

ATTACHMENT A

PROPOSED FIRST NOTICE CHANGES

CHANGES IN THE TEXT OF THE PROPOSED RULES  
DURING THE FIRST NOTICE PERIOD

Agency: Illinois Commerce Commission

Heading of the Part: Obligations of Retail Electric Suppliers

Illinois Register Citation: 35 Ill. Reg. 12996

Changes: Text and location of changes made to the proposed rule during the public comment period.

1. In Section 412.100 Definitions found at 35 Ill. Reg. 13001 the following language with strikethrough is deleted and underscored language is added.

~~"Residential Customer" is receiving residential service as defined in 83 Ill. Admin. Code 280~~ means a customer receiving retail electric serve for household purposes, including service provided through a single meter to one or two dwelling units."

2. In Section 412.100 Definitions found at 35 Ill. Reg. 13001 the following underscored language is added.

"RES agent" means any employee, agent, independent contractor, consultant or other person who is engaged by the RES to solicit customers to purchase, enroll in or contract for power and energy service on behalf of a RES. A customer of a RES who on occasion receives compensation from that RES for referring a third party such as a friend or family member to become a customer of the RES is not considered to be a RES agent for purposes of this Part."

3. In Section 412.100 Definitions found at 35 Ill. Reg. 13001 the following new definition is added.

"Send" or "Sent" when used in this Part to describe the action to be taken by a Retail Electric Supplier of sending a document to a residential customer or small commercial retail customer may include if agreed to by the receiving customer transmission of the document to the customer via electronic delivery (e.g. fax or e-mail)."

4. In Section 412.110 Uniform Disclosure Statement, Section 412.110(f) found at 35 Ill. Reg. 13003, the following language with strikethrough is deleted.

- f) The presence or absence of early termination fees or penalties and applicable amounts or the formula pursuant to which they are calculated, ~~and shall not exceed \$50;~~
5. In Section 412.110 Uniform Disclosure Statement, Section 412.110(p) found at 35 Ill. Reg. 13004, the following underscored language is added.

"A price per-kilowatt hour (kWh) for the power and energy service. 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. For any product that includes a fixed monthly charge that does not change with the customer's usage, the RES must provide an estimated price-per-kilowatt hour for the power and energy service using sample monthly usage levels of 500, 1000 and 1,500 kWh. The estimated price per-per-kilowatt hour shall exclude any one time or other limited-time incentives or introductory pricing programs offered by the RES that may impact the customer's price."

6. In Section 412.120 Door-to-Door Solicitation, Section 412.120(a) found at 35 Ill. Reg. 13005 the following language with strikethrough is deleted and underscored language is added.

~~"a) A RES agents shall state that it is an independent seller of power and energy service, certified by the Illinois Commerce Commission, and that it is not representing or acting on behalf of the electric utility, governmental body, or consumer groups."~~

a) Subsections (c), (j) and (k) of this section do not apply to solicitations such as door-to-door solicitations conducted by non-profit charitable organizations or student groups as a fundraising activity. In addition, subsections (c), (j) and (k) of this section are not intended to apply to solicitations such as solicitations that occur among friends or in multi-level-marketing type situations where a RES agent is invited to a home or place of business to speak to potential customers. Section 412.120 does not apply to other forms of face-to-face solicitations, such as but not limited to: solicitations that occur at shopping malls, state and county fairs, home improvement shows, trade association shows or chamber of commerce events.

7. In Section 412.120 Door-to-Door Solicitation, Section 412.120(f), the following underscored language is added and language with strikethroughs deleted:

~~The RES agent shall require the customer to initial the RES agent's copy of the Uniform Disclosure Statement. A copy of the Uniform Disclosure Statement is to be left with the customer at the conclusion of the visit. The minimum list of items to be included in the Uniform Disclosure Statement is contained in Section 412.110. When the sale is completed at the home by the door-to-door representative, the RES agent shall require the customer to initial the RES agent's copy of the Uniform Disclosure Statement.~~

8. In Section 412.120 Door-to-Door Solicitation, Section 412.120(k) the following underscored language is added and language with strikethrough is deleted:

~~"Persons conducting door-to-door sales may do so only during the hours established as being permissible by the jurisdiction within which the door-to-door sales take place. In jurisdictions where no such permissible hours have been established, permissible hours for the door-to-door sale of power and energy service shall be between the hours of 9 a.m. and 7 p.m. during the months beginning October 1 and ending March 31, and between 9 a.m. and 8 p.m. during the months beginning April 1 and ending September 30. 10 am to 6 pm unless the jurisdiction where the door to door sales take place have rules for door to door solicitation that are more restrictive, in which case, the"~~

9. In Section 412.150 Direct Mail, Section 412.150(a) the following underscored language is added:

RES agents contacting customers for enrollment for power and energy service by direct mail shall include the items of the Uniform Disclosure Statement (Section 412.110) for the service being solicited if customer enrollment is being performed via written enrollment or Letter of Agency. If the customer enrollment process is being completed via another channel, the requirements relating to the Uniform Disclosure Statement for that channel shall control.

10. In Section 412.190 Affiliate Name and Logo Use found at 35 Ill. Reg. 13010 the following underscored language is added and language with strikethrough is deleted:

~~"Section 412.190 ~~Affiliate~~ Utility 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 or natural gas utility ~~affiliated~~ in Illinois."~~

11. Delete Section 412.195 Product Descriptions found at 35 Ill. Reg. 13010 in its entirety.

12. In Section 412.200 Application of Subpart C found at 35 Ill. Reg. 13010 the following underscored language is added.

**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 retail customers and only to the extent the RESs provide services to residential or small commercial retail customers. In addition, Section 412.210 shall apply to electric utilities. The provisions of this Subpart shall not apply to any agreements or contracts entered into prior to the effective date of this Subpart. Notwithstanding the foregoing, any agreement or contract subject to renewal with a RES after the effective date of this Subpart shall be subject to the provisions of this Subpart beginning on the date of the first renewal to occur after the effective date of this Subpart.

13. In Section 412.230 Early Termination of Sales Contract found at 35 Ill. Reg. 13011 the following language with strikethrough is deleted.

"Any contract 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 contract is a multiyear contract.~~ Any contract containing an early termination fee shall provide the customer the opportunity to contact the RES to terminate the contract 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. A customer relying on this provision to avoid an early termination fee shall be precluded from relying upon this provision for 12 months following the date the customer terminated his or her sales contract. The contract shall disclose the opportunity and provide a toll-free phone number that the customer may call in order to terminate the contract. This requirement does not relieve the customer of obligations to pay for services rendered under the contract until service is terminated."

14. In Section 412.300 Application of Subpart D found at 35 Ill. Reg. 13013 the following underscored language is added.

**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 retail customers and only to the extent the RESs provide services to residential or small commercial retail customers. In addition, Sections 412.320(c)(1)(B) and 412.320(c)(1)(E) shall apply to electric utilities. The provisions of this Subpart shall not apply to any agreements or contracts entered into prior to the effective date of this Subpart. Notwithstanding the foregoing, any agreement or contract subject to renewal with a RES after the effective date of this Subpart shall be subject to the provisions of this Subpart beginning on the date of the first renewal to occur after the effective date of this Subpart.

15. In Section 412.320 Dispute Resolution, Section 412, 320(a), the following underscored language with strikethrough is deleted.

~~A residential or small commercial retail 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 retail 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.~~

ICEA also offers the following alternative, with the following underscored language added.

A residential or small commercial retail 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 retail customer, as part of the terms of service, to engage in alternative dispute resolution of complaints to the Commission, including requiring such complaints to be submitted to arbitration or mediation by third parties.