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August 10, 2020

VIA ELECTRONIC MAIL
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Aida Camacho-Welch
Secretary of the Board
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
P.O. Box 350
Trenton, New Jersey 08625-0350

RE: Community Solar PY1 Comments
“Program Year 1 Lessons Learned”
BPU Docket No. QO18060646

Dear Secretary Camacho-Welch:

On behalf of Atlantic City Electric Company (“ACE” or the “Company”) and in response to a Request for Comments and Stakeholder Meeting Notice issued by the New Jersey Board of Public Utilities (the “Board”) on July 9, 2020, please accept the following Comments concerning the Community Solar Pilot Program “Year 1 Lessons Learned.” The Company appreciates the opportunity to provide its input. ACE reserves its right to supplement its responses at a later point in this proceeding as circumstances require.

Topic 1 – Equity and the Inclusion of Low- and Moderate-Income (“LMI”) Households

Question 1: How can the Board ease the process by which developers validate LMI status when enrolling subscribers?

a) Should the Board consider amending the current rules regarding LMI subscriber verification, as defined at N.J.A.C. 14:8-9.8? If yes, how? For reference, please see Appendix 1 for selected excerpts of the relevant section of the rules.

ACE Response: ACE has no comment to this question at this time.

b) Please include a discussion of the following verification metrics, with examples from other states where applicable:

- a. LMI income affidavit;**
- b. verification by census tract; and**
- c. other means of encouraging and supporting LMI community solar participation.**

ACE Response: Community solar subscribing organizations are responsible for LMI income verifications in the State of Maryland and the District of Columbia.

- a. LMI income affidavits are not currently relied on in Maryland and/or the District of Columbia.
- b. The Company has no comment to this sub-question at this time.
- c. Information regarding the community solar program is available and provided through the Potomac Electric Power Company, Delmarva Power & Light Company, and ACE websites.

Question 2: Current rules mandate that developers use the “opt-in” model for subscriber enrollment, in which a subscriber must affirm a community solar subscription with a wet or electronic signature. This is distinguished from the “opt-out” model, in which a subscriber is enrolled without affirmative consent, and given the option to unsubscribe (i.e., opt out) from the community solar subscription.

Based on experience with Program Year 1, as well as the successes or failures in other states, please provide feedback on the efficacy of the “opt-in” model, or, in the alternative, on the benefits and risks of the “opt-out” model for subscriber enrollment. In particular, please discuss:

Opt-in Model: a) From your perspective as a developer, subscriber, community organization, third-party entity, etc., please describe your experience using the “opt-in” model in Program Year 1. What challenges did you encounter? What, if anything, would you change about the process? Please specifically identify whether you are working on a community solar project approved in Program Year 1.

ACE Response: The Company has not been permitted to offer a community solar project in New Jersey during the pilot period and therefore has no experience with the “opt-in” model for community solar in New Jersey.

b) Are there examples of other states that have been particularly successful or unsuccessful using an “opt-in” model for community solar? What has made them successful or unsuccessful?

ACE Response: The Company has no comment to this sub-question at this time.

Opt-out Model: c) What would be the advantages and risks of implementing opt-out for community solar? Is an opt-out model the best approach to facilitating low- and moderate-income subscriber enrollment?

ACE Response: Establishing an “opt-out” rule for community solar simplifies subscriber recruitment and reduces subscriber organization marketing costs, but poses the risk that customers will be placed into a community solar project for an unidentified subscription percentage and be subject to additional monthly subscription fees that may exceed their bill credits in any given billing month. This potential additional cost poses a financial risk for all customers and particularly for LMI customers. This would potentially lessen the ability of customers to pay their monthly electricity bills. Additionally, all subscribers under an “opt-out” model will receive an additional monthly subscription bill from the subscribing organization, which is likely to create confusion and community solar subscription collection issues.

d) What consumer protection measures would need to be established in order to implement an opt-out mechanism for community solar?

ACE Response: At a minimum, customers placed into an “opt-out” community solar program must be notified in writing through the mail at least 45 days before the enrollment occurs. The written notice should contain the following information, at a minimum: 1) the subscribing organization name and contact information; 2) the location of the community solar facility; 3) the subscription amount; 4) the monthly cost of the subscription; 5) the expected monthly electric bill credit; 6) information regarding how the subscription amount can be modified or cancelled; and 7) an accompanying extensive customer education campaign conducted by an agency of the State (i.e., the Board) or the New Jersey electric distribution utilities.

For all “opt-out” customers, the assigned subscription should provide bill credits on an annual basis that do not exceed each customer’s electricity use over a recent 12-month period. In the absence of 12 months of electric energy use history, the subscription assignment should not exceed the average monthly electricity use of the available monthly data. In the absence of any prior billing data, “opt-out” enrollments should not be permitted. Opt-out enrollment should only be permitted if the annual expected bill credits exceed the expected annual community solar subscription fee. Customers who are enrolled through on an “opt out” basis should be permitted to leave the program at any time, with 30 days of prior notification to the community solar subscribing organization. ACE submits that the Board should be responsible for assuring that these requirements are met.

In the event two or more community solar projects would like to enroll a customer on an “opt out” basis, the project that enrolls the customer first should receive the preference. All subsequent community solar projects should be required to enroll the same individual customer through an “opt-in” process after the customer has “opted out” of their existing community solar subscription.

e) In what ways could an opt-out model of community solar subscriber enrollment be similar to, and different from, the model currently implemented under Government Energy Aggregation in New Jersey?

ACE Response: If a community solar “opt-out” model is permitted for subscribing organizations, this would differ from the Government Energy Aggregation program because non-governmental entities would have authority to automatically enroll customers. Unlike governmental entities, third parties are likely to have a lower level of oversight than governmental entities and are more likely to have a profit motive for enrolling customers at the highest possible subscription rate.

f) Are there examples of other states successfully using an “opt-out” model for community solar? If so, what makes them successful?

ACE Response: The Company does not have any information on successful “opt-out” community solar programs.

Question 3: How can the Board leverage existing programs (e.g., Comfort Partners, USF, etc.) to facilitate enrollment of LMI customers in community solar?

ACE Response: Information about community solar and available projects should be provided at the same time information is provided about opportunities to participate in other publicly sponsored LMI programs. This information will allow LMI customers to determine whether they have an interest in subscribing to a community solar project.

Question 4: How can the Board leverage, or partner with, community organizations or others to facilitate equitable inclusion of community solar subscribers, including education, marketing, and enrollment?

ACE Response: Information regarding the community solar program should be provided through existing electric distribution company (individually, an “EDC” or collectively, the “EDCs”) websites. Available information should include a list of approved community solar projects, operational dates, and subscribing organization contact information.

Question 5: What are the challenges specific to ensuring that low- and moderate-income households in master-meter buildings can become community solar subscribers?

a) How common are these type of master metered apartments?

ACE Response: This information is not readily available in the ACE service territory.

b) Please describe the feasibility of reforming rates to ensure customers in master metered buildings receive community solar credits equivalent to those of single-family households.

ACE Response: Available community solar bill credits for master metered buildings should be based upon the average monthly energy consumption for each apartment within each building. The responsible party for the electric bill at each master metered building will have the necessary information.

c) Please address any unintended consequences of this type of rate reform?

ACE Response: The use of an average monthly energy use amount will over- and under-incent individual tenants if the resulting bill credits are shared equally across all tenants. The responsible entity/individual for the monthly electric bill will be responsible for sharing any monthly community solar subscription fees and resulting bill credits and presumably could allocate these items based upon the relative size of each apartment.

d) What measures should the Board consider to alleviate these challenges?

ACE Response: After the deployment of an Advanced Metering Infrastructure (“AMI”) System by the electric distribution utilities, the Board should evaluate the benefits and costs of converting master metered building into individually metered residential accounts. This action should only be taken if the costs of doing so are less than the expected benefits.

Question 6: What additional suggestions do you have to facilitate inclusion of LMI households?

ACE Response: The Board should permit New Jersey utilities to develop community solar projects that are intended for LMI households. In this way, utilities can help make electricity more affordable to LMI customers, reduce bad debt expense, and provide some measure of Board oversight over the treatment of LMI subscribers.

Topic 2 -- Program Year 1 Application Form and Application Process

For reference, please refer to the PY1 Application Form when responding to questions in Topic 2 specific to the application process.

Question 7: Please provide feedback on the process of submitting an Application. In particular, please discuss:

- a) **Length of the application period: should the PY2 application period be longer, shorter, or equal to the 5-month application period in PY1?**

ACE Response: The Company respectfully submits that the application window should be shortened. A five-month application window is unnecessarily lengthy unless a rolling selection process is established.

- b) **Should the Board implement a process for submitting an application via an online application form? If it is not possible to establish an online application process, how can the Board improve the process for submitting a hard copy application?**

ACE Response: Yes, an online application process should be developed and will simplify the application process. If a secure online application processing protocol cannot be developed, an emailed application should be accepted.

Question 8: Please provide feedback on Section A of the PY1 Application Form (Application Form requirements, instructions, terms and conditions). Were the instructions sufficiently clear?

ACE Response: The Company has no comment to this question at this time.

Question 9: Please provide feedback on Section B of the PY1 Application Form (community solar project description). In particular, please discuss:

- a) **Were certain questions unclear?**

ACE Response: The Company has no comment to this sub-question at this time..

- b) **Should certain questions in the PY1 Application Form be omitted from the PY2 Application Form? Why would you recommend excluding them?**

ACE Response: The Company has no comment to this sub-question at this time.

- c) **Should certain questions that were not asked in the PY1 Application Form be included in the PY2 Application Form? What would you recommend, and why?**

ACE Response: The Company has no comment to this sub-question at this time.

Question 10: Please provide feedback on Section D of the PY1 Application Form (certifications).

ACE Response: The Company has no comment to this question at this time.

Question 11: Please provide feedback on Appendix A: Product Offering Questionnaire from the PY1 Application Form.

- a) **Did this questionnaire accurately reflect the diversity of possible community solar product offerings?**

ACE Response: The Company has no comment to this sub-question at this time.

- b) **Should any changes be made to this questionnaire?**

ACE Response: The Company has no comment to this sub-question at this time.

Question 12: Please provide feedback on Appendix B: Required Attachments Checklist from the PY1 Application Form.

- a) **Was the Appendix B checklist helpful to completing the Application Form?**

ACE Response: The New Jersey electric utilities were excluded from submitting applications; therefore, the Company is unable to comment.

- b) **Should the Board modify the list of attachments required in PY2?**

ACE Response: The Company has no comment to this sub-question at this time.

- c) **Are there certain required attachments for which the Board should provide further instructions and/or a standard template?**

ACE Response: The Company has no comment to this sub-question at this time.

Question 13: Please provide feedback on Appendix C: Evaluation Criteria from the PY1 Application Form. In particular, please discuss:

a) Was Appendix C useful to Applicants in creating their applications?

ACE Response: The Company has no comment to this sub-question at this time.

b) Should the Board modify the evaluation criteria for PY2? For example, should the Board give more or less weight to certain evaluation criteria in PY2?

ACE Response: The Company has no comment to this sub-question at this time.

c) Are there criteria that were not considered in PY1 that should be considered in PY2? If yes, how would the Board evaluate, score, and verify these criteria?

ACE Response: The Company has no comment to this sub-question at this time.

d) Please address whether the Board should consider awarding more potential points for projects proposing to serve more than 51% LMI customers and how such scoring would work.

ACE Response: The Company has no comment to this sub-question at this time.

Topic 3 -- Program Year 2 Application Process

Question 14: The PY1 capacity was 75 MW(dc). Pursuant to N.J.A.C. 14:8-9.4(b), the PY2 capacity must be at least 75 MW(dc), but could be more. Staff is considering recommending that the Board increase capacity in PY2 to 100 MW(dc), and to 125 MW(dc) for PY3, with the intention of soliciting annually for 150 MW(dc) in the permanent program. Please comment on this proposed plan.

ACE Response: If the Board increases the size of the community solar pilot program, the EDCs should be permitted to participate as a developer, owner, and/or operator of community solar. This will provide valuable experience to the EDCs and enable them to be better prepared for the permanent community solar program, which permits utility participation by statute.

Question 15: The 45 applications granted conditional approval in PY1 represented 17 unique applicants. Should the Board consider limiting the number of applications that are submitted by a single developer, or limit the number of applications by a single developer that will be conditionally approved?

ACE Response: The Company has no comment to this question at this time.

Question 16: For ground-mount projects, please provide feedback on the DEP Permit Coordination checklist process.

ACE Response: The Company has no comment to this question at this time.

Question 17: The PY1 Application Form made certain sections optional for government entities. Did this facilitate applications by government entities? Should the Board consider a fully separate carve-out and application process for government entities?

ACE Response: The Company has no comment to this sub-question at this time.

Topic 4 -- Other

Question 18: Should the Board consider amending the Pilot Program rules to require that community solar subscriptions guarantee savings compared to the subscriber's electric bill without community solar, as an added consumer protection measure, particularly given that all awarded projects already committed to doing so in the PY1 applications?

ACE Response: The Company respectfully disagrees with this suggestion. This requirement only makes sense for LMI participants – or for all customers – if the program is revised to be an “opt out” program. Non-LMI customers may be motivated to subscribe to community solar for altruistic reasons and could subsidize greater participation by LMI customers. Additionally, individual customer electric energy use can vary over time and it will be difficult to “guarantee” savings over future years.

Question 19: Should the Board consider amending the construction timelines and extension policies at N.J.A.C. 14:8-9.3(c)? If yes, how? Currently, applicants have 6 months to start construction, and 12 months to become fully operational, with an unlimited number of possible extensions (so long as projects can demonstrate continued progress). Excerpts of the relevant section of the rules are provided in Appendix 1 below.

ACE Response: Yes, all timelines should be extended by an additional six months to provide a more reasonable time period for project development and to lessen the number of extension requests.

Question 20: Should the Board consider restricting the 10-subscriber minimum exemption at N.J.A.C. 14:8-9.6(d) to only buildings that serve low- and moderate-income residents? Currently, the exemption applies to all multi-family buildings which have a community solar system located on-site. Excerpts of the relevant section of the rules are provided in Appendix 1 below.

ACE Response: The Company has no basis recommending a change to this exemption at this time.

Question 21: How is the Pilot Program impacted by the ongoing transition in solar incentives from the Transition Incentive Program to the Successor Program?

ACE Response: The impact is unknown. The number of community solar applications that were submitted indicates that the transition did not have a significant impact.

Question 22: A number of resources are available to prospective community solar applicants, including a Frequently Asked Questions page, EDC hosting capacity maps, and the Department of Environmental Protection Community Solar PV Siting Tool.

a) What other resources do you believe the Board should provide to facilitate community solar development in New Jersey?

ACE Response: The Board should allow greater market participation in community solar by permitting the EDCs to develop, own, and operate community solar projects during the remaining years of the pilot program.

b) Should the Board provide technical assistance grants for the development of community solar projects? If yes, to whom and under what conditions?

ACE Response: The Company has no comment to this sub-question at this time.

Question 23: How can Staff otherwise support community solar developers and subscribers to ensure success?

ACE Response: Board Staff can support community solar developers and subscribers by offering a more extensive community solar customer education campaign. Staff can also initiate the development of regulations for the permanent program to provide sufficient information for perspective developers and subscribers of community solar projects.

Question 24: Please provide comments on issues associated with the Pilot Program not specifically addressed in the questions above.

ACE Response: The Company respectfully submits that the Board should finalize the rules regarding cost recovery for the EDCs. The EDCs, Board Staff, and the Division of Rate Counsel have each made recommendations regarding utility cost recovery. Under the existing regulations, utilities are responsible for calculating and issuing participant bill credits, tracking customer subscriptions, program metric reporting, managing project interconnection requests, and fielding customer inquiries.

As stated above, the EDCs should be permitted to develop, own, and/or operate community solar projects during the pilot period. Since the utilities are permitted by statute to develop, own, and/or operate community solar projects during the permanent program, allowing utilities to participate in the pilot program will prove instructive to and for all stakeholders. To continue to exclude the EDCs from directly participating in the pilot program places the utilities at a competitive disadvantage for future participation in the permanent program.

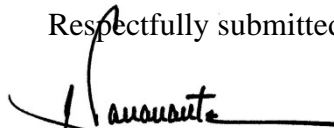
Moreover, a rulemaking for regulations that will be applicable to the permanent program should be initiated so that rules can be adopted well in advance of the start of the permanent program. Changes to the existing regulations include permitting utilities to participate in the permanent program as a developer, owner, and/or operator of community solar.

* * *

ACE appreciates this opportunity to provide comments concerning the community solar pilot program – Year 1 Lessons Learned. As the Board is aware, Company representatives have broad and relevant experience with community solar programs in other jurisdictions. ACE looks forward to continuing to provide input on this important initiative in the future.

Feel free to contact the undersigned with any questions.

Respectfully submitted,



Philip J. Rasanante
An Attorney at Law of the
State of New Jersey

New Jersey Community Solar Energy Pilot Program
BPU Docket No. QO18060646
Comments from Atlantic County Utilities Authority
in response to the BPU Notice of July 9, 2020

Dear Secretary Camacho-Welch:

The Atlantic County Utilities Authority (ACUA) appreciates the opportunity to answer Question 2(c) and Question 6 under Topic 1: Equity and the Inclusion of Low- and Moderate-Income Households.

In Program Year 1 of the Community Solar Pilot Program, ACUA was awarded participation to use its landfill to bring solar to 100% LMI customers, well in excess of the BPU mandate, in support of New Jersey's environmental justice policies. While we are ecstatic to have the chance to serve these LMI customers in the Community Solar Program, ACUA asks that the Board acknowledges the LMI community that cannot be fully served by master-metered contracts - that is, individually-metered LMI households are the large majority of LMI customers. Individually-metered LMI households are as deserving of access to solar programs as those LMI customers in master-metered housing, but face many more obstacles to that goal. The below comments address how the Board can adjust the Community Solar Pilot Program for Year 2 to allow **all** LMI customers to benefit from solar energy, regardless of their living situation. Should the BPU adopt these recommendations, ACUA intends to use them to serve its low income individually metered customers.

Question 2(c): What would be the advantages and risks of implementing opt-out for community solar? Is an opt-out model the best approach to facilitating low- and moderate-income subscriber enrollment?

An opt-out model is the best approach to facilitating low- and moderate-income subscriber enrollment for multiple reasons: (1) the opt-out model puts the municipality or AUA squarely in the role as the responsible party, thus ensuring the interests of the residents are paramount; (2) the opt-out model, with the same protections and regulations utilized in GEA programs, has been proven successful in dozens of municipalities and shown to be effective in preventing the "slamming" of customers; and (3) the current "opt-in" subscription method requiring wet or electronic signatures creates a barrier to entry for LMI customers through its costliness and inconvenience. The "opt-in" model cannot bring access to all LMI customers and will result in lost savings to the end-use customer because acquiring subscribers one-by-one will be work-intensive and costly. Additionally, signing up the LMI customers one-by-one will be burdensome considering the unreasonable amount of paperwork required for an LMI customer to opt-in.

In order to create a program that can successfully reach individually-metered LMI customers, the BPU should permit waivers from its rule to allow opt-out in the Round 2 Application Process.

Question 6: What additional suggestions do you have to facilitate inclusion of LMI households?

Billing is an additional barrier to the participation of LMI households in the Community Solar Program. The utilities already include the charges levied by default suppliers on their bills and pay their default (BGS) suppliers on a regular and prompt basis regardless of the customers' payment patterns or histories. The BPU should have the utilities provide this same billing and revenue collection for LMI community solar. The confusion of two bills is avoided and customer revenue is covered. This would mitigate and address the credit risk that would otherwise restrict Community Solar for individually metered LMI customers. These projects can then be financeable and developed. The result is acceptance of LMI customers into the program and lower cost solar energy to those customers. If the Board truly wants to have its Community Solar Program reach LMI customers, it should vigorously pursue and allow the above approach in Program Year2 and beyond.

Stated differently, without this approach Community Solar LMI Projects will face unending collection and credit issues, which will invariably prevent projects from being developed. It will simply repeat the oversights of the past, i.e., the inability of solar developers to service LMI customers because of credit and financing limitations. The solution is in the BPU's hands; the BPU protects BGS suppliers (and utilities), and Community Solar projects certainly deserve the same measure of protection as BGS suppliers.

The ACUA requests that the Board consider our above comments and recommendations for the Community Solar Pilot Program, as these measures are the best way to ensure all LMI customers can benefit from solar energy, and to open the door to more 100% LMI projects.

The ACUA appreciates the opportunity to provide these comments.

Sincerely,



Richard S. Dovey, President

BLUEWAVE

Community Solar Program Year One Lessons Learned Comments Docket No. QO18060646

Dear New Jersey Board of Public Utilities and Staff,

BlueWave Solar (BlueWave) is a community solar developer and services provider based in Boston, MA. We have developed 135 MW of community and public solar and are working on the forefront of dual-use development with New Jersey's farmers and landowners. We are excited to bring BlueWave's commitment to holistic development and community engagement to the residents, small businesses, public entities, municipalities, and farmers of New Jersey.

BlueWave is a member of the Coalition for Community Solar Access (CCSA) and is an active participant on the New Jersey Subcommittee. BlueWave firmly supports the comments filed by CCSA in docket No. QO18060646, regarding Year 1 of the Community Solar Pilot Program. Additionally, we submit these supplemental comments outlining the opportunity New Jersey has in embracing dual-use solar projects.

BlueWave sincerely thanks the Board of Public Utilities (BPU) for its collaboration in administering the Pilot Program and the opportunity to answer the questions outlined. We respectfully submit these comments for consideration by the BPU and look forward to working together to meet New Jersey's ambitious clean energy goals while at the same time prioritizing land preservation and farm viability.

Topic 2: Program Year 1 Application Form and Application Process

Application Process

BlueWave echoes the joint industry comments in calling for the application process to be digitized. If the BPU is concerned about creating a form that is entirely online and specialized, there is no need for the creation of an online portal. The application process can be as simple as allowing for the application to be made into a PDF and sent to a secure e-mail. In our experience, the compiling of the paper copy of the application was what took the longest in the entire process. This would also ensure the safety of BlueWave employees and BPU staff during this pandemic.

Preferred Siting for Dual-Use Agricultural and Horticultural Projects

In Section 2.3, specifically 2.3.1 and 2.3.3, of Governor Murphy's Energy Master Plan, community solar is identified as a preferred project type in order to create equity in the clean energy transition. With this in mind, the need for large scale community solar will become apparent as the Pilot Program progresses and the BPU turns toward designing the successor program. Community solar needs economies of scale for developers to facilitate these projects. If undeveloped land is needed for New Jersey to meet its clean energy goals, there must be careful consideration of where and how those projects are sited. Dual-use can alleviate

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concerns about solar siting while enabling the expansion of community solar benefits to the public.

Dual-use is a large-scale, ground-mount solar development approach focused on promoting agriculture within an array through designs, land management, and business strategies tailored for farming. Within a standard solar project, dual-use projects can mean sheep grazing over native pollinator fields or limited cultivation of crops between adequately spaced rows. Dual-use solar projects focus on enabling sufficient sunlight and the cultivation of a wide variety of crops, including vegetables, fruit such as cranberries, horticulture, and animals, by raising the panels to an adequate height and giving them appropriate orientation. In all cases, the land underneath the panels is kept in production, co-planned with farmers, and managed with a farming and farmland conservation ethos.

In many cases, dual-use solar can enhance land ecology through sustainable land management strategies rooted in philosophies that include but are not limited to: building healthy soils, promoting carbon sequestration, rotating crops, promoting cover crops, reducing tillage, facilitating sustainable grazing, enhancing species diversity, promoting water conservation, and improving upon input intensive industrial farming methods. These methods, otherwise known as regenerative farming, hold great promise for drawing CO₂ out of the atmosphere while building more resilient farms and rural communities.

According to a Rodale Institute review, regenerative agriculture systems (specifically, conventional crops and grazing) have the potential to sequester more than 100% of current CO₂ emissions globally, if these practices were adopted on a wide scale.¹ With far reaching benefits including improved soil carbon stocks, decreased greenhouse gas emissions, equal or greater yields over conventional agriculture, improved water retention and plant nutrient uptake, and improved farm profitability, regenerative agriculture can play a major role in revitalizing farm communities, improving biodiversity, and enhancing the resiliency of ecosystem services across New Jersey.

Dual-use can be a targeted post-COVID recovery tool for the agricultural community. With many family farms struggling to meet the demands of a new marketplace, a solar project that does not take land out of production can help stabilize a family enterprise for the next generation. Stable solar revenue can jump start the agricultural economy and be an incubator for new and innovative farming business models. Because of the economic uncertainty of COVID, more than ever, farms in New Jersey are at risk for conversion to permanent forms of development like housing or strip malls.

Dual-use solar is an economic development tool not just for farmers, but for municipalities as well. Developers are committed to paying property taxes on behalf of the farmers or landowners for the life of the dual-use project. If the project is also built as a community solar project, towns

¹ “Rodale Institute: Regenerative Organic Agriculture and Climate Change – A Down-To-Earth Solution to Global Warming” (2014) - <https://rodaleinstitute.org/wp-content/uploads/rodale-white-paper.pdf>

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often have the chance to be anchor customers and realize energy savings on behalf of their residents.

As projects currently receive zero points for siting on farmland or previously undeveloped land, we urge the BPU to consider projects that allow for new or continued agriculture or horticulture in and around the arrays preferred sites. The BPU could award points for projects that demonstrate the continued agricultural use of the land through maintaining their farmland assessment status. This process already exists for farms to maintain their farmland tax status and the appropriate agencies can utilize this assessment to verify agricultural activity for dual-use projects instead of creating an additional process.

We want to commend the BPU for a thoughtful and engaging stakeholder process on the Community Solar Pilot Program as well as an open and transparent conversation about the future of the permanent program. If the staff has any additional questions about dual-use solar please reach out.

Sincerely,

Lucy Bullock-Sieger
Director of Civic Engagement



Community Solar Program Year One Lessons Learned Comments
Docket No. QO18060646

The Coalition for Community Solar Access (CCSA) appreciates the opportunity to submit these comments to assist with the continued shaping of the New Jersey Community Solar Pilot Program and to help inform the regulations for Pilot Year Two.

CCSA is a national coalition of businesses and non-profits working to expand customer choice and access to solar for all American households and businesses through community solar programs. CCSA's mission is to empower every American energy consumer with the option to choose local, clean, and affordable community solar. CCSA works with customers, utilities, local stakeholders, and key decision makers to develop and implement policies and best practices that ensure community solar programs provide a win, win, win for all, starting with the customer. In New Jersey, our business-led trade association is composed of over 30 member companies and non-profits, working together to expand access to clean, local, and affordable energy to the state.

We are pleased by the commitment the Board of Public Utilities (BPU), the BPU staff, and the Governor have made to make New Jersey a leader in Community Solar and renewable energy development. CCSA thanks the Board and staff for their continued commitment to working with stakeholders, including organizations like ours, to provide a cost-effective marketplace with certainty, transparency, accountability, and innovation to achieve the state's righteous and ambitious clean energy goals.

Topic 1: Equity and the Inclusion of Low- and Moderate-Income Households

Question 1: How can the Board ease the process by which developers validate LMI status when enrolling subscribers?

- a. Should the Board consider amending the current rules regarding LMI subscriber verification, as defined at N.J.A.C. 14:8-9.8? If yes, how? For reference, please see Appendix 1 for selected excerpts of the relevant section of the rules.
- b. Please include a discussion of the following verification metrics, with examples from other states where applicable:
 1. LMI income affidavit;
 2. verification by census tract; and
 3. other means of encouraging and supporting LMI community solar participation.

CCSA applauds the Board's strong commitment to LMI participation in the Community Solar program and we believe the Board deserves credit for charting this path, which is already putting New Jersey in a position to be a national leader in this area. Currently, the principal



barrier to LMI customer participation in the program, and the Board's objective, is the rules regarding LMI subscriber verification. In CCSA's view, the current rules are not consistent with the Board's objective in facilitating LMI participation and closing the equity gap for LMI customers. It is essential that the LMI verification process does not create additional barriers to participation. Streamlining the verification process is the single strongest step that the Board can take to ensure that these goals become reality.

The current rules are not workable for many low-income participants and, contrary to the Board's goals, serve as a significant disincentive to participating in Community Solar. To that end, CCSA recommends the Board reject burdensome qualification methods such as requiring three years of tax returns, which is an unworkable requirement that non-LMI customers do not need to complete. Based on CCSA member experience, potential LMI customers will decline to participate in the program when faced with such a requirement.

Beyond serving as a logistical barrier to participation, this requirement raises important equity and privacy concerns. Simply put, the burden imposed should be commensurate with the benefit. Unlike direct assistance programs like LIHEAP, for instance, LMI subscribers are not guaranteed any additional benefit under the Community Solar program beyond their non-LMI peers. The current rules place a burden on LMI subscribers that is not justified by the benefit. The LMI qualification rules also unnecessarily put sensitive personal information into the hands of third parties. Tax return documents contain sensitive information which subscribers are rightfully hesitant to provide. But even if they are willing, the Board should question why there is an expectation for LMI subscribers, and LMI subscribers only, to provide sensitive information as a prerequisite for participating in Community Solar. CCSA members do not want to handle sensitive subscriber information of this nature and do not believe subscribers should be required to provide it.

CCSA suggests the Board amend the current rules to simplify and streamline LMI subscriber verification and to provide a menu of verification options for subscribers. In its income verification rules, the Board should strive to set up a process that is respectful of LMI subscribers, protects their privacy, and makes it as easy as possible for them to sign up for Community Solar. CCSA believes any of the below methods should be accepted as verification for the Community Solar program.

First, CCSA respectfully recommends that the Board expand the existing list of programs enabling income-eligible residents to qualify for Community Solar subscriptions. Programs such as TANF, SNAP, the Housing Choice Voucher Program (also known as Section 8 housing), and others, which already require a rigorous qualification process, it is possible to relieve the administrative burden on New Jersey residents. While the Board has identified a few such programs, CCSA believes that additional programs should be added to the list, increasing the flexibility for subscribers to qualify. The Board could publish a list containing programs that meet



this standard and update it, if necessary. As a starting point, the Comfort Partners program offers a list of federal/safety net partnership programs that can apply directly to community solar qualification¹.

Second, CCSA recommends that the Board enable subscribers to qualify through an attestation of their income. This is the most inclusive and equitable process as it allows for all LMI subscribers who meet the income requirements to participate, regardless of where they live or their participation in other programs. It does not require sensitive information to change hands, is commensurate with the benefit received, and is not an undue burden on the subscriber.

While some question whether this opens the door to “gaming” or misrepresentation, CCSA member experience has not shown any reason to believe subscribers misrepresent themselves as being low-income. Moreover, it is not clear what their incentive to do so would be; as noted above, the program does not guarantee any added benefit to LMI subscribers. With that said, the Board could monitor the verification process to ensure that this solution works as intended.

Finally, CCSA recommends that the Board allow for LMI subscribers to qualify through proof of residence in a low-income census tract. Qualifying census tracts could be limited to tracts where the median income is less than or equal to the current income guidelines for low-income and moderate-income subscribers. Such data is publicly available and accessible. A census tract is a relatively small sample (generally around 4000 people) and would serve as a reasonable proxy of income.² Maryland has recently transitioned to using census tract data to qualify LMI subscribers and Virginia is giving it consideration.

Question 2: Current rules mandate that developers use the “opt-in” model for subscriber enrollment, in which a subscriber must affirm a community solar subscription with a wet or electronic signature. This is distinguished from the “opt-out” model, in which a subscriber is enrolled without affirmative consent, and given the option to unsubscribe (i.e., opt out) from the community solar subscription.

Based on experience with Program Year 1, as well as the successes or failures in other states, please provide feedback on the efficacy of the “opt-in” model, or, in the alternative, on the benefits and risks of the “opt-out” model for subscriber enrollment. In particular, please discuss:

Opt-in Model:

¹ https://njcleanenergy.com/files/file/Comfort_Partners/522-CP-BrochCRCI-Eng.pdf

² United States Census Bureau, *Understanding and Using American Community Survey Data*, July 2018, Page 8: https://www.census.gov/content/dam/Census/library/publications/2018/acs/acs_general_handbook_2018.pdf



- a. From your perspective as a developer, subscriber, community organization, third-party entity, etc., please describe your experience using the “opt-in” model in Program Year 1. What challenges did you encounter? What, if anything, would you change about the process? Please specifically identify whether you are working on a community solar project approved in Program Year 1.
- b. Are there examples of other states that have been particularly successful or unsuccessful using an “opt-in” model for community solar? What has made them successful or unsuccessful?

