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November 30, 2018

VIA ELECTRONIC MAIL

rule.comments@bpu.nj.gov

aida.camacho@bpu.nj.gov

board.secretary@bpu.nj.gov

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

RE: In Re New Jersey Community Solar Energy Pilot Program
BPU Docket No. QO18060646

Dear Secretary Camacho-Welch:

The Atlantic City Electric Company (“ACE” or “Company”) hereby offers its recommended revisions to the Community Energy Solar Pilot Program (“Pilot Program”) draft rulemaking published in the New Jersey Register on Monday, October 1, 2018. (50 N.J.R. 2048-2056) These written comments supplement the oral comments made by ACE during the public hearings held on November 8, 2018, at Rutgers University. ACE appreciates the opportunity to offer its recommendations to achieve consistency with P.L. 2018, c. 17 (the “Clean Energy Act” or the “Act”) and to improve the draft rulemaking to make the Community Solar Pilot Program a success and fair to all participants. The Company’s comments reflect the community solar experience of its affiliated utilities: the Baltimore Gas & Electric Company (“BGE”), the Commonwealth Edison Company (“ComEd”), the Delmarva Power & Light Company (“Delmarva Power”), the PECO Energy Company (“PECO”), and the Potomac Electric Power Company (“Pepco”) in Delaware, the District of Columbia, Illinois, Maryland, and Pennsylvania. ACE supports the achievement of the New Jersey clean energy goals established by the Act and believes that the electric distribution companies (“EDCs” or “Utilities”) are a critical part of making the Community Solar Pilot Program successful. The Company’s specific comments below track the order that the topics appear in the draft rulemaking.

Pilot Program Structure (Section 14:8-9.3)

EDC Exclusion (c)(4)

The draft rulemaking states that the “Board staff will not accept applications for EDCs to develop, own, or operate community solar projects beyond the billing and other responsibilities set forth in this subchapter.” This provision is inconsistent with the language contained in the Clean Energy Act, which expressly permits EDCs to participate in the permanent community solar program. Specifically, the Act states that “The Board shall adopt rules and regulations for the permanent program that set forth standards for projects owned by electric public utilities, special purpose entities, and nonprofit entities.” (N.J.S.A. 48:3-87.11) If, in contravention to the express language in the Act, EDCs are excluded from full participation in the community solar pilot program, the BPU will not have the opportunity to rely on the pilot program to guide its design of the appropriate rules for the permanent program, where EDC participation is permitted by statute. Additionally, EDCs will be denied the opportunity to learn from their participation in the pilot program when the permanent program is established. In the absence of EDC participation, New Jersey policymakers will be less likely to fully achieve all of their community solar project goals, which include significant numbers of projects and a substantial participation rate for low and moderate income (“LMI”) customer subscribers.

Therefore, ACE proposes the rule be struck entirely or, at a minimum, be revised to state the following:

“Board staff will not accept applications for EDCs to develop, own, or operate community solar projects beyond the billing and other responsibilities set forth in this subchapter, absent a Board Order or Board-approved application process setting forth the standards for EDC participation in the community solar pilot program.”

In this manner, the BPU would avoid making a material change in the draft rulemaking that would potentially delay the timing of approval of the community solar pilot final rulemaking while providing an opportunity for EDCs to develop, own, and/or operate community solar pilot projects through the approved pilot application process. The application process would then permit EDC participation in the pilot program in a manner that would address any concerns that the BPU might have. For example, EDC participation as a developer, owner, and/or operator could be limited to a portion of available projects and/or EDCs could also be required to seek a percentage of LMI subscribers to EDC related projects.

Application Process (c)(1-11)

The draft rulemaking outlines the developer competitive application process, but does not describe the timing of required EDC interconnection review for projects that are accepted. ACE recommends that the BPU rank the approved community solar project applications prior to EDC interconnection review. This will help to avoid the unnecessary costs and time for EDC engineering teams to review proposals that are not accepted and avoid the possible results of

having a higher ranked project receive a higher interconnection cost because it is later in the queue.

