

ILLINOIS SOLAR FOR ALL PROGRAM **COMMUNITY SOLAR CONTRACT REQUIREMENTS**

May 13, 2019

Section 7.6.2 of the Long-Term Renewable Resources Procurement Plan (“the Plan”) provides a list of subscription contract requirements for Adjustable Block Program and Illinois Solar for All (“ILSFA”) Program community solar projects. Additionally, Section 8.14 of the Plan includes additional consumer protections applicable to ILSFA projects generally. The contract requirements listed beginning on page 3 below constitute the full Low-income Community Solar subscription contract requirements for ILSFA.¹

As described in Section 6.13.1 of the Plan,² the Illinois Commerce Commission’s Order approving the Plan requires that, for systems already energized at the time of finalizing consumer protection requirements, the following is required:^{3,4}

1. A signed contract amendment, that brings the contract or subscription agreement into full compliance with the minimum contract requirements from the Plan;
2. The disclosure form, signed by the customer post-contract execution; and
3. Proof that the brochure was provided to the customer.

All contracts with subscribers to ILSFA Low-income Community Solar projects (including agreements for purchase money loans [for shares or panels of a community solar project] from lenders affiliated with an Approved Vendor) must contain the required terms stated in this document. In some cases, the requirements listed herein prescribe the content of specific terms, while other requirements prescribe only the scope of contractual terms to be covered.

Note that the Illinois Solar for All Program does not necessarily require the submission of a signed subscription contract (or a contract amendment bringing a previously signed contract into

¹ Items (a) through (w) are from Section 7.6.2 of the Plan, and the subsequent items are from Section 8.14 or developed pursuant to the Plan.

² Section 8.14 of the Plan states that consumer protections found in Section 6.13 “will also apply to the Illinois Solar for All Program.”

³ Pages 24-26 of the Low-income Community Solar Consumer Protection Guidelines (<https://www.illinoisfsa.com/app/uploads/2019/05/ILSFA-Consumer-Protections-Guidelines-CS- v.2.pdf>) contains an attestation for Approved Vendors to submit to the Program Administrator related to these requirements for such projects.

⁴ For systems already energized at the time Low-income Community Solar consumer protection requirements are finalized, Approved Vendors will have the opportunity at the Part II application to either provide proof of provision of the Disclosure Form and Informational Brochure to the subscriber, or else attest that good-faith, diligent efforts to provide the Disclosure Form and Informational Brochure to the subscriber after that date were unsuccessful. For systems that already had executed subscription contracts with the respective subscriber as of the date of publication of the final Community Solar Requirements, Approved Vendors will have an opportunity at the Part II application to attest that a contract amendment bringing the contract into full compliance with the requirements in this document was signed by the subscriber, or else attest that good-faith, diligent efforts to amend the existing contract with the subscriber after the date hereof were unsuccessful.

compliance with the below requirements) for every subscription upon application; however, as stated in Section 8.14 of the Plan, Approved Vendors must provide documentation to the Program Administrator explaining how the community solar subscription will result in a cash-flow positive experience for the participant(s) (including an estimate of the monthly savings) – and specifically, ensuring that the savings accruing to each participant, net of any ongoing participation fees, are at least 50% of the value produced by the community solar project through net metering credits. This may include providing a copy of the contract, or some other statement of customer savings estimates, including assumed parameters.

The Approved Vendor will attest to compliance with the contract requirements herein in Part II of the project application.

All ILSFA Low-Income Community Solar subscription agreements must include the following terms:

- (a) A plain language disclosure of the subscription, including:
 - (i) The terms under which the pricing will be calculated over the life of the contract and a good faith estimate of the subscription price expressed as a monthly rate or on a per kilowatt-hour basis;
 - (ii) Whether any charges may increase during the course of service, and, if so, how much advance notice is provided to the subscriber.
- (b) Contract provisions regulating the disposition or transfer of a subscription, as well as the costs or potential costs associated with such a disposition or transfer;
- (c) All nonrecurring (one-time) charges;
- (d) All recurring (monthly, yearly) charges;
- (e) A statement of contract duration, including the initial time period and any rollover provision;
- (f) Terms and conditions for early termination, including:
 - (i) Any penalties that the Project Developer may charge to the subscriber; and
 - (ii) The process for unsubscribing and any associated costs.
- (g) If a security deposit is required:
 - (i) The amount of the security deposit;
 - (ii) A description of when and under what circumstances the security deposit will be returned;
 - (iii) A description of how the security deposit may be used; and
 - (iv) A description of how the security deposit will be protected.
- (h) A description of any fee or charge and the circumstances under which a customer may incur a fee or charge;
- (i) A statement explaining any conditions under which the Project Developer may terminate the contract early, including:
 - (i) Circumstances under which early cancellation by the Project Developer may occur;
 - (ii) Manner in which the Project Developer shall notify the customer of the early cancellation of the contract;
 - (iii) Duration of the notice period before early cancellation; and
 - (iv) Remedies available to the customer if early cancellation occurs;
- (j) A statement that the customer may terminate the contract early, including:
 - (i) Amount of any early cancellation fee;
- (k) A statement describing contract renewal procedures, if any;
- (l) A dispute procedure;
- (m) The Agency's and Commission's phone number and Internet address;
- (n) A billing procedure description;
- (o) The data privacy policies of the Project Developer;
- (p) A description of any compensation to be paid for underperformance;
- (q) Evidence of insurance;
- (r) A description of the project's long-term maintenance plan;