Opt-out Model:

- c. What would be the advantages and risks of implementing opt-out for community solar? Is an opt-out model the best approach to facilitating low- and moderate-income subscriber enrollment?
- d. What consumer protection measures would need to be established in order to implement an opt-out mechanism for community solar?
- e. In what ways could an opt-out model of community solar subscriber enrollment be similar to, and different from, the model currently implemented under Government Energy Aggregation in New Jersey?
- f. Are there examples of other states successfully using an “opt-out” model for community solar? If so, what makes them successful?

CCSA acknowledges the stakeholder interest in the potential of opt-out models, and believes the issue warrants further exploration, but a wholesale shift in direction away from the current opt-in approach is not warranted at this time. CCSA does not believe that the opt-in approach is a barrier to signing up LMI customers, nor that an opt-out model is a singular solution to addressing LMI populations. As noted above, it is CCSA’s view that a simplified verification process will result in strong LMI participation across New Jersey.

There may be advantages to an opt-out approach for certain market segments as an additional method of enrolling subscribers. Some states, such as New York, have been actively exploring the potential of an opt-out model, carefully looking at robust consumer protections, model implementation requirements, and customer engagement. This partnership between community choice aggregation initiatives and community solar developers appears promising in New York. It is our recommendation, we look to this program for the best practices of this model to be considered for the permanent program, but in light of timing considerations, the rollout of PY2 should not be delayed by efforts to implement an opt-out approach.

The goal of community solar is to deploy clean energy and provide bill savings to subscribers, but more broadly, community solar provides a direct connection between a subscriber and clean



energy generation. This connection is key to the Board's ultimate goal of engaging every New Jersey resident in the fight against climate change. In CCSA's view, the goal of community solar programs generally, and certainly in New Jersey, is to empower customers who may otherwise be unable to participate in the clean energy economy and the green revolution.

The benefits of participation therefore go beyond immediate economic factors to overall customer experience. Community solar provides an opportunity to inform and empower subscribers about their energy usage and to take a personal and active role in combating climate change. Particularly for underserved and low income communities, community solar provides an avenue into clean energy that may not otherwise be available. If the majority of subscribers are not aware of their participation in community solar, or have only a limited connection to it, the Board should question whether all of the objectives and possibilities of the Community Solar program are being achieved. In addition, an opt-out approach would seem to rely on consolidated billing. If a customer who has not given explicit consent to sign up for a community solar project starts to receive a separate bill for it, there would likely be significant customer confusion or frustration with the program.

Question 3: How can the Board leverage existing programs (e.g. Comfort Partners, USF, etc.) to facilitate enrollment of LMI customers in community solar?

CCSA respectfully requests the Board to consider community solar as part of the suite of options available to New Jersey residents and should leverage existing programs to educate LMI customers about the benefits of community solar. To the extent that the Board has gathered data on LMI populations in the state from its existing programs, or other insights, it would be beneficial to work with Subscriber Organizations to make that information available to best direct outreach efforts and ensure that all communities and segments of the population are being addressed.

In addition, as noted above, CCSA would encourage the Board to leverage the current program to enhance and make changes for participation with existing LMI programs such as LIHEAP, Comfort Partners, and others. The Comfort Partners program already does important work connecting income-qualified customers with energy services, and we can build upon this platform to engage LMI customers on upcoming opportunities to participate in community solar.

Question 4: How can the Board leverage, or partner with, community organizations or others to facilitate equitable inclusion of community solar subscribers, including education, marketing, and enrollment?

CCSA appreciates the efforts the Board has made to provide education and market community solar to communities in New Jersey. The Board has an important role in providing unbiased and



trustworthy information about the community solar program and should continue its outreach efforts to community organizations and continue serving as a trusted third party.

Experience with energy procurement has made many communities and community organizations skeptical about new programs that purport to offer savings, especially when these programs are aimed at vulnerable populations. Information provided on the BPU website is very helpful and essential as a source of truth and validation. When community organizations understand community solar, they can be powerful messengers to LMI communities about the benefits of participation. CCSA members and the Board should be working together with community organizations to ensure program success.

Question 5:

What are the challenges specific to ensuring that low- and moderate-income households in master-meter buildings can become community solar subscribers?

- a. How common are these type of master metered apartments?
- b. Please describe the feasibility of reforming rates to ensure customers in master metered buildings receive community solar credits equivalent to those of single-family households.
- c. Please address any unintended consequences of this type of rate reform?
- d. What measures should the Board consider to alleviate these challenges?

Detailed data on master metered LMI housing in New Jersey is difficult to uncover from publicly available information. Anecdotally, recently constructed affordable housing usually has individual meters paid by individual tenants. Public housing authorities tend to have an older inventory which has more master meters. In addition, public housing authorities shelter a higher percentage of very low income (e.g., Section 8) tenants who are most in need of the benefits of community solar. In order to better understand the number of LMI customers served by master meters, CCSA encourages the Board to request the four electric distribution companies to provide information on the number of master metered buildings in their service territories and the number of customers served.

The bill credit worksheet recently provided on the BPU website illustrates the difference between the bill credit for a single-family residence compared to the credits received by a master meter which, because of its size, will be on a commercial rate. Currently, the TREC likely provides enough revenue to give a discount to the master metered subscriber and pay for the costs of the system, but in light of the more than double value obtained by selling to non-master-metered residential subscribers, there is an enormous financial disincentive to subscribe master-metered housing authorities. Should the TREC value decrease or be replaced with a successor SREC of lesser value, then it will become even more challenging to serve master metered LMI families.



While major changes will be difficult to implement prior to Year 2, in the context of the permanent program, CCSA recommends that the Board consider revisiting its decision on the value of the bill credit from August 2019 in order to ensure continued participation of master-metered buildings. That decision limited the economic viability of community solar offerings to these users, in particular, through the exclusion of demand charges from the bill credit. CCSA recommends that the Board consider different solutions to ensure LMI customers served by master meters will have the same access and economic benefit available to individually-metered customers. These solutions might include a new rate specifically for master metered LMI properties with a higher proportion of volumetric charges, or changes to the proportion of volumetric and demand charges in the existing rates

Question 6: What additional suggestions do you have to facilitate inclusion of LMI households?

For applicants proposing to serve LMI customers, CCSA also encourages the Board to have these applicants demonstrate prior experience subscribing customers to community solar or demonstrate their plan to subscribe LMI customers. Demonstrating prior experience or a detailed plan adds weight to an application and the commitments that are made in it and provides confidence to the Board that awarded projects will be able to meet the requirement of serving LMI customers. If applicants do not have prior experience, they could provide evidence of a partnership with organizations that do have experience, agreements with affordable housing providers, or a detailed sales and outreach plan, for example. This will ensure that projects are able to succeed in subscribing LMI customers in a respectful manner, and will ensure a positive customer experience.

Program rules direct Board staff to produce a disclosure statement that is, “Intended to provide subscribers with an accurate overview of the subscription contract and shall include a plain-language summary of key provisions from said community solar subscription contract” (14:8-9.10(4)). Line 7 of the disclosure form instructions produced by Board staff states that, “Subscribers must be assigned to a specific community solar project. The ‘System Information’ section must be filled out.” CCSA has found in other states that LMI subscriptions often need more flexibility than this provision allows for. The Board could consider allowing for Subscriber Organizations to include a schedule of BPU-approved projects and corresponding system information, with the final allocation of the customer to one of the projects to be determined and communicated at a later date. This flexibility enables customers to be matched to projects only once timelines are more certain. As a result, customers who sign up earlier can be provided with greater assurance that they will also begin receiving benefits earlier and reduce the probability of project development risks jeopardizing or delaying their benefits.

The Board should also consider allowing consolidated billing as an option for community solar subscriptions. Under optional consolidated billing, the subscriber’s utility bill will include both the



bill credit and subscription fee, which the utility would remit to the subscriber organization and result in the subscriber paying just one bill, as opposed to two. A simplified payment structure can help to serve more LMI customers and reduce the overall costs of serving this segment of subscribers. CCSA would respectfully ask that when considering consolidated billing the structure be anchored in customer experience and cost-effective market measures.

Topic 2: Program Year 1 Application Form and Application Process

For reference, please refer to the PY1 Application Form when responding to questions in Topic 2 specific to the application process.

Question 7: Please provide feedback on the process of submitting an Application. In particular, please discuss:

- a. Length of the application period: should the PY2 application period be longer, shorter, or equal to the 5-month application period in PY1?
- b. Should the Board implement a process for submitting an application via an online application form? If it is not possible to establish an online application process, how can the Board improve the process for submitting a hard copy application?

Project developers are now aware of the community solar pilot and had been anticipating an earlier program opening prior to the COVID disruption in March and April. For Pilot Year 2 to occur in the second year of the program and to ensure projects have certainty with respect to their eligibility for TRECs or the SREC Successor, it is essential to move forward with alacrity. CCSA suggests that the extent of changes, if any, in the application form drive the application window. If there are minimal changes to the application and the scoring rubric, then a 30-day application window is sufficient. If there are significant changes or new requirements included in the application, then a 60-day application window would be more appropriate, provided the Board clarified that Pilot Year 2 projects will be eligible for TRECs.

CCSA recommends the Board take this opportunity to eliminate paper applications entirely. Pilot Year 2 applications should be submitted only in electronic form for health and safety reasons and to reduce paper waste. An elaborate portal is not necessary for a pilot program and applications can be delivered to the BPU as PDF files via services such as DropBox or Egnyte.

Question 8: Please provide feedback on Section A of the PY1 Application Form (Application Form requirements, instructions, terms and conditions). Were the instructions sufficiently clear?

The requirements and instructions were clear and CCSA thanks you for your attention to detail.

Question 9: Please provide feedback on Section B of the PY1 Application Form (community solar project description). In particular, please discuss:

- a. Were certain questions unclear?
- b. Should certain questions in the PY1 Application Form be omitted from the PY2 Application Form? Why would you recommend excluding them?



- c. Should certain questions that were not asked in the PY1 Application Form be included in the PY2 Application Form? What would you recommend, and why?

Generally, Section B of the Application Form was clear. There were a few questions that would have benefited from additional explanation, including:

Section VII

- Question 18. CCSA believes a clear definition of “forested lands” could provide clarity to this question.

- Question 21. CCSA suggests the Board clarify this question to ask how projects are going above and beyond basic site improvement requirements, such as groundwater management plans. Projects should explain what they are doing to demonstrate good site management practices, such as planting pollinator-friendly groundcover.

Section VIII

- Question 4. CCSA’s membership appreciates New Jersey’s efforts to provide useful interconnection capacity maps. Other states, such as New York and California, also provide these types of maps but New Jersey’s grid is unique, with unique challenges, and this is an area where New Jersey has the opportunity to demonstrate leadership in best practices. In other materials provided to the Board, CCSA has noted deficiencies in the capacity maps provided by the EDCs. CCSA suggests these maps could be greatly improved through an interconnection working group process that incorporated industry and Electric Distribution Companies (EDC) input. Currently, the capacity maps do not provide solar developers or the Board with the consistently reliable ability to judge whether a project can be interconnected economically at any particular site. CCSA looks forward to working closely with the BPU staff on establishing an interconnection working group in the permanent program, building upon lessons learned from the pilot.

Section IX

- Question 3. Projects serving LMI communities should have a plan for consistent, respectful customer engagement processes. CCSA recommends that the Board ask applicants to provide an explanation of how they intend to serve LMI communities and award more points as appropriate. For example, every project with a clear commitment to serve LMI customers would receive 10 points, with additional points awarded based on outreach plans that highlight a developer’s previous experience successfully working on projects that serve LMI customers, , existing New Jersey-based relationships, or partnerships with community or subscriber organizations that can demonstrate experience working with LMI communities.

- Question 9. Applicants should demonstrate a basic understanding of their market with detail on the number of potential subscribers, LMI and non-LMI, within the geographic constraints to which they commit. Applicants should also indicate whether there are enough potential subscribers to support their project. For example, the current



application form will not reveal whether a large LMI project in a small township will have enough potential subscribers.

One of the unanticipated consequences of the Year 1 application is that awarding higher points to projects that committed to highly constrained geographies discriminates against LMI families that are not within the limited vicinity of any awarded projects. For example, major cities have the highest proportion of need but the lowest available land area for hosting local solar projects. Expanding the geographic constraints for subscriptions can significantly improve community solar access for income-qualified urban residents without taking away from suburban need. To this end, CCSA suggests that LMI projects be allowed to recruit subscribers across an EDC service territory and automatically receive full points for the constrained geographic commitment category. We believe this is in line with the overarching goal of making community solar more accessible for New Jersey's many LMI residents.

Question 10: Please provide feedback on Section D of the PY1 Application Form (certifications).

The required certifications were clear and reasonable. CCSA thanks you for your attention to detail and clear instructions.

Question 11: Please provide feedback on Appendix A: Product Offering Questionnaire from the PY1 Application Form.

- a. Did this questionnaire accurately reflect the diversity of possible community solar product offerings? Page 6 of 8
- b. Should any changes be made to this questionnaire?

The product offering question reflected the diversity of offerings.

Question 12: Please provide feedback on Appendix B: Required Attachments Checklist from the PY1 Application Form.

- a. Was the Appendix B checklist helpful to completing the Application Form?
- b. Should the Board modify the list of attachments required in PY2?
- c. Are there certain required attachments for which the Board should provide further instructions and/or a standard template?

Appendix B was useful and helpful in completing the Application form. CCSA thanks you for your attention to detail and clear instructions.

Question 13: Please provide feedback on Appendix C: Evaluation Criteria from the PY1 Application Form. In particular, please discuss:

- a. Was Appendix C useful to Applicants in creating their applications?
- b. Should the Board modify the evaluation criteria for PY2? For example, should the Board give more or less weight to certain evaluation criteria in PY2?



- c. Are there criteria that were not considered in PY1 that should be considered in PY2? If yes, how would the Board evaluate, score, and verify these criteria?
- d. Please address whether the Board should consider awarding more potential points for projects proposing to serve more than 51% LMI customers and how such scoring would work.

New Jersey's community solar pilot program has generated tremendous interest on the part of the solar community. The application process used by the Board for choosing community solar projects is unique and, in a highly competitive market, drives outcomes that may yield unexpected consequences. Previously, CCSA have advocated for a 'first come, first served' model for allocating program capacity and CCSA look forward to working with the Board and other industry colleagues to help design an effective and equitable permanent community solar program. In the meantime, CCSA respectfully suggest there are several ways to improve the current application process, including selecting projects with higher levels of development maturity, land-use strategies that support New Jersey agriculture, and thoughtful community outreach plans.

Project maturity is commonly used in utility procurements to assess the development risk of a solar project. For example, interconnection agreements and completed site permits are strong measures of project maturity because they show the project has invested a significant amount of funds for engineering work, consultants, and studies to actually clear essential development hurdles. Completed interconnection studies reveal a more accurate picture of the costs to develop a project and whether the project will be economic. However, New Jersey's EDCs will not accept interconnection applications for community solar projects unless they have already been selected for the program, meaning that selected projects are entering the program with substantial uncertainty around their project costs. Since none of the projects selected for Pilot Year 2 will have completed interconnection studies, it is likely that some projects will fall out of the program as their interconnection studies reveal actual costs of interconnection.

CCSA suggests adding a scoring category that awards projects for achieving project maturity. For non-rooftop projects, maximum project maturity points could be granted based on having received all available permits (i.e., those that do not require a community solar award). For rooftop projects, maximum project maturity points could be granted for projects that have obtained a structural feasibility report from a qualified engineer (and to the extent any structural improvements are necessary, committing to perform the same). In short, CCSA believes that more points should be awarded to projects that have made the investments to achieve the progress that can be achieved prior to a community solar award.

Currently, zero points are awarded to projects that are sited on farmland or undeveloped land. Ground mount projects that are sited on new or existing agricultural land that allow for continued agricultural or horticultural activity in and around the arrays should be awarded points as a preferred site. These are known as dual-use or agrivoltaic projects and, if determined to be preferred siting in Year 2, these projects have great potential to not only help achieve New Jersey's ambitious clean energy goals, but also encourage farm viability and maintain vital



agricultural production. We encourage the BPU to take this step with an eye towards adopting a more robust dual-use element in the permanent program.

One of the most significant learnings from the application process in Pilot Year 1 was that a commitment to LMI is necessary to win a place in the program. However, there was little differentiation in the 30 points available to projects who committed to LMI allocations. Pilot Year 2 presents an opportunity to unpack those points and differentiate projects. CCSA encourages the Board to consider a base score (i.e., 10 points) for projects that commit to LMI, and then consider additional factors to award more points. These factors could include, but need not be limited to, items such as evidence of close coordination with organizations that specialize in LMI community outreach, detailed descriptions of the project sponsor's experience in reaching LMI families, or collaborations with community organizations. Examples of this coordination could be agreements, detailed communication plans, or other evidence that the applicant or subscriber organization can deliver on their commitment to serve LMI families.

CCSA does not support awarding additional points to projects that commit to greater than 51% LMI. Making the additional points available will drive all applicants to maximize their scores and effectively turn the community solar program into a 100% LMI program. There are many non-LMI New Jersey electric customers who would be excluded from any solar opportunity, if the community solar program became exclusively a residential LMI program. These include residents and business owners who rent, have financial barriers- despite not falling under the definition of LMI, or do not have a property suitable to host their own array.

Finally, given the competitive nature of the program and what CCSA expects to be a significant number of Pilot Year 2 applications, the Board should consider a higher degree of transparency in how points are assigned in the evaluation process. For example, stating "Higher Preference" for local jobs and job training is helpful in a directional way, but it would be more effective if the Board were to provide an understanding of what types of programs would be awarded the full 10 points versus a lesser score

Topic 3: Program Year 2 Application Process

Question 14: The PY1 capacity was 75 MW(dc). Pursuant to N.J.A.C. 14:8-9.4(b), the PY2 capacity must be at least 75 MW(dc), but could be more. BPU Staff is considering recommending that the Board increase capacity in PY2 to 100 MW(dc), and to 125 MW(dc) for PY3, with the intention of soliciting annually for 150 MW(dc) in the permanent program. Please comment on this proposed plan.

CCSA appreciates the BPU's commitment to community solar and our shared vision that community solar can provide both direct benefits to New Jersey families who subscribe to community solar projects as well as economic stimulus for their communities. The first year of the pilot program demonstrated the supply-side potential of the community solar program through the number of applications and hundreds of megawatts of proposed projects. CCSA respectfully urges the BPU to take full advantage of the stimulus and savings opportunities available through community solar. Beyond these immediate benefits, community solar



supports the attainment of New Jersey's renewable energy goals in a way that supports and benefits local communities. CCSA recognizes there is an interplay between the transitional incentives, the Pilot Year 2 of the community solar program, and the Board's need to support other sectors of the solar market and we are ready to work collaboratively with the Board and other market participants.

Nonetheless, this is a critical time and it is vital to expand the community solar program significantly to 300 MW per year. Other states with a range of retail electric loads, less experience with solar, and no history of solar leadership have started with larger programs. For example, the New York Sun Program has integrated an uncapped Community Solar Program. Virginia, a newcomer to community solar, is beginning its program with 200 MW of capacity. Even Pennsylvania, a state not currently known for leadership in renewables, is considering an uncapped community solar program.

The COVID economic recession affects everyone in New Jersey and adds to the real human suffering of those who have lost their jobs or become ill from the disease itself. The New Jersey economy needs stimulus; New Jersey's families need jobs and help paying their bills. The community solar pilot is designed to provide valuable learnings—and a clear result from the first year is that the concept works to stimulate the supply of projects which will create jobs and energy bill savings. The second year of the pilot program should test the capacity of the market to bring well-qualified projects to the program.

New Jersey's energy market can support a much larger community solar program and New Jersey's 2019 Energy Master Plan demands a much larger program:

The integrated Energy Plan modeling suggests that New Jersey should install 5.2 GW of solar by 2025, 12.2 GW by 2030 and 17.2 GW by 2035. . . this³ represents installing an average of roughly 950 MW annually from 2020 through 2035.

Community solar has an important role to play in helping to meet New Jersey's clean energy capacity goals. In addition, there are more than 270,000⁴ LIHEAP-eligible, low-income families in the state who would qualify as low- or moderate-income community solar subscribers. There are literally millions more New Jersey electricity users who could potentially benefit from community solar. Pilot Year 2 of the community solar program can support the people of New Jersey at times when they most need the help.

As discussed elsewhere in these comments, the community solar application process selects for certain types of preferred projects and drives some unexpected consequences. The lack of interconnection studies, for example, will lead to some amount of project failure because solar projects will not know their costs of interconnection prior to applying for the program. A percentage of projects will fail when they receive their interconnection studies and discover the costs of interconnecting to the grid cannot be supported by the project's economics. Knowing

³ 2019 New Jersey Energy Master Plan; p.124.

⁴ <https://spotlightonpoverty.org/states/new-jersey/>



that some projects will not achieve commercial operation, the Board should increase the capacity selected for Pilot Year 2 to ensure a higher amount of community solar becomes operational

Finally, municipal governments have demonstrated significant interest in the community solar program and the Board is considering modifications to the program to further accommodate municipal participants. In 2019, these participants or their private sector partners proposed large projects, sited on landfills or other brownfield sites. It is reasonable to expect that municipalities will begin to represent an even larger proportion of the successful applications and municipal entities will likely need more time to bring their projects to commercial operation. In addition, municipal brownfield sites such as landfills face greater challenges in the permitting process, which increases the risk of project failure. As mentioned elsewhere in our comments, structuring a permanent program where projects can reserve capacity when they have acquired all necessary permits and signed their interconnection agreement, the longer timelines and higher permitting risks of municipal landfill projects won't be a disadvantage. Given the current selective, capacity-limited pilot program, CCSA suggests this is yet another reason to increase the program size to 300 MW per year.

Question 15: The 45 applications granted conditional approval in PY1 represented 17 unique applicants. Should the Board consider limiting the number of applications that are submitted by a single developer, or limit the number of applications by a single developer that will be conditionally approved?

CCSA believes the best community solar projects should be selected to serve New Jersey families, not certain companies. CCSA is strongly opposed to developer caps.

Competition is uncomfortable—it forces innovation, squeezes profit margins and requires companies to offer better value to their customers. Setting developer caps effectively apportion a market and almost certainly means that less-qualified, higher-cost projects will be selected over better-qualified projects. Competition is a powerful tool for innovation and cost reduction; limiting participation or creating allocations in a program would limit competition, create a sense of entitlement, and ultimately yield less value for New Jersey.

A highly effective approach to mitigate market concentration is the use of development security and performance deposits, both of which were absent from Pilot Year 1. Typically, utility procurements require successful bidders to post a significant amount of development security once a PPA has been signed. Development and performance security sharply curtail speculative bids and reduce concentration risks. The risk of losing a security deposit inspires applicants to be thoughtful about their project, rather than simply optimizing application responses in pursuit of the most points. For Pilot Year 2, it would be reasonable to require selected projects to post \$50 per kW within 30 days of being selected into the program, using cash, surety bonds or letters of credit. A thirty-day posting window is much longer than the typical 5 business days and would allow nonprofits, governments, and small community organizations adequate time to secure financing. Because projects are selected into the Pilot Program without interconnection studies or completed permits, development security should be



refundable under three circumstances: 1) when a project reaches commercial operation; or 2) the project receives an interconnection study that makes the project uneconomic and withdraws; or 3) the project is unable to obtain required, non-ministerial permits within one year of selection into the Pilot Program and withdraws.

Question 16: For ground-mount projects, please provide feedback on the DEP Permit Coordination checklist process.

DEP's Permit Coordination Process is robust and thorough. It should be noted in the Board's application process that DEP will waive in-person meetings with the Applicant if they are confident the Applicant understands the process and requirements provided by DEP.

As noted elsewhere in these comments, DEP's PV Siting Tool is a useful resource for evaluating potential solar sites. However, the tool is somewhat static and not frequently updated which means that sites that were mislabeled or have been disturbed or degraded since the last survey are not accurately labeled.

Question 17: The PY1 Application Form made certain sections optional for government entities. Did this facilitate applications by government entities? Should the Board consider a fully separate carve-out and application process for government entities?

Government entities face special challenges and the Board recognized that by providing supportive accommodations in the selection criteria for Pilot Year 1. During the Pilot Program, creating a separate carve-out and application process is not necessary. As CCSA have suggested elsewhere in these comments, a separate carve-out or application process isn't necessary in the context of the permanent program. If the Board decides to sequester a portion of the Pilot Program capacity for municipal applicants, then it should increase the capacity of the program accordingly and clarify that any unclaimed capacity reverts back to the main program in order to ensure the program meets its goals and deserving community solar subscribers are not deprived of the opportunity to participate. This step enables the program to meet its capacity goals and therefore provide the greatest opportunity for community solar subscribers to participate, setting the permanent program up for positive reception and success.

Topic 4: Other

Question 18: Should the Board consider amending the Pilot Program rules to require that community solar subscriptions guarantee savings compared to the subscriber's electric bill without community solar, as an added consumer protection measure, particularly given that all awarded projects already committed to doing so in the PY1 applications?

Respectfully, CCSA suggests the Board has answered its own question by noting that discounts are already provided, and therefore a requirement is not necessary. The community solar model predominantly works to attract subscribers by providing savings on their electric bills. The fact that all projects committed to providing some sort of savings illustrates the benefits of a large, competitive, market-driven program and reflects applicants' expectations that they will



need to compete on savings in order to attract subscribers. Though this competition is good for subscribers and CCSA encourages advocacy to support guaranteed savings, they should not be required. Subscribers can very well opt to join a community solar project for the sustainability and environmental justice benefits even if there are no savings involved, much like subscribers can already choose a renewables-focused supply company even if the cost is the same or higher than their existing rate.

Furthermore, setting a minimum savings guarantee would require the Board to undertake a significant amount of economic modeling—a sort of mini rate case—to understand individual project economics and determine the proper amount of savings per project. The economics of a 5 MW ground-mounted solar project tend to be very different from that of rooftop or parking canopy systems and different yet again from the economics of a landfill project.

Instead of focusing on calculating a minimum savings guarantee, we encourage the Board to put their time and effort into alleviating the larger sources of uncertainty that developers currently face, the most important of which is the value of renewable energy credits. Without knowing whether Pilot Year 2 projects will be eligible for Transitional RECs or an undefined successor REC, project developers will make conservative assumptions about the level of discounts they can offer to subscribers. Providing certainty that Pilot Year 2 projects will be eligible for TRECs and focusing efforts on establishing a successor program would be the most effective way to provide clarity on the economics of community solar projects that developers need in order to offer greater savings to their subscribers.

Question 19: Should the Board consider amending the construction timelines and extension policies at N.J.A.C. 14:8-9.3(c)? If yes, how? Currently, applicants have 6 months to start construction, and 12 months to become fully operational, with an unlimited number of possible extensions (so long as projects can demonstrate continued progress). Excerpts of the relevant section of the rules are provided in Appendix 1 below.

The timeline should reflect the realities of the solar development process in NJ and the community solar process more specifically. Unlike typical solar projects, community solar projects can't file for interconnection prior to award. Interconnection uncertainty along with other development requirements related to subscription and permitting necessitate longer timelines for construction and commercial operation. Short timelines and unlimited extensions will only serve to create extra administrative burden on both the Board and developers. Per the above, CCSA recommends that all projects have 18 months to reach operation with the option for an extension. Further extensions could be provided for projects that demonstrate either significant hardship or significant progress.

Per the above, CCSA recommends that for the pilot program, all projects have 18 months to reach operation with the option for a 12-month extension. Further extensions could be provided for projects that demonstrate either significant hardship or significant progress.



Other options can be considered to force unviable projects to release their capacity, such as milestone payments (like in NY) or deposits tied to extensions (like in MD); however, CCSA recommends these for consideration in the permanent program rather than in the pilot program.

Question 20: Should the Board consider restricting the 10-subscriber minimum exemption at N.J.A.C. 14:8-9.6(d) to only buildings that serve low- and moderate-income residents? Currently, the exemption applies to all multi-family buildings which have a community solar system located on-site. Excerpts of the relevant section of the rules are provided in Appendix 1 below.

CCSA does not recommend any changes to this exemption. Community solar should be available to every New Jersey ratepayer, even those in small, multi-tenant buildings. New Jersey has laudable goals aimed at increasing LMI participation in the pilot program, but this does not need to come at the expense of non-LMI residents who make up a large percentage of the overall population. In order to achieve the aggressive renewable energy targets that New Jersey has set, the BPU must take an all of the above approach and not create additional barriers to participation for any market segments.

Question 21: How is the Pilot Program impacted by the ongoing transition in solar incentives from the Transition Incentive Program to the Successor Program?

The solar incentive, and the transition from the TREC to the successor program have a profound impact on every aspect of the community solar program. The impacts stretch from who will be able to participate in the program (e.g., master-metered LMI who receive a much smaller bill credit) to the discounts projects provide their subscribers, to the site lease rates and project finance costs.

The uncertainty involved in this transition prevents investment, limits subscriber savings, and generally slows down development. For these reasons, CCSA strongly recommends that PY2 remain on the TREC in order to ensure maximum market participation and to ensure that PY2 delivers the savings and stimulus New Jersey families need.

Looking forward, the successor program marks an important new phase for New Jersey solar and a natural transition point to the permanent community solar program. The Board has the opportunity to reconsider and replace many aspects of the pilot program (e.g., rates for master metered buildings) in order to increase efficiency and maximize impact of the permanent program. CCSA recognizes the timing concern when it comes to the permanent program. It is important to take the necessary time to gather sufficient stakeholder input, but it is equally critical that the Board continues to move the ball forward in order for New Jersey to capitalize on the investment potential and environmental benefits of community solar. CCSA believes there is a path forward towards aligning the permanent program with the successor program and would point to the Board's approach to the TREC program, which proceeded with rulemaking and commentary after it was established, as a model. The same can be done with the permanent community solar program and we encourage the Board to begin that process promptly. There is a robust group of stakeholders ready and willing to engage on this topic and



CCSA recommends the Board lean on us in order to establish the permanent program in a timely fashion, align it with the successor program, and resolve the uncertainty that is currently acting as a break on robust solar development in New Jersey.

Question 22: A number of resources are available to prospective community solar applicants, including a Frequently Asked Questions page, EDC hosting capacity maps, and the Department of Environmental Protection Community Solar PV Siting Tool.

- a. What other resources do you believe the Board should provide to facilitate community solar development in New Jersey?
- b. Should the Board provide technical assistance grants for the development of community solar projects? If yes, to whom and under what conditions?

CCSA appreciates the resources the Board has provided and supports their continued use. The experience of Pilot Year 1, however, provides ample evidence that these important tools can be made much more useful and effective.

The interconnection hosting maps have the potential to become useful, but they require significant improvement. Currently, the maps cannot be trusted to provide accurate distribution substation and circuit-level data that would allow for confident project siting. It is also essential that these maps are updated on a consistent basis so that the data is as current as possible. Going forward, it will be important to establish consistent assumptions between the utilities and to clearly communicate those assumptions to solar developers. To that end, CCSA recommends the Board establish an interconnection working group with industry participation for the permanent program. CCSA member companies rely on interconnection maps in other states and CCSA is confident a working group can make the current interconnection maps much more useful by the time the permanent program is implemented. In the meantime, the Board can compensate for expected project failures by increasing the program capacity and recycling the capacity from projects that drop out.

While DEP's siting tool was useful, CCSA member companies identified some issues in the Project Year 1 process. DEP's maps are updated on a multi-year schedule leaving room for inaccuracies in 'preferred and 'not preferred' classifications. As the Board moves forward toward the permanent program and a broader solar strategy for New Jersey, it will be essential to resolve issues around land use and allow ground mounted systems to be deployed on a much wider scale to support New Jersey's renewable energy goals.

CCSA does not oppose the idea of technical assistance grants but questions how these would affect a program which is heavily focused on staying under the cost cap and keeping costs down for ratepayers. A potentially more cost-effective way for the Board to provide assistance for municipalities or organizations looking to engage in the community solar program would be to maintain a database of developers whom they can connect to for help and further information. If technical assistance grants are needed for specific infrastructure upgrades that are necessary to proceed with approved projects (such as replacing roofs or upgrading electrical infrastructure), we support the Board providing them to eligible entities.



Question 23: How can Staff otherwise support community solar developers and subscribers to ensure success?

We appreciate the Board and especially the hard work that Staff is doing to make the program a success. More than anything else, we recommend that Staff reach out to us more! As mentioned in an earlier comment, there is a diverse and robust group of stakeholders eager to engage and help move New Jersey community solar efforts forward, so please rely on our expertise to help design the most efficient program possible. Further in that regard, we recommend that Staff conduct more sit-down meetings and/or working group sessions in order to foster more vigorous discussion which is much more difficult to have during stakeholder comment sessions.

Question 24: Please provide comments on issues associated with the Pilot Program not specifically addressed in the questions above.

There are three topics that CCSA would like to use this section to address or flush out previous topics that only touched on in other sections.

