be supported by allowing for a variable option followed by a brief explanation—similar to the explanation allowed for community solar Standard Disclosure Forms.

III. COMMENTS APPLICABLE TO BEHIND-THE-METER DISCLOSURES

As an initial matter, Section 16-107.5(o) of the Public Utilities Act requires that ComEd and Ameren—not the electricity suppliers serving ComEd and Ameren customers—receive and process the application from the customer for net metering. While the utilities’ required system upgrades may not be complete, the Standard Disclosure Forms that describe net metering applications should accurately reflect that: (1) the utilities will be the eventual points of contact, and (2) that date may not have yet been reached. The Joint Solar Parties recommend that the IPA coordinate with ComEd and Ameren to ensure the disclosure forms accurately reflect the anticipated dates for when the net metering applications are anticipated to be submitted to the utility rather than the electricity supplier. The Joint Solar Parties note the Standard Disclosure Form may be signed months before the net metering application is ready to be submitted. Other changes to net metering approaches may be forthcoming (in the sense of on the way to being implemented) and the Standard Disclosure Forms should not definitively state FEJA-era procedures when CEJA requires changes but has an indefinite implementation schedule. At minimum, the Standard Disclosure Form should instead reflect that customers “may” need to reapply for net metering after switching suppliers if their utility is ComEd/Ameren until future system upgrades are made.

In addition, under Sections 16-107.5(d) and (e), net metering credits expire at the end of the annual period (which is not the case for Section 16-107.5(d-5) and (f) customers). Thus, for that subset of customers, the Standard Disclosure Form should include a note that net metering credits may expire at the end of the annual period set in the net metering application. That may be a material point for customers considering appropriate sizing of potential systems.

The Joint Solar Parties recognize that the efficiency box arose out of previous IPA recommendations regarding minimum system efficiency. The Joint Solar Parties prefer a disclosure to a mandate—especially given that many systems will still pencil even if they have a lower capacity factor than average—but recommend additional language to make clear that the efficiency is simply a reflection of the other system attributes already provided (i.e. estimated annual kWh in proportion to the nameplate capacity) and not a further impediment on the disclosed values. In other words, a lower efficiency does not negatively impact the system capacity, estimated production, etc.—those values are already disclosed.

The Joint Solar Parties also have the following specific recommendations:

- Both the ABP and SFA system purchase Standard Disclosure Forms appear to assume a loan. While that is likely to be the case in many instances (whether the loan is part of the purchase transaction or obtained by the customer separately), not all purchases are financed. Thus, the box for financing should include the possibility for a disclosure that no financing is part of the purchase transaction but that separate financing may impact the customer’s payback period.
- For systems size, the 1 kW or 5% variability should be preceded by “the greater of” so as not to create an ambiguity that a change that satisfies one but not the other is not allowed.
- For the Lease/PPA Standard Disclosure Forms, in the payment box the “Total” line should be revised to say something along the lines of “Total Estimated Payment over the Life of the [Lease/PPA]. This helps contextualize the number as a lifetime value.

- For system purchases, the benefits should be estimated over a longer period than 15 years. Not only are some behind-the-meter contracts 20 years (such as Public School contracts), but the useful life of the system in many cases should exceed 15 years and under a purchase the customer is anticipated to own the system for its useful life. A 20 or 25 year period should be used instead.
- The Joint Solar Parties wish to confirm that the dynamic elements on the Standard Disclosure Form for the distributed generation purchase for the DG Rebate and the collateral are not mutually exclusive. The Joint Solar Parties note there are scenarios where a purchase will both anticipate the DG Rebate and collateral.
- The Standard Disclosure Form uses the terms Smart Inverter Rebate and DG Rebate. The Joint Solar Parties recommend that DG Rebate be used universally.
- The disclosure related to the DG Rebate should be modified for Lease/PPA because the DG Rebate cannot be calculated as it relates to export without an estimate of export (which is very different from total production). It is also only applicable to residential customers, because non-residential customers are ineligible for “full retail” net metering (i.e. both supply and distribution net metering) and must take the DG Rebate.
- Net metering rate-specific comments:
 - The net metering rate disclosure should include an assumption that the DG Rebate is taken unless the system is residential and thus should say “your net metering rate *after taking the DG Rebate.*” For residential systems where the DG Rebate is not anticipated, the disclosure should be “your net metering rate *if you do not take the DG Rebate*”

In many (but not all) net metering structures—especially Subtype (d) and (e) in ComEd and Ameren—net metering credits expire at the end of the annual period. The Standard Disclosure Form should not make a specific recommendation about the annual period because the net metering terms may vary based on utility tariffs (or, in some cases, the ARES contract). The Joint Solar Parties instead suggest that under net metering paragraph the Standard Disclosure Form include language that states “Under certain conditions, excess bill credits may be reset and zeroed-out, so you are encouraged to review the terms (if applicable) of expiration at the end of your annual period.”