EDC Cost Recovery (c)(11)(d)

Under the draft rulemaking, EDCs will incur incremental costs related to billing, accounting, handling of customer inquiries, required reporting, and the crediting of subscriber bills when the community solar pilot program is implemented. While cost recovery of incremental community solar costs is specified in the draft rulemaking, there currently is no provision in the rules regarding the specific manner that such costs will be recovered. ACE recommends that the BPU specify that the incremental distribution costs be recovered through an EDC distribution bill surcharge applicable to all customers. The Company also recommends that the payment of full retail generation and transmission costs be recovered through an adjustment to the BGS rates, even for payments made to customers served by a third-party supplier.¹ In the event that cost recovery is delayed, it is also appropriate that the EDCs be permitted to have an opportunity to earn on incurred pilot program costs prior to their recovery. This will enable the Utilities to continue to meet their fiduciary obligations to shareholders, better aligning the financial requirements of Utilities with the goals of the Clean Energy Act. More specific guidance on cost recovery will also enable the EDCs to structure the appropriate accounting process.

Subscription Requirements (14:8-9.6)

Participation of all Rate Classes (e)

The draft rulemaking permits the participation of all rate classes. ACE customers billed under the Commercial and Industrial Energy Pricing (“CIEP”) rate are billed under prices that vary on an hourly basis. Under the draft rules, if these customers subscribe to a community solar pilot project, ACE will be required to modify its billing process to accommodate hourly price changes for solar credits. This will increase community solar EDC billing costs, risk additional billing errors, and confuse subscribers. Therefore, ACE recommends that the BPU permit ACE to use the non-hourly pricing rate applicable to these customers or exclude CIEP customers from community solar pilot program participation.

Community Solar Bill Credits (14:8-9.7)

Retail Net Metering Rates (a)

The draft rulemaking does not clearly state what the billing credit amount is for customers who have a third-party supplier (“TPS”). TPS rates are confidential, vary by customers, and TPS bills are not calculated by ACE. Therefore, the Company recommends that the BPU specify that all compensation for the generation portion of the bill credit be based upon the otherwise applicable BGS rate. Any bill credit amounts (generation, transmission, and distribution) should be based upon the rates that are in effect on the last day of the billing period.

¹ For PJM wholesale market settlement purposes, it is assumed that all of the community solar energy production, regardless of customer supplier, will be assigned to meet the BGS supply obligation. This is similar to the treatment of community solar energy production in Maryland and the District of Columbia.

This will permit the bill credit to be readily expressed as a dollar credit amount rather than a kWh credit, as permitted by the draft rulemaking. For PJM market load settlement purposes, all community solar electric energy production should be settled through the BGS supplier accounts.²

Excess Compensation and Nodal Pricing (f)

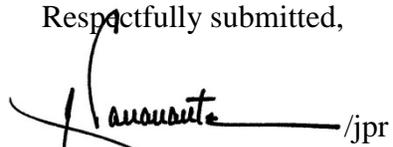
The draft rulemaking requires that EDCs manage excess compensation by permitting each subscriber to request that the EDCs provide either a wire transfer or a check for these payments. To reduce billing costs and administrative burdens for the EDCs, ACE recommends that the BPU permit the Utilities to issue a bill credit for subscribers who continue to have an active EDC account and only permit subscribers who no longer have an active EDC account the opportunity to request a check for excess compensation amounts.

Bill credits for excess electric energy production are required to be priced at the nearest node to the community solar project based on PJM hourly locational marginal prices (“LMPs”). This provision will increase the complexity of EDC billing and the issuance of payments/credits for excess production. ACE recommends that the BPU simplify the calculation of the value of excess energy production by permitting the Utilities to use the average hourly value of PJM LMPs for their PJM Zone over the most recent calendar year as the rate for excess energy production. All participants in the community solar pilots will find this easier to understand and EDC billing errors will be lessened.

Conclusion

ACE appreciates the opportunity to comment on the draft rulemaking and will continue to work with the BPU and stakeholders to establish a successful community solar pilot program in New Jersey. Allowing full EDC participation in the community solar pilot, as expressly contemplated in the Act, will provide important information for the development of the permanent community and help to achieve the goals of the community solar pilot program.

Respectfully submitted,

 /jpr
Philip J. Passanante
An Attorney at Law of the
State of New Jersey

² This is similar to the District of Columbia and Maryland community solar rules.

From: aleib1@everyactioncustom.com

Dear New Jersey Board of Public Utilities,

I'm writing to express my support for the proposed rules for New Jersey's new community solar program. The program will expand access to solar by giving renters and those whose roofs are not appropriate for solar the option to benefit from solar energy just as they would if the panels were on their own roof.

