SECTION 412.120

Revise Section 412.120 as shown below and add new Section 412.125

Section 412.120 ~~Door-to-~~ ~~Door~~~~In-person~~Door-to-Door Solicitation

a) A~~n~~ RES agent shall state that he or she represents an independent seller of ~~power and energy service~~electric service certified by the Illinois Commerce Commission and ~~. An RES agent shall not state or otherwise imply~~ that he or she is not employed by, representing, endorsed by or acting on behalf of ~~the electric~~ a utility or ~~electric~~ a utility program, a consumer group or consumer group program, or a governmental body (unless the RES has entered into a contractual arrangement with the governmental body and has been authorized by the governmental body to make the statements)~~, or a consumer group~~.

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. When it would be apparent to a reasonable person that a customer's English language skills are insufficient to allow the customer to understand and respond to the information conveyed by the agent in English or when the customer or another person informs the agent of this circumstance, the RES agent shall find another representative fluent in the customer's language, use an interpreter, 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 must be completed.

c) RES agents who engage in ~~door-to-door~~ ~~in-person~~ door-to-door solicitation for the purpose of selling ~~power and energy service~~electric service offered by the RES shall display identification on an outer garment. This identification shall be visible at all times and prominently display the following:

1) The RES agent's full name in reasonable size font;

2) An agent ID number;

3) A photograph of the RES agent; and

4) The trade name and logo of the RES the agent is representing. If the agent is selling ~~power and energy services~~electric service from multiple RES~~s~~ 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.

d) The RES agent shall leave the premises at the customer's, owner's, or occupant's request. ~~In the absence of local ordinances or regulations, RESs, and their agents, shall not conduct in-person solicitation at residential dwellings before nine a.m., and after seven p.m. or sunset, whichever is earlier.~~

e) The RES agent shall ~~ensure that~~, during the sales presentation to the customer, verbally disclose items (a) and (c) through (n) of Section 412.110 ~~(d) through (p) of the uniform disclosure statement (Section 412.110(d) through (p)) are verbally disclosed~~ to the customer unless the sales presentation is terminated by the customer before the disclosures are completed. A~~n~~ RES agent may disclose the items in any order ~~as long as~~ provided that all applicable items are explained to the customer during the sales presentation.

f) ~~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 described in Section 412.115 and Appendix A of this Part is to be left with the customer at the conclusion of the visit unless a customer refuses to accept a copy. Nothing in this subsection (f) prevents a RES agent from providing the UDS electronically instead of in paper form to the customer upon request. ~~The minimum list of items to be included in the uniform disclosure statement is contained in Section 412.110.~~ The RES agent shall also offer, at the time of the initiation of the solicitation, a business card or other material that lists the agent's name, identification number, title, and the RES's name and contact information, including telephone number.

g) ~~In-person solicitations that lead to an enrollment require a Letter of Agency and a third-party verification. The~~ If a customer's enrollment is authorized by third-party verification during door-to-door solicitation, the ~~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 acknolwegerequire the customer to verbally acknowledge~~ obtain the customer's acknowledgement that he or she understands the disclosures required by subsections (c) and (e) through (n) of Section 412.110. ~~applicable items in items (d) through (p) of the uniform disclosure statement.~~ Each disclosure must be made individually to obtain clear acknowledgement of each disclosure. The RES agent must be in a location where he or she cannot hear the customer while the TPV is conducted. The RES shall not approach the customer after the TPV for a period of 24 hours unless contacted by the customer.

h) ~~When 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 agent in English or when the customer or another person informs the agent of this circumstance, the RES agent shall find another representative fluent in the customer's language, use an interpreter, 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 must be completed.~~The RES agent shall not conduct any door-to-door~~in-person~~ solicitations at any building or premises where any sign, notice, or declaration of any description whatsoever is posted which prohibits sales, marketing, or solicitations.

i) ~~Upon a customer's request, the RES shall refrain from any further marketing to that customer.~~The RES agent shall obtain consent to enter multi-unit buildings. ~~Consent obtained to enter a multi-unit building from one prospective customer or occupant of the building shall not constitute consent to market to any other prospective customers in the building without separate consent.~~

j) Upon a customer's request, the RES shall refrain from any further marketing to that customer until the customer requests to receive further marketing. The RES shall notify its agents of a customer's request.