1. Ground Mount Solar:

As mentioned in Topic 2, question 13, CCSA respectfully encourages the Board to lay the groundwork now for a constructive discussion on land use in Pilot Year 2 and the permanent program. CCSA applauds New Jersey in the establishment of impressive clean energy goals and the Board's strong commitments to achieve them. Furthermore, CCSA thanks the Board and its staff for highlighting community solar as a key to achieving them.

In recognition of the dense population of New Jersey and the state's commitment to conservation, CCSA and our members are committed to developing ground mounted projects in a manner that will compliment that state commitment. Based on the targets set forth in the EMP, ground mounted solar projects will be required to achieve these goals. In the spirit of accomplishing the state's conservation commitments, the ambitious clean energy goals, and responsible buildout of the Community Solar Program, we urge the Board to begin to incorporate dual-use and other beneficial ground mounted projects as a preferred siting category in the scoring rubric. The Board could consider awarding points to projects that are dual-use on new or existing farmland for Pilot Year 2 and beneficial ground mounted projects on marginalized agricultural land in the permanent program. CCSA would encourage the Board to consider the ecological benefits including, but not limited to, native and pollinator attracting plantings, carbon sequestration, water retention, reduction in use of fertilizers and pesticides, water use and stormwater runoff reduction, deer protection fencing, and promoting biodiversity.

CCSA's experience in other markets such as Massachusetts and New York, solar generation sited on marginal farmland can provide much-needed revenue for landowners and farmers to continue farming on other land, passing agricultural land on to future generations. It is an industry best practice to ensure all ground mounted projects are built to be removed at the end of life and are often required to leave the soil and site ecologically the same, or better, prior to



construction. Furthermore, it has become clear that ground mounted solar is a great way to improve land quality and preserve open space.

2. Capacity Recycling:

The Board has previously indicated that capacity from PY1 projects that fail to move forward will not be recycled. CCSA believes this is a mistake and urges the Board to either create a waitlist or award capacity on a rolling basis as it becomes available. Capacity from a previous year can be added to capacity allocations in subsequent years. Given that the overall program is already capacity constrained, the success of the program will hinge upon the ability to implement the full capacity of community solar allotted in each program year. . New Jersey has ambitious, clean energy goals, and capacity recycling will contribute towards their timely achievement.

3. COVID-19:

There is no doubt that COVID-19 has created additional hardships and delays in the entire development process. It is harder to meet with local officials, business owners and landowners to originate projects, it is harder to coordinate with community groups and environmental justice organizations on development opportunities, it is harder to permit projects with local agencies, and it is harder to outreach with the community and sign up subscribers. All of this adds further uncertainty to an already uncertain program. While we recognize that the Board and Staff cannot alleviate issues related to COVID, this is a strong opportunity for the Board to alleviate the other uncertainties within the program which are under their control. To that end, we again request that the Board allow for PY2 projects to qualify under the TREC program, begin the process to establish the permanent community solar program and ensure its alignment with the successor REC program, and remove barriers to efficient solar development which will boost the ability for community solar to provide the much needed post COVID-19 economic development and investment that will benefit all of New Jersey.



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August 10, 2020

State of New Jersey
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, New Jersey 08625-0350

RE: Comments on New Jersey Community Solar Energy Pilot Program

Dear Commissioners,

Ameresco hereby submits comments New Jersey Board of Public Utilities (“BPU or Board”) “Request for Comments and Stakeholder Meeting Notice (“Notice) on the New Jersey Community Solar Energy Pilot Program issued on July 9, 2020. Thank you for the opportunity to file comments.

Ameresco is a renewable energy developer based in the Northeast with over 368 MW of solar projects completed and in construction across North America, including several projects in New Jersey. We develop solar projects with a range of customers including commercial, utilities, Federal, State and Local governments, as well as community solar projects. We are interested in commenting on this program in effort to better address the challenges of low to moderate income (LMI) offtake and access in these programs.

Comments on Questions

Question 1: How can the Board ease the process by which developers validate LMI status when enrolling subscribers?

We recommend that New Jersey adopt a process by which developers can either partner with Municipal Aggregators and cities and towns to manage the subscription of LMI offtakers, as they are better apt to handle this task and often have access to the lists of LMI ratepayers, or alternatively work with the electric distribution companies (EDCs) to export the power and pass the discount bill credit to the LMI offtaker; the EDC can also manage the subscriptions through opt-in or opt-out to the LMI offtakers. This proposal would also de-risk the LMI offtake for developers, which will reduce overall costs and allow for a larger bill savings to the LMI offtakers. Please see the Low Income Community Shared Solar ([LICSS](#)) proposal under the MA SMART Program or the CT Shared Clean Energy Facility ([SCEF](#)) program for best practice to successfully subscribe LMI offtake and solve many of the access barriers for LMI offtake for clean energy. These two state programs have addressed the two biggest barriers to LMI community shared solar: financing solar that has LMI off-takers and finding LMI subscribers (whose qualified income status as LMI can change overtime). By enabling solar developers to instead pass a portion of the solar incentive to Municipal Aggregators and/or EDCs, who can then distribute the discount to their LMI customers directly on their electricity bills, these barriers are addressed. We are happy to provide further information to the BPU on these programs if interested.

Question 5: What are the challenges specific to ensuring that low- and moderate-income households in master-meter buildings can become community solar subscribers?.

d) What measures should the Board consider to alleviate these challenges?

See Q1; These issues can be alleviated by working with municipal aggregators and host Public Entities that can allocate bill credits to these buildings' subscribers or working directly with EDCs to offer bill savings to LMI ratepayers.

Topic 3: Program Year 2 Application Process

Question 14: The PY1 capacity was 75 MW(dc). Pursuant to N.J.A.C. 14:8-9.4(b), the PY2 capacity must be at least 75 MW(dc), but could be more. Staff is considering recommending that the Board increase capacity in PY2 to 100 MW(dc), and to 125 MW(dc) for PY3, with the intention of soliciting annually for 150 MW(dc) in the permanent program. Please comment on this proposed plan.

We recommend expanding the procurement to 150 MW per year or more based on the number of qualified applicants in the past – if the program procures a larger capacity, this gives developers more certainty to develop sites to bid in. We also recommend that the New Jersey BPU transitions this PILOT program into a permanent program to give certainty to developers to invest in solar development in the State of New Jersey.

Question 15: The 45 applications granted conditional approval in PY1 represented 17 unique applicants. Should the Board consider limiting the number of applications that are submitted by a single developer, or limit the number of applications by a single developer that will be conditionally approved?

We recommend limiting the number of unique applications per developer to 2-3 projects per developer to allow for a greater diversity in applicants, offtakers and locations across the State of New Jersey to participate in the program

Question 17: The PY1 Application Form made certain sections optional for government entities. Did this facilitate applications by government entities? Should the Board consider a fully separate carve-out and application process for government entities?

As government entities are required to go through procurements to develop solar, this adds longer timelines to award a project to a developer before this project can be ready to bid into the community solar program; this puts a government entity at a disadvantage in the community solar procurement. Therefore, we recommend adding additional capacity for a carve out specifically for government entities. Additionally, we recommend that government entities act as hosts and subscriber organizations for LMI offtakers through a municipal aggregator for instance (see Question 1 and MA SMART LICSS for example).

Additional comments on siting preferences:

We recommend that you consider other types of previously developed sites for preferred siting, including industrial sites such as inactive quarries or sand and gravel pits. This will allow a greater diversity of sites, in addition to greenfields and agricultural dual use.

Thank you for your consideration of these comments. Please don't hesitate to contact us with any questions.

Sincerely,



Kathryn Chelminski
Senior Manager, New Market Development
kchelminski@ameresco.com



New Jersey Community Solar Energy Pilot Program
BPU Docket No. QO18060646

Additional Comment from Gabel Associates in response to the BPU Notice of July 9, 2020

Dear Secretary Camacho-Welch:

Please accept this additional comment, which was inadvertently left out of the comments filed by Gabel Associates on August 9, 2020. My sincere apologies for the late submittal.

Question 13: Please provide feedback on Appendix C: Evaluation Criteria from the PY1 Application Form. In particular, please discuss:

- c) Are there criteria that were not considered in PY1 that should be considered in PY2? If yes, how would the Board evaluate, score, and verify these criteria?**

Response: The Board should add de-commissioned mining sites to the preferred siting evaluation criteria and score Applications accordingly. Just as landfills/brownfields are considered unique, so is the opportunity to bring useful-ness back to mining sites that are currently wasted space. A major benefit of siting on former mining operation is the location is already zoned for industrial use and have existing interconnection and electrical infrastructure. Furthermore, former mining sites are mainly located in rural South Jersey – offering the opportunity to bring Community Solar to the rural LMI without imposing on preserved lands, wetlands, forested areas, farmland. Or other open space. In sum, the application should 1) recognize the category of mining sites and 2) award them materially higher “preference” points.

Thank you for your consideration.

Sincerely,

Belle Gabel, Associate

Gabel Associates

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New Jersey Community Solar Energy Pilot Program
BPU Docket No. QO18060646
Comments from Gabel Associates in response to the BPU Notice of July 9, 2020

Dear Secretary Camacho-Welch:

The purpose of this letter is to provide comments from Gabel Associates on the above matter pursuant to the BPU's notice of July 9, 2020.

Gabel Associates appreciates the opportunity to provide these comments, and greatly appreciates the care with which BPU staff has engaged with parties on this matter. Gabel Associates is a New Jersey based energy consulting firm located in Highland Park New Jersey. We have a deep interest in developing community solar projects for LMI customers and want to help New Jersey establish itself as a national leader on LMI-based projects.

We have extensive experience and understanding of the various issues that affect community solar, including:

- Wide experience in developing energy aggregation programs in New Jersey, including over twenty years of administering the energy aggregation program of the New Jersey School Boards Association (the largest aggregation program in New Jersey), and operating aggregation programs for more than 200 municipalities as well as several counties and sewage authorities.
- Experience in developing community energy aggregation programs under the BPU's Government Energy Aggregation (GEA) regulations for more than twenty programs including the first in New Jersey (the Plumsted Program); as well as renewable GEA programs for numerous municipalities.
- Forty years of experience in utility ratemaking in New Jersey.
- Direct involvement in solar policy in New Jersey since the passage of EDECA in 1999.
- Extensive work at PJM including interconnection and market design issues.
- Support for development of over 250 solar projects in New Jersey.

We are endeavoring to put this expertise to use to help the BPU develop a nation-leading community solar program focused on Low- and Moderate-Income Customer (LMI) participation.

Introduction

Throughout these comments we refer to the "Municipal LMI Approach"; this is an alternate structure to Community Solar whereby:

1. The Applicant is a municipality or public entity;
2. The community solar developer and site will be selected by the Applicant via RFP, after being awarded a position by the Board into the Community Solar Program;
3. The project serves 100% LMI customers; and
4. The subscribers are enrolled on an opt-out basis.



This unique and innovative model harnesses a municipality's commitment to its community by using a program structure that is "customer-centric", with a host of engagement, communication, procurement, contractual, technical, and economic elements and protections. By having the municipality take on responsibility for leading the project, the BPU can be assured that participating customers are well-served and their interests are fully represented and protected.

The Municipal LMI Approach will serve as a model for the BPU to use in the Round 2 and future pilot solicitations and in designing the permanent Community Solar Program as it moves beyond the pilot phase.

Importantly, the municipality, as the project lead, has established "peer-to-peer" relationships with institutions and groups in the community that foster trust and can assure project success. These established relationships with community based not-for-profit organizations, including housing groups, will be an asset with respect to customer outreach.

An important and key design element of the Municipal LMI Approach is that rather than designate a solar project in the application, the municipal applicant will use a competitive procurement process to select a solar project and developer in their utility territory that best meets the needs of its residents - including extensive outreach to both the municipality where the solar project will be located and the subscribers' community. The rigorous and tested protections under public contract law will allow the municipality to designate the solar vendor who offers the best comprehensive terms and pricing for its participating customers based on a careful review of all economic and technical factors.

The Municipal LMI Approach includes strong customer protections, based on the BPU's success in administering GEA Programs, which provide revenue stability to the solar vendors offering to provide service, so that solar pricing does not contain significant risk premiums that would unnecessarily increase the solar energy price paid by customers. Cost effective projects are of increasing importance as the state is in the process of transitioning the solar market to deliver solar at a lower cost to reduce the burden on ratepayers.

Under the Municipal LMI Approach, both master-metered and individually metered LMI customer are included; this is achieved through utilizing an opt-out method of participation for the individually metered LMI customers - through the BPU's granting of a waiver - and separately reaching master metered LMI customers. This dual approach will provide benefits to both types of metered customers in the affordable housing communities: individually metered customers will realize direct savings on their energy bills, while the master metered customers will realize tangible benefits through the savings realized by the affordable housing provider. By addressing both types of customers, the Municipal LMI Approach achieves an all-inclusive system to comprehensively reach LMI residents - one that does not discriminate based on their housing situation, and serves as an excellent pilot opportunity for the BPU to review both approaches as it builds a long term Community Solar Program.

With that context, please see the specific comments to the questions posed in the BPU's Notice of July 9, 2020 below.

Question 1.a : Should the Board consider amending the current rules regarding LMI subscriber verification, as defined at N.J.A.C. 14:8-9.8? If yes, how? For reference, please see Appendix 1 for selected excerpts of the relevant section of the rules.

Response: The Board does not need to change the provisions of N.J.A.C. 14:8-9.8, but rather should accept waivers to its rule to allow for the Opt-out mechanism to enroll LMI subscribers. Such a waiver should only be allowed for **100% LMI projects led by a municipality**, since the need for the opt-out mechanism is based on the difficulty of enrolling LMI subscribers, exclusively. The opt-out option (which, as a waiver, can be evaluated by Staff on a case-by-case basis) addresses LMI subscriber verification by accessing lists of LMI customers in municipal programs. Municipal staff knows who these customers are and how to access and communicate with them. Since these residents have already been “vetted” as LMI by their participation in financial assistance programs, the Community Solar Administrator can avoid the unnecessary, burdensome, and costly process of verifying customers as LMI one-by-one.

Question 1. b: Please include a discussion of the following verification metrics, with examples from other states where applicable:

- a. LMI income affidavit;**
- b. verification by census tract; and**
- c. other means of encouraging and supporting LMI community solar participation.**

Response: While the opt-out mechanism allows easy and successful customer aggregation, it is paired with the following provisions to encourage and support the LMI Community’s participation in Community Solar:

- Notice to designated customers that they can opt-out at any time during the program with no penalties. (Notice will only be provided to potential participants identified by the municipality or through existing public assistance organizations and municipal services, not to every customer). This limited notice is intended to prevent customer confusion, effectively manage customer relationships, and limit the active subscribers to correlate with solar project capacity.;
- A letter to each designated customer explaining the program and advising them of their opt-out and other rights;
- Customer and constituent support, including the development of educational and marketing materials as well as holding public informational sessions at community meetings;
- Development of a website (or a dedicated page on the municipality’s website) through which the public can obtain further information regarding the program;
- A dedicated toll-free number to facilitate customer questions or opt-out requests;
- Assignment of a designated staff person in the municipal building to address any issues;
- A solar contract that is publicly procured and managed by the applicant, and not by a private vendor, with strong customer protections.

The Board should grant waivers to the opt-in requirement (N.J.A.C. 14:8-9.10(b)) if the applicant serves 100% LMI customers and commits to the above considerations.



Question 2.c: What would be the advantages and risks of implementing opt-out for community solar? Is an opt-out model the best approach to facilitating low- and moderate-income subscriber enrollment?

Response: An “opt-out” approach is needed to secure the LMI customer base because the alternative, the opt-in approach, creates several highly restrictive “roadblocks” to LMI community participation and will limit the BPU from creating a program that can reach all types of LMI customers (especially individually-metered customers).

We urge the Board to consider how their current position of denying the use of the opt-out process will be practiced: an LMI customer will be required to provide wet or electronic signature, an approach that requires a highly intensive (and expensive) marketing and sales effort. Enrolling *non-LMI* customers on an opt-in basis is extremely daunting; for example, after twenty years of extensive retail marketing, less than 40% of residential customers have switched to third-party supply. The prospect of engaging and enrolling *LMI* customers on an opt-in basis will be even more difficult. The requirements to enroll customers are unreasonably demanding of the customer. Requiring a wet signature or e-signature will stunt participation and be extremely detrimental and counter-productive to the Governor’s goal to provide Community Solar benefits to LMI customers. It is also a cost that ratepayers can avoid by using a much more efficient method – the opt-out method, with all of the appropriate and proven consumer protections, to enroll customers.

Using the opt-out model for the LMI community (1) provides much greater assurance that adequate customer load will be purchasing solar energy over the term of the Community Solar power purchase agreement since customers are aggregated as opposed to gathered one-by-one; and (2) the municipality leading the Community Solar Project already has knowledge and a relationship within their own LMI community allowing for easy identification of LMI customers to be included in the program. Accordingly, the BPU should permit waivers from its rule to allow opt-out in its round 2 application process for projects serving 100% LMI customers.

The BPU should have confidence in the opt-out mechanism as it has witnessed its success in the GEA Program. In fact, it is fair to say there would be no GEA Program (with millions of dollars of savings to customers) without the opt-out mechanism. Gabel hopes to replicate the success of GEA within the Community Solar program.

Question 2.d: What consumer protection measures would need to be established in order to implement an opt-out mechanism for community solar?

Response: To apply the opt-out mechanism to Community Solar, the same consumer protection measures used in GEA programs (N.J.A.C. 14:4-6.) will be utilized, as these measures have already been proven sufficient by the success of GEA. This would include the mandatory 30-day opt-out period. Consistent with BPU rules, a mailer can be sent out to every eligible household, notifying households of the program, the terms of the awarded contract, and instructions for opting out should they choose to do so. After the 30-day period has ended, a household may still opt out at any time, without penalty. Furthermore, the procurement process for a developer will be fully aligned with Department of



Community Affairs (DCA) Guidelines. All aspects of opt-out in Municipal LMI Approach to Community Solar are based on existing statutes. Finally, extensive customer education and outreach will occur as described in the answer to Question 1.b provided above.

Question 2.e: In what ways could an opt-out model of community solar subscriber enrollment be similar to, and different from, the model currently implemented under Government Energy Aggregation in New Jersey?

Response: As the Board’s GEA program design has been demonstrated in the success of a multitude of programs throughout New Jersey, an opt-out program operated by a municipality can simultaneously protect customers, achieve strong pricing, and demonstrate savings and reduce customer sign-up cost. By using the same BPU-approved structure and protections of the GEA program to conduct an opt-out mechanism, Community Solar can effectively reach the LMI community.

Question 2.f: Are there examples of other states successfully using an “opt-out” model for community solar? If so, what makes them successful?

Response: Utilizing opt-out for a Community Solar program has been successful within the State Of New York Public Service Commission’s “Community Distributed Generation” Program (CDG). (CDG is New York State’s name for Community Solar.) On March 16, 2018, the State Of New York Public Service Commission (NYPSC) approved a series of filings to establish Community Choice Aggregation (CCA) – New York State’s equivalent to New Jersey’s GEA Program – which included the integration of the CDG Program¹.

As part of the filing, Joule submitted a Community Choice Aggregation Master Implementation Plan. Within this document, Joule explains the value of the opt-out method in relation to energy aggregation and community solar; this reasoning – which was accepted by NY PSC – stands true to the Municipal LMI Approach as well: “CCA ensures that low to moderate income (LMI) residents have equal access to savings from renewable energy programs. As a statewide program, Community Distributed Generation was established explicitly to ensure equitable access to renewable energy. Unfortunately, due to onerous credit checks, risk of non-payment for LMI customers is often deemed too high to include LMI consumers in CDG project membership.”

Clearly this method has proven successful, as Joule's local solar programs to utility customers in the two regions where CCA programs were launched in 2019 have resulted in communities raising funds for additional sustainability-focused projects, of their own choosing, in their own communities.

Region / Local Utility	Program Sponsor(s)	# of Community Solar Subscribers	\$\$ Raised for Community Sustainability Projects	
Hudson Valley	City of Beacon	183	\$9,150	
	Village of Cold Spring	41	\$2,050	

¹ Note: Joule’s approach differs from the Municipal LMI Approach but is comparable as far as it uses the energy aggregation opt-out mechanism as applied to community solar.



	Town of Fishkill	2	\$100	
	Town of Marbletown	117	\$5,850	
	Town of Philipstown	130	\$6,500	
	City of Poughkeepsie	19	<u>\$950</u>	
			\$25,700	
Geneva Community Power	Town of Geneva	~400	\$25,000	

Furthermore, in order to maximize the benefits of each program, Joule expects to offer community solar in the following communities, where the company is rolling out new CCA to new communities and/or launching new CCA programs in 2020.

Aggregation	Participating Communities	Size (in # of HHs)
Gateway Community Power	Village of Victor	1,000
Hudson Valley Community Power	Town of New Paltz Village of New Paltz Town of Red Hook	6,500
Monroe Community Power	Town of Brighton Town of Irondequoit Town of Pittsford Village of Pittsford	60,000
Rockland Community Power	Town of Clarkstown Village of Haverstraw Town of Orangetown Village of Nyack Village of South Nyack Village of Upper Nyack	55,000
TBD—Hudson Valley	Town of Clinton	1,500
TBD – Long Island	Town of Southampton	40,000
TBD—Rochester Area	Village of Brockport Village of Lima	3,250

Question 4: How can the Board leverage, or partner with, community organizations or others to facilitate equitable inclusion of community solar subscribers, including education, marketing, and enrollment?

Response: The Board can leverage community organizations to facilitate LMI Community Solar subscribers by awarding participation in the Community Solar Program with an increased emphasis on the relationship between the Applicant and local community organizations during Staff’s evaluation of applications. This would encourage all applicants to establish a strong relationship with the local community, which would hold the applicant accountable to act within the interests of the community.

Furthermore, the unique relationship between a municipal applicant, the community organizations which fall under the municipalities’ authority (e.g. public community centers, recreation centers, residents’ associations within public affordable housing communities, etc.), and the LMI customers should warrant



the highest point value for “Community Engagement” evaluation. This is appropriate as these government-run community organizations are under the purview of the municipal applicant, ensuring seamless exchange of information, shared values, and established access/trust with the LMI community.

This deep, natural relationship between a municipal applicant and community organizations makes education and marketing to the members of the LMI community a cinch.

Question 5.a: What are the challenges specific to ensuring that low- and moderate-income households in master-meter buildings can become community solar subscribers? How common are these types of master metered apartments?

Response: Gabel Associates does not have specific data on the number of these apartments. However, the BPU restricted development of master-metered apartments in the 1980s as the result of one of the requirements of the Public Utility Regulatory Policies Act (PURPA), a federal law enacted in 1978 to promote more energy efficiency in the United States. One of PURPA’s standards required states to consider policies relative to master metered apartments. As a result, for the last four decades, New Jersey’s housing stock has been developed around individually metered apartments with limitations on permitting master meters in new residential multi-family buildings². Nonetheless, there are many apartments and public housing facilities that contain master-metered apartments.

Question 5.b: Please describe the feasibility of reforming rates to ensure customers in master metered buildings receive community solar credits equivalent to those of single-family households.

Response: Most commercial customers (not only master metered apartment complexes) have demand charges and capacity charges. These charges enable utilities and suppliers to recover their “peak related” costs. In on-site solar projects these charges cannot usually be fully avoided as the pattern of solar energy production is such that KW demand by the customer on the grid is not fully eliminated by the production of the solar project. It is our experience that usually between 20-30% of demand charge and 40-60% of capacity obligations can be avoided by an on-site solar project. Changing these rate schedules would have significant unintended impacts to utilities and other non-participating customers and would require a significant level of cost-of-service analysis. Instead of undertaking the highly complicated and likely contentious process of determining relief from demand and capacity charges to make the economics of community solar work for master-metered customers, then determining who pays these costs,, Gabel Associates recommends a much simpler alternative approach: simply increase the multiplier applied to the project’s TRECs (or Successor RECs, as applicable) to a level which is appropriate to address the financial impact of the low energy based solar credit. By setting a reasonable level for the multiplier for low income master metered housing complexes the BPU can more directly and efficiently address the impact of this low bill credit, without having to interfere with utility cost of service, tariffs, and cost recovery.

Question 5.c: Please address any unintended consequences of this type of rate reform?

² Note: this issue was shepherded and developed for more than four decades at the BPU by the late, great BPU regulatory officer, Ed Beslow, RIP.

Response: See response to Question 5.b above.

Question 5.d: What measures should the Board consider to alleviate these challenges?

Response: This issue is fully addressed in the above response to Question 5.b. As an alternative to undertaking the substantial rate reform effort that would be required to rework utility tariffs and cost recovery, the BPU should simply increase the TREC (and Successor REC) for master metered LMI housing to address this concern.

Question 6: What additional suggestions do you have to facilitate inclusion of LMI households?

Response: BGS Consolidated billing must be made available to Community Solar Projects that have 100% LMI customers. This approach will address a significant gap in the BPU's current policy of billing customers on a separate bill since this current approach will not allow community solar to serve LMI customers beyond master metered facilities with multiple customers. The largest set of LMI customers, those in apartments and homes on their own meter will not have community solar access under the current paradigm. By extending BGS Consolidated billing, a highly developed and successful program which the BPU provides to BGS suppliers, these customers will be able to access community solar.

This issue goes to the heart of building a successful LMI community solar program. Without addressing this key billing and payment issue, Community Solar to LMI customers cannot move forward in a significant and comprehensive manner, as credit and payment risks will cause solar providers to avoid or limit individually metered LMI customer participation. This complex issue is explained further in the three sub-sections below:

1) The BPU's current policy requires community solar providers to render a separate bill to LMI customers. This has the following deficiencies which, taken together, means that serving LMI customers will be very difficult and limited:

- Customer confusion: Customers will receive a separate bill for community solar energy: they will see the community solar credit on their utility bill and see the payment for the solar energy on a separate bill. This makes it very difficult to see, calculate and conclude that community solar will save money.
- Severe collection issues: Under current BPU policy, community solar providers will render the bill and will have to collect on these bills from LMI customers. These customers live in an economic world where paying bills (rent, food, utilities, etc.) is extremely challenging. These separately rendered community solar bills stand a high likelihood of "going to the bottom of the pile" and collection will be extraordinarily difficult.
- Severe credit issues that will mar project financing: Due to the high risk of collecting revenues (either at all, or on a timely basis) financing of projects will be very difficult as capital commitments will not be made to back projects with unsure revenues.

- Failure to reach most LMI customers: Besides customers where the building owner can sign a contract and make payment on behalf of master-metered residents, or other special relationship situations, these deficiencies add up to a current approach which will prevent community solar from serving the large majority of LMI customers living in individually metered apartments or houses.

2) The BPU should allow BGS Consolidated billing to be used for Applicants that propose 100% LMI Projects in Program Year 2 and beyond.

Given these circumstances, access to community solar for LMI customers can be achieved by using the BGS consolidated billing approach which the Board has successfully implemented for BGS Supply for more than twenty years. Adoption of this approach can vault New Jersey to a leadership position in developing community solar for LMI customers.

For Community Solar to be successfully implemented in LMI communities, electric utilities should provide consolidated billing to community solar providers serving 100% LMI Projects in the same manner as they currently provide to Basic Generation Service (BGS) Providers. The utilities already include the charges levied by default suppliers on their bills and pay their default (BGS) suppliers on a regular and prompt basis regardless of the customers' payment patterns or histories. Under BGS, the electric utilities bill customers, collect revenues, administer collection (or termination) activities, and pay BGS Providers on a regular and prompt basis. Utilities assume these costs and risk through the ratemaking provided by the BPU (through working capital and other rate adjustments). By not having to absorb customer payment risk, BGS suppliers can charge lower rates because they do not have to add associated risk premiums to their rates.

The BPU should have the utilities provide this same billing and revenue collection for 100% LMI community solar. Its use would impose no additional collection or payment risk on electric utilities than is currently the case. In fact, it may improve collections of utility revenues since the participating Community Solar customers will have lower monthly bills. EDCs should also be able to charge a fee to reflect its administration and recover its reasonable costs.

This approach will address the limitations to the current billing and payment mechanism discussed above: creating a financeable and low-cost community solar model that will serve LMI customers.

LMI Community Solar Customers will be billed on their utility bill and pay in accord with the terms and conditions that they currently have under the utility tariff (with the community solar payments appearing on this bill in accord with the price of the community solar project in which they are enrolled). Confusion is eliminated as the customers will be able to see the cost of the solar energy and the retail credit on the same bill. Financing can move forward as the community solar provider will have revenue payment certainty in the same manner as BGS suppliers. The result is lower cost community solar being made feasible to all LMI customers.

Adoption of this approach by the BPU for 100% LMI community solar applicants in the second year of the Program will allow community solar to truly reach a wide base of LMI customers, furthering the Board's policy goals and making New Jersey a national leader.

- 3) It is discriminatory, unfair, and contrary to law to provide this type of consolidated billing and prompt payment service to BGS suppliers and not to Community Solar providers.

NJSA 48:3-1 provides as follows:

“No public utility shall:

a. Make, impose or exact any unjust or unreasonable, unjustly discriminatory or unduly preferential individual or joint rate, commutation rate, mileage and other special rate, toll, fare, charge or schedule for any product or service supplied or rendered by it within this state;

b. Adopt or impose any unjust or unreasonable classification in the making or as the basis of any individual or joint rate, toll, fare, charge or schedule for any product or service rendered by it within this state.”

The BPU allows BGS suppliers to (appropriately) have access to a billing and timely payment mechanism that protects them from retail customer payment and credit risk. This protects the integrity of the BGS Program and results in lower rates to BGS customers since BGS suppliers do not have to build risk premiums into their prices. It would contradict NJSA 48:3.1 for this same quality of service to not be provided to Community Solar serving LMI customers. These two levels of billing and payment service constitute discriminatory treatment pursuant to NJSA 48:3.1 as it constitutes the imposing of unjust provision of a service. The remedy for this discriminatory, differential treatment is for utilities to provide the billing and payment service provided to BGS suppliers to community solar providers.

Moreover, such differential treatment is not only contrary to law, but from a policy perspective it is in conflict with the very policy aim of the BPU and the Murphy Administration for New Jersey to strongly address disparities in treatment to LMI customers. In this case, such discrimination will prevent the vast majority of LMI customers from realizing solar benefits, while other customer groups (upper middle- and upper-income residential customers, and commercial and industrial customers) are provided the benefits of solar energy.

It should be noted that the third-party supplier (TPS) consolidated billing model cannot and should not be used for Community Solar. Under BPU rules, applicable to all TPS transactions, the utility can refuse to accept for consolidated billing those accounts that have been delinquent for 120 days or more. This would tend to disqualify a significant portion of low-income residents. Instead, as discussed above, the BGS model of consolidated billing should be used.

In sum, BGS Consolidated Billing can make the BPU's community solar program a national model in truly and fully enrolling LMI customers. It should be adopted and made available to applicants in the



Round 2 application process for 100% LMI Proposals, and thereafter. Without it, LMI participation will be restricted to master metered buildings with strong credit, and other special situations.

Question 7.b: Should the Board implement a process for submitting an application via an online application form? If it is not possible to establish an online application process, how can the Board improve the process for submitting a hard copy application?

Response: The Board should change the method for applying to allow an entirely digital submittal. In consideration of the COVID crisis, it is an unnecessary safety risk to bring documents in-person. But COVID crisis aside, requiring multiple hard copies of an application is unnecessary and outdated. A safe and easy alternative to an online application platform (which is ideal) would be to allow applicants to submit an encrypted flash-drive containing all application documents.

Question 9.b: Should certain questions in the PY1 Application Form be omitted from the PY2 Application Form? Why would you recommend excluding them?

Response: The Board should make the following questions optional if 1) the applicant is a government entity (municipal, county, or state), AND 2) the community solar developer will be selected by the applicant via a Request for Proposals (“RFP”). These exceptions are necessary in order to allow for the “Municipal LMI Approach” whereby a developer and site for the Community Solar project is selected post-award:

- Section B: III. Community Solar Developer
- Section B: IV. Property/Site Owner Information
- Section B: VI. Proposed Community Solar Facility Characteristics
- Section B: VII. Community Solar Facility Siting
- Section B: VIII. Permits

This is consistent with the exemptions provided by the BPU for Sections B.III, B.XIII (3), the "Project Developer Certification", and "Appendix A".

As a result of a municipality using this extensive public procurement process to designate the best solar project to serve its residents, the application submitted by municipality cannot at the time of application provide some of the specific information requested in the application which relates to identifying the property characteristics and location. The municipality can provide this information to BPU in a timely fashion after completion of the RFP to be conducted after designation as a pilot project by BPU.

