

TITLE 83: PUBLIC UTILITIES
CHAPTER I: ILLINOIS COMMERCE COMMISSION
SUBCHAPTER C: ELECTRIC UTILITIES

PART 412
OBLIGATIONS OF RETAIL ELECTRIC SUPPLIERS

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AUTHORITY: Implementing Section 16-118 of the Public Utilities Act [220 ILCS 5/16-118] and authorized by Section 10-101 of the Public Utilities Act [220 ILCS 5/10-101].

SOURCE: Adopted at __ Ill. Reg. _____, effective _____.

SUBPART A: GENERAL

Section 412.10 Definitions

“Act” means the Public Utilities Act [220 ILCS 5].

“Alternative retail electric supplier” or “ARES” means the same as that term is defined in Section 16-102 of the Act [220 ILCS 5/16-102].

“Commission” means the Illinois Commerce Commission.

“Complaint” means an objection made to ~~an entity a~~ RES, by a customer or another entity, as to its charges, facilities or service, the disposal of which complaint requires investigation or analysis.

“Customer” means the same as “Retail Customer” as that term is defined in Section 16-102 of the Act.

“Do Not Market List” means a list of names, addresses and/or phone numbers of customers who contacted the electric utility to avoid any marketing or soliciting from a RES.

“Electric utility” means the same as that term is defined in Section 16-102 of the Act.

“Letter of Agency” means the document described in Section 2EE of the Consumer Fraud and Deceptive Business Practices Act [815 ILCS 505/2EE] and referenced in Section 16-115A of the Public Utilities Act [220 ILCS 5/16-115A].

“Material terms” means the information included in the Uniform Disclosure Statement, defined in Section 412.110 of this Part.

“Rescind” means the cancellation of a pending customer enrollment to a RES.

“Residential customer” means the same as that term is defined in 83 Ill. Admin. Code 280.

“Retail Customer” means the same as that term is defined in Section 16-102 of the Act [220 ILCS 5/16-102].

“Retail electric supplier” or “RES” includes both alternative retail electric suppliers and electric utilities serving or seeking to serve retail customers pursuant to Section 16-116 of the Act [220 ILCS 5/16-116].

“Sales agent” means any employee, agent, independent contractor, consultant, or other person that is engaged by the RES to solicit customers to purchase, enroll in, or contract for power and energy service on behalf of a RES.

“Small commercial customer” means a nonresidential customer of an electric utility consuming 15,000 kilowatt-hours or less of electricity annually in its service area. A RES may remove the customer from designation as a "small commercial customer" if the customer consumes more than 15,000 kilowatt-hours of electricity in any calendar year after becoming a customer of the RES. In determining whether a customer is a small commercial customer, usage by the same commercial customer shall be aggregated to include usage at the same premises even if measured by more than one meter, and to include usage at multiple premises. Nothing in this Part creates an affirmative obligation on an electric utility to monitor or inform customers or RESs as to a customer's status as a small commercial customer as that term is defined herein. Nothing in this Part relieves an electric utility from any obligation to provide information upon request to a customer, a RES, the Commission, or others necessary to determine whether a customer meets the classification of small commercial customers as that term is defined herein.

“Third Party Verification” means the process described in Section 2EE of the Consumer Fraud and Deceptive Business Practices Act and referenced in Section 16-115A of the Public Utilities Act.

Section 412.20 Waiver

- a) The Commission, on application or petition of a RES or electric utility, may grant a temporary or permanent waiver from this Part, or any subsections contained in this Part, in individual cases where the Commission finds that:
 - 1) the provision from which the waiver is granted is not statutorily mandated;
 - 2) no party will be injured by the granting of the waiver; and
 - 3) the rule from which the waiver is granted would, as applied to the particular case, be unreasonable or unnecessarily burdensome.

- b) The burden of proof in establishing a right to waiver shall be on the party seeking the waiver.
- c) A petition for exemption or modification shall be filed pursuant to 83 Ill. Adm. Code 200 and shall include specific reasons and facts in support of the requested exemption or modification, explaining why the RES is unable to comply with these rules.

SUBPART B: MARKETING PRACTICES

Section 412.100 Application of Subpart B

- a) The provisions of this Subpart shall only apply to RESs serving or seeking to serve residential or small commercial customers, and only to the extent that the RESs provide services to residential or small commercial customers. In addition, Section 412.170(d) shall apply to electric utilities.
- b) The following exceptions apply: Sections 412.170(a), (b) and (c) and 412.180 shall apply to RESs serving or seeking to serve any retail customer, other than RESs certified (i) under subpart E of 83 Ill. Adm. Code 451, or (ii) under subpart B or C of 83 Ill. Adm. Code Part 451, to serve only their own load, and/or the load of a corporate affiliate and/or the load of an entity located on the site of a manufacturing or refining facility of the RES or its affiliate, when is fully integrated into the existing electrical distribution system of the refining or manufacturing facility.