~~k) RESs shall perform criminal background checks on all employees and agents engaged in in-person solicitation. The criminal background check shall be performed by an independent contractor that is a licensed private detective or a similarly qualified entity and the RES shall confirm that the independent contractor has performed a criminal background check on its employees or agents in accordance with this rule.~~

Section 412.125 In-person Solicitation (other than door to door)

a) This section addresses face-to-face contacts in which the customer can choose to initiate the sales discussion. Examples included but not limited are:
   1) Permanent store locations operated by a RES;
   2) Temporary or seasonal kiosks, such as in a shopping mall or airport
   3) Pre-scheduled appointments (except those at the customer's premises)
   4) RES booths/tables at trade shows or community fairs or other venues to which the RES has been invited; and
   5) In home meetings through "friends and family" network marketing.

b) A RES agent shall state that he or she represents an independent seller of power and energy service certified by the Illinois Commerce Commission. A RES agent shall not state or otherwise imply that he or she is employed by, representing, endorsed by or acting on behalf of the electric utility or electric program, a

governmental body or program run by a governmental body (unless the RES has entered into a contractual arrangement with the governmental body and has been authorized by the governmental body to make the statements), or a consumer group or program run by a consumer group (unless the RES has entered into a contractual arrangement with the consumer group and has been authorized by the consumer group to make the statements).

c) The RES agent shall, during the sales presentation to the customer, verbally disclose items (a) and (c) through (n) of Section 412.110 to the customer unless the sales presentation is terminated by the customer. A RES agent may disclose items in any order provided that all applicable items are explained during the sales presentation.

d) The RES agent shall provide a copy of the uniform disclosure statement for the customer to review at the conclusion of the visit unless a customer verbally or by action refuses to accept a copy of the uniform disclosure statement. Nothing in this subsection (c) prevents a RES from providing the UDS electronically instead of paper form to the customer upon request.

e) If the visit leads to an enrollment, not directly initiated by the customer on a website, a Letter of Agency (LOA) is required with explicit acknowledgements on the LOA that the customer has read and that he or she understands all the disclosures of the uniform disclosure statement provided to him or her.

f) The RES agent shall obtain consent to enter multi-unit buildings for the purpose of in-person solicitation in a common area of the building. Written consent from the building management does not authorize the RES agent to engage in door-to-door solicitation. This type of solicitation is covered in Section 412.120.

g) If any sales solicitation, agreement, contract, or verification is translated into another language and provided to the customer, all of the documents must be provided to the customer in that other language.

SECTION 412.140

Revise the First Notice Rules as follows:

Section 412.140 Inbound Enrollment Calls

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

a) ~~Follow~~ The RES agent shall fully comply with the requirements in Section 2EE of the Consumer Fraud and Deceptive Business Practices Act~~;~~. A RES agent shall state that he or she represents an independent seller of electric service certified by the Illinois Commerce Commission. A RES agent shall not state or otherwise imply that he or she is employed by, representing, endorsed by or acting on behalf of a utility or a utility program, a consumer group or consumer group program, or a governmental body (unless the RES has entered into a contractual arrangement

with the governmental body and has been authorized by the governmental body to make the statements);

b) The RES agent shall ~~V~~verbally ~~disclose to the customer items (d) through (p) of the uniform disclosure statement (Section 412.110(d) through (p))~~ make the disclosures required by subsections (a) and (c) through (n) of Section 412.110 to the customer. A~~n~~ RES agent may disclose the items in any order so long as all applicable items are explained to the customer during the sales presentation; ~~and~~

~~c) All inbound enrollment calls that lead to an enrollment shall be recorded, and the recordings shall be retained for a minimum of two years or the length of the customer's service with the RES, whichever is longer. An inbound enrollment call that does not lead to an enrollment but lasts at least two minutes shall be retained for a minimum of six months. The recordings shall be provided to Commission Staff or a customer who has completed a telephone enrollment upon request;~~

