

**RESPONSE OF THE ILLINOIS COMPETITIVE ENERGY ASSOCIATION
TO THE OFFICE OF RETAIL MARKET DEVELOPMENT’S
PROPOSED 83 ILLINOIS ADMINISTRATIVE CODE PART 412**

The Illinois Competitive Energy Association (“ICEA”) respectfully submits the following response to the Office of Retail Market Development’s Proposed 83 Illinois Administrative Code Part 412 Obligations of Retail Electric Suppliers distributed to workshop participants on October 9, 2009. ICEA reserves the right to raise additional items in the formal rulemaking.

Section 412.110(c) In-Person Marketing

Current text:

- c) If a customer elects to enroll with the RES, the RES shall ensure items (d) – (o) of the uniform disclosure requirements in Section 412.330 are orally disclosed to the customer.

ICEA proposed text:

- c) A RES shall ensure that during its sales presentation to the customer items (d) – (o) of the uniform disclosure requirements in Section 412.330 are orally covered with the customer. A RES may cover the items in any order it chooses so long as each relevant items is explained to the customer during the sales presentation.

Comment:

Presumably, the information supplied to the customer via the disclosure requirement is informative and useful to the customer *prior to* the customer's election to enroll. The current text, however, seems to allow for the possibility that a supplier could wait to disclose the information until after the customer elects to enroll. In addition, by tying the disclosure trigger to a customer's decision "to elect to enroll" the current text blurs the line between sales presentation and the process used to verify a customer's decision to switch suppliers. Accordingly, the proposed language makes clear that the disclosure is to occur during the sales presentation.

The second sentence in the proposed language makes clear that RES's do not have to cover the items in the order they are presented in Section 412.330. The word "relevant" is used to account for items (n) and (o) which deal with disclosure requirements (guaranteed savings and fixed monthly charge offers) which will not be applicable to all sales situations.

Section 412.110(e) In-Person Marketing

Current text:

- e) If a customer's enrollment is authorized by the customer signing a Letter of Authorization, the sales agent shall require the customer to initial the written uniform disclosure statement, of which a copy is to be left with the customer at the conclusion of the sales visit. The uniform disclosure statement can be part of the first page of the sales contract, included in the Letter of Authorization, or a

separate document. The minimum list of items to be included in the disclosure statement is contained in Section 412.330.

Comment:

ICEA understands this language to mean that the RES would keep the copy with the original signature of the customer and that the customer would be left with an unsigned copy of the uniform disclosure statement. Is that the intent of the ORMD's language?

Section 412.120(c) Telemarketing

Current text:

- (c) If a customer elects to enroll with the RES, the RES sales agent must ensure items (d) – (o) of the uniform disclosure requirements are orally disclosed to the customer.

ICEA proposed text:

- c) A RES shall ensure that during its sales presentation to the customer items (d) – (o) of the uniform disclosure requirements in Section 412.330 are orally covered with the customer. A RES may cover the items in any order it chooses so long as each relevant items is explained to the customer during the sales presentation.

Comment:

Same as that expressed for Section 412.110(c) above.

Section 412.120(e) Telemarketing

Current text:

- e) When third-party verification is used to authorize a customer's enrollment during the telemarketing call, the third-party verifier must require the customer to verbally acknowledge that he or she understands the uniform disclosure statement.

ICEA proposed text:

- e) When a RES engages in telemarketing and third-party verification is used to authorize a customer's enrollment, the third-party verifier must require the customer to verbally acknowledge that they understand the information contained in items (d) – (o) of the uniform disclosure requirements in Section 412.330. The third party verifier may cover each relevant item in any order it chooses so long as each relevant items is covered during the call.

Comment:

The third party verification process is a separate process; it is not a continuation of the sales call. Accordingly, it is inaccurate to imply as the current text does that the third-party verification occurs “during the telemarketing call.” On a telemarketing sales call, it is conceivable that a RES would prefer to work in items (d)-(o) in its sales pitch without referring to the items in totality as the “uniform disclosure statement”. The above language still requires the third party verifier to elicit the information contained in (d)-(o) – the vast majority of which is already required to be elicited by the third party verifier

during the TPV process— but does so without requiring the third party verifier to refer to the term “uniform disclosure statement”.