Section 412.110 Uniform Disclosure Statement

In addition to providing the customer with a copy of the sales contract, a RES or one of its sales agents must disclose the following information to the customer ~~prior to any enrollment for electric service, regardless of the form of marketing used.~~ The written Uniform Disclosure statement must use 12 point font or larger, and, if it is a separate document, it must not exceed two pages in length:

- a) The legal name of the RES; and the name under which the RES will market its products, if different;
- b) The RES's business address;
- c) The RES's toll-free telephone number for billing questions, disputes, and complaints as well as the Commission's toll-free phone number for complaints;
- d) The charges for the service for the length of the contract: if any charges are variable during the term of the contract, an explanation of how the variable charges are determined;

- e) The length of the agreement including any possible automatic renewal clause;
- f) The presence or absence of early termination fees or penalties, and applicable amounts or the formula pursuant to which they are calculated;
- g) Any requirement to pay a deposit for power and energy service, the estimated amount of the deposit or basis on which it is calculated, when the deposit will be returned, and if the deposit will accrue interest;
- h) Any fees assessed by the RES to a customer for switching to the RES;
- i) The name of the power and energy service for which the customer is being solicited;
- j) A statement that the customer may rescind the agreement within ten calendar days after the electric utility processes the enrollment request by contacting either the RES or the electric utility ~~and provide~~ including both phone numbers;
- k) A statement that the RES is an independent seller of power and energy service certified by the Commission, and that the sales agent is not representing or acting on behalf of the electric utility, governmental bodies, or consumer groups;
- l) A statement that the electric utility remains responsible for the delivery of power and energy to the customer's premise and will continue to respond to any service calls and emergencies and that switching to a RES will not impact the customer's electric service reliability;
- m) A statement that the customer will receive written notification from the electric utility confirming a pending switch of the customer's power and energy supplier;
- n) If savings are guaranteed under certain circumstances, the RES must provide a written statement, in plain language, describing the conditions that must be present in order for the savings to occur. In the case of telemarketing and inbound enrollment calls, such statement shall be provided in accordance with Sections 412.130 (e) and 412.140 (c); and
- ~~o) If a product is being offered at a fixed monthly charge that does not change with the customer's usage and the fixed monthly charge does not include delivery service charges, the RES must provide a statement to the customer that the fixed monthly charge is for supply charges only and that it does not include delivery service charges and applicable taxes; therefore the fixed monthly charge is not the total monthly amount for electric service.~~
- o) A price-per-kilowatt hour (kWh) for the power and energy service.

- p) A statement of whether or not the RES has declared force majeure within the past ten years in relation to any contractual obligations to deliver power and energy service.
- q) A statement that the RES has been certified by the Commission to provide power and energy service, that the Commission has been informed the RES is seeking to enroll customers, and providing a phone number and the website of the Commission upon request.

Section 412.115 Customer Solicitation

- a) A RES and all of its sales agents shall affirmatively represent that it is not affiliated with the electric utility, governmental bodies, or consumer groups.
- b) If any sales solicitation, agreement, contract, or verification is translated into another language and provided to a customer, all of the documents must be provided to the customer in that other language.
- c) A RES shall clearly and conspicuously disclose the following information to all customers:
 - 1) The prices terms, and conditions of the products and services being sold to the customer;
 - 2) Where the solicitation occurs in person, including through door-to-door solicitation, the salesperson's name;
 - 3) The alternative retail electric supplier's contact information, including the address, logo, phone number, and website;
 - 4) Contact information for the Illinois Commerce Commission, including the toll-free number for consumer complaints and website;
 - 5) A statement of the customer's right to rescind the offer within 10 business days of the date on the utility's notice confirming the customer's decision to switch suppliers, as well as phone numbers for the supplier and utility that the consumer may use to rescind the contract; and
 - 6) The amount of the early termination fee, if any. Said termination fee shall not exceed \$50.
- d) Except as provided in paragraph (e) of this subsection, a RES shall send the information described in paragraph (c) of this subsection to all customers within one business day of the authorization of a switch.
- e) A RES engaging in door-to-door solicitation of consumers shall provide the

information described in paragraph (c) of this subsection during all door-to-door solicitations that result in a customer deciding to switch their supplier.