In order to attract the attention of bidders and receive the most attractive bids that maximize savings for LMI residents (without significant risk premiums embedded in project price offers), it is critical that the BPU award be in place prior to when the RFP process is conducted by the municipality. Only with a BPU award in place can the program attract competitive, low cost and financeable projects (including the developer, facility, and site). This is because a) the BPU award will mitigate risk in several crucial areas by addressing and solidifying regulatory certainty, customer load, revenue and project and procurement design features, and b) after the BPU award, the applicant municipality can undertake a procurement



process that targets proposals that best meet the relative importance of the criteria identified by the BPU in its application weighting and subsequent award.

Moreover, since in this model the municipality (and not the solar developer) will be acting as the subscription organization, it is anticipated that proposals through the RFP process conducted by the municipality will be received from a much wider universe of solar developers (and not just those in the community solar development community which is a subset of the solar industry) with customer load that is more secure. This greater competition will yield better terms and pricing for participants. In sum, running the RFP after a BPU award will give security and certainty to the project and ensure the best economic responses.

Question 10: Please provide feedback on Section D of the PY1 Application Form (certifications).

Response: Section C: Certifications need to be amended to make the Property Owner Certification optional if the Applicant is a government entity and the community solar developer will be selected by the Applicant via RFP. This exception would be in line with optionality of the Project Developer Certification already distinguished in the PY1 Application.

Question 12: Please provide feedback on Appendix B: Required Attachments Checklist from the PY1 Application Form.

Response: Appendix B: Required Attachments Checklist needs to be amended to account for an application using the Municipal LMI Approach, as the following attachments cannot be provided in the case of a project that will be selecting a solar developer and site post-award:

- Delineated map of the portion of the property on which the community solar facility will be located.
- For electronic submission only: copy of the delineated map of the portion of the property on which the community solar facility will be located as a PDF and in drawing file format (.dwg) or as a shapefile (.shp).
- Copy of the completed Permit Readiness Checklist as it was submitted to NJDEP PCER, if applicable.
- Proof of a meeting with NJDEP PCER, if applicable.
- A screenshot of the capacity hosting map at the proposed location, showing the available capacity.

This discrepancy could be addressed with a third option box – “Yes”, “No”, and “N/A”. This modification would allow for an Application that does not need those attachments to still have a completed Checklist. Relatedly, the use of the phrase “if applicable” as used above is undefined and in need of clarification.

Question 13.d: Please address whether the Board should consider awarding more potential points for projects proposing to serve more than 51% LMI customers and how such scoring would work.

Response: The Board should award more points for projects proposing to serve 100% LMI customers. This 100% LMI program design fully and aggressively addresses one of the key goals of the Murphy Administration and the Board: a full recognition of ongoing and historic difficulties facing low- and moderate-income people in New Jersey (and the United States). Community solar stands at the intersection of environmental and economic justice; any project proposing to serve only LMI customers should be awarded additional points in furtherance of these policies, 30 points should be awarded to 100% LMI Projects specifically.

Question 14: The PY1 capacity was 75 MW(dc). Pursuant to N.J.A.C. 14:8-9.4(b), the PY2 capacity must be at least 75 MW(dc), but could be more. Staff is considering recommending that the Board increase capacity in PY2 to 100 MW(dc), and to 125 MW(dc) for PY3, with the intention of soliciting annually for 150 MW(dc) in the permanent program. Please comment on this proposed plan.

Response: Staff should adjust the capacity to 300MW in PY2 and 300 MW for PY3. This is warranted by the need for a bold change in the New Jersey solar energy landscape so that renters and LMI customers can finally realize the benefits of solar energy. Moreover, as evidenced by the volume of capacity that was offered in the first-year application process, there is certainly more than adequate supply to meet this requirement and yield competitive results. To put the 300MW solicitation into perspective, New Jersey's peak demand is 20,000 MW; a 300 MW solicitation would serve just 1.5% of demand, hardly an over-ambitious result.

Question 15: The 45 applications granted conditional approval in PY1 represented 17 unique applicants. Should the Board consider limiting the number of applications that are submitted by a single developer, or limit the number of applications by a single developer that will be conditionally approved?

Response: The Board should not limit the number of applications accepted/awarded to a single developer as this limitation could be detrimental to the quality of the Program. A limitation on the number of project applications based on the project developer is in effect a limitation on the competitive process. A Community Solar Project should be judged exclusively on the application submitted and the merit of the project proposed – regardless of the other applications submitted by a developer.

Question 16: For ground-mount projects, please provide feedback on the DEP Permit Coordination checklist process.

Response: For projects that procure a developer and project site post-award, it is not possible for the applicant to engage with DEP on permitting. To accommodate this structure the Board should make an exception to the DEP Permit Coordination checklist process for applications if the applicant is a government entity and the community solar developer will be selected post- BPU award by the Applicant



via a Request for Proposals (“RFP”) process. This is in line with the exceptions described in Section A.II.4 of the PY1 Application.

Question 17: The PY1 Application Form made certain sections optional for government entities. Did this facilitate applications by government entities? Should the Board consider a fully separate carve-out and application process for government entities?

Response: It was helpful that the PY1 Application Form made certain sections optional for government entities, although the designation of sections as optional was overly restrictive. It is important to note that the exemptions made for government entities only facilitated one government entity to be awarded – this is because the exemptions only applied to one model of a municipal-led Community Solar Project (the applicant has a landfill on its site which is the site of the Community Solar Project). To allow for more approaches to Community Solar from a municipality’s perspective will require that further exemptions be made to questions/requirements that require the Applicant to identify a site for this project. Accordingly, the specific sections of the Application that need to be made “optional” include: Section B: III, IV, VI, VII, and VIII; Section C; and Appendix B. Further detail on the necessary changes to these sections can be found in the above comments to Question 9.b, Question 10, and Question 12, respectively.

The Board should not create a fully separate carve-out and application process for government entities because to do so would be an unnecessary burden and may create more bureaucracy to slow the progress of the Pilot. A separate carve-out and application is undue because Staff can simply address the proposed changes to the Application found above. These adjustments, plus the allowance of waivers to the opt-in provision, would effectively give the pilot program the necessary flexibility to permit different project structures without the need for a new application.

Thank you for your consideration.

Sincerely,

Belle Gabel, Associate

Gabel Associates

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August 10, 2020

Ms. Aida Camacho-Welch, Secretary
New Jersey Board of Public Utilities
ATTN: BPU Docket Number QX20030253
44 South Clinton Avenue
PO Box 350
Trenton, NJ 08625-0350

Re: Community Solar Energy Pilot Program Year 1 Comments

Dear Ms. Camacho-Welch,

Convergent Energy + Power appreciates the opportunity to provide comments in response to the Community Solar Pilot Program. We are grateful for the time and support of the Board and Board staff.

Over the past nine years, Convergent has invested in and operated over \$260 million of solar and energy storage assets across the United States and Canada. Convergent presently owns and operates 24 MWs of solar and energy storage projects in PJM and has numerous projects in development in the RTO. As a business based in New York City with many employees who are proud residents of New Jersey, we have long-standing partnerships with diverse local stakeholders and are eager to invest in the state.

New Jersey continues to be a leading advocate of the solar industry. Convergent applauds the Board of Public Utilities for issuing the Energy Master Plan, which lays out steps to attain the state's goal of 100% clean energy generation by 2050. The Community Solar Pilot Program was the first in the country to award 100% of its funds to projects serving low and moderate income ("LMI") customers during its first year of operation. Convergent is also pleased that the BPU will establish an Office of Clean Energy Equity to further serve LMI communities.

The following pages contain Convergent's comments to the Community Solar Pilot Program. We have selectively answered certain questions from the BPU's request for comments. We look forward to engaging in a dialogue over the coming year to assist the Board in refining New Jersey's solar and energy storage incentives and are grateful for the Board's efforts in continuing to advance the state's clean energy future.

Sincerely,

Derek Oosterman
Senior Vice President
Regulatory & Policy Affairs

Surina Diddi
Associate
Investment & Policy Analysis

CC: Johannes Rittershausen, Chief Executive Officer



Topic 1: Equity and the Inclusion of Low-and Moderate-Income Households

Question 6: What additional suggestions do you have to facilitate inclusion of LMI households?

Convergent’s philosophy on LMI household inclusion is generally that more permissive policies that represent the lowest reasonable burden to potential LMI subscribers is the correct approach. The moral hazard of unintentionally including a few subscribers that do not qualify as LMI is less significant than the hazard of excluding qualified households from participation through excessive bureaucracy or onerous qualification documentation.

Topic 2: Program Year 1 Application Form and Application Process

Question 13: Please provide feedback on Appendix C: Evaluation Criteria from the PY1 Application Form. In particular, please discuss:

b) Should the Board modify the evaluation criteria for PY2? For example, should the Board give more or less weight to certain evaluation criteria in PY2?

Convergent suggests that the Board apply a weighting factor to developer experience and financial resource. Given the limited capacity of the Program, the goal is to maximize the likelihood that awarded projects come to fruition and benefit the communities they aim to serve.

Topic 3: Program Year 2 Application Process

Question 14: The PY1 capacity was 75 MW (dc). Pursuant to N.J.A.C.14:8-9.4(b), the PY2 capacity must be at least 75 MW (dc), but could be more. Staff is considering recommending that the Board increase capacity in PY2 to 100 MW (dc), and to 125 MW (dc) for PY3, with the intention of soliciting annually for 150 MW (dc) in the permanent program. Please comment on this proposed plan.

Increase Program Size

Echoing others in the industry, Convergent advocates to expand the annual limits of the Pilot Program. The first year of the program was oversubscribed by over 500MW, indicating the depth of developer interest in Program participation. In light of this, a larger program size could be easily supported. There are hundreds of thousands of LMI residents in communities across the state that could benefit from community solar, driving environmental benefits for the state as a whole.

Increasing the program capacity will ensure there is adequate solar development to meet the BPU’s clean energy goals. Many projects accepted for the Pilot program may fail for a myriad of reasons. For example, these projects may be unable to attract and retain sufficient subscribers. Developers have struggled to retain subscribers from the LMI community across various states in the country. It is also challenging to predict interconnection costs prior to conducting interconnection studies in New Jersey due to a lack of sufficient data at the distribution level. After these studies are conducted, developers may learn that interconnection costs far exceed their initial expectations, making projects infeasible. Projects that are unable to reach fruition will leave behind unutilized program capacity, hindering the BPU’s program goals. We also urge the BPU to select a list of back-up projects to fulfill unutilized program capacity if possible.

Since Community Solar is also new to New Jersey, the vast majority of residents are unaware of it. A larger program size will increase the number of projects (and subscribers) across the state, in turn

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increasing overall awareness and interest in Community Solar. With greater awareness, it will become easier for developers to attract new subscribers from various communities. This will help ensure the success of the subsequent permanent Community Solar program.

Greater Incentives for Ground-Mount, Grid Supply Projects

Convergent understands that grid supply projects, with the exception of subsection (t) projects, are currently not accepted in the Community Solar program. Convergent suggests that the BPU permit ground-mount projects to be eligible to participate in the program.

Convergent supports Senate Bill, No. 2605, which was recently proposed in the State Legislature. It directs the BPU to facilitate greater utility-scale solar energy development, as ground-mount, grid supply projects provide numerous benefits. Due to their large scale, they will be instrumental in achieving New Jersey's ambitious clean energy goals. The Energy Master Plan makes clear that the state has primarily relied on out-of-state Renewable Energy Credits thus far to satisfy its Renewable Portfolio Standards. Grid supply projects represent a small fraction of the recent solar installations in New Jersey; while all solar installations are beneficial, only ground-mount projects have the opportunity in aggregate to provide the capacity and energy that New Jersey will need to achieve its goals. Ground-mount, grid supply projects can also create tens of thousands of well-paid, local, and often unionized jobs. They are able to provide transmission congestion relief and reduce the need for costly grid upgrades, especially if energy storage is incorporated into their design. Finally, they deliver significant tax revenue to local municipalities and the state at large.

Incentivize Development on More Diverse Land Types

Convergent further recommends incentivizing projects to be sited on a greater variety of land types, such as agricultural land. Massachusetts just exempted all its existing and in-process solar projects from the more restrictive land mandates of their updated SMART program due to the profound reduction in viable projects that the new restrictions would have caused. Similar to Massachusetts, New Jersey is a densely populated state with a scarcity of available land to fulfill the state's clean energy goals. By utilizing agricultural land that would otherwise sit fallow or be committed to an uneconomic crop, landowners can receive stable cash flows, leverage their assets, and be contractually assured that the land will be fully restored for agricultural use at the end of the solar project's life. The New Jersey Farm Bureau, the largest grassroots advocate for agriculture, comprising of over 9,000 farm families and agribusinesses in the state, has been a long-time supporter of solar development. Developing solar projects on farmland can also be easier from an engineering and construction perspective, as well as driving greater solar production, because of the typical topography of this land type.

Topic 4: Other

Question 18: Should the Board consider amending the Pilot Program rules to require that community solar subscriptions guarantee savings compared to the subscriber's electric bill without community solar, as an added consumer protection measure, particularly given that all awarded projects already committed to doing so in the PY1 applications?

Yes, guaranteed savings will incentivize greater subscriber participation. Since Community Solar is a nascent industry, many developers are new to the space. Guaranteed savings will require industry stakeholders to conduct greater analysis and modeling in advance, which will help ensure the Pilot program is successful in providing subscribers with affordable energy. While there are many non-monetary benefits to solar energy, LMI communities may be more attracted by the immediate financial benefits.



Question 19: Should the Board consider amending the construction timelines and extension policies at N.J.A.C.14:8-9.3(c)? If yes, how? Currently, applicants have 6 months to start construction, and 12 months to become fully operational, with an unlimited number of possible extensions (so long as projects can demonstrate continued progress). Excerpts of the relevant section of the rules are provided in Appendix 1 below.

Streamline Extensions

Investing in a nascent program such as the Community Solar Pilot Program or the TREC program is an exciting opportunity for firms such as ours that have deployed over \$75M of capital into similar projects in other markets. However, it has been our experience that the first year or two of these programs can be fraught with policy uncertainty and unforeseen delays, which can delay investment or in many cases erode project viability. Layer onto this the challenges brought on by Covid-19, and you have an environment that is challenging for even the most seasoned developers and investors.

In our opinion, the best way to address these challenges to program success is through sound policy that provides certainty to investors while still safeguarding the state's and ratepayers interest. We have listed some "best practices" below that we feel would enhance the ability of the private sector to invest in these programs.

- 1) Automatic extensions on COD if construction is delayed
- 2) Automatic extensions between programs: i.e. if an extension is granted for TREC then a matching extension should be granted for Community Solar deadlines and vice versa.
- 3) Extensions for LMI Subscribers: it is more difficult to reach and enlist LMI households in a Covid-19 environment
- 4) Enable "credit" banking for years one and two to address high subscriber churn and difficulty in subscribing in Covid-19 conditions.
- 5) Clear criteria for granting of extensions that enable a ten-day turnaround of an extension decision

Question 21: How is the Pilot Program impacted by the ongoing transition in solar incentives from the Transition Incentive Program to the Successor Program?

Greater Certainty about the Availability of TRECs or subsequent RECs

We understand the BPU staff is busy trying to develop these various programs. We understand that the Permanent Community Solar program is scheduled to be established by February 2022 and the BPU hopes to stick to this timeline. However, there is uncertainty, specifically regarding whether projects accepted in Years 2 and 3 of the Pilot program will be a part of the TREC program or the Successor Solar Program. The BPU is also working on establishing the scoring methodology for Years 2 and 3 of the program.

Convergent echoes what many in the industry have requested: to the extent possible, please provide as much clarity and advance notice as possible about these matters. Without some form of tax equity or debt financing, these projects are typically not viable, and the counterparties in these types of transactions are seeking greater certainty about program eligibility and projected revenues.

Question 22: A number of resources are available to prospective community solar applicants, including a Frequently Asked Questions page, EDC hosting capacity maps, and the Department of Environmental Protection Community Solar PV Siting Tool.



- a) What other resources do you believe the Board should provide to facilitate community solar development in New Jersey?

Better Hosting Capacity Maps

Convergent supports the Coalition for Community Solar Access’s recommendations to improve the hosting capacity map. We support forming an interconnection working group with key industry stakeholders as a means to get better data at the distribution level.

Create Consolidated Billing

Convergent would also appreciate it if the BPU could establish consolidated billing. We thank the BPU for its on ongoing release of policy documents and the provision of extensive data, such as subscriber bills. However, it is still challenging to calculate the ultimate savings for different subscriber types. Due to a lack of consolidated billing, subscribers typically receive two bills – one from their utility and one from their community solar provider. LMI subscribers may also apply for various state-sponsored and private bill relief programs, which have separate billing and crediting processes. Consolidated billing would also lower administrative costs for developers, in turn enabling them to pass on greater savings to subscribers. The convenience of paying only one bill will also be attractive to subscribers.

Question 23: How can Staff otherwise support community solar developers and subscribers to ensure success?

Help Direct Green Bank funds to Community Solar

Convergent is excited to learn that state leaders recently established a state Green Bank. We would appreciate it if the BPU could work with state leaders to ensure that these funds are readily available for community solar projects. Traditional lenders are somewhat weary of this nascent industry, so greater access to financing is critical.

Question 24: Please provide comments on issues associated with the Pilot Program not specifically addressed in the questions above.

Incentivize Solar + Storage

Convergent would appreciate it if the BPU introduced incentives for Solar + Storage. We recognize the timeline for the Community Solar Pilot program is relatively short, so if these improvements cannot be incorporated at the moment, we would recommend applying them to the Permanent Solar program. The Clean Energy Equity Bill, which was recently introduced in the New Jersey State Legislature, also advocates to include a 400 MW energy storage target along with community solar projects.

In our experience, some simple policy changes to support energy storage include:

- 1) Provide Time-of-Use (TOU) credit and TREC pricing: technologically agnostic way of incentivizing energy delivery when it is most needed;
- 2) Upfront storage incentive;
- 3) Solar and storage incentives for equitable siting or environmental equity programs.

Energy Storage projects can help reduce system peak demand and meet New Jersey’s Global Warming Response Act goal to reduce state greenhouse gas emissions 80% below 2006 levels by 2050. The New Jersey Energy Storage Analysis (“ESA”) Report by Rutgers University, which was commissioned by the State Legislature, projects the state’s peak demand to increase significantly over time. Accelerated

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adoption of clean energy and electric vehicles as well as greater electrification of manufacturing will put increasing pressure on the electric grid.

Peak demand has historically been met by natural gas peaker plants. Reducing New Jersey's reliance on natural gas is critical to achieve its 100% carbon neutral goal. Roughly 20% of the state's net greenhouse gas emissions are attributed to natural gas. These plants also contribute strongly to local air pollution.

Energy storage projects will not only help the state meet its greenhouse gas emissions goal, but also help reduce System Load. Energy Storage systems have zero on-site greenhouse gas emissions. They typically charge during off-peak times using clean energy and discharge during peak times, thus replacing fossil fuel generation. In turn, they can defer or eliminate the need to construct new gas peaker plants or result in retiring existing thermal generation facilities. Massachusetts has established a "Clean Peak Standard" for this purpose, with energy storage incentives at its core.



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APRIL 23, 2020

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Trenton, NJ 08625
Attn. President and Commissioners

RE: Community Solar Energy Pilot Program BPU Docket No. QO 18060646 et al.

Dear Ladies and Gentlemen,

Thank you for the previous opportunity to submit an application in the above referenced Program. We applaud the effort made and need-basis of the Program. There is, however, a *fatal* flaw in the Program and I will attempt to briefly describe it herein for your consideration and investigation. While the flaw may be Program wide, my example relates to the EDC area of Atlantic City Electric.

1. The Program awarded 2 Conditional Approval's to a landfill in the Borough of Woodbine. It was our understanding that any given site was limited to 5 MWdc in size. Had ESKY been made ware that it could simply submit 2 applications for its site (see attached ESKY Application cover page), Esky would have done so and spread out its infrastructure costs accordingly.
2. The Woodbine landfill, at the time of Approval, neither had a NJDEP Landfill Closure Permit in existence nor is it currently remotely close to completing all of the requisite activities required of the NJDEP to obtain such a permit. It is functionally impossible for all such approvals to be obtained and closure be completed in order to properly close the landfill and prepare it for Community Solar construction activities within even a 2 year period. This indisputable fact can be confirmed with the NJDEP, Office of Brownfield and Community Revitlization (Mr. Ron Wienckowski, Remediation Specialist is a suggested point of contact at 609-984-4617) ESKY, however, was "pad ready" for installation in August, 2019 (please see attached example photo of piling demonstration on August 27, 2019) and had all required NJDEP approvals and support in place. This can likewise be reaffirmed by the NJDEP.

Again, we applaud the program but believe that since the Program truly prefers and shows appropriate preference for the use of old landfill's and Brownfield sites; the Program needs to better investigate the actual condition and level of preparedness of such sites for rapid use. Esky was (and remains) ready to initiate the physical installation of its application into the Pilot Program. Had ESKY been awarded the requisite Approval; Solar installation and operations would have occurred this year (2020). We also do intend to apply for the Year Two Program when it becomes available would simply ask that the flaws presented herein be taken into consideration moving forward. you may reach me on my personal cell telephone, 609-820-3246, if I can be of any further assistance. In the meantime, I remain,

Most Sincerely Yours,

Brian Horne, Owner
ESKY Solar, LLC
SLRD Company - Mullica Hill, LLC

Lauren M. Lepkoski, Esq.
(610) 921-6203
(330) 315-9263 (Fax)

August 7, 2020

VIA ELECTRONIC MAIL

Aida Camacho-Welch, Secretary
New Jersey Board of Public Utilities
44 South Clinton Avenue
3rd Floor, Suite 314
P.O. Box 350
Trenton, New Jersey 08625-0350
board.secretary@bpu.nj.gov

Re: New Jersey Community Solar Energy Pilot Program, Program Year 1 Lessons Learned; Docket No. QO18060646

Dear Secretary Camacho-Welch:

Jersey Central Power & Light Company (“JCP&L” or the “Company”) is pleased to submit comments in response to the Board of Public Utilities’ (“Board” or “BPU”) Request for Comments (“Request”) related to Program Year 1 (“PY1”) of the New Jersey Community Solar Energy Pilot Program.

On May 23, 2018, Governor Murphy signed the Clean Energy Act, which, among other things, ordered the establishment of a community solar pilot program (“Pilot Program”).¹ The Pilot Program includes three program years and will be followed by a permanent community solar program. The Board conducted an extensive stakeholder process to develop the regulations for the Pilot Program, which were adopted on January 17, 2019 at the above-referenced docket.

The Board accepted PY1 applications between April 9, 2019 and September 9, 2019. On December 20, 2019, the Board issued an Order conditionally approving 16 community solar projects within the JCP&L service territory.² To date, none of the projects are operational and JCP&L has not been notified regarding any future subscribers to these projects.

With no projects currently operating and no feedback available from subscribers, the Board and other stakeholder have little information regarding which components in the regulations are working and which require modification. As a result, the Company does not support significant

¹ P.L. 2018, c. 17.

² *In the Matter of the Community Solar Energy Pilot Program*, Docket No. QO18060646 (Order entered December 20, 2019 and amended February 25, 2020).

changes to the Pilot Program at this time with respect to third-party owned community solar projects.³ To the extent the Board adopts changes for Program Years 2 (“PY2”) and 3 (“PY3”), all costs associated with those changes imposed on utilities should be recoverable via the pending rider recovery mechanism.

The Company’s comments focus on the elements in the Board’s Request that would have a significant impact on utilities and their customers. Specifically, JCP&L will address 1) changing the subscriber model from an opt-in to an opt-out model; 2) utility consolidated billing on behalf of community solar developers; and 3) expanding the annual capacity limit for PY2 and PY3 of the Pilot Program.

On May 17, 2019, the Company previously submitted comments raising legal and implementation concerns regarding the opt-out model and utility consolidated billing of subscriber fees. The Company continues to oppose transitioning from an opt-in to an opt-out subscriber model. Currently, customers must provide their affirmative consent through an opt-in model before they are subscribed to a community solar project. Without this affirmative consent, a customer may not understand the terms of enrollment or impact on their bill. An opt-out model could lead to certain customers paying more on their monthly electric bills because it is not yet clear whether subscriber fees would be low enough to benefit all customers. If customers are subscribed to a long-term contract by their municipality through a governmental aggregation format, customers could be subject to early termination fees if they decide to install distributed generation at their home in the future. Moreover, at this early stage of the Pilot Program, it is impossible to know whether there is any justification to change from an opt-in to an opt-out subscriber model. There may be significant interest from customers to subscribe to these projects, which would render an opt-out subscriber model unnecessary. The Company does not support requiring customers to participate in a program without their prior affirmative consent particularly when there is not yet any information available to justify such a change.

In addition, although not a topic of the Board’s Request, a few stakeholders expressed an interest in utility consolidated billing of subscriber fees during the Board’s stakeholder session on July 27, 2020. The Company would oppose transitioning to this billing framework during the Pilot Program for all the legal and implementation issues raised in the May 17, 2019 comments. No community solar project in JCP&L’s service territory is operational, which means that no customer billing for these projects has begun. Once again, it is premature to adopt any changes to the billing framework for these projects when the current billing methodology remains untested.

To the extent the Board orders utility consolidated billing of subscriber fees, the information technology work to develop this billing framework on behalf of third-party owned community solar projects would be extensive, time-consuming, and costly. The Company does not believe such procedures could be developed and implemented before the end of the Pilot Program. If required to move forward with developing this framework, the Board should grant full and timely recovery of all costs through a rider recovery mechanism.

³ As discussed further below, the Pilot Program should be expanded to include utility-owned community solar projects.

Finally, the Board is currently considering the Pilot Program capacity limits for PY2 and PY3. The annual capacity limit for PY1 is 75 MW, and the Board's regulations permit the Board to choose different capacity limits for PY2 and PY3.⁴ Although this flexibility exists within the regulations, the Company questions expanding the Pilot Program when no PY1 project is currently operational. However, the Board did not permit utilities to own and operate community solar projects as part of PY1, and information related to the viability of utility-owned projects would be useful for the Board's development of a permanent community solar project. As a result, if the Board seeks to expand the annual capacity limits for PY2 and PY3, the Board should allow utilities to participate as well.

JCP&L appreciates the opportunity to provide these comments on Program Year 1 of the Community Solar Energy Pilot Program and looks forward to further participation in the Pilot Program.

Best regards,



Lauren Lepkoski

Teresa Harrold

Jersey Central Power & Light Company

⁴ N.J.A.C. 14:8-9.4(a)-(b).

Aida Camacho-Welch
Secretary of the Board
Board of Public Utilities
Post Office Box 350
Trenton, New Jersey 08625-0350

June 8, 2020

Dear Ms. Camacho-Welch:

The State of New Jersey enacted the Clean Energy Act on May 23, 2018, establishing a Community Solar Energy Pilot Program. In its July 10, 2019 Order regarding the Program, the Board of Public Utilities noted “The BPU is particularly interested in ensuring that low-and moderate-income (“LMI”) customers are able to access community solar..”

We applaud the efforts the Board has taken to incentive solar developers to serve LMI customers. However, we are writing to express our serious concern that the current verification system in place for determining LMI eligibility is going to make it extremely difficult, if not practically impossible to subscribe LMI residents to community solar projects. We feel the lessons learned in other states, particularly Maryland, can help guide New Jersey to a more streamlined income verification process, which will result in more LMI residents getting solar shares.

NJAC 14:8-9.8 (d) spells out the rules for the Program, including income verification for LMI customers.

The current process for verifying income eligibility for low-income residents is proof of participation in one or more of the following: LIHEAP, Universal Service Fund, Comfort Partners, and/or Lifeline Utility Assistance Program; or ii. A copy of the first and second page of the subscriber’s three previous years’ Federal income tax returns. The second page must be signed if self-prepared. The returns shall be submitted directly to the subscriber organization, along with a sworn statement that the information contained within the tax returns is true and accurate. Tax returns are to be treated as confidential under all applicable Federal and State laws. For subscribers that are not required to file, a non-filing verification letter from the IRS would need to be provided.

Moderate-income residents only have one way of verifying their income – they have to a copy of the first and second page of the subscriber’s three previous years’ Federal income tax returns. The second page must be signed if self-prepared. The returns shall be submitted directly to the subscriber organization, along with a sworn statement that the information contained within the tax returns is true and accurate. Tax returns are to be treated as confidential under all applicable Federal and State laws. For subscribers that are not required to file, a non-filing verification letter from the IRS would need to be provided.

Obtaining sensitive income documents to verify a prospective customer’s income is at best difficult and in some cases impossible. Moreover, requiring sensitive income documents like tax

returns is intrusive and does not set up a respectful process, given that LMI subscribers may not receive an incremental benefit from the program. In other words, while certain Subscriber Organizations (SOs) may provide a greater benefit to LMI subscribers than non-LMI subscribers, there is no requirement that LMI participants be guaranteed any additional benefit through their subscription.

Additionally, while low income customers are, by definition, eligible for a federal, state, or local assistance programs, not all customers who are eligible for assistance actually receive or participate in such programs, so verification in this manner is similarly difficult for low-income customers and is irrelevant for a potential subscriber who is moderate-income.

When the BPU adopted the rules governing the Community Solar Energy Pilot Program on January 17, 2019, the BPU wrote in response to comments about the income verification question:

RESPONSE TO COMMENTS 290, 291, 292, AND 293: With respect to process for the individual qualification of subscribers as LMI subscribers described in N.J.A.C. 14:8-9.8(d)2, the BPU appreciates the comments. The BPU is satisfied that the proposed definitions are sufficient. The BPU may explore ways in which to simplify the qualification process while at the same time ensuring a reasonable standard for LMI qualification based on the data and experiences collected from the Pilot Program

Based on market experience in other states, we now urge the BPU to follow up on this and explore ways to simplify the qualification process. The principles we suggest guiding you include:

- **Principle 1:** Verification should be informed by consumer protection considerations (e.g., disclosure of Social Security Number and federal tax documents is Sensitive Personal Identifying Information, and risk of data security breaches and/or exploitation of vulnerable consumers by bad or fraudulent actors).
- **Principle 2:** Verification burden on consumer should be commensurate with benefits (i.e., LMI consumer has little incentive to adhere to intrusive income verification for subscriber savings that are small relative to other state programs that require income verification. Community solar subscription provides savings to a household measured in tens of dollars, not comparable to food assistance programs, or large capital investments under home weatherization programs, etc. that commensurately require higher burdens for income qualification). Non-LMI participants are not subject to onerous eligibility requirements, despite receiving the same value net-metering credits that LMI participants receive.
- **Principle 3:** Verification methods should seek reasonable accuracy in matching defined LMI thresholds (i.e., “don’t let the perfect be the enemy of the good,”).

Our Recommendations for BPU Approved LMI Verification Options

1. **Self-Attestation Plus Census Tracts** – Utilize the U.S. Census Bureau’s American Community Survey (“ACS”) income data for the state’s Census Tracts, which can be analyzed to establish that individuals within certain census tracts have a higher probability of being low or moderate-income households. Self-Attestation would be on a BPU approved form, with the subscriber attesting that they meet the program’s income eligibility definition. Using self-attestation in conjunction with other income proxies is an approach employed in the Illinois Solar for All program, which provides numerous verification options for community solar providers, including an income attestation.

A household in a Census Tract with median income meeting the definition criteria as low or moderate income should be granted deference in verifying its eligibility with self-attestation. Specifically, we propose that self-attestation should be an allowable option ONLY when the subscriber resides within a Census Tract with higher probability of being low or moderate income. Thus, if the subscriber’s Census Tract median income meets the low income definition of 200% of the Federal Poverty Level (“FPL”), then the subscriber should be permitted to demonstrate its low income eligibility via self-attestation that the household meets the same definition, and that if the subscriber’s Census Tract median income meets the moderate income definition of 80% of state median income, then the subscriber should be permitted to demonstrate its moderate income eligibility via self-attestation that the household meets the corresponding definition.

2. **Single year tax return for moderate income subscribers.** Maryland and other jurisdictions allow subscribers to provide just a single year tax return to qualify as eligible for the program and we believe New Jersey should follow suit. It is difficult enough to get one year’s tax return, and almost impossible to get three years.
3. **Additional income verification documents.** We recommend allowing low or moderate-income residents to demonstrate income eligibility by showing a recent pay stub, a W2, or unemployment insurance application.
4. **Allow for Address-based verification.** If an affordable housing property has verifiable income-restrictions, allow all residents to automatically qualify as LMI. Address-based verification eliminates the need for LMI households in income-restricted affordable housing to provide any sensitive financial information to the community solar providers, which will encourage community solar project developers to focus their outreach on income-restricted affordable housing, which often provides housing to very low-income families.