I support the goal of 75 MW of community solar for the first three years of the program, reserving 40% of the solar farms for low-to-moderate income communities, and prohibiting solar projects on preserved farmland.

To strengthen the program, I hope you will consider adding utility consolidated billing; funding community-based organizations to outreach to low-income communities about the program; and an easy and inclusive subscription application process.

Thank you for considering my comments and for your efforts to make affordable solar power accessible to all New Jersey families.

Sincerely,

Ann Leib

202 The Promenade Edgewater, NJ 07020-2105 aleib1@yahoo.com



November 30, 2018

COMMUNITY SOLAR ENERGY PILOT PROGRAM
Community Solar Energy Pilot Program Rules
Proposed New Rules: N.J.A.C. 14:8-9
BPU Docket Number: QO18060646.
Proposal Number: PRN 2018-090

Comments of Arcadia Power

Thank you for the opportunity to comment on the proposed rules for New Jersey's proposed Community Solar Energy Pilot Program.

Introduction

Arcadia Power is the first nationwide digital energy services company. Our job is to connect residential utility customers with clean energy while helping them save money. Depending on the local market structure, we provide a number of services to our customers, including renewable energy credit purchasing, retail supply brokerage, zero-downpayment energy efficient products, and community solar. We currently have approximately 200,000 customers, spread across all 50 states. Almost 5,000 of those customers are in New Jersey.

Arcadia Power has specific experience in community solar programs. We currently are serving as a residential subscription service provider for more than 100 MW of projects in 3 states, representing thousands of residential subscribers. We're pleased to share our experience with you.

New Jersey's new Community Solar Energy Pilot Program is an exciting opportunity for us to provide more value to our customers in New Jersey. We believe that many residential customers will see financial and environmental benefits from joining community solar projects. The proposed rules would create a market in which customers can reap those benefits.

Arcadia Power's community solar offering has several unique advantages over traditional offerings. We will be a "community solar subscriber organization", based on the definitions in the proposed rule. We will draw subscribers from our base of existing and new customers in the state, based on their eligibility to participate. We provide a multitude of unique benefits to subscribers, relative to other existing solutions in the market. Most significantly, through our proprietary utility billing platform, we provide a "one bill" experience for community solar, such that the timing of charges for community solar bill credits are always aligned with the subscriber's individual utility billing cycle, and the remainder utility bill portion, community solar portion, and savings are clearly delineated in a single statement. Furthermore, we offer the most consumer-friendly terms in the market, specifically: guaranteed savings (by providing a discount indexed to the value of community solar credits) and early termination with no fees. We are able to offer these consumer-friendly terms because: (i) we know that our business can thrive only if we are delighting our customers; (ii) we already have a large base of existing potential subscribers; and (iii) we are willing to take responsibility for the risks associated with customer



churn and replacement, so that individual customers are not asked to take on burdensome, long-term commitments.

The Pilot Program rules should enable projects to provide a simple customer experience and consumer-friendly contract terms

When evaluating the proposed rules, we looked for any barrier that would prevent us from quickly and efficiently subscribing customers to community solar projects. We also recognize that the goal of the proposed rules is to make sure that customers are fully aware of and agree to the terms of any contract they sign. We believe that the proposed rules strike an appropriate balance between ease of subscription and consumer protection.

There are a few specific areas that we identified as especially important.

- **Updates to subscriber lists.** Our ability to not charge fees for ending a subscription is directly related to our ability to quickly replace a departing subscriber with a new subscriber. Technically, this means that we need to be able to update the subscriber list once every billing period. The language in section 14:8-9.7(m) appropriately allows subscriber organizations to update the subscriber list once per month. In order to ensure a positive experience for subscribers, and reduce the incidence of unsubscribed capacity, we recommend the following two additions:
 - We recommend that the Board adds a required timeframe within which the monthly subscriber lists must be processed by the EDC, which should be within one (1) billing cycle
 - We recommend that the Board allow for intra-monthly subscriber updates in the case of a subscriber's utility account being closed (for example, due to moving or service disconnection)
- **Expression of consent.** We fully agree that customers should express consent to become a community solar subscriber. Given that there are likely to be a multitude of diverse marketing methods, the exact method of expressing consent will vary. We believe that the language calling for "affirmative written consent" in section 14:8-9.10(b)1.i is appropriate. Our understanding is that "affirmative written consent" is not further defined in New Jersey, but has a plain English meaning related to demonstrating "intentionality". This plain English meaning is appropriate. This section should be approved without changes.
- **Digital signatures.** The modern marketing and subscription experience will depend on the use of electronic signatures. Sections 14:8-9.10(b)1.ii and 14:8-9.10(b)3.iv both explicitly address electronic signatures. We believe that the language in both of these sections is appropriate and should be approved without changes.
- **Data access.** While a complete discussion of third party access to customer data is beyond the scope of this rulemaking, we do believe the program rules should at least acknowledge that data access matters and that EDC's should work to provide reasonable data access. This is especially important because the proposed rules require subscriber organizations to validate certain information about customers, such as their participation in a low-income program or not being a subscriber to any other community solar project. We appreciate the inclusion of the language about Green Button in section 14:8-9.7(k). This section also requires the EDC's to work with the Board to find a way to provide access to data in the event that Green Button is