Section 412.120 Door-to-Door Solicitation

- a) Sales agents who engage in door-to-door solicitation for the purpose of selling power and energy service offered by the RES shall display identification. This identification shall be visible at all times and prominently display the following:
 - 1) The sales agent's full name in reasonable size type face;
 - 2) A photograph of the sales agent;
 - 3) The trade name and logo of the RES they are representing. If the sales agent is selling power and energy services from multiple RESs to the customer, the identification shall display the trade name and logo of the agent, broker or consultant entity as that entity is defined in Section 16-115C of the Act.
- b) The sales agent shall leave the premises of a customer if requested to do so by the customer, the owner, or an occupant of the premises.
- c) The sales agent shall ensure that, during the sales presentation to the customer items (d) – (o) of the Uniform Disclosure Statement (Section 412.110(d) through (o)) are verbally disclosed to the customer. A sales agent may disclose the items in any order as long as all applicable items are explained to the customer during the sales presentation.
- ~~d) If a power and energy service is being offered at a fixed monthly charge that does not change with the customer's usage and the fixed monthly charge does not include delivery service charges, the sales agent shall explain to the customer that the fixed monthly charge is for supply charges only and that it does not include delivery service charges and applicable taxes; therefore the fixed monthly charge is not the total monthly amount for electric service.~~
- ed) ~~If a customer's enrollment is authorized by the customer signing a Letter of Agency, †~~The sales agent shall require the customer to initial the sales agent's copy of the written Uniform Disclosure Statement, ~~†~~a A copy of the Uniform Disclosure Statement which is to be left with the customer at the conclusion of the sales visit. The minimum list of items to be included in the Uniform Disclosure Statement is contained in Section 412.110.
- fe) If a customer's enrollment is authorized by third-party verification during door-to-door solicitation, the third-party verification shall require the customer to verbally acknowledge ~~that a copy of the Uniform Disclosure Statement was left with the customer, and~~ that he or she understands items (d) –(o) of the Uniform Disclosure

Statement .

- gf) Where it is apparent that a customer's English language skills are insufficient to allow the customer to understand and respond to the information conveyed by the sales agent in English or where the customer or another third party informs the sales agent of this circumstance, the sales agent shall either find another sales representative for the RES who is fluent in the customer's language to continue the marketing activity in his/her stead, use an interpreter at the premise, or terminate the in-person contact with the customer. When the use of an interpreter is necessary, a form consistent with Section 2N of the Consumer Fraud and Deceptive Business Practices Act [815 ILCS 505/2N] must be completed.
- hg) Upon a customer's request, the RES ~~and its sales agents~~ shall refrain from any further marketing to that customer.
- i) The first item a door-to-door employee must communicate to a prospective customer is that they do not work for the local utility, a governmental office or a consumer organization and also provide them with a written statement stating the same. Further, the door-to-door employee shall not state or imply that they are working on behalf of the utility's Choice program (i.e. implying that they are acting for the utility) and they must clearly state the retail electric supplier or suppliers that they work for and purpose of the contact.
- j) Each door-to-door employee shall leave a business card that reflects their identity and the identity of the electric supplier or suppliers that they represent.
- k) The door-to-door employee may not dress in uniforms that contain any branding elements (including similar logo or colors) as the local utility.
- l) The EGS performing door-to-door marketing must notify the local municipality of its locations and schedule of door-to-door selling activities and shall comply with all local ordinances regarding door-to-door solicitations.
- m) The EGS performing door-to-door marketing must notify the local utility of its locations and schedule of door-to-door selling activities.

Section 412.130 Telemarketing

- a) In addition to complying with the Telephone Solicitations Act [815 ILCS 413], sales agents who contact customers by telephone for the purpose of selling power and energy service shall provide the sales agent's name and, on request, the identification number if available;
- b) Where it is apparent that a customer's English language skills are insufficient to allow the customer to understand a telephone solicitation in English, and the customer or another third party informs the sales agent of this circumstance, the

sales agent must transfer the customer to a representative who speaks the customer's language, if such a representative is available, or terminate the call.

- c) A sales agent shall ensure that during the sales presentation to the customer items (d) – (o) of the Uniform Disclosure Statement (Section 412.110(d) – (o)) are verbally disclosed to the customer. A sales agent may disclose the items in any order so long as all applicable items are explained to the customer during the sales presentation.
- ~~d) If a power and energy service is being offered at a fixed monthly charge that does not change with the customer's usage and the fixed monthly charge does not include delivery service charges, the sales agent must explain to the customer that the fixed monthly charge is for supply charges only and that it does not include delivery service charges and applicable taxes; therefore the fixed monthly charge is not the total monthly amount for electric service.~~
- ed) If a sales agent engages in telemarketing and third-party verification is used to authorize a customer's enrollment, the third-party verification must ~~require the customer to verbally acknowledge that he or she understands~~ include the applicable items contained in Section 412.110 (d) – (o) of the Uniform Disclosure Statement Section 412.110.
- fe) The Uniform Disclosure Statement and sales contract must be provided to the customer within three business days after the electric utility's confirmation of an accepted enrollment.
- gf) Upon a customer's request, the RES ~~and its sales agents~~ shall refrain from any further marketing to that customer.

