EXPANDED CONSUMER PROTECTION WORKING GROUP AGENDA

Friday, April 7, 2023

TOPIC 1	**Potential Consumer Protection Violations Stemming from Some Loan Structures**
BACKGROUND	The ABP Program Administrator has seen an increase in complaints regarding customer frustration when they must begin making loan payments on their solar projects before their systems are fully energized. It has been explained that multiple solar financing companies will begin billing customers once the installer has sent proof that the project has been installed. The ABP Program Administrator has seen cases where installers have sent photos to the financing company claiming that an installation was completed when an installation was actually only partially installed. Other customer complaints have included situations where customers are making loan payments months or even years before the project is energized due to issues with inspection, not having proper permitting, or having other issues with receiving permission to operate from a utility. If an Approved Vendor or Designee preemptively informs a financing company that the installation is complete before full energization, the customer may be required to make loan payments before energization and associated savings/incentives are realized, which could be interpreted as a violation of Section C(1) of the Consumer Protection Handbook (if this possibility was not explained to the customer): "Approved Vendors and Designees shall accurately portray prospective customers' anticipated costs and savings."
ISSUES/ QUESTIONS FOR DISCUSS	*Discussion questions:* ○ *Do Approved Vendors and/or Designees work with financial lenders to assist distributed generation customers with financing their solar array purchase?* ○ *Are Approved Vendors/Designees aware of the repayment terms in the loans they assist the customer in arranging?* ○ *Do loans for solar installations generally begin once the system is installed, not when the system is energized?* ○ *Have Approved Vendors or Designees had complaints from customers regarding issues of payment before energization?* ○ *How does the Approved Vendor or Designee handle these type of customer complaints?* ○ *What are the possible scenarios under which an installer would report to a financing company that an installation is complete before energization?*

TOPIC 2	Potential Disciplinary Action for Approved Vendors or Designees that Exit the Market
BACKGROUND	The Program Administrator has been receiving notice with increasing regularity of Approved Vendors or Designees (AV/D) going out of business, ramping down operations, or going bankrupt. In these instances, the AV/D may or may not move forward with existing projects. Aside from the issue of a customer being stranded and needing to connect with a new AV/D, if a customer has a complaint about an AV/D that has – or appears to have – exited the market, it is often difficult to get a response from the company. Additionally, imposing disciplinary measures on AV/Ds that are no longer in operation may not have the intended effect of bringing an AV/D into compliance, since suspension from the program does not operate as a deterrent. Section 2(A)(13) of the Program Guidebook requires Approved Vendor's to provide documentation to: "Demonstrate authorization to do business in Illinois by uploading an Illinois Secretary of State statement of good standing dated within the past 12 months if a corporation, LLC, or non-profit (Example in Figure 1)." The Consumer Protection Handbook further requires that: "Approved Vendors and Designees must comply with all existing local, state, and federal laws, regulations, and guidance, including Federal Trade Commission (FTC) guidance on advertising and marketing." This requirement is essentially a catch-all that would include the requirement that AV/Ds remain in good standing with the Illinois Secretary of State.
ISSUES/ QUESTIONS FOR DISCUSS	*Discussion questions:* ○ *When considering disciplinary action to impose on AV/Ds in association with customer complaints or other violations, should the Agency and Program Administrator also take into account the company's corporate status, as a factor in assessing disciplinary action?* ○ *Should an AV/D that is suspected of ramping down operations, going out of business, and/or in bankruptcy, be required to describe the status of their business operations and attest to their good standing in response to a Notice of Potential Violation?* ○ *Since a company who has already ceased operations may not respond to a Notice of Potential Violation, should the absence of an answer be considered evidence that a company has in fact gone out of business?*

	○ *Should the company's failure to respond to a request for its status be considered in assessing the level of appropriate disciplinary action?* ○ *Should disciplinary action also include:* ○ *The requirement for AV/Ds out of business to notify each of their customers they have exited the market?* ○ *Additional requirements to be met if the AV/D attempts to reenter the market in the future?*