insufficient. This section could be strengthened in two ways. First, Green Button Connect is a specific format of Green Button that is much more likely to meet the needs of market participants. We recommend identifying Green Button Connect, and not simply the generic “Green Button”. Second, this section should identify the information that must be made available, including:

- Account level information such as the low-income and subscription information we’ve identified here; and
- Monthly usage and billing information including the subscriber’s usage, amount of community solar production allocated, amount of community solar bill credit, and bill credit rate.

As these comments should make clear, we support the proposed rules. You will almost certainly be making changes to sections in the proposed rules that we have not explicitly addressed here. Since it’s impossible to predict changes you may make, we urge you to generally consider that any change may have a disproportionate or unnecessary impact on businesses that don’t charge exit fees or cancellation fees to subscribers. The final rules must work for businesses that don’t charge these fees in order for customers to see maximum benefits from the community solar program.

We also encourage you to move as quickly as reasonably possible to finalize guidelines for subscriber organizations. Identifying and subscribing customers takes time. In order for us to responsibly subscribe customers to community solar projects in New Jersey, we need to know the rules of the road. We share your objective of a strong community solar market and look forward to helping establish speedy and reasonable processes.

The Pilot Program rules can be strengthened by addressing EDC operational requirements

We also want to identify several operational issues that are not addressed in the proposed rules. These are issues that we’ve observed in other markets, and we encourage you to consider adding a new section to the final rules that includes these operational requirements.

- **Timing of credit allocation.** The subscriber’s bill credits should be allocated once every billing cycle, and no later than the billing cycle immediately following when the solar energy was generated. I don’t believe this is made clear in the proposed rules.
- **Automation of EDC processes.** While we’re sensitive to the Board not telling the EDC’s how to run their businesses, we do think the Board should encourage the EDC’s to automate as many processes related to community solar as possible. Our observation is that manual processes are slower and more prone to errors than automated processes. It may take time to achieve full automation, but this would be a valuable goal.
- **Data format requirements.** It’s important that the EDC’s give clear instructions to subscriber organizations about the format for all data that’s submitted to the EDC’s. The formatting requirements must align with the broader program rules. For example, the format should allow as many decimal points as necessary to give an accurate allocation of the project size, considering the smallest possible subscriber size to the largest possible project under the final program rules.



Conclusion

Again, we are excited to start participating in New Jersey's community solar market. The proposed rules point towards a market that will allow businesses like ours to provide significant benefits to customers. As discussed above, we encourage you to adopt some sections of the proposed rules without changes. We also encourage you to consider broadening the scope of the rules to consider important operational guidelines for the EDC's.

We appreciate the opportunity to provide these comments. We are always available to talk about our comments and answer any questions you may have. Please don't hesitate to contact Richard Caperton at richard.caperton@arcadiapower.com or 202 210 0063.

Sincerely,

/s/ Richard W. Caperton

Richard W. Caperton
Senior Director, Regulatory Affairs and Market Development
Arcadia Power



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Public Comments
Submitted to
NJ Board of Public Utilities
By:
Steven Leitner
Chief Operating Officer
CAP Solar
11/29/18

CAP Solar, a solar developer, is an affiliate of the non-profit Greater Bergen Community Action (GBCA), part of a national network of Community Action groups (approximately 1100) whose mission is to lift people out of poverty.

CAP Solar's business reflects its community mission. Its projects are installed at New Jersey non-profit organizations which normally find it particularly challenging to qualify for solar projects through a retail developer due to their non-profit status. Furthermore, CAP Solar operates these projects at a fixed price point well below retail, so that our efficiencies return maximum savings directly back into the community our clients serve.