Section 412.140 Inbound Enrollment Calls

If a customer initiates a call to a sales agent in order to enroll for service, the sales agent must:

- a) Follow the requirements in Section 2EE of the Consumer Fraud and Deceptive Business Practices Act [815 ILCS 505/2EE]
- b) Verbally disclose to the customer items (d) – (o) of the Uniform Disclosure Statement (Section 412.110(d) –(o)). A sales agent may disclose the items in any order so long as all applicable items are explained to the customer during the sales presentation.
- ~~e) Require the customer to verbally acknowledge that he or she understands items (d) –(o) contained in the Uniform Disclosure Statement (Section 412.110).~~
- dc) Send the Uniform Disclosure Statement and sales contract to the customer within 3 business days after the electric utility's confirmation to the RES of an accepted

enrollment.

Section 412.145 Customer Authorization

A RES shall not submit or execute a change in a customer's selection of a electric supply provider unless and until (i) the RES first discloses all material terms and conditions of the offer to the customer; (ii) the RES has obtained the customer's express agreement to accept the offer after the disclosure of all material terms and conditions of the offer; and (iii) the RES has confirmed the request for a change in accordance with one of the following procedures:

- a) The RES has obtained the customer's written or electronically signed authorization in a form that meets the following requirements:
 - 1) A RES shall obtain any necessary written or electronically signed authorization from a customer for a change in electric service by using a letter of agency as specified in this Section. Any letter of agency that does not conform with this Section is invalid.
 - 2) The letter of agency shall be a separate document (or an easily separable document containing only the authorization language described in item (E) of this paragraph (1)) whose sole purpose is to authorize a electric supply provider change. The letter of agency must be signed and dated by the customer requesting the electric supply provider change.
 - 3) The letter of agency shall not be combined with inducements of any kind on the same document.
 - 4) Notwithstanding items (1) and (2) of this paragraph (a), the letter of agency may be combined with checks that contain only the required letter of agency language prescribed in item (5) of this paragraph (a) and the necessary information to make the check a negotiable instrument. The letter of agency check shall not contain any promotional language or material. The letter of agency check shall contain in easily readable, bold face type on the face of the check, a notice that the consumer is authorizing a electric supply provider change by signing the check. The letter of agency language also shall be placed near the signature line on the back of the check.
 - (5) At a minimum, the letter of agency must be printed with a print of sufficient size to be clearly legible, but no smaller than 12 point typeface, and must contain clear and unambiguous language that confirms:
 - i) the customer's billing name and address;
 - ii) the decision to change the electric supply provider from the current provider to the prospective RES;

- iii) the terms, conditions, and nature of the service to be provided to the customer, including, but not limited to, the rates for the service contracted for by the customer; and
 - iv) that the customer understands that any electric supply provider selection the customer chooses may involve a charge to the customer for changing the customer's electric supply provider.
 - 6) Letters of agency shall not suggest or require that a customer take some action in order to retain the customer's current electric supply provider.
 - (7) If any portion of a letter of agency is translated into another language, then all portions of the letter of agency must be translated into that language.
- b) An appropriately qualified independent third party has obtained, in accordance with the procedures set forth in this paragraph (b), the customer's oral authorization to change electric supply providers that confirms and includes appropriate verification data. The independent third party must (i) not be owned, managed, controlled, or directed by the RES or the RES's marketing agent; (ii) not have any financial incentive to confirm provider change requests for the RES or the RES's marketing agent; and (iii) operate in a location physically separate from the RES or the RES's marketing agent. Automated third-party verification systems and 3-way conference calls may be used for verification purposes so long as the other requirements of this paragraph (b) are satisfied. A RES or RES's sales representative initiating a 3-way conference call or a call through an automated verification system must drop off the call once the 3-way connection has been established. All third-party verification methods shall elicit, at a minimum, the following information:
 - 1) the identity of the customer;
 - 2) confirmation that the person on the call is authorized to make the provider change;
 - 3) confirmation that the person on the call wants to make the provider change;
 - 4) the names of the providers affected by the change;
 - 5) the service address of the service to be switched; and
 - 6) the price of the service to be provided and the material terms and conditions of the service being offered, including whether any early termination fees apply. Third-party verifiers may not market the RES's services. All third-party verifications shall be conducted in the same language that was used in the underlying sales transaction and shall be

recorded in their entirety. Submitting alternative retail electric suppliers shall maintain and preserve audio records of verification of customer authorization for a minimum period of 2 years after obtaining the verification. Automated systems must provide customers with an option to speak with a live person at any time during the call.

c) The RES has obtained the customer's electronic authorization to change in electric service via telephone. Such authorization must elicit the information in paragraph (a) of this subsection. RESs electing to confirm sales electronically shall establish one or more toll-free telephone numbers exclusively for that purpose. Calls to the number or numbers shall will connect a customer to a voice response unit, or similar mechanism, that makes a date-stamped, time-stamped recording of the required information regarding the RES change. The RES shall not use such electronic authorization systems to market its services.