IV. COMMENTS APPLICABLE TO COMMUNITY SOLAR DISCLOSURES

A. Comments Applicable to both ABP and SFA

- The Joint Solar Parties recommend changing the language below the subscription size disclosure to something more like “Your actual subscription size in your subscription agreement must be within [calculate the greater of 5 kW or 25% of subscription size] of this value.” This flags that the consumer must read their subscription and that they know what value they must look for.
- The “Energy Supplier” should no longer matter pursuant to Section 16-107.5(l)(3) for ComEd and Ameren customers.² While ComEd has already implemented tariffs that provide a bill credit equal to the price to compare applicable to the customer’s delivery

² Pursuant to Section 16-107.5(l)(3), for electric utility serving less than 200,000 customers on January 1, 2021—which the Joint Solar Parties understand includes MidAmerican Energy Company—the electricity supplier continues to be responsible for the bill credit.

class, Ameren is not currently in compliance but those issues are currently being litigated in ICC Docket No. 22-0208. The Joint Solar Parties suggest that the IPA remove Energy Supplier if the customer's utility is ComEd (or a muni/coop that does not have retail choice) but keep it for Ameren until ICC Docket No. 22-0208 is resolved.

- The Joint Solar Parties recommend providing a city/village/description of the unincorporated area for the location rather than a full address. In addition to some projects not having a proper street address, the precise location is likely to matter less to customers unless it was a particular selling point—in which case it would be part of the marketing efforts and disclosed as part of the sales pitch.
- The Joint Solar Parties recommend that for the Standard Disclosure Form for which no project is selected, the estimated first-year production and the start date for bill credits should be removed. Instead, based on the pricing term (which should remain part of the Standard Disclosure Form), there should be an illustrative credit and charge either (i) for a standard production (such as 10,000 kWh per year) or (ii) an average capacity factor based on the proposed subscription size.
- All estimated charges/benefits that are based on the Price to Compare (such as bill credit value) should have a notation that the calculation is based on the current Price to Compare, which is subject to periodic change.
- To reflect subscriptions that require advance notice of termination, the early termination section should either refer in the hard-coded text about moving outside the utility service territory that other terms and conditions may apply or there should be a separate section that discloses advance notice provisions (including for moving outside of the utility service territory).

B. Comments Applicable to SFA

As an initial matter, the Joint Solar Parties request that the SFA Standard Disclosure Form be provided the same optionality for non-project specific (and non-Approved Vendor-specific) Standard Disclosure Forms as allowed for ABP community solar projects. The Joint Solar Parties suspect that more than one entity owns more than one SFA community solar system, making it highly desirable to be able to disclose the customer first and then assign to a specific project over a longer time period as the systems begin to fill up. As SFA continues to scale, the Joint Solar Parties suspect this will be an increasing issue.

In addition to this general comment:

- The Joint Solar Parties recommend changing the nomenclature of the value the customers receive to “bill credits” in the SFA Standard Disclosure Form—an accurate description of what the utility must provide under 220 ILCS 5/16-107.5(I)(3)—rather than “value of electricity.” The Joint Solar Parties note that this language is inconsistent with the ABP Standard Disclosure Forms which use the easier to understand “bill credit” terminology. Because Section 16-107.5(I)(3) and the ComEd and Ameren tariffs that provide for community solar bill crediting do not have a different structure applicable to ABP and SFA contracts, the Joint Solar Parties believe there is no reason to use different language. The Joint Solar Parties recommend importing the language used on the ABP Standard Disclosure Form for these sections.

- On a related note, it is not clear why the low, medium, and high disclosure levels are required. Where the utility must provide the bill credit (described *supra*), this disclosure is essentially a guess as to the price to compare. A better approach would be to eliminate this box as the IPA did for ABP community solar disclosures.

V. CONCLUSION

The Joint Solar Parties appreciate the effort in developing these new Standard Disclosure Forms consistent with the IPA's commitment to clarity and streamlining in the LTRRPP. Once fully implemented and reliably functioning, these Standard Disclosure Forms—especially with the relatively minor changes proposed above—will lead to a better customer and Approved Vendor experience. The Joint Solar Parties request that the IPA adopt the recommendations above but otherwise implement these new Standard Disclosure Forms.