The state of Maryland began its community solar program with a similar income verification approach as the one New Jersey now utilizes. Subscriber organizations and civic groups found that the process for verifying income eligibility was too onerous and undermined the program's goals of bringing solar energy to everyone, not just the select few. An ad-hoc group of low and moderate-income advocates worked with the Public Service Commission (PSC) to change the process, in line with what we are proposing here. The Maryland PSC adopted many of these suggestions in a February 14, 2020 order, opening up new avenues for low and moderate-income residents to subscribe to solar power.

We believe these modest changes to the program will significantly increase the chances of success in meeting the program's goal of reaching low and moderate-income residents across New Jersey. They conform to consumer protection initiatives while providing a little more flexibility in program implementation.

Sincerely,

Pari Kasotia, Mid-Atlantic Director, Vote Solar
Gary Skulnik, CEO/Founder Neighborhood Sun
Luis Nasvytis Torres, Senior Legislative Representative, Earthjustice
Tom Gilbert, Campaign Director- Energy, Climate & Natural Resources, New Jersey Conservation Foundation
Doug O'Malley, New Jersey State Director, Environment New Jersey
Avni Pravin, Program Manager, Solstice
Amy Goldsmith, New Jersey State Director, Clean Water Action
Richard Lawton, Executive Director, New Jersey Sustainable Business Council
Ed Potosnak, Executive Director, New Jersey League of Conservation Voters
Richard T. Smith, President, NAACP New Jersey State Conference
Dan Quinlan, Health Care Without Harm
Rob Gregson, Executive Director, UU FaithAction NJ
Noah Ginsberg, Director, Here Comes Solar, Solar One

cc: Ariane Benrey, New Jersey Board of Public Utilities
Grace Strom Power, New Jersey Board of Public Utilities
Christine Sadovy, New Jersey Board of Public Utilities
Hannah Thonet, New Jersey Board of Public Utilities



Mid-Atlantic Solar & Storage Industries Association
Rutgers Eco-Complex, Suite 208-8
1200 Florence-Columbus Road, Bordentown, NJ 08505 | info@mseia.net

August 10, 2020

Ms. Aida Camacho-Welch
Secretary
New Jersey Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Trenton, NJ 08625

Via email to:
board.secretary@bgu.nj.gov
with copy to:
communitysolar@bpu.nj.gov

Re: Docket No. QO18060646
NEW JERSEY COMMUNITY SOLAR ENERGY PILOT PROGRAM
PROGRAM YEAR 1 LESSONS LEARNED
COMMENTS

Dear Ms. Camacho-Welch and Community Sola team:

The Mid-Atlantic Solar & Storage Industries Association (MSSIA) is pleased to present these comments in regard to the above-referenced notice.

MSSIA is a trade organization that has represented solar energy companies in New Jersey, Pennsylvania, and Delaware since 1997. During that 23-year period, the organization has spearheaded efforts in the Mid-Atlantic region to make solar energy a major contributor to the region's energy future. Its fundamental policy goals are to: (1) grow solar energy and storage in our states as quickly as practicable; (2) do so at the lowest possible cost to ratepayers, while delivering the greatest possible benefit as a public good; and (3) preserve diversity in the market, including opportunity for Jersey companies to grow and create local jobs (<https://mseia.net/fundamental-principles/>).

In these comments, MSSIA will present its positions, suggestions, and comments in regard to the Community Solar Pilot Program year 1 and the upcoming program year 2. At certain points MSSIA will include comments with regard to diversity of opinion among its member companies, and in particular those members companies who participated in MSSIA's Policy Committee meeting on the subject. Participation in MSSIA's Policy Committee meetings is open to all members.

MSSIA has not established positions on some of the questions posed by staff, and indicates below when that is the case.

SUMMARY OF KEY POINTS

- Stimulate and utilize more local community input and greater LMI participation. In particular, enable municipally-led, managed, and guaranteed subscriber acquisition at 100% LMI subscribership, including opt-out where applicable, as proposed by Gabel Associates. In order to enable this alternative for Program Year 2, allow municipalities to apply for a project award without specifying a location, so long as certain parameters are met.
- Include higher scores for projects that achieve a higher percentage of LMI subscribership.
- Permit “Opt-out” structures to lower costs and increase subscriber savings.
- Limit the application period to 2 months.
- The staff proposal of 100-125-150 MW (dc) program sizes for PY 2,3 and the permanent program are sufficient under current market conditions.
- Awards for Program Year 2 and 3 should limit any single entity/developer to no more than 20% of the total program capacity in any given program year.

MSSIA’s detailed responses are shown below in blue font after each of the staff questions.

Topic 1: Equity and the Inclusion of Low- and Moderate-Income Households

The Board endeavors to ensure that all residents of New Jersey, regardless of household type, structure, or personal finance, can participate in and benefit from the state’s clean energy resources. To that end, the Pilot Program rules mandate that at least 40% of the Pilot Program annual capacity be reserved for LMI projects. By definition, developers with LMI projects commit at least 51% of project capacity to low- and moderate-income subscribers. Staff seeks recommendations on how to facilitate this inclusion and reduce barriers to entry.

Question 1: How can the Board ease the process by which developers validate LMI status when enrolling subscribers?

a) Should the Board consider amending the current rules regarding LMI subscriber verification, as defined at N.J.A.C. 14:8-9.8? If yes, how? For reference, please see Appendix 1 for selected excerpts of the relevant section of the rules.

b) Please include a discussion of the following verification metrics, with examples from other states where applicable:

a. LMI income affidavit;

This form of verification is very secure but is difficult to obtain; but it should remain an option,

b. verification by census tract;

This is a good, easily accessible method that MSSIA believes should be allowed.

and

c. other means of encouraging and supporting LMI community solar participation;

MSSIA recommends that the Board enable municipally-led, managed, and guaranteed subscriber acquisition at 100% LMI subscribership, as proposed by Gabel Associates. Projects based on this method should be able to include opt-out where applicable.

In order to enable this alternative for Program Year 2, MSSIA recommends that the Board allow municipalities to apply for a project award without specifying a location, so long as the municipality commits to ensuring that other parameters will be met, describing in detail any factors that could affect scoring.

This measure has the potential to:

- a. increase LMI participation in the Program;
- b. lower the cost of subscriber acquisition;
- c. enable more rapid and certain completion of Program Year 2 projects;
- d. provide greater revenue certainty for projects, thus lowering the cost of capital. With lower cost of capital, greater savings can be offered to the LMI subscribers.
- e. Provide participating developers with greater certainty that their LMI obligations will be met, thus erasing another risk factor for developers and further reducing cost of capital.

Question 2: Current rules mandate that developers use the “opt-in” model for subscriber enrollment, in which a subscriber must affirm a community solar subscription with a wet or electronic signature. This is distinguished from the “opt-out” model, in which a subscriber is enrolled without affirmative consent, and given the option to unsubscribe (i.e., opt out) from the community solar subscription.

Based on experience with Program Year 1, as well as the successes or failures in other states, please provide feedback on the efficacy of the “opt-in” model, or, in the alternative, on the benefits and risks of the “opt-out” model for subscriber enrollment. In particular, please discuss:

Opt-in Model:

- a) From your perspective as a developer, subscriber, community organization, third-party entity, etc., please describe your experience using the “opt-in” model in Program Year 1. What challenges did you encounter? What, if anything, would you change about the process? Please specifically identify whether you are working on a community solar project approved in Program Year 1.

Several MSSIA member companies are working on Program Year 1 projects. They have participated in the MSSIA Board and Policy Committee deliberations that inform these comments.

Members involved in Program Year 1 projects consistently report that the opt-in method results in high costs of customer acquisition. The magnitude of these costs significantly increases the overall cost of the project, and increases the initial risk of failure to complete the project as well as the ongoing risk to revenue assumptions during operation of the project.

They also report that the timeline for completion of the project is lengthened by the limitation to opt-in subscriber acquisition.

- b) Are there examples of other states that have been particularly successful or unsuccessful using an “opt-in” model for community solar? What has made them successful or unsuccessful?

At this time, MSSIA has no comments regarding this question.

Opt-out Model:

- c) What would be the advantages and risks of implementing opt-out for community solar? Is an opt-out model the best approach to facilitating low- and moderate-income subscriber enrollment?

The benefits of Opt-out programs are twofold:

- a) they permit the project to move forward more quickly and with less expense, and

b) they contribute to the financial improvement of a whole neighborhood or specified location, enhancing its sense of community and contributing to the economic health of that neighborhood or location.

d) What consumer protection measures would need to be established in order to implement an opt-out mechanism for community solar?

MSSIA believes that consumers must be fully educated regarding the coming of the project and the details of their ability to opt-out, making it easy for them to do so if they wish to. This can be accomplished by the developer in conjunction with the municipality, the utility and community groups.

Households subject to opt-out must also be informed truthfully and in detail regarding the savings that they will attain if they participate. The Board should establish guidelines specifying how potential subscribers must be informed about their potential savings.

Some MSSIA members participating in its Policy Committee meetings recommended that the Board should consider creating an auditing process for opt-out projects to ensure consumer protection.

e) In what ways could an opt-out model of community solar subscriber enrollment be similar to, and different from, the model currently implemented under Government Energy Aggregation in New Jersey?

At this time, MSSIA has no comments regarding this question.

f) Are there examples of other states successfully using an “opt-out” model for community solar? If so, what makes them successful?

At this time, MSSIA has no comments regarding this question.

Question 3: How can the Board leverage existing programs (e.g. Comfort Partners, USF, etc.) to facilitate enrollment of LMI customers in community solar?

At this time, MSSIA has no comments regarding this question.

Question 4: How can the Board leverage, or partner with, community organizations or others to facilitate equitable inclusion of community solar subscribers, including education, marketing, and enrollment?

MSSIA believes that very local institutions work best in spreading the word about a new program. Every avenue of contact should be utilized including schools, social agencies, local media, civic organizations, the municipalities,

Question 5: What are the challenges specific to ensuring that low- and moderate-income households in master-meter buildings can become community solar subscribers?

a) How common are these type of master metered apartments?

At this time, MSSIA has no comments regarding this question.

b) Please describe the feasibility of reforming rates to ensure customers in master metered buildings receive community solar credits equivalent to those of single-family households.

At this time, MSSIA has no comments regarding this question.

c) Please address any unintended consequences of this type of rate reform?

At this time, MSSIA has no comments regarding this question.

d) What measures should the Board consider to alleviate these challenges?

At this time, MSSIA has no comments regarding this question.

Question 6: What additional suggestions do you have to facilitate inclusion of LMI households?

Please see MSSIA's comments regarding question 13. d), regarding higher scoring for projects that achieve greater than 51% LMI subscribership.

Topic 2: Program Year 1 Application Form and Application Process

For reference, please refer to the [PY1 Application Form](#) when responding to questions in Topic 2 specific to the application process.

Question 7: Please provide feedback on the process of submitting an Application. In particular, please discuss:

a) Length of the application period: should the PY2 application period be longer, shorter, or equal to the 5-month application period in PY1?

MSSIA recommends 2 months.

b) Should the Board implement a process for submitting an application via an online application form? If it is not possible to establish an online application process, how can the Board improve the process for submitting a hard copy application?

MSSIA believes that BPU should implement online submission of the Program Year 2 application form.

If need be, the process could be as simple as enabling submission of a PDF of the completed form with all required documents to a specified email address by a specified time.

Question 8: Please provide feedback on Section A of the PY1 Application Form (Application Form requirements, instructions, terms and conditions). Were the instructions sufficiently clear?

Yes, the instructions were sufficiently clear.

Question 9: Please provide feedback on Section B of the PY1 Application Form (community solar project description). In particular, please discuss:

a) Were certain questions unclear?

No.

b) Should certain questions in the PY1 Application Form be omitted from the PY2 Application Form? Why would you recommend excluding them?

MSSIA suggests that all financial information be kept confidential.

c) Should certain questions that were not asked in the PY1 Application Form be included in the PY2 Application Form? What would you recommend, and why?

No. The application form was comprehensive and thorough.

Question 10: Please provide feedback on Section D of the PY1 Application Form (certifications).

Some of the information requested in Section D is difficult to specify accurately or commit to at the stage of development most projects have attained at the time of application. For instance, items such as subscriber contract terms and details sometimes must respond to market conditions when subscriber acquisition is underway and project costs are fully known.

Question 11: Please provide feedback on Appendix A: Product Offering Questionnaire from the PY1 Application Form.

a) Did this questionnaire accurately reflect the diversity of possible community solar product offerings?

Yes.

b) Should any changes be made to this questionnaire?

No.

Question 12: Please provide feedback on Appendix B: Required Attachments Checklist from the PY1 Application Form.

a) Was the Appendix B checklist helpful to completing the Application Form?

Yes.

b) Should the Board modify the list of attachments required in PY2?

No.

c) Are there certain required attachments for which the Board should provide further instructions and/or a standard template?

Yes. On certain attachments, like Town and union support letters, it would be helpful to have a template.

Question 13: Please provide feedback on Appendix C: Evaluation Criteria from the PY1 Application Form. In particular, please discuss:

a) Was Appendix C useful to Applicants in creating their applications?

Yes.

b) Should the Board modify the evaluation criteria for PY2? For example, should the Board give more or less weight to certain evaluation criteria in PY2?

No.

c) Are there criteria that were not considered in PY1 that should be considered in PY2? If yes, how would the Board evaluate, score, and verify these criteria?

No.

d) Please address whether the Board should consider awarding more potential points for projects proposing to serve more than 51% LMI customers and how such scoring would work.

MSSIA recommends that the evaluation of Program Year 2, Year 3, and Permanent Program applications include higher scores for projects that go beyond 51% LMI subscribership, with 100% LMI subscribership earning significantly higher scores than 51% LMI subscribership.

If this is done, MSSIA believes that due to competitive pressures, a significantly higher percentage of LMI subscribership will be virtually ensured in Program Year 2.

Topic 3: Program Year 2 Application Process

Question 14: The PY1 capacity was 75 MW (dc). Pursuant to N.J.A.C. 14:8-9.4(b), the PY2 capacity must be at least 75 MW (dc), but could be more. Staff is considering recommending that the Board increase capacity in PY2 to 100 MW (dc), and to 125 MW(dc) for PY3, with the intention of soliciting annually for 150 MW (dc) in the permanent program. Please comment on this proposed plan.

MSSIA believes that BPUY staff's capacity plan as described above is appropriate.

Question 15: The 45 applications granted conditional approval in PY1 represented 17 unique applicants. Should the Board consider limiting the number of applications that are submitted by a single developer, or limit the number of applications by a single developer that will be conditionally approved?

MSSIA recommends entity caps in Program Year 2 and thereafter, in order to promote diversity in the project mix, especially providing opportunity for small-to-medium and local entities to participate. MSSIA believes that such diversity and local, New Jersey-based participation will maximize the state's economic growth and job creation.

Such entity caps have been implemented by the Board in past clean energy programs with success.

Specifically, MSSIA recommends that no one single entity/developer receive awards that total more than 20% of the annual Program capacity.

Question 16: For ground-mount projects, please provide feedback on the DEP Permit Coordination checklist process.

At this time, MSSIA has no comments regarding this question.

Question 17: The PY1 Application Form made certain sections optional for government entities. Did this facilitate applications by government entities? Should the Board consider a fully separate carve-out and application process for government entities?

Please see MSSIA's comments in response to question 1. c).

Topic 4: Other

Question 18: Should the Board consider amending the Pilot Program rules to require that community solar subscriptions guarantee savings compared to the subscriber's electric bill without community solar, as an added consumer protection measure, particularly given that all

awarded projects already committed to doing so in the PY1 applications?

At this time, MSSIA has not formed a position regarding this question.

Question 19: Should the Board consider amending the construction timelines and extension policies at N.J.A.C. 14:8-9.3(c)? If yes, how? Currently, applicants have 6 months to start construction, and 12 months to become fully operational, with an unlimited number of possible extensions (so long as projects can demonstrate continued progress). Excerpts of the relevant section of the rules are provided in Appendix 1 below.

Developers' experience in Program Year 1 has shown that average timelines to start construction are significantly longer than six months.

In particular, projects on landfills, brownfields, and areas of historic fill encounter significantly longer timelines to start construction compared to rooftop projects. The perceived risk of failing to secure extensions can be a strong deterrent to the expenditure of large amounts of capital during the pre-construction period.

MSSIA recommends that projects on landfills, brownfields, and areas of historic fill be given one year to commence construction, and eighteen months to become operational, with opportunity for extensions on both milestones, so long as substantial progress is shown.

Question 20: Should the Board consider restricting the 10-subscriber minimum exemption at N.J.A.C. 14:8-9.6(d) to only buildings that serve low- and moderate-income residents? Currently, the exemption applies to all multi-family buildings which have a community solar system located on-site. Excerpts of the relevant section of the rules are provided in Appendix 1 below.

No; MSSIA recommends that the Board consider expanding the 10-subscriber minimum exemption to all building types, with appropriate safeguards against permitting projects that have only one or two subscribers.

Question 21: How is the Pilot Program impacted by the ongoing transition in solar incentives from the Transition Incentive Program to the Successor Program?

The Program Year 1 results indicate that only community solar projects on the favored locations – landfills/brownfields/historic fill or rooftops – are likely to be approved for award.

In the case of landfills/brownfields/historic fill projects, as mentioned before the timelines are generally long, and uncertainties are very high regarding time to complete the project. Such projects in Program Year 2 will therefore carry an extreme risk of failing to qualify for the transition incentive. That particular risk can result in the risk of failure to move forward into the very high capital expenditures that occur during construction. Therefore, MSSIA recommends that BPU consider fixing the Transition Incentive status of such projects so long as they meet the progress requirements discussed above.

Question 22: A number of resources are available to prospective community solar applicants, including a [Frequently Asked Questions](#) page, EDC hosting capacity maps, and the Department of Environmental Protection [Community Solar PV Siting Tool](#).

a) What other resources do you believe the Board should provide to facilitate community solar development in New Jersey?

At this time, MSSIA has no comments regarding this question.

b) Should the Board provide technical assistance grants for the development of community solar projects? If yes, to whom and under what conditions?

Yes, to qualified non-profit entities and local government entities.

Question 23: How can Staff otherwise support community solar developers and subscribers to ensure success?

In view of the difficulties expressed above regarding the timeline for landfills/brownfields/historic fill MSSIA recommends that BPU consider cooperating with DEP to establish a dedicated team within DEP to coordinate, facilitate, and accelerate the review and approval of community solar projects on these sites. Such a dedicated community solar team within DEP may be able to help projects navigate through multiple environmental permits, and ensure that review and approval is timely enough to ease the risk associated with the expenditure of considerable capital during the pre-construction period.

In addition to the outreach, information, and tools that the BPU currently offers, MSSIA recommends a greater emphasis be placed on the inclusion of LMI organizations such as local governments, non-profits and civic/social agencies. These entities are often the key drivers of a successful community solar project, both in the application/award process and in the actual life of the project itself.

MSSIA thanks staff for the opportunity to provide input on this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Lyle K. Rawlings". The signature is fluid and cursive, written over a light grey rectangular background.

Lyle K. Rawlings, P.E.
President

Community Solar Statement for NAACP NJ State Conference

New Jersey Community Solar Energy Pilot Program
BPU Docket No. QO18060646

Comments of NAACP in response to the BPU Notice of July 9, 2020

The NAACP NJ State Conference appreciates the opportunity to provide the following comments in response to the Board of Public Utilities (BPU) notice of July 9, in furtherance of the efforts of the BPU and Governor to expand their commitment to environmental justice in the context of Community Solar.

Since New Jersey rolled out its pro-solar growth policies over the course of the last 15 years, people of limited means, living in apartments or not owning their own property, have been largely shut out from these benefits.

The BPU, in consideration of both the COVID crisis and the national racial justice protests, has made reaching low and moderate income customers in environmental justice communities a priority across the board. I congratulate the Board of Public Utilities in making Community Solar for low and moderate income customers a policy priority.

To reach this goal, the BPU must first acknowledge that to truly address environmental justice they must re-adjust their thinking as to the inherent biases that programs such as Community Solar have built into their structure.

Community Solar needs to be aligned to work for individual low-income customers who struggle to meet their basic needs and stay within budget. The design at its core must recognize that these customers are not looking for or putting the time and effort into shopping for a green energy product. There are community solar programs around the country that are aimed at those, typically affluent, environmentalist customers who are willing to go out of their way to sign up for the community solar, but this is not the people this program must reach.

These customers have more pressing matters than to research Community Solar, then review an unreasonable amount of paperwork to join. This is why to reach the communities who are most in need of financial relief, the BPU should allow towns to use the opt-out mechanism to subscribe customers.

Opt-out is already a proven and Board-approved mechanism. The BPU has already seen success in using the Opt-Out method in Government Energy Aggregation Programs across the State. If the built-in protections used for Government Energy Aggregation are sufficient to enroll an entire town, then it stands to reason the same mechanism would and should be just as easily applied to the much smaller Community Solar Program. At the end of the day, opt out is needed to truly have widespread mass market success in the enrollment of LMI customers.

A second area of importance is billing. The utilities already include the charges levied by default suppliers in their bills. The BPU should have the utilities provide the same billing and revenue collection for LMI community solar. The confusion of two bills is avoided and customer revenue is covered. Community solar for individually metered LMI customers can then be financeable and developed.

Creating an equitable Community Solar Program is within your reach. We look forward to working with you to make New Jersey a national leader in delivering community solar to all types of customers. With the cooperation and understanding of the BPU, our environmental justice communities may finally breathe easy.



August 10th, 2020

Joseph L. Fiordaliso, President
State of New Jersey Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, New Jersey 08625-0350

**Re: Docket No. QO18060646
New Jersey Community Solar Energy Pilot Program, Year 1 Lessons Learned**

Dear President Fiordaliso:

Thank you for this opportunity to provide feedback on lessons learned from Year 1 of the Community Solar Pilot Program, and to provide initial feedback for Year 2. Nexamp is grateful to have been awarded projects under Year 1, and we look forward to future projects and to continuing to work with the Board on our shared goal of delivering clean energy to New Jersey residents and businesses.

Nexamp was founded over a decade ago, and since that time has grown from a small residential solar installer to a fully integrated solar development company with 165 operational projects totaling 150 MW of solar installations in seven states. The growth and success of our program can be attributed to our fair and equitable subscription program. Our program was designed to ensure that everyone – regardless of income, credit history, roof space or geographic location – can participate in community solar. We do not run credit checks on prospective customers, there is no cost to join our program and no penalty for leaving the program (we ask for 90 days’ notice), and we offer a stable, guaranteed discount of at least 10% against the customers’ standard electricity rates. Even as rates change over time, our customers are guaranteed the same fixed discount for as long as they choose to participate in one of our community solar farms.

We are proud of the program we have built and the access to clean, renewable energy that it has afforded residents, small businesses, non-profits and others. We have developed projects with reserved offtake for low and moderate income (“LMI”) customers in Illinois, Maryland and in New York State; and we are excited to now be able to bring our program to New Jersey residents.

Nexamp appreciates the Board and Board Staff’s commitment to the Community Solar Program and their diligent efforts so far to make it a success. To that end, there are several important issues that the Board should address to ensure Year 2 and beyond can build off that success.

In particular, Nexamp urges the Board to significantly increase the proposed capacity level for Year 2 in line with what CCSA has proposed. Doing so will further expand market access for underserved populations in New Jersey, help address the State’s ambitious goals, and it will send a strong signal to the industry about potential future growth. Particularly in light of the current health and economic crisis, projects that can deliver reliable investment in New Jersey communities, and can offer meaningful savings to New Jersey residents, are needed more than ever. The Board has an opportunity unlock more of this potential for New Jersey in Year 2.

In addition to the Board's broader clean energy objectives, the Board deserves credit for sending a strong message about the inclusion of LMI populations in Year 1 of the Community Solar Program. Central to achieving this goal will be ensuring easy access to the program for LMI customers and a positive customer experience. Nexamp urges the Board to revisit the program's income verification rules and has made recommendations to that effect below, which in our view represent the most positive action the Board could take to ensure LMI participation.

Finally, the Board can act to provide greater project certainty by placing Year 2 projects into the TREC incentive program and by taking steps to improve the interconnection process for community solar projects. Without the Successor Incentive Program in place prior to submitting Year 2 applications, developers would be submitting applications without a firm understanding of each project's economics. Nexamp urges the Board to place Year 2 projects in the TREC program to remove any uncertainty and increase the eventual prospects of success for each awarded project. In addition, the Board should carefully monitor the interconnection process and consider implementing formal timelines for the utilities to ensure awarded projects are moving forward at the pace the Board expects.

Nexamp has provided answers to many of the Board's specific questions below. In addition to the comments provided here, Nexamp fully supports the comments filed by the Coalition for Community Solar Access ("CCSA").

Topic 1: Equity and the Inclusion of Low- and Moderate-Income Households

Question 1: How can the Board ease the process by which developers validate LMI status when enrolling subscribers?

- a) Should the Board consider amending the current rules regarding LMI subscriber verification, as defined at N.J.A.C. 14:8-9.8? If yes, how? For reference, please see Appendix 1 for selected excerpts of the relevant section of the rules.**
- b) Please include a discussion of the following verification metrics, with examples from other states where applicable:**
 - a. LMI income affidavit;**
 - b. verification by census tract; and**
 - c. other means of encouraging and supporting LMI community solar participation.**

Nexamp appreciates the Board's willingness to revisit the current rules regarding income verification. The current program requirements are not workable for many LMI customers and in practice can serve as a barrier to participation for LMI customers. Turning over three years of tax returns requires customers to hand over sensitive personal information to a third party. Customers rightly do not want to have to hand over sensitive personal information, and they should not be asked to. Based on our experience, many customers would prefer to simply not participate in the program if asked to provide sensitive documentation.

Except for the Board's requirement, Nexamp does not need or want this kind of information from our subscribers, and we do not believe we or other companies should have it.

In principle, a program that is designed to ease the path to participation in clean energy for LMI customers should not have such barriers to entry. Moreover, it raises concerns of equity when the LMI customers in the program have a hurdle to participation while others do not, particularly when that

hurdle is providing sensitive information. LMI customers are also not guaranteed any benefit beyond their non-LMI peers under the program, and so the added burden is difficult to justify in our view.

In addition, requiring tax return information for verification will exclude many eligible participants categorically. Particularly in this difficult economic situation, many New Jersey residents may be experiencing a sudden loss of income that the prior 3 years of tax returns would not capture. The immediate savings from community solar may be particularly meaningful for those in this situation, and so long as these customers meet the current income requirements, they should have a way to participate.

Nexamp urges the Board to allow participants to demonstrate eligibility through proof of participation in any program that meets the income requirements of the community solar program, or through an attestation of their income. This is the most inclusive and equitable process. It allows for all LMI subscribers who meet the income requirements to participate, and it does not require sensitive information to change hands. In our experience, customers do not misrepresent themselves as being low-income and we should not expect them to do so.

Question 2: Current rules mandate that developers use the “opt-in” model for subscriber enrollment, in which a subscriber must affirm a community solar subscription with a wet or electronic signature. This is distinguished from the “opt-out” model, in which a subscriber is enrolled without affirmative consent, and given the option to unsubscribe (i.e., opt out) from the community solar subscription.

Based on experience with Program Year 1, as well as the successes or failures in other states, please provide feedback on the efficacy of the “opt-in” model, or, in the alternative, on the benefits and risks of the “opt-out” model for subscriber enrollment. In particular, please discuss:

Opt-in Model:

- a) From your perspective as a developer, subscriber, community organization, third-party entity, etc., please describe your experience using the “opt-in” model in Program Year 1. What challenges did you encounter? What, if anything, would you change about the process? Please specifically identify whether you are working on a community solar project approved in Program Year 1.
- b) Are there examples of other states that have been particularly successful or unsuccessful using an “opt-in” model for community solar? What has made them successful or unsuccessful?

Opt-out Model:

- c) What would be the advantages and risks of implementing opt-out for community solar? Is an opt-out model the best approach to facilitating low- and moderate-income subscriber enrollment?
- d) What consumer protection measures would need to be established in order to implement an opt-out mechanism for community solar?
- e) In what ways could an opt-out model of community solar subscriber enrollment be similar to, and different from, the model currently implemented under Government Energy Aggregation in New Jersey?
- f) Are there examples of other states successfully using an “opt-out” model for community solar? If so, what makes them successful?

Nexamp appreciates the interest from some stakeholders in the potential of opt-out models. While the Board may choose to explore this topic going forward, Nexamp respectfully urges the Board not to shift the program away from the current opt-in model. The opt-in model is not a barrier to the participation of LMI customers and has several key strengths.

In Nexamp's view, the full range of benefits of community solar go beyond the clean energy added to the grid and the savings for our customers, although those are rightly highlighted. More broadly, community solar provides a direct connection between people and clean energy and it empowers subscribers and their communities. For customers who are not able to host rooftop solar, for example, community solar can replicate the satisfaction of personally contributing to addressing climate change, it can educate customers about their energy usage and options, and it opens the door into the clean energy economy. For LMI or otherwise disadvantaged communities, this engagement is a central part of what makes community solar meaningful.

Under an opt-out model, these goals are difficult to achieve. In practice, it may also limit LMI outreach to only certain areas that have aggregation programs, which may not be fully representative of LMI populations or need in New Jersey. Additionally, if done on a large scale across a whole community, individual LMI customers may see only a minimal savings. In our view, the program would be better served helping fewer customers with a larger benefit, than to substantially dilute the savings.

Nexamp respectfully urges to Board to continue with the opt-in approach, and to keep the overall customer experience under the program front of mind when considering any such changes.

Question 3: How can the Board leverage existing programs (e.g. Comfort Partners, USF, etc.) to facilitate enrollment of LMI customers in community solar?

The Board should consider and promote community solar alongside its other assistance programs, and should use, as appropriate, those programs to help educate LMI customers about the community solar program.

Question 4: How can the Board leverage, or partner with, community organizations or others to facilitate equitable inclusion of community solar subscribers, including education, marketing, and enrollment?

The Board can continue to play a vital role in promoting the Community Solar Program and serving as a source of information for community organizations. Community organizations that are trusted partners within LMI communities can be important in connecting those communities to community solar. These organizations may or may not have direct experience with clean energy options, however, and so education about the program is important. While Subscriber Organizations can and do take on these outreach and education efforts, it is important to have an entity like the Board doing the same from a neutral perspective.

The Board can play this informational role by continuing to host updated information on its website, and through direct outreach to organizations in the state through informational sessions or other similar types of programming.

Question 5: What are the challenges specific to ensuring that low- and moderate-income households in master-meter buildings can become community solar subscribers?

- a) **How common are these type of master metered apartments?**
- b) **Please describe the feasibility of reforming rates to ensure customers in master metered buildings receive community solar credits equivalent to those of single-family households.**
- c) **Please address any unintended consequences of this type of rate reform?**
- d) **What measures should the Board consider to alleviate these challenges?**

In our experience, master metered housing and individually metered apartments are equally common in New Jersey. Because they are on a commercial rate, the value of the bill credit currently is significantly lower for master metered buildings. The Board's order from August 2019, which set the value of the bill credit, specifically excluded demand charges from the calculation and this exclusion in particular makes it very difficult for master metered buildings to see savings from community solar.

The Board should consider revisiting its decision regarding the bill credit master metered customers, if the Board wants to ensure participation from these entities going forward. The Board could act narrowly for this segment of customers or could more broadly revisit the bill credit to make it more economically attractive.

Question 6: What additional suggestions do you have to facilitate inclusion of LMI households?

Managing customers, particularly LMI customers, is a unique challenge under community solar. Currently, the Board does not ask applicants to demonstrate any prior experience in this type of customer management. The Board has clearly established that LMI inclusion is a key metric for applicants, but it is less clear how the Board is evaluating whether applicants have the ability to deliver on their commitments to LMI subscribers. Asking applicants to demonstrate experience add weight to the commitments made in an applicant and provide greater confidence to the Board that the projects that receive awards will be able to succeed.

This will improve the experience for LMI subscribers and will benefit the program as a whole, because it will limit the number of entities attempting to subscribe customers through the pitfalls of trial and error. Entities rushing to acquire LMI customers without a prior plan in place could make mistakes that inadvertently hurt the credibility of the Community Solar Program in those LMI communities.

Topic 2: Program Year 1 Application Form and Application Process

Question 7: Please provide feedback on the process of submitting an Application. In particular, please discuss:

- a) **Length of the application period: should the PY2 application period be longer, shorter, or equal to the 5-month application period in PY1?**
- b) **Should the Board implement a process for submitting an application via an online application form? If it is not possible to establish an online application process, how can the Board improve the process for submitting a hard copy application?**

While the 5-month application period was sufficient for Year 1, the Board should narrow the application window substantially for Year 2. Nexamp recommends no longer than a 2-month application window for Year 2. This will ensure that the Board is able to keep the program moving forward and can meet the stated timeline for project selection by the end of 2020 or in early 2021.