d) When a consumer initiates the call to the prospective RES, in order to enroll the consumer as a customer, the prospective RES must, with the consent of the customer, make a date-stamped, time-stamped audio recording that elicits, at a minimum, the following information:

- 1) the identity of the customer;
- 2) confirmation that the person on the call is authorized to make the provider change;
- 3) confirmation that the person on the call wants to make the provider change;
- 4) the names of the providers affected by the change;
- 5) the service address of the service to be switched; and
- 6) the price of the service to be supplied and the material terms and conditions of the service being offered, including whether any early termination fees apply. Submitting RESs shall maintain and preserve the audio records containing the information set forth above for a minimum period of 2 years.

e) In the event that a customer enrolls for service from an RES via an Internet website, the RES shall obtain an electronically signed letter of agency in accordance with paragraph (a) of this subsection and any customer information shall be protected in accordance with all applicable statutes and rules. In addition, an RES shall provide the following when marketing via an Internet website:

- 1) The Internet enrollment website shall, at a minimum, include:

- i) a copy of the RES's customer contract, which clearly and conspicuously discloses all terms and conditions; and
- ii) a conspicuous prompt for the customer to print or save a copy of the contract.
- 2) Any electronic version of the contract shall be identified by version number, in order to ensure the ability to verify the particular contract to which the customer assents.
- 3) Throughout the duration of the RES's contract with a customer, the RES shall retain and, within 3 business days of the customer's request, provide to the customer an e-mail, paper, or facsimile of the terms and conditions of the numbered contract version to which the customer assents.
- 4) The RES shall provide a mechanism by which both the submission and receipt of the electronic letter of agency are recorded by time and date.
- 5) After the customer completes the electronic letter of agency, the alternative retail electric supplier shall disclose conspicuously through its website that the customer has been enrolled and the RES shall provide the customer an enrollment confirmation number.
- f) When a customer is solicited in person by the RES's sales agent, the RES may only obtain the customer's authorization to change electric service through the method provided for in paragraph (b) of this subsection.

Section 412.150 Direct Mail

- a) A RES or one of its sales agents contacting customers for enrollment for power and energy service by direct mail or e-mail shall include the items of the Uniform Disclosure Statement (Section 412.110) for the service being solicited.
- b) If a written Letter of Agency is being used to authorize a customer's enrollment, it shall contain a statement that the customer has read and understood the items contained in the Uniform Disclosure Statement (Section 412.110). The document containing the items of the Uniform Disclosure Statement must remain with the customer.

Section 412.160 Online Marketing

- a) Each RES offering power and energy service to customers online shall display the items of the Uniform Disclosure Statement (Section 412.110) for any services offered through online enrollment before requiring the customer to enter any personal information other than zip code, electric utility service territory, and/or type of service being sought.

- b) The document containing the items of the Uniform Disclosure Statement must be printable in a PDF format not to exceed two pages in length, and shall be available electronically to the customer.
- c) The RES shall obtain, in accordance with 83 Ill. Adm. Code 453 and Section 2EE of the Consumer Fraud Act, an authorization to change RESs that confirms and includes appropriate verification data by encrypted customer input on the RES web site.
- d) The enrollment website of the RES shall, at a minimum, include:
 - 1) All items within the Uniform Disclosure Statement (Section 412.110);
 - 2) A statement that electronic acceptance of a sales contract is an agreement to initiate service and begin enrollment;
 - 3) A statement that the customer should consult the sales contract and/or contact the current supplier to learn if any early termination fees are applicable;
 - 4) An e-mail address and toll-free phone number of the RES where the customer can express a decision to rescind the sales contract.

Section 412.170 Training of Sales Agents

- a) A sales agent shall be knowledgeable of the requirements applicable to the marketing and sales of power and energy service to the customer class that he or she is targeting. In addition to this Part, requirements pertaining to the marketing and sales of power and energy service may be found in other rules, the Act, and, the Consumer Fraud and Deceptive Business Practices Act.
- b) All sales agents should be familiar with the power and energy services that they sell, including the rates, payment and billing options, the customers' right to cancel, and applicable termination fees, if any. In addition, the sales agents shall have the ability to provide the customer with a toll-free phone number for billing questions, disputes, and complaints, as well as the Commission's toll-free phone number for complaints.
- c) A RES and its sales agents shall not utilize false, misleading, materially inaccurate, or otherwise deceptive language or materials in soliciting or providing services.
- d) A RES ~~and its sales agents~~ shall refrain from any direct marketing or soliciting of power and energy service to customers on the electric utility's Do Not Market List, which the electric utility shall make available to RESs at least monthly on

the 15th calendar day of the month. If the 15th calendar day is a non-business day, the electric utility shall make the list available on the next business day following the 15th calendar day of that month. ~~The Do Not Market List maintained by the electric utility shall contain the customer's name, service address, and phone number(s).~~ A RES shall use the most current version of the Do Not Market List available; however, in assessing compliance with this section, 31 days will be afforded to a RES to account for the time required by the RES to disseminate and process the list internally.