- (s) Current production projections and a description of the methodology used to develop production projections;
- (t) Contact information for the Project Developer for questions and complaints;
- (u) A statement that the Project Developer does not make representations or warranties concerning the tax implications of any bill credits provided to the subscriber;
- (v) The method of providing notice to the subscribers when the project is out of service for more than three business days, including notice of:
 - (i) The estimated duration of the outage; and
 - (ii) The estimated production that will be lost due to the outage.
- (w) Any other terms and conditions of service.
- (x) Once energization begins, any ongoing subscription payments (on an annualized basis) by customer cannot exceed 50% of expected first-year net metering value. This requirement applies to two distinct time periods: (1) the first year of the contract as well as (2) a calculated annual average for (i) the life of the customer's subscription contract *or* (ii) in the case of a system share purchase, for 25 years. For these calculations, the following assumptions must hold:
 - A standard annual production degradation rate of 0.5% must be used;
 - An annual energy price escalation rate of up to 1.7% can be used;
 - The annual customer payment rate escalation cannot exceed the energy escalation rate used.
 - The first-year net metering value used in the savings calculation must be based on *either* (i) an average statewide supply rate of \$0.06 per kilowatt-hour or (ii) an average of the customer's 12 most recent monthly utility bills..
- (y) The contract must be in the language requested by the customer.
- (z) Financing amounts, terms, and conditions for a purchase of a system share or a lease-based subscription must be based on an assessment of the program participant's ability to repay the debt, as defined by Regulation Z, which is a federal rule that implements aspects of the Truth in Lending Act and the Dodd-Frank Act.⁵
- (aa) Right of rescission within three days after contract execution
- (bb) The subscriber cannot be required to provide an upfront payment prior to energization.
- (cc) No prepayment penalties (for a lease or a loan for purchasing a project share) are allowed.
- (dd) For situations where a low-income residential customer is taking a loan to finance purchase of particular panels or a share of the community solar project from a lender affiliated with an Approved Vendor:
 - Financial instrument must include forbearance terms.
 - Forbearance terms must encompass one of the following:
 - Suspension of total payments for up to 3 months; or
 - Suspension of interest payments for up to 6 months; or

⁵ See Consumer Financial Protection Bureau, April 10, 2013. *Ability-to-Repay and Qualified Mortgage Rule, Small Entity Compliance Guide*, http://files.consumerfinance.gov/f/201304_cfpb_compliance-guide_atr-qm-rule.pdf. Under the regulation (12 C.F.R. § 1026.43, issued under authority of 15 U.S.C. § 1639c), creditors generally must consider eight underwriting factors: (1) current or reasonably expected income or assets; (2) current employment status; (3) the monthly payment on the covered transaction; (4) the monthly payment on any simultaneous loan; (5) the monthly payment for mortgage-related obligations; (6) current debt obligations, alimony, and child support; (7) the monthly debt-to-income ratio or residual income; and (8) credit history.

- Reduction of interest payments for up to 12 months
 - Missed revenues may be recovered later in the contract life, but no interest may be applied.
- Loan may not be secured by home or home equity
- Loan documents must indicate the following:
 - Principal loan amount
 - Schedule of loan disbursements
 - Schedule and due dates of repayments
 - Order of allocating payments (to principal, interest, fees, etc.)
 - Interest rate
 - Borrower(s), lender, servicer
 - Nature of lender's security interest (e.g. UCC-1 financing statement)
 - Events of default and lender's remed(ies) upon default (including forbearance as discussed above)
 - All fees and penalties