Section 412.130(b) Inbound Enrollment Calls

Current text:

In the event a customer initiates a call to a RES in order to enroll for service, the RES must . . . b) Orally disclose to the customers items (d) – (o) of the uniform disclosure requirements in Section 412.330.

ICEA proposed text:

In the event a customer initiates a call to a RES in order to enroll for service, the RES must . . . b) Orally disclose to customers items (d) – (o) of the uniform disclosure requirements in Section 412.330. A RES may cover the items in any order it chooses so long as each relevant items is explained to the customer during the sales presentation.

Comment:

Same as that expressed for Section 412.110(c) above.

Section 412.150(e)(3) Online Marketing

Current text:

- (e)(3) A statement that the customer should consult the sales contract and/or contact the existing supplier to learn if any early termination fees are applicable;

ICEA proposed text:

- (e)(3) A statement that the customer is encouraged to consult the sales contract and/or contact the existing supplier to learn if any early termination fees are applicable;

Section 412.160(a)(b) Training of Sales Agents

Current text:

- a) All sales agents shall be knowledgeable with the RES's products and services offered in Illinois, as they pertain to the customer class that the sales agent is actively marketing to, including the requirements contained in this code part and other relevant requirements contained in the Act, the Consumer Fraud and Deceptive Business Practices Act and the Illinois Administrative Codes that pertain to the marketing and sales of electric supply service.
- b) All sales agents should be familiar with the RES's products and services that they sell, including the rates, applicable termination fees if any, payment options and the customers' right to cancel. In addition, the sales agents shall have the ability to provide the customer with a toll-free number for billing questions, disputes, and complaints, as well as the Commission's toll-free phone number for complaints.

ICEA proposed text:

- a) A sales agent shall be knowledgeable of the requirements applicable to the marketing and sales of electric supply to the customer class that he or she is targeting. In addition to this Code Part, requirements pertaining to the marketing and sales of electric supply service may be found in other Illinois Administrative Code Parts, the Act, and, the Consumer Fraud and Deceptive Business Practices Act.
- b) A sales agent should be familiar with products and services that that he or she personally sells, including the rates, applicable termination fees if any, payment options and the customers' right to cancel. In addition, all sales agent shall have the ability to provide the customer with a toll-free number for billing questions, disputes, and complaints, as well as the Commission's toll-free phone number for complaints.

Comment:

The proposed change attempts to clear up what appears to be some duplication in the first sentences of (a) and (b).

Section 412.320(c)(1)(B) Dispute Resolution:

Current text:

“. . . In the case of the electric utility purchasing the RES’s receivables, the RES shall notify the electric utility of any informal complaint received and the electric utility shall cancel disputed RES charges and remove those charges from the customer’s bill.”

ICEA proposed text:

“. . . 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 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.”

Comment:

The proposed language more accurately describes existing and proposed practice. As ICEA understands Ameren’s existing process, Ameren leaves disputed charges on the bill but does not pursue collection. As ICEA understands ComEd’s proposed process, ComEd will remove the charges from the bill but the RES can place a comment in the bill that the amount is disputed. ICEA has concerns with removing disputed charges from the bill while the dispute is pending. Such a practice could lead customers to thinking that the dispute is resolved.

Section 412.330(n) Uniform Disclosure Statement

Current text:

- n) If savings are guaranteed under certain circumstances, the RES must provide a written statement which includes a plain language description of the conditions that must be present in order for the savings to occur; and

Comment:

In a telemarketing or in-bound enrollment call, when must the written statement be provided?

Non-Substantive Proposed Changes

- **Section 412.320(c)(1)(A) and (B):** Some readers may not know the abbreviation “CSD”. Accordingly, it may be more informative to use “Consumer Services Division” rather than “CSD” in Section 412.320(c)(1)(A) and (B).