Section 412.180 Records Retention and Availability

- a) A RES must retain, for a minimum of two years or for the length of the sales contract, whichever is longer, verifiable proof of authorization to change suppliers for each customer. Authorization records need to be provided by the RES within seven business days upon request by the Commission or Commission Staff.
- b) Throughout the duration of the contract, and for two years thereafter, the RES shall retain and, within seven business days after the customer's request, provide the customer a copy of the sales contract via e-mail, U.S. mail, or facsimile. The RES ~~shall not may~~ charge a fee for such copies if a customer requests ~~more~~ less than ~~two~~ three copies in a 12-month period.

Section 412.190 Affiliate Name and Logo Use

A RES shall not be permitted to market power and energy service to residential customers using a similar name (where any part of the RES name contains any part of the utility name) or logo to that of an existing electric utility.

Section 412.195 Product Descriptions

Only power and energy service that includes power and energy purchased entirely separate and apart from the renewable portfolio standard requirements applicable to RESs under Public Act 96-0159 can be marketed as "green," "renewable energy" or "environmentally friendly."

SUBPART C: RESCISSION, DEPOSITS, EARLY TERMINATION AND AUTOMATIC CONTRACT RENEWAL

Section 412.200 Application of Subpart C

The provisions of this Subpart shall only apply to RESs serving or seeking to serve residential or small commercial customers, and only to the extent such RESs provide services to residential or small commercial customers. In addition, Section 412.210 shall apply to electric utilities.

Section 412.210 Rescission of Sales Contract

Within one business day after accepting a valid electronic enrollment request from the RES, the electric utility shall notify the customer in writing of the scheduled enrollment and provide the name of the RES that will be providing power and energy service. The written enrollment notice from the electric utility shall state the last day for making a request to rescind the enrollment, and provide contact information for the RES. If the customer wishes to rescind ~~its~~ the pending enrollment with the ~~supplier~~ RES, the customer will not incur any early termination fees if the customer contacts either the electric utility or the RES within ten calendar days after the electric utility's ~~acceptance of~~ processes the enrollment request. If the tenth calendar day falls on a non-business day, the rescission period will be extended through the next business day. In the event the customer provides notice of such rescission to the electric utility, the electric utility shall notify the RES. Nothing in this section prohibits a utility from accepting a request to rescind a pending enrollment by a RES from customers other than residential customers or small commercial customers.

Section 412.220 Deposits

A RES shall not require a customer deposit if the RES is selling the receivables for power and energy for that customer to the electric utility pursuant to Section 16-118(c) of the Act.

Section 412.230 Early Termination Fee of Sales Contract

Any agreement between a RES and a customer that contains an early termination fee shall disclose the amount of the early termination fee or the formula used to calculate the termination fee, **provided that any early termination fee or penalty shall not exceed \$50 total regardless of whether or not the agreement is a multiyear agreement.** ~~Any such agreement must also state that the early termination fee does not apply if the customer cancels the contract within the rescission period described in Section 412.210. In addition, a~~ Any agreement that contains an early termination fee shall provide the customer the opportunity to contact the RES to terminate the agreement without any termination fee or penalty within 10 business days after the date of the first bill issued to the customer for products or services provided by the RES. ~~one time per 12-month period.~~ The agreement shall disclose the opportunity and provide a toll-free phone number that the customer may call in order to terminate the agreement. This requirement does not relieve the customer of obligations to pay for services rendered under the agreement until service is prior to termination-terminated.

Section 412.240 Contract Renewal

- a) Non-Automatic Renewal. The RES shall clearly disclose any renewal terms in its contracts including any cancellation procedure. For contracts with an initial term of six months or more, the RES shall send a notice of contract expiration separate from the bill at least 30 days prior to the date of contract expiration but no more than 60 days in advance of expiration. Nothing in this Section shall preclude a

RES from offering a new contract to the customer at any other time during the contract period. If the customer enters into a new contract prior to the end of the contract expiration notice period, the notice of contract expiration under this Section is not required. The separate written notice of contract expiration shall include:

- 1) A statement printed or visible from the outside of the envelope or in the subject line of the e-mail (if customer has agreed to receive official documents by e-mail) that states, "Contract Expiration Notice;"
- 2) The anticipated bill cycle in which the existing contract will expire;
- 3) A full description of the renewal offer, including the date service would begin under the new offer, if a renewal offer was provided; and
- 4) A statement, in at least 12 point font, that the customer must provide affirmative consent to accept the renewal offer and that establishing service with another RES can take up to 45 days and that failure to renew the existing contract or switch to another RES may result in the customer being reverted to the electric utility default service and provide in the statement the length of the electric utility tariff minimum stay period if applicable.