The Board should also implement an online application process for Year 2, which would be the most efficient manner for processing applications for both applicants and Board staff. If an online submission is not possible, the Board should limit the number of hard copies of applications that are required, which will simplify the process considerably for applicants.

Question 9: Please provide feedback on Section B of the PY1 Application Form (community solar project description). In particular, please discuss:

- a) **Were certain questions unclear?**
- b) **Should certain questions in the PY1 Application Form be omitted from the PY2 Application Form? Why would you recommend excluding them?**
- c) **Should certain questions that were not asked in the PY1 Application Form be included in the PY2 Application Form? What would you recommend, and why?**

Nexamp offers the following suggestions to the Board regarding the Year 1 application:

- **Section VIII, Question 4:** A screenshot of the hosting capacity map should not disqualify a project. In our experience the hosting capacity maps are not necessarily reliable indicators of distribution system capacity and are not currently a sufficient enough proxy to allow for their use as a definitive indicator for judging appropriate siting potential. Nexamp recommends that the Board improve upon this process, or change this part of the application process.
- **Section IX, Questions 6 and 8:** Answers to these questions are not necessarily known at the time of project application.
- **Section XI:** Estimating project costs should not be necessary at this stage, particularly without an understanding of a project's interconnection costs.

In addition, Nexamp suggests that the Board add a question to the Year 2 application regarding whether the applicant has previous experience subscribing customers under community solar, and LMI subscribers specifically. As discussed above, managing subscribers is a unique aspect to community solar and demonstrating prior experience adds weight to an application and the commitments that are made in it.

Question 13: Please provide feedback on Appendix C: Evaluation Criteria from the PY1 Application Form. In particular, please discuss:

- a) **Was Appendix C useful to Applicants in creating their applications?**
- b) **Should the Board modify the evaluation criteria for PY2? For example, should the Board give more or less weight to certain evaluation criteria in PY2?**
- c) **Are there criteria that were not considered in PY1 that should be considered in PY2? If yes, how would the Board evaluate, score, and verify these criteria?**
- d) **Please address whether the Board should consider awarding more potential points for projects proposing to serve more than 51% LMI customers and how such scoring would work.**

Appendix C was useful, but further breakout of scoring sections would be more helpful to applicants.

Topic 3: Program Year 2 Application Process

Question 14: The PY1 capacity was 75 MW(dc). Pursuant to N.J.A.C. 14:8-9.4(b), the PY2 capacity must be at least 75 MW(dc), but could be more. Staff is considering recommending that the Board increase capacity in PY2 to 100 MW(dc), and to 125 MW(dc) for PY3, with the intention of soliciting annually for 150 MW(dc) in the permanent program. Please comment on this proposed plan.

While we appreciate the Board's intentions to scale the program, the capacity levels proposed here are not in line with our view of the demand for community solar in New Jersey, the interest from the solar industry, and New Jersey's ambitious clean energy goals. There is a significant population in New Jersey of renters, low-income customers, and many others who are unable to participate in traditional rooftop solar, all of whom are currently underserved. Nexamp respectfully urges the Board to size Year 2, and the program longer term, to scale to those clean energy goals and to the needs of that population.

Nexamp supports CCSA's proposal for 300 MW of capacity for Year 2. Even though the program is in a pilot phase, the over 600 MW of applications submitted for Year 1 alone clearly show that the market can support this level of projects. In addition, an expansion in capacity would send a clear signal to Nexamp and others in the industry that there is a growing, stable market in New Jersey to invest time and capital, and it will allow for a greater diversity of project types.

The Board should also consider community solar's important role in meeting New Jersey's energy goals. With project sizes up to 5 MW, community solar can make a meaningful contribution to reducing carbon emissions and reaching New Jersey's targets. But community solar is also a bridge to the benefits of clean energy for otherwise underserved segments of the population. The Community Solar Program is helping to close that gap, but as the state ramps up growth in other market segments, the Board should ensure that community solar keeps pace to prevent that gap widening even further.

Nexamp also encourages the Board to consider implementing a waitlist of projects for Year 2. Projects that did not receive initial awards from the Board could be organized on a waitlist for each service territory and ranked using the same scoring methodology. If an awarded project were to fail to move forward for whatever reason, the Board could reallocate that capacity to the next project on the waitlist. This would ensure that the Board's capacity targets are ultimately being met and being met efficiently. For developers this would serve as an incentive to continue due diligence and to keep projects moving forward, even if they were not initially selected.

Question 17: The PY1 Application Form made certain sections optional for government entities. Did this facilitate applications by government entities? Should the Board consider a fully separate carve-out and application process for government entities?

If the Board is concerned that government entities will not be able to participate under the current program structure, then the Board should consider establishing a separate application process with an additional number of target MWs for those entities. Taking this approach would allow for the Board to account for any changes that need to occur for government entities, while ensuring that the rules for each application process are standard for all applicants.

If there is not a separate carve-out, however, the Board should ensure that all applicants are held to the same requirements and standards to ensure the process is truly competitive. At a minimum, government entities applying to the program should have to demonstrate that a developer has already been selected through an RFP or equivalent process. A uniform application of the program rules is critical for the integrity of the application process, and for the Board to be able to accurately compare and score applications.

Topic 4: Other

Question 18: Should the Board consider amending the Pilot Program rules to require that community solar subscriptions guarantee savings compared to the subscriber's electric bill without community solar, as an added consumer protection measure, particularly given that all awarded projects already committed to doing so in the PY1 applications?

Nexamp would support a guaranteed savings requirement for subscriptions, but the Board should not specify a certain level of savings and should continue allowing flexibility for subscriber organizations and the market to determine savings levels.

Question 19: Should the Board consider amending the construction timelines and extension policies at N.J.A.C. 14:8-9.3(c)? If yes, how? Currently, applicants have 6 months to start construction, and 12 months to become fully operational, with an unlimited number of possible extensions (so long as projects can demonstrate continued progress). Excerpts of the relevant section of the rules are provided in Appendix 1 below.

Nexamp respectfully urges the Board to amend the timelines to provide for 12 months to start construction and 18 months to be fully operational. While Year 1 projects faced challenges from the impact of Covid-19 that will hopefully not impact Year 2 projects, the current timelines are narrow and difficult to meet for many project types, particularly those located on brownfield or landfill sites.

So far in Year 1 there have been challenges in the interconnection process that may continue to delay projects in Year 2. Nexamp encourages the Board to look at ways to streamline the interconnection process more broadly, but consideration should be given in project timelines as well.

Nexamp appreciates the Board's inclusion of a process to request extensions, and recommends the Board continue this practice. An addition of 6 months to the current timeline, however, will in our view keep projects moving forward while reducing the number of extension requests that may prove to be a drain on the Board's time.

Question 21: How is the Pilot Program impacted by the ongoing transition in solar incentives from the Transition Incentive Program to the Successor Program?

The current transition in solar incentive programs has injected uncertainty into potential Year 2 community solar projects. The Board has not yet made clear whether Year 2 projects will be included under the TREC program or the forthcoming Successor Program. The incentive program is a crucial underlying economic component of projects, and for developers like Nexamp to bring viable projects forward, we need to understand the program structures. When left to speculation and assumptions about key project components, the quality of project applications that the Board receives will range significantly, and in general are likely to suffer.

Nexamp appreciates the many challenging and important issues currently being managed by the Board and Staff and the complexity of the Successor Program design in particular. Given our understanding of the current timeline of the processes for both Year 2 and the Successor Program, it is likely that elements of the Successor Program will still be uncertain at the time of submitting Year 2 applications. Given this challenge, Nexamp recommends that the Board remove the uncertainty from the Year 2 program by clarifying that awarded projects will participate in the TREC program. At a minimum,

Nexamp respectfully requests that the Board clarify in advance of the application period which of the incentive programs will be applicable for Year 2 projects.

Question 24: Please provide comments on issues associated with the Pilot Program not specifically addressed in the questions above.

Nexamp urges the Board to give greater consideration to the interconnection process as part of the program. In particular, the Board should actively monitor the length of the interconnection process for community solar projects and should consider proposing timelines on the utility process to ensure projects are being studied in a timely manner. Extended timelines lead to uncertainty and to delayed projects but can be avoided by setting out clear standards that developers and the utilities can work from. In addition, the Board should implement an interconnection working group, as CCSA has proposed, that would allow for developers, the utilities, and Board staff to be aware of and address challenges in the interconnection process on an ongoing basis.

Respectfully,

Jake Springer
Senior Policy Associate
Nexamp

Princeton Community Housing

One Monument Drive, Princeton, NJ 08540
609-924-3822 609-924-3827 (fax)
www.pchhomes.org



August 7, 2020

Ms. Aida Camacho-Welch, Secretary of the Board
Board of Public Utilities
44 So. Clinton Ave., 7th Floor
Trenton, NJ 08625

Re: New Jersey Community Solar Energy Pilot Program
BPU Docket No. QO18060646
Comments from Princeton Community Housing,
in response to the BPU Notice of July 9, 2020

Dear Secretary Camacho-Welch:

We appreciate the opportunity to answer Question 2(c) under Topic 1: Equity and the Inclusion of Low- and Moderate-Income (LMI) Households.

Princeton Community Housing is motivated to comment on this issue due to our responsibility to speak up for the LMI residents of Princeton. Desiring to support a balance of housing opportunities essential to the continued success and diversity of the Princeton community, a small group of community leaders formed Princeton Community Housing, Inc. (PCH) in 1967. Over 53 years later, PCH has grown to become the largest single provider of affordable housing in Princeton. In consideration of the LMI community, PCH submits the following comments aimed at expanding the Community Solar Project to all LMI customers in a well-rounded and fair manner.

Question 2(c): What would be the advantages and risks of implementing opt-out for community solar? Is an opt-out model the best approach to facilitating low- and moderate-income subscriber enrollment?

PCH believes the opt-out model is a highly efficient and fair way to sign up individually metered LMI customer accounts. The excessive, unnecessary, and costly labor and effort of collecting individual wet signatures or electric sign-ups under the opt-in approach of each individually metered LMI subscriber will prevent the Program from successfully reaching LMI customers.

The opt-out method has also been market tested by the BPU numerous times in its Government Energy Aggregation (GEA) Program and has proven to be highly successful. Along with the opt-out protections established in GEA rules, the Program will be municipally operated and customer centered, thus fully protecting LMI residents.

Finally, the Community Solar Program is in a Pilot stage. Therefore, it is appropriate to allow the use the opt-out approach in the interest of investigating how New Jersey can develop a highly successful program design to reach the greatest amount of LMI customers in subsequent Pilot

stages or in the permanent program. Accordingly, the BPU should permit waivers from its rule to allow opt-out in its Round 2 Application Process.

PCH chooses to stand up for the interests of the LMI community on this issue because providing the full benefits of solar energy to as many LMI customers as possible should be the primary focus of the Community Solar Pilot Program, and to do so the above suggestions should be implemented.

Thank you again for this opportunity and also for your time and consideration.

Sincerely,

A handwritten signature in cursive script, appearing to read "Edward Truscelli".

Edward Truscelli
Executive Director

New Jersey Community Solar Energy Pilot Program
Program Year 1 Lessons Learned
Written Comments by Centrica Business Solutions

Question 1: How can the Board ease the process by which developers validate LMI status when enrolling subscribers?

An opt out policy should be put in place and it will eliminate all of these concerns. This is the simplest and cheapest way to get subscribers signed up to community solar systems. It is also the cheapest method and therefore is in the best interest of the ratepayer, since the cost savings would result in cheaper EPCs and management costs and those savings would ultimately end in the customer's hands.

LMI affidavits are a cumbersome process and should not be required. Income verification such as tax return documents are also difficult for the customer to submit and provide in confidence to developer organizations. All of this information is already readily available to the utility and therefore is an unnecessary addition of onerous and costly steps for a customer to sign up for the solar project. If community solar is going to be successful in New Jersey the state needs to remove these frictions that prevent offtakers from being connected with solar generators and an opt out policy is by far the easiest and cheapest way to do this.

Question 2: Current rules mandate that developers use the "opt-in" model for subscriber enrollment, in which a subscriber must affirm a community solar subscription with a wet or electronic signature. This is distinguished from the "opt-out" model, in which a subscriber is enrolled without affirmative consent, and given the option to unsubscribe (i.e., opt out) from the community solar subscription.

We are not familiar with any state program that has been successful with an opt- in model.

The clear advantages of an opt-out model are that it would be much easier and cheaper for customers to get signed up for solar projects, which is what New Jersey wants. It is easier for both the customer and the developers. There are no major risks to this approach. It's important to note that this leaves the option for the customer to choose. They still have the option to opt-out. In order to ensure satisfied customers, the utility could provide them a summary of their savings that illustrates how they have benefited from this program. Having both saved money and contributed environmental benefits from their participation, customers should be pleased with the outcome.

Question 3: How can the Board leverage existing programs (e.g. Comfort Partners, USF, etc.) to facilitate enrollment of LMI customers in community solar?

Utilities already have the data necessary to determine which customers are LMI through their various programs such as Comfort Partners, LIHEAP, etc.

Question 4: How can the Board leverage, or partner with, community organizations or others to facilitate equitable inclusion of community solar subscribers, including education, marketing, and enrollment?

No comment.

Question 5: What are the challenges specific to ensuring that low- and moderate-income households in master-meter buildings can become community solar subscribers?

No comment.

Question 7: Please provide feedback on the process of submitting an Application. In particular, please discuss:

- a) **Length of the application period: should the PY2 application period be longer, shorter, or equal to the 5-month application period in PY1?**

The five month application period is sufficient. It should not be shortened, because the current permit readiness requirement is extremely onerous and requires documents to be completed by the Department of Environmental Protection, which can take many weeks.

- b) **Should the Board implement a process for submitting an application via an online application form? If it is not possible to establish an online application process, how can the Board improve the process for submitting a hard copy application?**

Yes, the Board should absolutely implement an online application process. This is not difficult to do and would make it much easier for projects to be submitted. It would allow for a grace period where corrections could be requested if information is missing on an application. It can allow for much faster communication between the administrator and the developer during and after the application process. Printing multiple copies of applications and physically mailing them to the BPU is an extremely antiquated method of doing business. Additionally, it wastes significant amount of paper and creates unnecessary emissions from the delivery of the documents. It eliminates the need for notaries, as docuSign can easily be implemented as well.

Question 8: Please provide feedback on Section A of the PY1 Application Form (Application Form requirements, instructions, terms and conditions). Were the instructions sufficiently clear?

Yes

Question 9: Please provide feedback on Section B of the PY1 Application Form (community solar project description).

Section B is fine.

Question 10: Please provide feedback on Section D of the PY1 Application Form (certifications).

Section D is fine.

Question 11: Please provide feedback on Appendix A: Product Offering Questionnaire from the PY1 Application Form.

The questionnaire is fine.

Question 12: Please provide feedback on Appendix B: Required Attachments Checklist from the PY1 Application Form.

Appendix B is fine. The checklist was helpful.

Question 13: Please provide feedback on Appendix C: Evaluation Criteria from the PY1 Application Form.

The Evaluation Criteria are more or less reasonable. However, the Board should provide more detail on what is meant by each of the different criteria. For example, the Bonus Points are confusing in the Siting section. The Other Benefits is not clear either. What is meant by audits or energy efficiency measures? Who is receiving those measures? The Community Environmental Justice Engagement section is unclear. What determines a partnership with a municipality? Is it just some endorsement from the municipality that they like the idea of the project? What else is expected of the developer for a more robust partnership? The Geographic Limit section is also unclear. Is this in reference to the proximity of the solar array to its offtakers? If so, this is not explicitly stated.

Question 14: The PY1 capacity was 75 MW(dc). Pursuant to N.J.A.C. 14:8-9.4(b), the PY2 capacity must be at least 75 MW(dc), but could be more. Staff is considering recommending that the Board increase capacity in PY2 to 100 MW(dc), and to 125 MW(dc) for PY3, with the intention of soliciting annually for 150 MW(dc) in the permanent program. Please comment on this proposed plan.

Increasing the capacity is a very good idea. 150MW per year in the permanent program is a reasonable thought. However, it does not make much sense to limit the capacity by any amount. There was no capacity limit per year in the Legacy SREC Program, there is no annual limit in the TREC Program, and there likely will be no annual capacity limit in the Successor SREC Program. If the state wants to implement more community solar, there does not seem to be a reason to place any limit on the annual capacity allowed. If a main priority of the state is to incent projects with certain characteristics, specifically those related to siting and offtaker participating (LMI), there are ways to drive those types of projects to be built without an annual cap and a full review process by the BPU in order to select projects that fit those specific characteristics.

Question 15: The 45 applications granted conditional approval in PY1 represented 17 unique applicants. Should the Board consider limiting the number of applications that are submitted by a single developer, or limit the number of applications by a single developer that will be conditionally approved?

No.

Question 16: For ground-mount projects, please provide feedback on the DEP Permit Coordination checklist process.

This is an unnecessary process, which ultimately would occur in later stages of the development process.

Question 17: The PY1 Application Form made certain sections optional for government entities. Did this facilitate applications by government entities? Should the Board consider a fully separate carve-out and application process for government entities?

No. This is unnecessary.

Question 18: Should the Board consider amending the Pilot Program rules to require that community solar subscriptions guarantee savings compared to the subscriber's electric bill without community solar, as an added consumer protection measure, particularly given that all awarded projects already committed to doing so in the PY1 applications?

Yes. Savings are already an integral part of the customer expectation.

Question 19: Should the Board consider amending the construction timelines and extension policies at N.J.A.C. 14:8-9.3(c)? If yes, how? Currently, applicants have 6 months to start construction, and 12 months to become fully operational, with an unlimited number of possible extensions (so long as projects can demonstrate continued progress). Excerpts of the relevant section of the rules are provided in Appendix 1 below.

Yes, this is an unnecessarily fast development timeframe. 24 months is a better time frame for project completion.

Question 20: Should the Board consider restricting the 10-subscriber minimum exemption at N.J.A.C. 14:8-9.6(d) to only buildings that serve low- and moderate-income residents? Currently, the exemption applies to all multi-family buildings which have a community solar system located on-site. Excerpts of the relevant section of the rules are provided in Appendix 1 below.

The 10 minimum requirement is not particularly difficult to fulfill.

Question 21: How is the Pilot Program impacted by the ongoing transition in solar incentives from the Transition Incentive Program to the Successor Program?

No comment.

Question 22: A number of resources are available to prospective community solar applicants, including a Frequently Asked Questions page, EDC hosting capacity maps, and the Department of Environmental Protection Community Solar PV Siting Tool.

These are all helpful resources, but there should be a program administrator that is able to answer questions more quickly. The current FAQ is extremely helpful, but we've found that questions that are submitted are not answered for months at a time, until the FAQ is updated. This limits the ability for projects to continue to move forward because there is a lack of communication from the BPU on particular questions that are not always clearly explained in the provided documentation.

Question 23: How can Staff otherwise support community solar developers and subscribers to ensure success?

The program administrator should be able to assist with administrative questions or interpretations of the program rules.

Question 24: Please provide comments on issues associated with the Pilot Program not specifically addressed in the questions above.

No comment.



August 10, 2020

Aida Camacho-Welch, Secretary
New Jersey Board of Public Utilities
44 South Clinton Avenue
3rd Floor – Suite 314
P.O. Box 350
Trenton, New Jersey 08625-0350

Re: *Community Solar PYI Comments*
Docket No. QO18060646

Dear Ms. Camacho-Welch:

NJR Clean Energy Ventures Corporation (NJRCEV) respectfully submits the following comments.

NJRCEV has been a market leader in New Jersey's solar market since 2010 and owns and operates a diverse portfolio of over 300 megawatts (MW) in the State. We applaud the Board of Public Utilities (BPU) for its commitment to continuous improvement in the community solar program, and for its effort to consider lessons learned from the first year of the pilot program to make the second year more successful.

On Topic 1 (Questions 1-6), which addresses reaching the target low- to moderate-income (LMI) market, NJRCEV recommends the following actions, which will reduce the cost and risks associated with acquiring and managing LMI customers:

- A streamlined LMI application process that verifies qualification status through census level data supported by self-attestation of income status. The attestations could include an acknowledgment that customers and project sponsors may be subject to random audits to verify income status, and subject to exclusion from the program for any knowingly false statements;
- Allow for a customer opt-out provision for municipal-sponsored community solar programs, which would help significantly reduce customer acquisition costs. Municipal opt-outs are common practice in community choice aggregation (CCA) markets, where a municipality is the sponsor of a community solar project for its residents. States that provide for CCAs with opt-outs include California, New York, Ohio, Illinois and Massachusetts;
- Using consolidated billing and purchase of receivables (POR) to reduce LMI credit risk and associated financing costs will streamline the payment process for customers. The benefits of consolidated billing and POR have been recognized by the BPU in past rulemakings related to developing the competitive retail market structure in New Jersey;

- Master-metered public housing projects offer the potential for major efficiencies in acquiring LMI customers; however, there is variability in the economics of master-metered building projects. These include depending on solar project factors and bill credits applied to the utility territory and specific site. To support robust market growth in the permanent program, more refinement to transitional renewable energy credit (TREC) factors and bill credits will be needed in the public housing market segment.

NJRCEV offers the following suggestions for Topics 2 through 4:

Application Process (Topic 2)

- Today, publicly available circuit maps are spotty and unreliable to determine the likelihood of interconnection approval. In order to ensure that projects approved have a high likelihood of being installed on time, NJRCEV recommends developing tools and processes to ensure an effective “pre-screen” for interconnection approval and costs that can be used by BPU Staff as evaluation criteria.
 - An additional evaluation category that reflects the likelihood of a project’s interconnection acceptance should be added to the application with utilities offering a preliminary screening of community solar interconnections.
 - Once the program moves from the pilot phase to full rollout, where program capacity may be less constrained, interconnection approval and site control can become requirements before projects apply to the program.
- Appendix C denotes that higher preference will be given to projects sited on landfills; however, if a landfill is not properly closed at the time of application, it could take years to obtain the proper permits and begin solar construction. During the pilot phase, we recommend the evaluation criteria include that landfill projects have the necessary permits in place to meet the installation timelines. As part of the full-scale program, we recommend that longer approval timelines be provided for landfills to address the complex permitting process associated with these locations.

Program Size (Topic 3)

- NJRCEV believes Staff’s program size goal of 100 and 125 MW per year in pilot years 2 and 3 are directionally correct. With the 75 MW year one project goal, despite over 600 MW in applications, no projects have been installed.
- During the Pilot, we recommend Staff reassess goals each year, and adjust as needed based on market activity and conditions. The TREC structure provides a flexible mechanism for the solar renewable portfolio standard to be automatically adjusted based on installation volumes, and to avoid the mismatches in supply and demand that plagued the solar renewable energy certificate market. Once the community solar program moves from a pilot to a full-scale program, we recommend establishing an overall program goal to cover a multi-year period, coupled with a rolling admissions program, and with incentive reductions triggered by attainment of interim goals.

Alignment with Solar Transition Incentive (Topic 4)

- Incentives should be known with certainty when the Year 2 pilot program opens for new applications. Based on initial guidance from BPU Staff, the pilot will open for new applications in the fall of 2020, while the target is for the successor program to be implemented in early 2021; therefore, all projects approved in Year 2 of the community solar program should be eligible for the TREC program.

NJRCEV appreciates the opportunity to comment on improvement opportunities for Year 2 of the community solar pilot program and welcomes the opportunity to discuss these recommendations with Staff and industry stakeholders.

Respectfully submitted,

Larry Barth
Director of Corporate Strategy

Cc: Mark F. Valori, Vice President
Chris Savastano, Managing Director of Development
Katie Feery, Manager of Corporate Strategy



Board of Public Utilities
44 South Clinton Avenue, 9th Floor
PO Box 350
Trenton, NJ 08625

August 10, 2020

RE: NJ Community Solar Pilot Program Comments

Dear Secretary of the Board,

We respectfully request a reassessment of Section 14:8-9.7(f) as it presumes that subscribers will be billed for all the credits that are generated for which they are allocated, as opposed to only being billed for the value of credits applied to that subscriber's EDC bill. Further, the compensation of net excess bill credits upon the events listed in this Section causes a substantial financial harm to the developer and does not appreciate the practicalities of community solar subscriber management. PowerMarket currently manages over 200 MW of community solar across the country and wishes the NJ Pilot Program rules to align around subscriber benefit, developer value, and achieving public policy goals.

When bill credits are generated in a particular month for a subscriber that exceed that subscriber's actual billed dollar amount, such net excess bill credit amount will be added to that subscriber's "monthly bank" and become what is commonly referred to as "Banked Credits." In subsequent months, this monthly bank can increase or decrease depending on whether the number of credits generated are greater than or less than the subscriber's actual billed dollar amounts.

Nearly all subscriber organizations charge their subscribers for only the amount of bill credits that actually offset that month's utility bill, i.e. the "Applied Credits," which do not include Banked Credits which accrued to the subscriber that month. This has become a best practice, not because it is mandated under the rules, but in the interest of the subscriber experience; Subscribers will pay only for the benefits realized in that month and can easily reconcile this value by seeing such Applied Credits on their bill. While this practice benefits the subscriber, it comes at a risk to developer/subscriber organization. Since developer/subscriber organization wait for Banked Credits to be applied to a subscriber's bill to charge the subscriber for that value, any instance where the developer/subscriber organization is no longer able to monetize Banked Credits creates a substantial financial hardship.

The amount of bill credits a subscriber receives each month is dependent on their percent allocation to the community solar project. No matter how precise a subscriber organization may be in setting an initial percent allocation for each subscriber, the occurrence of excess net bill credits is inevitable. Subscriber organizations typically calculate a subscriber's percent allocation based on historic annual usage (emphasis on annual), and therefore are subject to the inherent monthly variability between subscriber usage and community solar project production. For example, in a summer month, with high solar radiance, the project generation may be high, but the subscriber

may have gone on vacation so their monthly usage was low, causing substantial excess credits to accrue on their account. The expectation is that despite this monthly variability, over the course of an annual billing period, all credits generated for a subscriber will be applied to their account with no Banked Credits remaining at the end. In reality, subscriber organizations and developers have no control over whether a subscriber will remain a participant long enough to see this annual period through and have all Banked Credits eventually applied. Subscribers are free to move or cancel their subscription agreement at any time, and some may default on their subscription payment whenever they want (causing them to be removed from the project). Under the current rules where excess net bill credits are compensated to the subscriber at the avoided cost, the value realized is substantially reduced from that of the retail rate for bill credits, and where such loss results from actions taken by subscribers for which developers/subscriber organizations have no control.

Further, there is typically a 30 to 60 day lag between the time a new allocation schedule can be filed for which it is then applied to the project by the EDC. So even if a subscriber organization had some notice that a subscriber was leaving, there likely wouldn't be sufficient time to reduce that subscriber's allocation so that net excess bill credits could be applied to that subscriber's bill at the full retail rate, and not at the avoided cost. Creating a mechanism whereby net excess bill credits are compensated on annual basis does not serve the subscriber or developers. There must be an appreciation that subscriber allocations are initially calculated based on historic usage, and such historic usage has no true bearing on future use. You can look to the current pandemic as a real, if extreme, example. A subscriber who was allocated based on last year's usage, but due to COVID, kept their apartment but moved back in with their parents for a safer environment, their usage at their apartment has lowered exponentially, resulting in substantial net excess bill credits. If then this individual decided, then to move and close their account, well all of those net excess credits that the developer would have monetized at the full retail rate, but now the value is avoided cost, this has material impact.

This rule as written creates a financial harm to a developers when a subscriber with Banked Credits moves, no matter within or outside the service territory as their EDC account will close upon moving. It is unclear the intent or what policy objective this rule seeks to achieve. It could, however, serve to discourage the inclusion of potential subscribers who are or may be perceived to be more transient than others., i.e. renters, students, and other communities that may historically move more frequently. Where the CDG Host had expected to monetize the Banked Credits over time, such value is lost as these credits have been forfeited due to the subscriber's action.

The BPU should allow for credits to continue to rollover for subscribers for a term beyond the annualized period, otherwise subscriber organizations will be forced to underallocate subscribers (50-60% usage). This causes unfavorable results: 1) Subscribers do not maximize their savings opportunity; 2) Subscriber organizations have greater costs to acquire more subscribers; and 3) higher subscriber management costs, since you need more subscribers for the same project capacity.

Further, net excess bill credits should not be compensated to the subscriber since the subscriber has not paid for its net excess bill credits, and such should be transferred to the developer



at the full retail rate so that the subscriber organization can apply these net excess bill credits to the accounts of other existing or new subscribers on the project. This transfer allows the developer to realize the financial benefit of these net excess bill credits that had been generated and intended to be applied to a subscriber's account, but will now be applied to another subscriber's account. This solution is fair and equitable.

I would be happy to dive into this comment further and share our knowledge and experience in managing community solar subscribers in mature community solar markets like NY, MA, MD, and RI.

Sincerely,

A handwritten signature in black ink, appearing to be "JK" with a long horizontal stroke extending to the right.

Jason Kaplan
COO, PowerMarket

“(f) At the end of the annualized period and/or when a subscriber’s EDC account is closed and/or at the end of the subscriber’s community solar subscription, any excess net bill credits greater than the sum of all appropriate billable charges shall be compensated at the EDC’s or BGS provider’s avoided cost of wholesale power, as determined from time-to time, calculated at the nearest node to the point of delivery of the community solar project. The excess compensation must be returned to the subscriber *[following his or her preferred method]* *by bill credit*, wire transfer, or check.”



Rockland Electric Company

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Project Specialist
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August 10, 2020

VIA ELECTRONIC MAIL

Honorable Aida Camacho-Welch
Secretary
State of New Jersey
Board of Public Utilities
Post Office Box 350
Trenton, New Jersey 08625-0350

Re: New Jersey Community Solar Energy Pilot Program,
Program Year 1 Lessons Learned
Docket No: QO18060646

Dear Secretary Camacho-Welch:

I enclose Rockland Electric Company's Comments on the New Jersey Community Solar Energy Pilot Program, Program Year 1 Lessons Learned in the above-referenced proceeding. Please note that Rockland Electric Company is making this filing solely in electronic form pursuant to the Board's directive in its Emergency Order dated March 19, 2020 in BPU Docket No. EO20030254.

Please contact me if you have any questions regarding this filing.

Very truly yours,

/s/ JoAnne Seibel

JoAnne Seibel
Project Specialist

**Rockland Electric Company
Response to Request for Comments on
New Jersey Community Solar Energy Pilot Program
Program Year 1 Lessons Learned**

August 10, 2020

Rockland Electric Company (“RECO” or the “Company”) submits these comments and recommendations in response to the Notice requesting comments on New Jersey’s Community Solar Pilot Program Year 1, issued by the Board of Public Utilities (“Board”) on July 9, 2020. Community solar offers New Jersey electric customers the opportunity to enjoy the benefits of solar without the need to install solar facilities at their premises. Providing this opportunity to all customers, including low- and moderate-income (“LMI”) customers, offers them bill savings benefits. Community solar also encourages the deployment of additional solar facilities which can facilitate the replacement of environmentally challenged generation.

As noted below, the Company recommends that Community Solar Subscriber Organizations, rather than the Electric Distribution Companies (“EDCs”), should be responsible for verifying customers’ LMI status, as well as monitoring any guaranteed savings. Community solar projects should continue to employ an opt-in model, given the overriding concerns regarding customer consent and consumer protections, especially for LMI customers. Finally, the Board should oversee the development and implementation of consolidated billing rules as part of the permanent Community Solar Program.

Question 1: How can the Board ease the process by which developers validate LMI status when enrolling subscribers?

- a) Should the Board consider amending the current rules regarding LMI subscriber verification, as defined at N.J.A.C. 14:8-9.8? If yes, how? For reference, please see Appendix 1 for selected excerpts of the relevant section of the rules.**
- b) Please include a discussion of the following verification metrics, with examples from other states where applicable:
 - a. LMI income affidavit;**
 - b. verification by census tract; and**
 - c. other means of encouraging and supporting LMI community solar participation.****

RECO supports the participation of LMI households in community solar, which will allow LMI customers to enjoy the benefits of clean energy without the need to install solar facilities. EDCs can support education efforts targeted at customers, including LMI households. For example, EDCs can promote LMI participation in community solar by adding bill inserts that explain the benefits of community solar and how customers can enroll. In addition, EDCs can put out social media posts to educate customers about community solar. EDCs call centers can add community

solar participation talking points for high bill and credit related discussions with the LMI community.

Community solar subscriber organizations should continue to be responsible for verifying subscribers' income eligibility. The EDCs can collect this verified information and provide it to Board Staff, as requested. Income status is sensitive information that should be obtained from the customer, or through other means such as verification by the State agency that manages USF, after customer consent is obtained. Finally, the Company sees no compelling need for the Board to amend the current rules regarding LMI subscriber verification, as defined at N.J.A.C. 14:8-9.8.