~~d) A third party verification must be used to authorize a customer's enrollment. The third party verification must require the customer to verbally acknowledge that he or she understands the disclosures required by (i) subsections (a) and (c) through (m) of Section 412.110 and (ii) any information included in the Uniform Disclosure Statement required by Section 412.115 that is not included in subsections (a) and (c) through (n) of Section 412.110. Each item must be disclosed to the customer individually, requiring acknowledgment of each disclosure. A RES agent initiating a 3-way conference call or a call through an automated verification system shall drop off the call and not participate in or listen to the call, but shall not cause the call to be terminated, once the 3-way connection has been established; and~~

~~c~~e) The RES shall ~~S~~send the uniform disclosure statement and contract to the customer within three business days after the electric utility's confirmation to the RES of an accepted enrollment.

SECTION 412.170

Revise Section 412.170 of the First Notice Rules by deleting the entire section. In the alternative, delete the entire section and substitute the following:

Section 412.170 Rate Notice to Customers

a) At a reasonable time, as determined by the RES, prior to the start of a calendar month, each RES shall publish on its website the variable rate(s) for its residential

customers applicable for the billing cycle starting during that calendar month. If the billing cycle does not match the calendar month, the dates that the rates will be in effect must disclose the one month period to which the rates will apply. In addition, each RES shall provide such rate information to its variable rate customers who request it through the RES's toll-free number. The customer's contract shall contain the website address and toll-free phone number for the customer to obtain variable rate information in accordance with this section.

b) Subsection (a) shall not apply to contracts which determine the variable rate solely on a publicly available index or benchmark. Contracts which determine the variable rate solely on a publicly available index or benchmark shall disclose the formula that will allow a customer to determine the variable rate, based on a publicly available index or benchmark. Each RES shall publish on its website sufficient information to identify the inputs to the formula used to calculate the variable rate, including the timing and location of the index prices and any information necessary to calculate the rate. Unless the RES provides the index or benchmark information to the customer free of charge, the RES shall disclose the charge to obtain the index or benchmark on the UDS and in the contract. If any portion of a customer's supply service is subject to a variable rate that is not based on an index, subsection (a) of this part applies to that variable rate.

SECTION 412.240

Revise Section 412.240 of the First Notice Rules by making the following revisions:

Section 412.240 Contract Renewal

a) Non-Automatic Renewal. The RES shall clearly and conspicuously 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 but no more than 60 days prior to the date of contract expiration. Nothing in this Section shall preclude a~~n~~ 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. ~~If the new contract's terms differ from the existing contract, the RES shall include a side-by-side comparison of the existing terms and the new terms;~~ and

4) A statement, in at least 12 point font, that the customer must provide affirmative consent to accept the renewal offer, 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. The statement shall provide 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 <u>and conspicuously</u> disclose any renewal terms in its contracts, including any cancellation procedure. For contracts with an initial term of six months or more, and when the contract automatically renews for a specified term of more than one month, the RES shall send a notice of contract renewal separately from the bill at least 30 days but no more than 60 days prior to the end of the initial contract term. Nothing in this Section shall preclude a~~n~~ 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 renewal 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 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) <u>If the new contract term includes a termination fee, a statement that the customer has until the end of the existing contract term to reject the new</u>

contract to avoid termination fees under the new contract; ~~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;~~ and

5) A clear and conspicuous disclosure of the contract terms, including a full description of any renewal offers available to the customer. ~~If the new contract's terms differ from the existing contract, the RES shall include a side-by-side comparison of the existing terms and the new terms.~~

~~In addition to the written notice required per Section 412.170(e), unless the customer has no phone number on record with the RES, the RES shall call the customer at least 30 days but no more than 60 days prior to the end of the initial contract term. The call may be live or automated and it shall provide the information required in Subsections (b)(2)-(5) herein in addition to the impending end of the initial contract term. A second call shall be required within 14 days of the first call if the first call does not reach a person or an answering machine. The RES agent shall provide the customer with the toll free number that the customer may use to contact the RES to discuss the automatic renewal. The RES shall make a record of the date and time of the call(s), and its success or failure in reaching the customer. The RES shall retain the record for two years. Calls made pursuant to this Subsection shall also comply with the requirements of Section 412.130.~~