b) Automatic Renewal. In addition to complying with the Illinois Automatic Renewal Act [815 ILCS 601], the RES shall clearly disclose any renewal terms in its contracts including any cancellation procedure. For contracts with an initial term of six months or more, the RES shall send a notice of contract renewal separate from the bill at least 30 days prior to the end of the initial contract term but no more than 60 days in advance of such date. Nothing in this Section shall preclude a RES from offering a new contract to the customer at any other time during the contract period. If the customer enters into a new contract prior to the end of the contract expiration notice period, then notice of contract expiration under this Section is not required. The separate written notice of contract renewal shall include:

- 1) A statement printed or visible from the outside of the envelope or in the subject line of the email (if customer has agreed to receive official documents by e-mail) that states, "Contract Renewal Notice;"
- 2) The bill cycle in which service under the new term will begin;
- 3) A statement in bold lettering, in at least 12 point font that the contract will automatically renew unless the customer cancels it, including the information needed to cancel;

- 4) If the new contract term includes a termination fee, a statement that the customer has from the date of the contract renewal notice through the end of the existing contract term to notify the RES of his or her rejection of the new contract term to avoid incurring a termination fee under the new contract term;
- 5) A ~~C~~clearly disclosure of the contract terms; including a full description of any renewal offers available to the customer; and
- 6) A statement in bold lettering, in at least 12 point font, that establishing service with another RES can take up to 45 days, and failure to renew the existing contract or switch to another RES may result in the customer being reverted to the electric utility default service and provide in the statement the length of the electric utility tariff minimum stay period if applicable.

Section 412.250 Assignment

If a RES is surrendering or otherwise cancelling its certificate of service authority or is no longer seeking to serve certain customers, the RES shall not assign the agreement to a different RES unless:

- a) The new supplier is a RES;
- b) The new RES is in compliance with all applicable requirements of the Commission and the electric utility to provide electric service;
- c) The rates, terms, and conditions of the agreement being assigned do not change during the remainder of the time period covered by the agreement; provided however, the assigned agreement may be modified during the term of the agreement if the new RES and the retail customer mutually agree to such changes or revisions of the agreement after assignment of the agreement;
- d) The customer is given 15 calendar days prior written notice of the assignment by the current RES; and
- e) Within 30 days after the assignment, the new RES provides the customer with a toll-free phone number for billing questions, disputes, and complaints.

SUBPART D: DISPUTE RESOLUTION AND CUSTOMER COMPLAINT REPORTS

Section 412.300 Application of Subpart D

The provisions of this Subpart shall only apply to RESs serving or seeking to serve residential or small commercial customers and only to the extent such RESs provide services to residential or small commercial customers. In addition, Sections 412.320(c)(1)(B) and 412.320(c)(1)(E) shall

apply to electric utilities.

Section 412.310 Required RES Information

- a) Prior to the RES initiating marketing to residential and small commercial customers, ~~the~~ RES shall provide the following to the Commission's Consumer Services Division (CSD):
 - 1) A copy of its bill formats (if it bills customers directly rather than using electric utility consolidated billing);
 - 2) Standard customer contract;
 - 3) Customer complaint and resolution procedures; and
 - 4) The name, telephone number and e-mail address of the company representative whom Commission employees may contact to resolve customer complaints and other matters.
- b) The RES must file updated information within 10 business days after changes in any of the documents or information required to be filed by this section.
- c) If the RES has declared force majeure within the past ten years on any contracts to deliver power and energy services, the RES shall provide notice to the Commission Staff prior to marketing to residential and small commercial customers.

Section 412.320 Dispute Resolution

- a) A residential or small commercial customer has the right to make a formal or informal complaint to the Commission, and a RES contract cannot impair this right. A RES shall not require a residential or small commercial customer as part of the terms of service to engage in alternative dispute resolution, including requiring complaints to be submitted to arbitration or mediation by third parties.
- b) A customer or applicant for power and energy service may submit a complaint by U.S. mail, facsimile transmission, e-mail, or by telephone to a RES. The RES shall promptly investigate and advise the complainant of the results within ~~14~~ five calendar days. If the RES ~~does not~~ responds to the customer's complaint ~~in~~ verbally, the RES shall inform the customer of the ability to request and obtain the RES's response in writing ~~upon request~~. A customer who is dissatisfied with the RES's response shall be informed of the right to file a complaint with the Commission and the Office of the Illinois Attorney General.
- c) Complaints to the Commission.