Question 2: Current rules mandate that developers use the “opt-in” model for subscriber enrollment, in which a subscriber must affirm a community solar subscription with a wet or electronic signature. This is distinguished from the “opt-out” model, in which a subscriber is enrolled without affirmative consent, and given the option to unsubscribe (i.e., opt out) from the community solar subscription. Based on experience with Program Year 1, as well as the successes or failures in other states, please provide feedback on the efficacy of the “opt-in” model, or, in the alternative, on the benefits and risks of the “opt-out” model for subscriber enrollment. In particular, please discuss:

Opt-in Model:

a) From your perspective as a developer, subscriber, community organization, third-party entity, etc., please describe your experience using the “opt-in” model in Program Year 1. What challenges did you encounter? What, if anything, would you change about the process? Please specifically identify whether you are working on a community solar project approved in Program Year 1.

b) Are there examples of other states that have been particularly successful or unsuccessful using an “opt-in” model for community solar? What has made them successful or unsuccessful?

Opt-out Model:

c) What would be the advantages and risks of implementing opt-out for community solar? Is an opt-out model the best approach to facilitating low- and moderate-income subscriber enrollment?

d) What consumer protection measures would need to be established in order to implement an opt-out mechanism for community solar?

e) In what ways could an opt-out model of community solar subscriber enrollment be similar to, and different from, the model currently implemented under Government Energy Aggregation in New Jersey?

f) Are there examples of other states successfully using an “opt-out” model for community solar? If so, what makes them successful?

The opt-in model provides subscribers with the opportunity to evaluate the terms of proposed community solar projects, thereby relying on their informed decision to participate in projects that best meet their needs.

RECO Comments
New Jersey Community Solar Energy Pilot Program
Program Year 1 Lessons Learned

Conversely, an opt-out model raises fundamental concerns regarding issues such as lack of informed customer consent, possible agreement to a less favorable contract terms, lack of customer outreach and education, and lack of understanding of the terms in the currently mandated disclosure agreement/statement. An opt-out model also presents issues with how to size a customer's subscription accurately so that the customer receives the appropriate allocation of solar generation to offset monthly electric usage without producing a large carryover. Subscriber organizations may also find it difficult to collect subscription fees from customers who are unaware of their participation in the project. This is of particular concern if that customer is receiving kWh allocations that result in a large carryover balance on the customer's account or if the monthly subscription fee exceeds the credit for the same month.

Authorizing an opt-out model may be premature given the lack of experience to date. The Company would note that projects from Program Year 1 have not been energized and have not enrolled subscribers. It is important to review and analyze the process that the Program Year 1 applicants employed to market to and enroll customers, particularly LMI customers. For these reasons, further evaluation is necessary to establish consumer protective business rules and appropriate Board oversight.

A RECO has no comments.

B Community solar in New York (known as Community Distributed Generation or CDG) uses an opt-in model. Due to the lack of experience with this model to date, it would be premature for RECO to comment on its success or lack of success.

C The Board may wish to consider the following as part of its analysis of an opt-out model. The income verification requirements will need to be changed if the Board implements an opt-out program. Methods that do not require the verification of individual customers' incomes will need to be established. For example, reliance on census data for a community may be used to determine that all residents qualify as LMI. Development of rules that can be applied to each EDC service territory, while accounting for different demographics, will be essential. Another risk is that the terms offered by community solar projects likely will vary, perhaps considerably. An opt-out model will prevent customers from comparing the terms of competing projects and selecting those projects with the most favorable terms and conditions. Such a lack of a competitive marketplace will discourage the development of an optimal mix of community solar projects and offerings. In addition, under an opt-out model, project subscribers may lack the ability to negotiate payment terms and/or the size of their subscriptions.

D The Board would need to establish the following consumer protections if it implements an opt-out mechanism for community solar:

- No contract termination or other fees;
- An allocation of solar facility net energy generation (*i.e.*, kWh) that does not produce a large carryover balance;
- Equitable subscription fees that cannot be changed unilaterally by the subscriber organization;

RECO Comments
New Jersey Community Solar Energy Pilot Program
Program Year 1 Lessons Learned

- Adequate disclosure forms in clear and understandable terms;
- A call center and other easy to access resources (*e.g.*, website, brochures) available to explain the program and its terms and to process customer opt-outs; and
- Refunds and/or adjustment of any subscriber fees paid to the subscriber organization for any excess credits on a subscriber’s account at the time a subscriber leaves the project.

E Government Energy Aggregation (“GEA”) requires that a customer’s cost for supply under the program is less than the cost of basic generation service (with adjustments for renewable energy). Because there is no comparable default service solar program, participation in community solar on an opt-out basis does not allow for customers to shop and compare the terms of competing projects. In addition, a customer that participates in GEA receives one bill from the EDC. However, a community solar subscriber receives two bills – one from the EDC and another from the subscriber organization, which may result in subscriber confusion, especially if the amount of the subscriber bill changes each month.

F Although the New York Public Service Commission (“NYPSC”) has authorized the use of an opt-out model by a Community Choice Aggregation (“CCA”) organization,¹ the CCA organization has not yet submitted, and the NYPSC has not yet approved, a specific program proposal. Therefore, it is premature to draw any definitive lessons learned from New York’s experience.

Question 3: How can the Board leverage existing programs (e.g. Comfort Partners, USF, etc.) to facilitate enrollment of LMI customers in community solar?

Information on community solar projects could be provided to customers participating in LIHEAP or other assistance programs, either at the time of enrollment or in subsequent communications. The information could include general information on community solar and the contact information for projects still seeking subscribers.

The Board could use a customer’s participation in the State’s Payment Assistance for Gas and Electric (“PAGE”) program as an indication of moderate-income status. Information on community solar projects could be provided to customers participating in the PAGE program, either at the time of enrollment or in subsequent communications.

Question 4: How can the Board leverage, or partner with, community organizations or others to facilitate equitable inclusion of community solar subscribers, including education, marketing, and enrollment?

¹ Case 14-M-0224, *Proceeding on Motion of the Commission to Enable Community Choice Aggregation Program, et al*, Order Approving Joule Assets’ Community Choice Aggregation Program with Modifications (issued March 16, 2018)

Engagement with community organizations can facilitate customers understanding of and education about community solar opportunities. The Board can work with local organizations to design and implement outreach programs to educate all residents and businesses about community solar. Specific projects may be able to partner with community organizations to reach the LMI community. If community organizations assist with enrollment, they must adhere to the consumer protection requirements set forth in the Board's regulations.

Question 5: What are the challenges specific to ensuring that low- and moderate-income households in master-meter buildings can become community solar subscribers?

- a) How common are these type of master metered apartments?**
- b) Please describe the feasibility of reforming rates to ensure customers in master metered buildings receive community solar credits equivalent to those of single-family households.**
- c) Please address any unintended consequences of this type of rate reform?**
- d) What measures should the Board consider to alleviate these challenges?**

Any rate reforms that are developed to address concerns with master metered buildings should be applied narrowly and not set a precedent for other types of subscribers. For example, at the July 27, 2020 stakeholder meeting, a stakeholder suggested that community solar credits be allowed to offset the demand charges of master metered accounts. This treatment, if adopted, should not be extended to other demand billed customers, as it will increase the bill impact to non-participating customers.

Question 6: What additional suggestions do you have to facilitate inclusion of LMI households?

It is important for LMI customers to enjoy the benefits of clean energy and it is equally important that it is affordable for them to do so. The Board could develop rules that monitor the net amount of the credit received by LMI customers so that these customers do not pay more for electricity as a participant in community solar. For example, the subscriber fee paid to the subscriber organization each month for participation in community solar should not exceed the monthly community solar credit. Annual guaranteed savings may not be sufficient, especially if the savings are backloaded (*i.e.*, only realized in the last few months of the annual period). Consequently, a financial hardship may occur if the fees paid in one month exceed the community solar credit resulting in a total amount paid for electricity exceeding what the customer would have paid without community solar. LMI customers are more sensitive to month-to-month variations in the cost of electricity, as compared to non-LMI customers. A monthly savings guarantee may be one way to maintain the financial benefits of community solar. The subscriber organization would be responsible for implementation and monitoring of this guarantee, because the EDC is not a party to the contract assessing the community solar fee and therefore cannot police it.

In addition, any guaranteed savings must account for the fact that any excess credit carryover on a subscriber's account is cashed out at the wholesale rate.²

Question 7: Please provide feedback on the process of submitting an Application. In particular, please discuss:

- a) Length of the application period: should the PY2 application period be longer, shorter, or equal to the 5-month application period in PY1?**
- b) Should the Board implement a process for submitting an application via an online application form? If it is not possible to establish an online application process, how can the Board improve the process for submitting a hard copy application?**

RECO has no specific comments but reiterates the need for the Board to implement customer privacy protections and safeguard any customer data submitted.

Question 8: Please provide feedback on Section A of the PY1 Application Form (Application Form requirements, instructions, terms and conditions). Were the instructions sufficiently clear?

RECO has no comments.

Question 9: Please provide feedback on Section B of the PY1 Application Form (community solar project description). In particular, please discuss:

- a) Were certain questions unclear?**
- b) Should certain questions in the PY1 Application Form be omitted from the PY2 Application Form? Why would you recommend excluding them?**
- c) Should certain questions that were not asked in the PY1 Application Form be included in the PY2 Application Form? What would you recommend, and why?**

In Section xii. Question 1, community solar projects must indicate if they are paired with storage or a microgrid. The Board must develop rules to determine how the pairing with storage or a microgrid impacts the community solar project, including the value of the credit. For example, storage assets that are charged from the grid should not be able to generate community solar credits for that same energy when it is discharged back to the grid. Community solar credits must be provided from solar generation. Investigation of this structure and development of corresponding rules may be better suited as part of the permanent program.

² N.J.A.C. 14:8-9.7(f)

Question 10: Please provide feedback on Section D of the PY1 Application Form (certifications).

RECO has no comments.

Question 11: Please provide feedback on Appendix A: Product Offering Questionnaire from the PY1 Application Form.

- a) Did this questionnaire accurately reflect the diversity of possible community solar product offerings?**
- b) Should any changes be made to this questionnaire?**

RECO supports a subscriber organization's flexibility to offer a variety of products to meet customer's needs. However, additional consumer protections may be needed so that LMI customers do not pay more each month as a subscriber than they would as a non-subscriber. Moreover, as previously noted, EDCs should not be responsible for monitoring any savings guarantees.

Question 12: Please provide feedback on Appendix B: Required Attachments Checklist from the PY1 Application Form.

- a) Was the Appendix B checklist helpful to completing the Application Form?**
- b) Should the Board modify the list of attachments required in PY2?**
- c) Are there certain required attachments for which the Board should provide further instructions and/or a standard template?**

RECO has no comments.

Question 13: Please provide feedback on Appendix C: Evaluation Criteria from the PY1 Application Form. In particular, please discuss:

- a) Was Appendix C useful to Applicants in creating their applications?**
- b) Should the Board modify the evaluation criteria for PY2? For example, should the Board give more or less weight to certain evaluation criteria in PY2?**
- c) Are there criteria that were not considered in PY1 that should be considered in PY2? If yes, how would the Board evaluate, score, and verify these criteria?**
- d) Please address whether the Board should consider awarding more potential points for projects proposing to serve more than 51% LMI customers and how such scoring would work.**

RECO has no comments.

Question 14: The PY1 capacity was 75 MW(dc). Pursuant to N.J.A.C. 14:8-9.4(b), the PY2 capacity must be at least 75 MW(dc), but could be more. Staff is considering recommending that the Board increase capacity in PY2 to 100 MW(dc), and to 125 MW(dc) for PY3, with the intention of soliciting annually for 150 MW(dc) in the permanent program. Please comment on this proposed plan.

Regardless of the amount of capacity established as annual targets for the pilot and permanent programs, the amount allocated to each EDC should continue to be based on their average respective percentages of New Jersey retail electric sales, as set forth in N.J.A.C. 14:8.9(d).

Question 15: The 45 applications granted conditional approval in PY1 represented 17 unique applicants. Should the Board consider limiting the number of applications that are submitted by a single developer, or limit the number of applications by a single developer that will be conditionally approved?

The Board's establishment of such limits on applicants at this early stage of community solar development may hinder achievement of the State's clean energy goals. That said, the Board should continue to monitor the market. If the market experiences an unhealthy level of consolidation, the Board should then consider imposing limitations on applications.

Question 16: For ground-mount projects, please provide feedback on the DEP Permit Coordination checklist process.

RECO has no comments.

Question 17: The PY1 Application Form made certain sections optional for government entities. Did this facilitate applications by government entities? Should the Board consider a fully separate carve-out and application process for government entities?

RECO has no comments.

Question 18: Should the Board consider amending the Pilot Program rules to require that community solar subscriptions guarantee savings compared to the subscriber's electric bill without community solar, as an added consumer protection measure, particularly given that all awarded projects already committed to doing so in the PY1 applications?

The Company does not take a position on whether all community solar subscriptions should guarantee savings. However, the Board may wish to consider a guarantee to protect LMI

customers. When weighing the benefits of a guarantee against the implementation strategy, the Board may wish to consider that a guarantee may provide some level of consumer protection for LMI customers. To the extent that the monthly subscription fee exceeds the community solar credit for that month, a monthly guarantee may prevent an LMI customer from paying more in a particular month for electricity as a subscriber than as a non-subscribing customer. Such extra payments may contribute to arrears on the customer's electricity or other bills.

Question 19: Should the Board consider amending the construction timelines and extension policies at N.J.A.C. 14:8-9.3(c)? If yes, how? Currently, applicants have 6 months to start construction, and 12 months to become fully operational, with an unlimited number of possible extensions (so long as projects can demonstrate continued progress). Excerpts of the relevant section of the rules are provided in Appendix 1 below.

Because of the time needed to amend the regulations, the Board may wish to consider these changes as part of the permanent program.

Question 20: Should the Board consider restricting the 10-subscriber minimum exemption at N.J.A.C. 14:8-9.6(d) to only buildings that serve low- and moderate-income residents? Currently, the exemption applies to all multi-family buildings which have a community solar system located on-site. Excerpts of the relevant section of the rules are provided in Appendix 1 below.

RECO supports the exemption for all multi-family buildings, which have an on-site community solar system. Continuing this exemption will promote full subscription to community solar projects and an increased number of projects in diversified locations throughout the State, all in furtherance of the State's clean energy goals.

Question 21: How is the Pilot Program impacted by the ongoing transition in solar incentives from the Transition Incentive Program to the Successor Program?

In developing the Successor REC program, it is critical that the Board balance the achievement of clean energy goals with the resulting customer bill impacts. The Board should pay particular attention to the bill impacts on LMI customers, as well as those customers that do not participate in solar programs. The State should look holistically at incentives and rate design for clean energy projects and the revenues received by Community Solar subscriber organizations/owners. Any Successor REC program should adopt a balanced approach that encourages development while delivering broad based customer benefits.

Rate design that is technology neutral should value the benefits provided by clean energy assets while providing that participating customers pay for their use of the electricity system. Such an approach will minimize the cross-subsidization of those assets by non-participating customers. Incentives should be transparent in their implementation and reflect the declining costs resulting from the development of clean energy markets.

Question 22: A number of resources are available to prospective community solar applicants, including a [Frequently Asked Questions](#) page, EDC hosting capacity maps, and the Department of Environmental Protection [Community Solar PV Siting Tool](#).

- a) What other resources do you believe the Board should provide to facilitate community solar development in New Jersey?
b) Should the Board provide technical assistance grants for the development of community solar projects? If yes, to whom and under what conditions?

The benefits of technical assistance or other grants provided by the Board must be weighed against the bill impacts of those grants for all customers, including LMI and non-participating customers.

Question 23: How can Staff otherwise support community solar developers and subscribers to ensure success?

Consolidated Billing

Consolidated billing of community solar projects by EDCs may help to increase deployment of community solar projects by lowering their administrative costs, with cost reductions passed on to subscribers in the form of lower payments for participation in a community solar project. Consolidated billing should be a voluntary program offered by EDCs to subscriber organizations and available to all community solar projects and their subscribers. The Board will need to develop rules to implement the program, with input from interested stakeholders. Therefore, implementation would be better suited for the permanent program. Once the Board develops these rules, the EDCs will need time to implement and automate this program, including upgrades to their billing and related systems.

RECO recommends that consolidated billing be implemented in the form of a “net credit” rather than including an additional fee on the subscriber’s utility bill. The net credit model essentially results in a “net community solar credit” being provided to a subscriber, after reduction for the subscriber payment due to the subscriber organization. Program rules that the Board should consider as part of a net crediting billing program include:

- Application of one payment rate to all subscribers (*e.g.*, all subscribers pay 90 percent of their monthly credits to the subscriber organization resulting in a net credit on the subscriber utility bill of 10 percent of the original credit);

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- Determination of a maximum subscriber payment so that subscribers always receive a valuable community solar credit;
- The frequency of changes to the subscriber payment rate;
- The impact on the annual cash out; and
- The impact of non-payment of the utility bill on a subscriber's participation in consolidated billing.

The net credit model guarantees that the monthly subscriber payment will not exceed the monthly credit, which can be extremely important to LMI subscribers. In addition, setting one payment rate for all subscribers to a community solar project minimizes the amount of data transmitted to the EDC each month.

Key to implementing a net crediting consolidated billing program is the timely recovery by the EDC of the community solar credits. The Board needs to consider the timing of cash flow relative to a net crediting model. For community solar to be successful, EDCs must have funding available to pay to the subscriber organization.

Further, subscriber organizations that elect to enroll in consolidated billing should be required to pay the EDC for this service which reduces their costs, as well as the risk related to the creditworthiness of a subscriber. Many stakeholders at the July 27, 2020 stakeholder meeting touted the benefits of consolidated billing and the cost savings that it will produce. EDCs must be able to recover the consolidated billing development costs, as well as the on-going program costs. Community solar projects that benefit from this service should pay for this benefit. These costs should not be borne by non-participating customers.

Permanent Community Solar Energy Program

Development of the rules for the permanent community solar energy program should begin as soon as possible to provide certainty to developers, subscriber organizations, EDCs and the State. Establishing the rules for the permanent program can translate into lower costs for project financing, which in turn should result in increased benefits to subscribers and increased subscriber interest and enrollment. In addition, EDCs can begin to understand the billing and other system changes needed to implement the permanent program rules and can make informed decisions regarding the upgrades necessary for implementation of the pilot program rules.

Question 24: Please provide comments on issues associated with the Pilot Program not specifically addressed in the questions above.

RECO has no comments.



**Comments from the Solar Energy Industries Association
on the New Jersey Community Solar Energy Pilot Program
BPU Docket Number QO18060646
August 10, 2020**

INTRODUCTION

The Solar Energy Industries Association (“SEIA”) submits these brief comments in response to the New Jersey Board of Public Utilities (“BPU or Board”) “Request for Comments and Stakeholder Meeting Notice (“Notice”) on the New Jersey Community Solar Energy Pilot Program issued on July 9, 2020. Thank you for the opportunity to comment.

As the national trade association of the U.S. solar energy industry, which employs roughly 250,000 Americans, SEIA represents all organizations that promote, manufacture, install and support the development of solar energy. SEIA works with its 1,000 member companies to build jobs and diversity, champion the use of cost competitive solar in America, remove market barriers and educate the public on the benefits of solar energy.

SEIA has approximately 45 member companies with an operating address in New Jersey. In addition, SEIA member companies, including many community solar companies, based all over the country are doing business in New Jersey and have a direct interest in the future of clean energy in the state.

COMMENTS ON TWO COMMUNITY SOLAR QUESTIONS

SEIA limits its comments to two questions posed in the Notice: Question 14 and Question 21. On the remaining questions posed in the Notice, SEIA supports the comments submitted by the Coalition for Community Solar Access (“CCSA”).

Question 14

The PY1 capacity was 75 MW(dc). Pursuant to N.J.A.C. 14:8-9.4(b), the PY2 capacity must be at least 75 MW(dc), but could be more. Staff is considering recommending that the Board increase capacity in PY2 to 100 MW(dc), and to 125 MW(dc) for PY3, with the intention of soliciting annually for 150 MW(dc) in the permanent program. Please comment on this proposed plan.

Summary Recommendation

SEIA recommends the Board increases capacity in Program Year 2 (“PY”) to at least 150 MWs and more importantly ends the pilot phase and moves now to finalize the rules for the permanent community solar program alongside the successor solar incentive program.

Expanding PY2 Capacity

The overwhelming response to the first community solar application (hundreds of MWs worth of potential projects with more than 252 applications submitted) supports a significantly larger allocation of capacity for the second year of the pilot program. A larger program will match solar industry interest and give more projects an opportunity to succeed.

Based on the feedback provided by stakeholders on the PY 1 application, the Board and Board Staff can make adjustments to the PY2 program to ensure the Administration's goals are met and improve the program's operation.

Among these changes, the most critical as described in the CCSA comments is increasing the program maturity requirements in the application process. SEIA believes it is unlikely that a third year of piloting will produce significant new insights that would result in the need for major program changes and rule revisions.

Modest program adjustments could be made through the yearly program application. SEIA further recommends the Board builds a triennial review into the permanent community solar program rules to ensure the program remains dynamic.

Establishing the Permanent Program Alongside the Successor Incentive

SEIA recommends the Board moves to finalize the permanent community solar program rules at the same time, or within a few months of finalizing the solar successor program rules.

The Board already has the authority from the 2018 Clean Energy Act to issue the permanent program rules now instead of waiting until after PY3.

The Board and Board Staff can use the solar successor program policy discussions to finalize key details about the i) incentive amount for community solar ii) duration of the incentive and iii) any additional factors or adders to encourage community solar installations. These design details are the foundation of the permanent community solar program.

The primary benefit of establishing the permanent community solar program now is establishing policy certainty and creating a stable environment for project development. With a complete picture of the multi-year roadmap for the solar successor incentive and community solar program design details, solar firms can pursue projects and sites, work to sign up subscribers and generally submit projects for approval that are more mature.

Relatedly, as part of the permanent program and successor, we recommend publishing a long-term forward schedule of community solar planned solicitations for the number of megawatts per year that are consistent with meeting the targets of the State Energy Master Plan. This forward-looking solicitation schedule would provide a more stable policy signal and ensure a steady pipeline of projects for approval.

Question 21

How is the Pilot Program impacted by the ongoing transition in solar incentives from the Transition Incentive Program to the Successor Program?

Clarify PY2 Is Eligible for TREC

Given that the PY2 application will be released shortly, SEIA recommends that the Board and Board Staff clarifies that projects approved as part of the PY2 application would be eligible for the TREC program.

Projects developers must be able submit applications based on the known incentive values of the TREC program, not the "to-be-determined" successor values which are still in development and will likely be the subject of considerable discussion over the remainder of this year. This clarity will support a more mature pipeline of projects and reduce overall project attrition rates.

Timeline for Establishing the Permanent Community Solar Program & the Successor

Consistent with our answer to Question 14, SEIA recommends ending the pilot phase of the community solar program now and moving to finalize the rules for the permanent program alongside the approval of the successor program.

The attached Appendix to these comments shows the timing of the various steps that could be considered at the same time to execute this approach. SEIA welcomes further discussion on these matters over the coming weeks.

Thank you for considering these two recommendations. Please refer any questions about these comments to:

/s/

David Gahl, Senior Director of State Affairs, Northeast
Solar Energy Industries Association
dgahl@seia.org
(518) 487-1744

**SEIA Community Solar Comments - Appendix
For Discussion - August 10, 2020**

Community Solar (CS) Timeline - Permanent Program							
Date	8/20	9/20	11/20	12/20	1/21	6/21	9/21
				<i>CS Permanent</i>		<i>CS</i>	
		<i>CS PY 2</i>	<i>CS PY 2</i>	<i>Straw</i>	<i>CS PY 2 Awards</i>	<i>Permanent</i>	<i>CS '21</i>
	<i>CS PY 2</i>	<i>Application</i>	<i>Application</i>	<i>Proposal</i>	<i>Announced/Permane</i>	<i>Rules</i>	<i>Application</i>
Milestone	<i>Comment End</i>	<i>Released</i>	<i>Received</i>	<i>Released</i>	<i>nt Rules Proposed</i>	<i>Adopted</i>	<i>Released</i>

Solar Successor Incentive (SI) Timeline						
Date	8/20	9/20	11/20	12/20	1/21	6/21
	<i>SI Initial Straw</i>	<i>SI</i>				
	<i>Proposal</i>	<i>Stakeholder</i>	<i>SI Final Straw</i>		<i>SI Permanent Rules</i>	<i>SI Rules</i>
Milestone	<i>Released</i>	<i>Meetings</i>	<i>Released</i>		<i>Proposed</i>	<i>Adopted</i>

August 10, 2020

Re: Community Solar PY1 Comments

Dear Board Secretary:

Solar Landscape is an Asbury Park, New Jersey-based company specializing in medium- and large-scale solar project development, design, installation, and long-term asset management. Solar Landscape is currently working on bringing to commercial operation 8 projects awarded in Community Solar Program Year 1.

Over the past several years, Solar Landscape has installed over 120 MW across more than 85 projects, ranging in size from 50 kW to 7 MW, primarily located on warehouses, factories, shopping centers, schools and municipal properties. As a self-performing general contractor, we have proudly employed over 100 New Jersey residents to date, and we are honored to have been recognized as one of New Jersey's fifty fastest growing companies.

Our focus on commercial and industrial ("C&I") roof-mounted systems is driven by our belief that these projects offer more societal benefits than any other type of PV system or, for that matter, any other form of power generation. These projects take advantage of one of New Jersey's most readily available surfaces—large rooftops, which have few alternative uses. Rooftop community solar projects occupy pre-disturbed land and are thus optimal for the environment; are largely out of sight, which is optimal for local residents; and are the most cost-effective community solar option, which is optimal for ratepayers.

Solar Landscape fully supports the Board's efforts to foster a strong community solar program, commends the Board for its successes thus far, and offers the following comments as requested in Docket QO18060646 on July 9, 2020. Thank you for continuing to promote clean and equitable energy access for all New Jersey residents.

Sincerely,



Mark Schottinger
General Counsel

RESPONSES TO SPECIFIC QUESTIONS POSED BY STAFF

1) How can the Board ease the process by which developers validate LMI status when enrolling subscribers?

SOLAR LANDSCAPE RESPONSE:

To allow for maximum accessibility to the program by LMI residents, Solar Landscape recommends amending the current rules to allow for LMI verification by either income affidavit or census tract. Solar Landscape believes the additional burden currently placed on LMI subscribers to justify their income levels is impractical and unintentionally inequitable (inasmuch as no such documentation is required of other, less disadvantaged members of communities).

To the extent there are concerns about residents misrepresenting that they qualify as LMI, Solar Landscape's experience has been the opposite—i.e., some residents are not willing to consider that they may qualify as LMI (notwithstanding a substantial added discount), much less produce extensive documentation to prove the point. In any event, we should not let the perfect be the enemy of the good in this area: a simplified LMI verification process would enable widespread LMI participation and would be well worth a few "false positives," which in any event could be managed by spot audits.

***Consolidated billing** is also a key factor in encouraging and supporting LMI participation. For many prospective subscribers, the conversation about enrollment will end when they learn that a community solar subscription would entail receiving two electricity bills instead of one.*

*Furthermore, as discussed below, an **opt-out model** is one approach that would lead to widespread LMI enrollment.*

2) Current rules mandate that developers use the "opt-in" model for subscriber enrollment, in which a subscriber must affirm a community solar subscription with a wet or electronic signature. This is distinguished from the "opt-out" model, in which a subscriber is enrolled without affirmative consent, and given the option to unsubscribe (i.e., opt out) from the community solar subscription.

SOLAR LANDSCAPE RESPONSE:

a) Opt-In Model Discussion

Solar Landscape has found that the opt-in model is challenging and expensive. For example:

- *LMI verification requirements make the subscription process difficult and intrusive for prospective LMI subscribers.*
- *Extensive consumer protection rules require presenting subscribers with long contracts (even though Solar Landscape is offering a very simple subscription that subscribers can cancel anytime with no penalty), which leads to skepticism and confusion for some subscribers.*
- *Solar Landscape has invested substantial time and resources into seeking master-metered housing authorities as subscribers. However, the recently released bill credit calculations make housing authorities well less than half as valuable as individual residential subscribers. (All of Solar Landscape's awarded PY1 projects are in PSE&G.)*

- Numerous companies from out of state have entered New Jersey to work exclusively on enrolling customers; however, these companies charge enormous fees, including substantial premiums for subscribing LMI customers. In some cases, the quoted fees for subscribing Solar Landscape’s 8 projects are well into the 7 figures. This money would be better spent on developing more projects and as additional savings passed through to subscribers.
- Relatedly, third-party subscriber organizations typically require substantial upfront non-refundable payments, priced for services to be rendered over the course of the entire life of a 20-year project, including subscriber acquisition (again, with a premium for LMI subscribers), subscriber management, and virtual consolidated billing (where the subscriber organization pays the subscriber’s utility bill and community solar bill, so that the subscriber only has to pay a single bill to the subscriber organization). However, these services will become obsolete or substantially devalued if the state shifts to an opt-out approach, eases LMI verification, and/or implements consolidated billing. Presumably recognizing the risk that their services will become obsolete or substantially devalued, such companies are requiring large up-front, non-refundable payments, thereby shifting the risk of obsolescence/devaluation to developers. This is a serious and expensive inefficiency in the market that will be corrected as soon as the Board definitively announces a plan to shift to consolidated billing, an opt-out approach, and/or eased LMI verification.

c) Opt-Out Model Discussion

An “opt-out” approach would solve virtually every challenge addressed in Solar Landscape’s prior answer and would immediately allow more people—including more LMI people—to benefit from community solar.

There are challenges to an opt-out system, but none that are insurmountable:

- How will pricing (i.e., discounts off bill credits) be determined? Community solar does not map onto the current system for government energy aggregation (“GEA”), because a community solar facility will not be able to supply electricity to an entire municipality or county (unlike third party energy suppliers bidding in a competitive GEA bidding process). A simple solution to this problem would be as follows:
 - (1) The Board would determine a fixed discount off the bill credit to be applied to community solar projects that agreed to engage in the opt-out system. For example, the Board could require a 15% discount in order to participate in the opt-out system.
 - (2) On the community solar application, developers would have the option to check a box agreeing to participate in an opt-out system for the fixed 15% discount off the bill credit. (Developers who were awarded in Project Year 1 should also be allowed to participate.)
 - (3) Any municipality hosting an awarded community solar project that checked the opt-out box would have the right to use that community solar project’s electricity on an opt-out basis for its residents at the fixed discount (and if the municipality chose not to participate, an adjacent municipality could participate instead).
- Given that a community solar facility will typically not produce enough electricity for an entire municipality, municipalities would need to have systems for determining which residents get community solar bill credits. This is an issue that could be left to municipalities

to solve, and in any event, is another area where the perfect should not be the enemy of the good. A simple approach would be to allocate community solar first to LMI residents based on census tract information. Over time, as more community solar facilities came online within a municipality or county, non-LMI subscribers could also receive bill credits. Alternatively, community solar electricity could be spread across all subscribers within the municipality, which would entail lower savings per subscriber, but would ensure that all subscribers receive the intangible benefit of consuming green electricity; and as more community solar facilities came online within a municipality, those initially lower savings would grow.

- It bears noting that consolidated billing would be necessary for an opt-out system because otherwise, residents would receive a surprise bill from a community solar company. This is another reason that Solar Landscape strongly supports consolidated billing.

It bears noting that subscriber organizations whose current business models would be hurt by an opt-out approach naturally oppose an opt-out system. However, the best interests of subscribers and NJ's energy goals need to be put before the interests of a few out-of-state companies that are aiming to profit from the inefficiencies that exist in this young and promising community solar program. In opposition to an opt-out approach, these companies argue that subscriber organizations are essential in spreading the word about community solar. That does not hold water. First, in any opt-out system, there is much less need to spread the word about community solar, because people are automatically subscribed (unless they opt out). Second, the Board could easily solve this issue by adding points in the scoring rubric for developers who commit to public information campaigns geared toward those subscribed via an opt-out system. And third, there is no reason that an opt-out system needs to be mandatory for all community solar projects. In the solution proposed above, developers would have an option to participate in the opt-out system or not.

d) On consumer protection measures

Solar Landscape's above comments take into account consumer protection measures, and Solar Landscape (a New Jersey company employing numerous New Jersey residents) always considers what is most equitable for New Jersey residents.