- 1) Informal complaints.
 - A) If a complainant is dissatisfied with the results of a RES's complaint investigation, the RES shall inform the complainant of their ability to file a complaint with the Commission's CSD and provide contact information for the Commission's CSD. Complaints may be filed with the Commission's CSD by phone, via the internet, by ~~fax~~ facsimile or by U.S. mail. Information required to process a customer complaint include:
 - i) The customer's name, mailing and service addresses, and telephone number;
 - ii) The name of the RES;
 - iii) The customer's electric utility and RES account numbers;
 - iv) An explanation of the facts relevant to the complaint;
 - v) The complainant's requested resolution; and
 - vi) Any documentation that supports the complaint, including copies of bills or terms of service documents.
 - B) The Commission's CSD may resolve a complaint via phone by completing a three-way call between the customer, the CSD staff and the RES. If no resolution is reached by phone, and a dispute remains, an informal complaint may be sent to the RES. In the case of the electric utility purchasing the RES's receivables or utility consolidated billing, the RES shall notify the electric utility of any informal complaint received that relates to disputed RES charges and the amount of the charges being disputed. ~~and~~ The electric utility shall follow the procedures outlined in their billing service agreement with the RES to withhold collection activity on disputed RES charges on the customer's bill.
 - C) The RES shall investigate all informal complaints and advise the CSD in writing of the results of the investigation within 14 days after the complaint is forwarded to the RES.
 - D) The CSD shall review the complaint information and the RES's response and notify the complainant of the results of the Commission's investigation.
 - E) While an informal complaint process is pending:

- i) The RES (or the electric utility in the case of the electric utility having purchased the RES's receivables) shall not initiate collection activities for any disputed portion of the bill until the Commission Staff has taken final action on the complaint; and
 - ii) A customer shall be obligated to pay any undisputed portion of the bill and the RES (or the electric utility in the case of the electric utility purchasing the RES's receivables or the utility presenting the RES's charges on a consolidated bill) may pursue collection activity for nonpayment of the undisputed portion after appropriate notice.
- F) The RES shall keep a record for two years after closure by the CSD of all informal complaints. This record shall show the name and address of the complainant, the date, nature and adjustment or disposition of the complaint.
- 2) Formal complaints. If the complainant is not satisfied with the results of the informal complaint process, the complainant may file a formal complaint with the Commission pursuant to Section 10-101 of the Act.
- 3) Disclosure of RESs' level of customer complaints. The Commission shall, on at least a quarterly basis, prepare a summary of all formal and informal complaints received and publish it on its web site. The summary shall be in an easy-to-read and user friendly format, and shall include publication of the ratio of complaints to customers for a RES as well as total complaints reported.

SUBPART E: REPORTING REQUIREMENTS

Section 412.400 Ongoing Reporting Requirements

- a) An ARES shall file with the Commission a notification of any material change to the information supplied in a certification application within 30 days of such material change.
 - 1) An ARES shall file such notice under the docket number assigned to the ARES certification application, whichever is the most recent. The supplier shall also serve such notice upon the gas utility company serving customers in the service area where the ARES is certified to provide service.

- 2) After notice and an opportunity for a hearing, the Commission may (i) suspend, rescind, or conditionally rescind an ARES' certificate if it determines that the material change will adversely affect the ARES' fitness or ability to provide the services for which it is certified or (ii) require the ARES to provide reasonable financial assurances sufficient to protect their customers and electric utilities from default.
- b) Material changes to the information contained in or supplied with a certification application include, but are not limited to, the following:
 - 1) Any significant change in ownership (an ownership interest of 5% or more) of the applicant or ARES.
 - 2) An affiliation with any electric utility or change of an affiliation with any electric utility in this State.
 - 3) Retirement or other long-term changes to the operational status of supply resources relied upon by the ARES to provide power and energy service. Changes in the volume of supply from any given supply resource replaced by a comparable supply resource do not need to be reported.
 - 4) Revocation, restriction, or termination of any interconnection or service agreement with any company relied upon by an ARES to provide power and energy service, but only if such revocation, restriction, or termination creates a situation in which the ARES does not meet the tariffed capacity requirements of the relevant Illinois electric utility or utilities.
 - 5) If the ARES alternative gas supplier has a long-term bond rating from Standard & Poor's or its successor, or Fitch Ratings or its successor, or Moody's Investor Service or its successor, and the alternative gas supplier's long-term bond rating falls below BBB as reported by Standard & Poor's or its successor or Fitch Ratings or its successor or below Baa3 as reported by Moody's Investors Service or its successor.
 - 6) The applicant or ARES has or intends to file for reorganization, protection from creditors, or any other form of bankruptcy with any court.
 - 7) Any judgment, finding, or ruling by a court or regulatory agency that could affect an ARES' fitness or ability to provide service in this State.
 - 8) Any change in the ARES' name or logo, including without limitation any change in the ARES' legal name, fictitious names, or assumed business names, except for logos and names the ARES provided as part of its original certification process or that the ARES previously provided to the Commission under this Section.