In the interests of protecting LMI residents, the Board could mandate that any municipality participating in an opt-out system first allocate community solar electricity to residents in all its LMI census tracts before allocating any community solar electricity to non-LMI census tracts.

e) On comparison to Government Energy Aggregation (GEA)

See responses above. Community solar does not map onto GEA perfectly, because—particularly in the infancy of the community solar program—there will not be enough community solar electricity to fill an entire municipality or even a substantial portion of a municipality (in contrast to third party energy suppliers bidding in a GEA auction). Forcing community solar developers in an opt-out model to join auctions with third-party energy suppliers who are offering an entirely different product at an entirely different scale would be unnecessarily complicated and would likely prevent or stall the implementation of a successful opt-out method. Accordingly, Solar Landscape recommends the approach outlined above (i.e., setting a fixed bill-credit discount for opt-out, and allowing developers and municipalities to choose whether to participate at that discount level).

3) How can the Board leverage existing programs (e.g. Comfort Partners, USF, etc.) to facilitate enrollment of LMI customers in community solar?

SOLAR LANDSCAPE RESPONSE:

While Solar Landscape supports an opt-out, centrally coordinated subscriber approach with fixed discount to retail energy rates, if Staff continue to apply an opt-in model, Solar Landscape believes that centrally supported marketing efforts would be helpful. This could take the form of utilities marketing to their customers on behalf of community solar projects, having smaller pools of opt-out community solar participation based on participation in existing LMI programs, or sharing relevant customer information with community solar developers to enable outreach to a qualified pool of consumers (subject to participating developers agreeing to confidentiality restrictions in the interests of consumer protection).

4) How can the Board leverage, or partner with, community organizations or others to facilitate equitable inclusion of community solar subscribers, including education, marketing, and enrollment?

SOLAR LANDSCAPE RESPONSE:

The most expedient path to equitable inclusion of the maximum number of community solar subscribers would be moving to an opt-out system (as outlined above) and consolidated billing.

In the current opt-in system, anything the Board can do (e.g., mailers, email campaigns, social media campaigns, etc.) to increase consumer awareness of community solar would be helpful.

5) What are the challenges specific to ensuring that low- and moderate-income households in master-meter buildings can become community solar subscribers?

SOLAR LANDSCAPE RESPONSE:

Solar Landscape has expended substantial time and resources to partner with master-metered housing authorities over the past year. There are numerous master-metered housing authorities throughout the state.

Rate reform is essential for these master metered housing authorities. Unfortunately, the recently released bill credit calculations make master-metered housing authorities well less than half as valuable as subscribing individually metered residential tenants. This is unfortunate because (a) tenants of master metered housing authorities are just as deserving as anyone else of electricity discounts and environmental benefits, but (b) the extreme discount creates a substantial disincentive to subscribe these housing authorities. To make matters worse, some housing authorities require a public RFP process before they will contract with an electricity supplier, which adds substantial costs and time to the process of subscribing a housing authority and therefore makes the extreme discount even harder to justify.

A housing authority should not have the same bill credit value as a Walmart, for example, but that is currently the case. A housing authority should also not have the same bill credit value as an equivalent number of residential subscribers, inasmuch as there are substantial benefits to developers from subscribing master metered housing authorities (e.g., the simplicity of signing

one contract that applies to numerous subscribers). The value of the bill credit applicable to master-metered housing authorities should be somewhere in between the residential and commercial values.

Solar Landscape recommends the BPU amend the community solar bill credit rules to include a significant proportion of master meter demand charges. The calculation of these credits could either be purely a function of the subscriber's demand charges or incorporate the solar array's generation at hours when peak demand is calculated. Although more complicated, the latter would align customer savings with the array's impact on grid infrastructure as originally intended by demand charges (and in particular, coincident peak demand charges).

As an aside, Solar Landscape believes that this bill credit calculation including demand charges accurately captures the physical benefit of community solar to grid infrastructure and should therefore be applied to all commercial rate tariffs and consumers. However, in the absence of that sweeping change, applying the bill credit change to master-metered housing authorities is a viable solution to ensure that they are not excluded from the community solar program. This approach would save master meter buildings more money on their utility bills, direct more payments from master-metered housing authorities to solar projects, and still align payments to the utility with the net strain on the grid from the master-metered housing authorities, after solar is taken into account.

6) What additional suggestions do you have to facilitate inclusion of LMI households?

SOLAR LANDSCAPE RESPONSE:

As stated above, consolidated billing and an opt-out approach would be the best methods to facilitate inclusion of LMI households.

In the meantime, another option would be to adjust the scoring rubric so that LMI projects are allowed to subscribe LMI customers anywhere within the applicable EDC territory (without losing points on the scoring for geographical limitations). Presumably, the rationale for incentivizing geographic subscriber limits is to prevent developers from building solar facilities in LMI communities, only to then sell the electricity elsewhere. In light of the importance of subscribing LMI residents throughout the entire state, there should be an exception for LMI subscribers to this geographical restriction.

7) Please provide feedback on the process of submitting an Application.

SOLAR LANDSCAPE RESPONSE:

b) On online vs hard-copy applications

An electronic application is probably necessary this year in light of COVID 19. That said, the Board does not need to establish an online application portal/process. Rather, applicants should be required to submit their applications as PDFs. Since the applications will likely be too big to transmit as email attachments, applicants should be allowed to submit their applications via links (e.g., to Dropbox or similar sites). This submission process might warrant some leeway if applicants experience technical difficulties that otherwise would not exist in paper submissions or a more elaborate electronic submission portal. For example, if a developer submits an application via a link in an email, and days later, Staff determines that the link is broken, that developer should be allowed to correct the issue, rather than being rejected from the program (provided that the developer signs something swearing that he intended for the original submission to work and that the late submission is the same as that which he aimed to submit on the due date).

Unrelatedly, Staff was very helpful last year in reminding applicants after the application deadline of the option to redact applications for confidentiality. For PY2, it might be helpful (for both Staff and applicants) to set in the application instructions a post-application date by which applicants will be required to submit redactions and confidentiality requests. This would avoid the Staff needing to send out reminders after the application deadline.

13) Please provide feedback on Appendix C: Evaluation Criteria from the PY1 Application Form.

SOLAR LANDSCAPE RESPONSE:

Regarding the weighting of evaluation criteria, Solar Landscape believes that the Board correctly identified the project siting that should be given “higher preference”; however, within the higher preference category, additional points should be awarded to rooftop projects because of their ability to be constructed and turned on substantially faster than other types of projects. In general, as compared to rooftop projects, non-rooftop projects have substantially more permitting and zoning hurdles to clear before they begin construction. Faster construction and commercial operation entail bringing the benefits of community solar to residents sooner. The relative ease and speed of rooftop projects should be prioritized accordingly.

Relatedly, there is an apparent push by out-of-state developers to add greenfield and farm development to the “higher preference” siting category. While Solar Landscape believes that eventually resorting to other forms of ground development may be necessary in order to reach 100% renewable energy by 2050, we are currently very far from having exhausted the extensive preferred siting options available throughout the state. Prioritizing the current slate of preferred sites is important because—unlike farms and greenfields—installing solar facilities is often the only meaningful additional use for a rooftop, parking lot, or landfill. Furthermore, building large solar facilities on the few remaining farms and greenfields in the Garden State (which is now the most densely populated state in the country) would create low-hanging fruit for people to oppose community solar. (Consider the outcry over whether offshore windfarms will be visible from beaches.) By contrast, there is generally no public outcry over putting solar on a large roof, making good use of a landfill, or creating covered parking. The companies vying for farm/greenfield development do not understand these concerns because—unlike Solar Landscape—they are not from New Jersey and have very few ties to New Jersey (other than having purchased options to lease farmland here). We should give New Jersey’s residents at least a few years to get behind the important factors motivating community solar (i.e., saving the planet and saving money) before we unnecessarily dive into potential public controversies over farm and greenfield development. Lastly, it bears noting that N.J.S.A. 48:3-87(s) appears to prohibit siting community solar on farms. That is a complication that should be resolved in the legislature before any farm projects are awarded community solar capacity.

The best way to get more LMI subscribers (beyond the 51% threshold) would be to implement an opt-out system (which, as described above, developers could elect to participate in by checking a box on the application) and consolidated billing.

14) The PY1 capacity was 75 MW(dc). Pursuant to N.J.A.C. 14:8-9.4(b), the PY2 capacity must be at least 75 MW(dc), but could be more. Staff is considering recommending that the Board increase capacity in PY2 to 100 MW(dc), and to 125 MW(dc) for PY3, with the intention of soliciting annually for 150 MW(dc) in the permanent program. Please comment on this proposed plan.

SOLAR LANDSCAPE RESPONSE:

PY2 and each year thereafter should have at least a 300MW capacity in order to meet the State's aggressive clean energy goals. New Jersey has a rare opportunity to be a vanguard for community solar and, more generally, for clean energy and environmental justice; and there is currently a much greater market demand than the capacity proposed above, as evidenced by the 600+ MW that applied to PY1. Solar Landscape expects that PY2 will have at least as much applied capacity as PY1. (For context, Solar Landscape is currently negotiating more than three times the number of MW it submitted last year.)

The recently released application scores demonstrate that numerous qualified projects were denied in PY1. This will necessarily continue to happen if the Board does not substantially increase the program capacity; and if qualified projects continue to be denied because of capacity limits, New Jersey's community solar market will be chilled. Namely, some developers and financiers will lose interest in the New Jersey community solar market; property owners who leased property to a losing project may become disinclined to discuss community solar with other developers; community organizations that lent their resources to losing projects may lose excitement for the program; etc. All of this can be avoided by increasing the size of the program.

Most importantly, a larger program will entail more community solar subscriptions for New Jersey residents—particularly LMI residents.

15) The 45 applications granted conditional approval in PY1 represented 17 unique applicants. Should the Board consider limiting the number of applications that are submitted by a single developer, or limit the number of applications by a single developer that will be conditionally approved?

SOLAR LANDSCAPE RESPONSE:

The Board's focus should be on ensuring that the scoring and selection process are as aligned as possible with the goals and priorities of New Jersey—i.e., environmental justice, benefits to subscribers (particularly LMI) (financial and otherwise), benefits to communities, and optimal use of New Jersey's limited space/real estate. In short, the Board should award the best projects.

On the recent BPU stakeholder call, the only commenter who favored capping awards expressed concern over large out-of-state companies being awarded an unfair portion of program capacity. However, Solar Landscape won more capacity than any other developer in PY1; and Solar Landscape is a family company out of Asbury Park, NJ that employs mostly NJ residents and is wholly owned by NJ residents.

Additionally, the BPU does not (and rightly should not) control who ultimately owns any of the awarded projects, and it is standard within the solar industry for some projects to be bought and sold. For example, some of the large companies that lost applications in PY1 have attempted to buy and/or have bought PY1 projects that were awarded to other developers (not Solar Landscape). Accordingly, focusing on who applies for the projects is not a good proxy for the professed concern (as the applicant may not be the ultimate owner). Moreover, capping the awards to individual applicants would likely lead to unwanted gamesmanship, like developers forming shell companies and partnerships with other developers to avoid the cap.

19) Should the Board consider amending the construction timelines and extension policies at N.J.A.C. 14:8-9.3(c)? If yes, how? Currently, applicants have 6 months to start construction, and 12 months to become fully operational, with an unlimited number of possible extensions (so long as projects can demonstrate continued progress). Excerpts of the relevant section of the rules are provided in Appendix 1 below.

SOLAR LANDSCAPE RESPONSE:

Slightly less aggressive deadlines would save time for developers and Board Staff by reducing the number of extensions that need to be requested and granted. Extending the deadline for commercial operation to 18 months and the deadline for starting construction to 9 months would be a modest change that would accomplish this goal without any meaningful downside (inasmuch as developers generally want to build their projects as soon as possible in any event).

21) How is the Pilot Program impacted by the ongoing transition in solar incentives from the Transition Incentive Program to the Successor Program?

SOLAR LANDSCAPE RESPONSE:

Not knowing whether TRECs or an undefined successor REC will apply to the upcoming PY2 projects makes development unusually risky. Just as with other sources of value, the value of RECs affects the pricing of site control agreements, which typically take several months to negotiate. Site control pricing should be (in part) a product of REC value; so, without knowing the REC that will apply to PY2, pricing involves guesswork and risk for both developers and hosts. The Board could eliminate this risk by definitively announcing that PY2 will receive TRECs, regardless of the timing of the application deadline or the Successor REC program.

For PY3, it will be important to get the Successor REC program defined sufficiently soon so that developers and property owners can negotiate site control agreements based on known budgets. If that is not possible, applying TRECs to PY3 would again solve the problem.

Solar Landscape notes that certain out-of-state companies have expressed interest in eliminating PY3 out of purported concern for aligning the stakeholder processes for the permanent community solar program and the Successor REC program. Solar Landscape fails to understand the need for these two stakeholder processes to happen at the same time. Moreover, it bears noting that these same out-of-state companies are pushing for the permanent program (which would happen sooner if PY3 were eliminated) to have a non-competitive, first-come-first-served application process (which would eliminate the incentives for preferred siting and LMI that exist in the current competitive application process). The apparent upshot is that these companies want a non-competitive, first-come-first-served award process to happen as soon as possible, so that they can build projects on non-preferred siting without the complications of selling power to 51% LMI subscribers. This is contrary to New Jersey's energy goals, the interests of New Jersey's residents (particularly its LMI residents), and the well-being of the community solar program.



Liz Lempert
Mayor

**New Jersey Community Solar Energy Pilot Program
BPU Docket No. QO18060646
Comments from the Municipality of Princeton
in response to the BPU Notice of July 9, 2020**

Dear Secretary Camacho-Welch:

We appreciate the opportunity to answer Question 2(c) and Question 6 under Topic 1: Equity and the Inclusion of Low- and Moderate-Income Households.

Princeton is committed to providing clean and affordable energy to its low- and moderate-income residents. As such, we support the Governor's and the BPU's Community Solar Energy Pilot Program's emphasis on environmental justice and delivering the benefits of solar energy to LMI customers. Princeton offers the following comments in support of this goal.

Question 2(c): What would be the advantages and risks of implementing opt-out for community solar? Is an opt-out model the best approach to facilitating low- and moderate-income subscriber enrollment?

Municipalities, like Princeton, exist to serve the public good. We bear the responsibility of protecting our community members as no private entity does. We believe the application of government energy aggregation (GEA) program opt-out rules to community solar provides necessary access to the LMI communities that the Community Solar Pilot Program aims to serve. The GEA opt-out rules protect hundreds of thousands of customers participating in GEA programs today in New Jersey, and they will work for LMI community solar customers. Princeton recently

launched a renewable government energy aggregation program and has experienced firsthand how his structure is a powerful tool for making significant steps towards cleaner, affordable energy.

The current "opt-in" subscription method requiring wet or electronic signatures creates a fatal barrier to entry for LMI customers. The unnecessary costs from highly intensive (and expensive) marketing and sales efforts to get LMI customer signatures make customer enrollment infeasible. These costs are avoided through the approach Princeton is developing, when a Municipality vets and competitively procures a community solar project partner on behalf of its LMI residents. Municipalities are also in a good position to maximize participation for LMI customers.

Based on our knowledge of the local population and working closely with affordable housing and other entities, Princeton (and most municipalities) can reach *all* of the qualified LMI customers that reside across town in a program design that can include master and individually-metered apartment developments, and single-family homes. Without an opt-out approach, significant numbers of individually metered customers will not be enrolled in or benefit from Community Solar. The opt-out method is an opportunity for New Jersey to lead the nation in LMI customer enrollment.

Furthermore, we believe using the GEA opt-out method prevents the "slamming" of LMI customers. Not only does the GEA model allow for a municipality to procure a community solar project partner using a transparent, public and competitive process to secure the best terms for *all* LMI residents, it also puts the municipality squarely in the role as the trusted, responsible party.

To capture the above benefits, the BPU should permit waivers from its rule to allow opt-out in its Round 2 Application Process.

Question 6: What additional suggestions do you have to facilitate inclusion of LMI households?

The BGS consolidated billing model should be adopted for use in the Round 2 application process.

Billing is an additional barrier to the participation of LMI households in the Community Solar Program. This issue goes to the heart of building a successful LMI community solar program. Financing is simply not feasible if investors must assume the risk of payment (delays and non-payment through a separate bill) for individually metered LMI customers.

Utilities assume this risk through the ratemaking provided to the BPU, but no solar developer/investor will accept the payment/revenue risk of serving these customers. Fortunately, the BPU has already built a solution to this problem elsewhere in its policies for BGS suppliers. The utilities already include the charges levied by default suppliers on their bills and pay their default (BGS) suppliers on a regular and prompt basis regardless of the customers' payment patterns or histories. The BPU should have the utilities provide this same billing and revenue collection for LMI community solar. The confusion of the two bills is avoided, and customer revenue is covered. Community solar for individually metered LMI customers can then be financeable and developed. The result is the acceptance of LMI customers into the program and lower-cost solar energy to those customers.

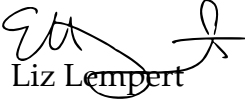
This solution, using the BGS consolidated billing model for community solar customers, can make serving individually metered LMI customers a reality in a manner that is consistent with BPU practice. It would be unfair not to provide this to LMI customers in Community Solar when it already provides it to all other utility BGS customers.

The advent of Community Solar in New Jersey is a significant first step for environmental justice. As a stakeholder in Community Solar, we have a vested interest and responsibility to our LMI residents to see that the Pilot Program is successful. We believe the only way to achieve a successful Program for LMI customers is through an efficient opt-out enrollment process for LMI subscribers and solving the challenges of billing the LMI community through BGS consolidated billing.

The adoption of these recommendations can vault New Jersey into a leadership position in environmental justice through community solar.

Thank you for your time and consideration of our comments, and we are available to answer any questions you may have.

Sincerely,


Liz Lempert
Mayor

Dear NJBPU:

Please accept our comments on the Community Solar Energy Pilot Program Year 1. We also attach our comments in PDF version. Please provide confirmation you have received our comments.

Thank you.

**New Jersey Community Solar Energy Pilot Program
Program Year 1 Lessons Learned
Request for Comments
August 4, 2020**

GENERAL COMMENTS

As a national solar project developer, EPC, and owner, our firm has participated in other states' community solar programs. We commend New Jersey and NJBPU for having what we believe is, by far, the best community solar program in the nation for its public policy spirit and goals. However, we believe there is still much room to improve current community solar rules and procedures that would further ensure New Jersey's achievement of its key renewable energy goals.

A key impetus for the NJ Solar Act of 2012 was that in spite of numerous awards of SRECs prior to the Act, very few solar electricity-generating facilities were being built so NJ was not progressing toward achieving its renewable energy capacity goals. We believe this was mainly due to the "disconnect" between the a) rules for obtaining SREC approvals and b) realities of solar developer profit-maximization behavior in the context of the capital markets at that time.

Our general comment is that we fear similar disconnect problems re-occurring with NJ's community solar program. Specifically, we believe NJ community solar rules should be formulated carefully to ensure achievement of the most important program goals: increasing solar capacity while delivering the lion's share of program benefits to low-income (LMI), as well as residential, households and communities.

A primary result we are seeing from Year 1 of the Pilot Program is a significant number of projects approved have been, and currently are, for sale. The chief rationale to sell projects is most developers whose projects were approved in 2019 are afraid they will not be able to sign up sufficient LMI subscribers, and they do not wish to try. This is because they are not structured properly to acquire residential subscribers, let alone LMIs – they are currently structured to obtain project sites, zoning, permitting, interconnection and obtaining PPAs from other corporations or PJM (WMPA) as these activities generated success for them in NJ previously. Thus, these developers are selling projects to transfer the risks and responsibilities to the buyers, while receiving significant financial remuneration. We foresee the end macro result is that, just like in the years before 2012, there will be long delays (maybe years) in solar capacity coming on line in NJ. And, achievement of "equity" will be difficult. These results will be exacerbated if appropriate rules for providing conditionally approved projects extensions are not formulated.

Lesson Learned:

For Year 1 of the Pilot Program, developers made mere commitments to the program for LMI, community partners, and other Evaluation Criteria and obtained approvals for TRECs, which maximized the profitability of their projects. They did not invest more in evolving their structures to fulfill these commitments. Our overarching comment to the NJBPU is to amend and implement the rules carefully for Pilot Program Year 2 and the future to avoid this behavior and the results we are seeing.

TOPIC 1: Equity and the Inclusion of Low- and Moderate-Income Households

General Comment:

We believe Yr.1 application rules and evaluation criteria should be amended to reward projects and developers who demonstrate they actually engage communities, can sign up LMI subscribers, have real collaboration with community organizations, and provide both solar and non-solar, financial and non-financial benefits to LMIs and communities.

To support these “preferred” developers and projects, and help achieve NJ’s goals, we believe the NJBPU should work with the utilities, the DEP and municipalities to expedite their permitting and Interconnection processes.

Question 1

a) Having spent time with LMI households, we understand LMI (and, in general, residential) participation is inherently difficult and has been made more so by questionable sales practices by various energy firms and ESCOs. The result is the difficulty in obtaining income documents from LMI. We believe current NJ LMI verification rules should be amended to include more avenues to verify LMI status.

b) Other ways to verify LMI status: 1) pay stubs, 2) bank statements redacted for sensitive info, 3) proof of unemployment, 4) benefits award letters or documents such as for Social Security, Welfare and other forms of income, housing and healthcare assistance.

We believe an LMI income affidavit is acceptable as a last resort if none of the above can be obtained, but we recommend independent certification of such an affidavit, not self-certification.

We also recommend that certain non-profit community organizations be given LMI status for community solar projects, albeit with stricter requirements and rules. Our primary reason is that many churches, schools and smaller non-profits have high numbers of LMI members and provide much needed programs to LMIs; thus, large electric bill discounts would alleviate their budget realities. Illinois allows non-profits to count as LMIs, but with restrictions such as only one non-profit per project, or a maximum capacity per project for non-profits.

Question 2

Opt-in Model:

a) We did not apply any projects in Program Year 1. However, we observe that the opt-in model is prevalent in community solar states.

b) Our experience in other states is with the proper investment of manpower, money and time by developers, the opt-in model works; we note that specialist subscriber organizations have had limited success with LMIs because they do lack these resources. We believe the opt-in model is the best for LMIs because it requires full, effective conveyance of information regarding community solar, and therefore, sufficient understanding on the part of the LMI subscriber of the program elements to obtain sign-ups.

Opt-out Model:

c) We believe an opt-out model offers few advantages, most of which benefit the developer and not the LMI. The main risks to an opt-out model are the 1) lack of education of the LMI, thus the lack of understanding of what they have been signed-up for, and 2) inadvertent recruitment of non-LMI subscribers. An opt-out process would entail a significant administrative challenge and substantial manpower and administrative resources. One important question is: who will provide such resources? Government agencies and large non-profits do have these resources, but for their own particular LMI assistance and benefits programs.

d) We envision an opt-out model would necessitate a large number of consumer protection measures that require a lot of planning, detailed implementation and enforcement, and, thus, may be uneconomical.

Question 4

We believe strongly that the responsibility of leveraging or utilizing community organizations or others should fall to the project developer and owner. The TREC subsidies awarded to approved projects are substantial and proper incentive for the developer to spend time and money actually working with community and other organizations.

As per our General Comment above, NJBPU assistance to project developers and owners with other organizations only serves to maximize further the developers and owners' profits.

Question 6

We suggest the NJBPU amend community solar rules and enforcement, and implement an application process to include measures that encourage, or even require, developers to integrate the engagement of LMIs into a project's development process from the very beginning. Doing this would make it easier to see that a project does have and will have the requisite LMIs. Our experience shows that in all community solar states, developers wait until their project(s) receive(s) RECs before starting both their residential and LMI efforts. These are other inherent problems of larger solar firms and small developers: 1) they keep their investment in a project minimal until it receives RECs or high tariffs and 2) they "invest" on a project-by-project basis.

TOPIC 2: Program Year 1 Application Form and Application Process

Question 7:

- a) Based on our experience in other states, an online application process is feasible but can get restrictive in demonstrating a project's true ability to meet the NJBPU's requirements and its qualitative strengths. We suggest the NJBPU welcome backup documents and information not requested or required by the application to show these developer and project features.

Question 9:

- b) We suggest these additional questions/information requests:
 - a. Provide some proof or demonstration that a project will have 51% or greater LMIs.
 - b. What is the project's projected LMI allocation?
 - c. Is a small non-profit community organization a subscriber to the project and why should this organization be approved as an LMI subscriber?
 - d. Provide clear evidence of a local community organization's active involvement in, and assistance with, the engagement of LMIs.

Question 13:

b), c) and d)

The following are our suggestions to the Yr. 1 Application's Appendix C: Evaluation Criteria (note that penalties for not delivering on the requirement should be loss of the conditional approval):

- a. "Low- and Moderate-Income and Environmental Justice Inclusion"
 1. Assign more than 30 Maximum Points (we suggest 40 or more points) to this category
 2. Higher Preference: Proof of LMIs or Capability to sign-up LMIs
 3. Higher Preference: Greater than 70% LMI allocation
 4. Medium Preference: Greater than 60% LMI allocation
 5. Low Preference: 51% or greater LMI allocation
- b. "Siting"
 1. Higher Preference: Non-Profit Owned Properties
 2. Higher Preference: Farmland for which the Developer commits, and can demonstrate, greater than 65% LMI allocation
 3. Medium Preference: Farmland for which the Developer commits, and can demonstrate, greater than 55% LMI allocation

Note: The economics of farming has weakened, especially given the current trade wars. As a result, in other states, most projects submitted to community solar programs are on excess farmland as farm owners seek other income sources to cushion the volatility of crop sales. The mandated maximum size of community solar projects has encouraged this trend. Moreover, farmland enables larger projects so combined with strict LMI requirements would enable more LMIs to participate in the financial benefits of community solar.

- c. “Product Offering”
 1. Assign More than 15 Maximum Points (we suggest 20 or more points) to this category
 2. Higher Preference: guaranteed savings > 35% to LMIs and > 12.5% to non-LMIs
 3. Medium Preference: guaranteed savings > 25% to LMIs and > 10% to non-LMIs
 4. Low Preference: guaranteed savings > 10% to LMIs and > 5% to non-LMIs
 Note: Illinois requires 50% discounts to receive LMI Project RECs.
- d. “Subscribers”
 1. Higher Preference: more than 65% of project capacity is allocated to residential subscribers

Note: To date, corporations and PJM have been the primary beneficiaries of NJ renewable energy programs.

- a. “Other Benefits”
 1. Properly designed Job Training and Hiring programs benefit exclusively LMIs so a developer who demonstrates actual investment in these programs should be awarded more points.
 2. A developer should be awarded points for investing in other, non-solar programs it or its community partners provide to LMIs and the community.
- b. “Geographic Limit within EDC service territory”
 1. Our suggestion is that no points should be awarded for this category if the NJBPU wishes to maximize the engagement of LMIs. The reason is that geographical limitations to the engagement of LMIs makes it more difficult to sign up LMIs. In some areas of NJ, the LMI population is more dispersed so a project’s location could well be disadvantaged in the engagement of LMIs by such limitations.

Question 14:

We suggest NJBPU staff should have the flexibility to increase capacity each year to accommodate projects that truly achieve the community solar program’s goals of substantial LMIs, residential subscribers, and maximum financial and other benefits to these as well as communities.

Question 15:

As per our comments on Question 14 above, there should be no limits imposed on developers whose projects demonstrate they will help achieve the community solar program’s goals.

Question 18:

Yes

Question 19:

We believe strongly that extensions hamper NJ and community solar from achieving their goals (Please see our General Comments). Any extensions should give weight to the project developer’s evidence of significant progress in engaging and signing up LMIs. We suggest shorter extension periods unless interconnection and permitting issues not under the developer’s control warrant the extension.

Question 21:

We believe strongly that Legacy Program projects do not help NJ achieve its mandated community solar goals. Therefore these projects represent less desired additional capacity and may replace capacity that help NJ achieve its current and future goals.

Question 23:

We suggest Staff should actively support developers and firms who have actual programs to inform and educate communities and households regarding NJ’s community solar programs. In our experience in communities in other states, the first challenge is always the fact that almost no one at the community level, and certainly at the potential subscriber level, knows of, or about, the state’s community solar program.

Joseph Z. Cortes
President and CEO

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August 10, 2020

VIA EMAIL

Aida Camacho-Welch
Secretary of the Board
New Jersey Board of Public Utilities
44 South Clinton Avenue, Suite 314
Trenton, New Jersey 08625

Re: Comments on Program Year 1 Lessons Learned

**In the Matter of the New Jersey
Solar Energy Pilot Program**

Docket No. QO18060646

Dear Secretary Camacho-Welch,

On behalf United States Solar Corporation (“US Solar”), I respectfully submit the attached *Comments on Program Year 1 Lessons Learned* in response to the Board’s July 9, 2020 Request for Comments.

Please do not hesitate to contact me if you have any questions.

Sincerely,

s/ Ross Abbey

Ross Abbey
United States Solar Corporation

STATE OF NEW JERSEY
BEFORE THE
BOARD OF PUBLIC UTILITIES

Joseph L. Fiordaliso
Mary-Anna Holden
Dianne Solomon
Upendra Chivukula
Bob Gordon

President
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of the New Jersey
Solar Energy Pilot Program

DOCKET NO. QO18060646

COMMENTS ON DRAFT RULE

US Solar is a community solar farm developer/owner/operator that has developed projects in multiple states, with over 65 MWs of community solar operational and subscribed to date. We participated in the New Jersey pilot program's Year 1 solicitation, and hope to also participate in the Year 2 solicitation.

We respectfully focus these comments on three areas of practical improvement that would allow the program to attract and support a broader array of project developers and project types.

1. Re: Topic 2, Question 7: Please provide feedback on the process of submitting an Application

Given the length and complexity of the project application form, the Board should implement an online application process that obviates the need for hardcopy submissions. If a participant still wants to submit a hardcopy application via US Mail, that should of course still be allowed. But the Program Year 1 requirement to submit five printed copies of each project application imposed a modest clerical burden on applicants that would likely be more burdensome in this second year, given the new Covid-19 pandemic.

2. Re: Topic 2, Question 13: Please provide feedback on appendix C: Evaluation Criteria from the PY1 Application Form

Dual agricultural use (DAU) solar projects sited on farmland should be allowed to earn the full 20 points for siting.¹ We thus propose and respectfully request that the Board modify the Siting portion of the Appendix C to read:

Siting Higher preference: landfills, brownfields, areas of historic fill, rooftops, parking lots, parking decks, <u>dual agricultural use farmland</u> Medium preference: canopies over impervious surfaces (e.g. walkway), areas designated in need of redevelopment No Points: preserved lands, wetlands, forested areas, farmland Bonus points for: landscaping, land enhancement, pollination support, stormwater management, soil conservation	20 Max. possible bonus points: 5
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By enabling and valuing DAU solar farms, a trend that is promoted by National Renewable Energy Laboratory (NREL) and many state-based farm associations, the Board would allow the pilot program to deliver multiple benefits beyond those provided by traditional solar sited on a landfill or brownfield, including but not limited to:

- allowing New Jersey farm families to participate in the clean-energy transition in a way that helps improve and diversify their farm revenue;
- helping preserve the farmland against residential, commercial, and industrial development pressure, while allowing for continued agriculture both during the term of the solar project and after the solar project is decommissioned and removed from the farm parcel;
- supporting the local food economy, allowing commodity farmers to transition a portion of their land to producing vegetables, fruit, honey, meat, or beverages for the local market (e.g., farmers market, local restaurateurs, CSA boxes);
- allowing for the incorporation of organic farming practices, perineal crop systems, soil improvement and carbon sequestration, and habitat co-benefits for songbirds, gamebirds, and pollinating insects such as bees and butterflies; and
- improving the production of pollinator-dependent crops growing on surrounding farmland within a radius of 2 miles or more.

To support the inclusion of this new siting category into the pilot program, the Board would likely want to require applicants to submit additional relevant information (beyond a DAU-tailored site plan), such as a farm operating plan (e.g., livestock grazing plan) and partnership letters or affidavits.

¹ Sometimes also referred to as “agrivoltaics”, dual agricultural use solar projects are designed and operated so that most or substantially all of the solar project’s acreage is used to produce an agricultural product for market, such fruit, vegetables, honey, or meat.

3. **Re: Topic 3, Question 15: The 45 applications granted conditional approval in PY1 represented 17 unique applicants. Should the Board consider limiting the number of applications that are submitted by a single developer, or limit the number of applications by a single developer that will be conditionally approved?**

Yes, for the current three-year pilot program, the Board should limit the number of MWs conditionally approved for each developer in PY2 and PY3. This will allow for a greater diversity of project developers and development and subscription approaches (enabling more program learning) and hedge against the risk of non-performance by one or more individual developers.

Sincerely,

s/ Ross Abbey

Ross Abbey
Senior Development Specialist,
United States Solar Corporation