CAP Solar supports the BPU's initiative to create a 40% "carve out" for the Low Moderate Income (LMI) community. Such a bold statement from the State of New Jersey will leapfrog the state into the forefront of the nationwide conversation about the value of community solar as it relates to the underserved community.

While we agree that the servicing of the LMI community is laudable, we are concerned about the depth of understanding that retail solar developers have regarding the needs of the actual families within this market segment, beyond their requirement for participation in this pilot. This was evident at the last public meeting, when more comment was provided by solar developers about their need to change the rules of reporting community solar installation size from DC to AC, than there were concrete proposals about servicing the entirety of the LMI marketplace.

GBCA/Cap Solar runs 23 different programs which service 50,000 LMI persons every year in Northern New Jersey. We have an expert understanding of this community. When no solar developer would work with us due to our non-profit status, we developed Cap Solar, a solar developer which would fill this void and begin servicing the LMI community.

Community Action Agencies like GBCA/Cap Solar actively create, service and administer programs to assist all families on both sides of the LMI fiscal spectrum. GBCA has hundreds of fiscal, health, religious, charitable, local, state and federal governmental partners who expand our reach. It is our mission to systematically lift families out of economic insecurity by addressing the root causes of poverty. Among the 23 programs, and 50,000 LMI served, GBCA/Cap Solar currently operates Head Start, Early Head Start, low income housing, LIHEAP, Weatherization Services, a Low Income certified credit union and other programs which annually certify their clients' low income status.



We submit the following comments concerning the proposed rules for community solar in the following areas:

- Low Moderate Income (LMI) off takers
- Consumer protection
- Interconnection Queue
- Other items

LMI

Not all LMI is the same.

The BPU is using a standard definition of LMI: 80% of Area Median Income (AMI) and 200% of the federal poverty rate. This means that for a family of 4, the maximum income range of a qualified off taker will be between \$49,200 (200% of Federal Poverty) and \$72,095, (average 80% AMI across all NJ counties). While these families fall into the proposed definition of LMI, they are far from the most financially insecure families we service at GBCA/Cap Solar. We have a real concern that while insisting on incentives in order to meet the 40% LMI threshold, developers looking to maximize profits will subscribe as many families as close the maximum 80% of AMI to lower their development risk. This approach will leave out the truly vulnerable who would benefit the most from community solar, while possibly using incentives that could be redirected from existing programs they are truly dependent upon. Suffice to say, within the parameters of this pilot as it is currently written, a dual income family with 2 children making \$72,095 will be treated exactly the same as a single mother with 3 children who has a minimum wage job which pays \$15,000, even though they have the same electricity use. There is nothing equal about the financial insecurity experienced by these two opposites.

We encourage the BPU to concentrate the majority of potential incentive packages (See below for examples) on developers who seek to include the lower end of the LMI populace. Standard solar developers should already make enough profit to sustain the risk of a client making 80% of AMI.

Further, the BPU should include all local/state/federal programs that require applicants to prove a minimum of 200% poverty or 80% of AMI, to automatically qualify as off takers for this community solar pilot. This automatic and reliable qualification process removes any additional burdensome paperwork for a community that already distrusts giving any personal information to outside parties. The automatic qualification process will allow the state, through its current programmatic databases, to cultivate data on LMI off takers and their experience through the pilot.

GBCA/Cap Solar already collects data on each of their programs for the local/state and federal governments. Each of the programs under GBCA/Cap Solar listed above could fill a 5MW pilot on its own with no or minimal client acquisition costs. Without pairing the LMI community with



community experts who have solar development experience or by expressly restricting the use of this acquired data, the BPU risks exposing a fiscally vulnerable population to unintended consequences.

We also encourage the BPU to turn to experts who already service the LMI community who understand the subsidy programs provided to these particular customers. GBCA/Cap Solar believes that there are existing programs/incentives that can be reoriented to the LMI developer which can be revenue neutral under existing state and BPU funding.

Finally, if LMI off takers are already in the eco-sphere of community-based organizations, then there will be minimal acquisition costs, minimal outside education, and signing up for community solar becomes just another service provided to the community. Unlike for-profit developers, all these cost savings will filter down to the customer, saving them even more money.

We believe that priority for all public incentives should be weighed against the benefit of the public. This includes but is not limited to solar developers who:

- Currently work with the LMI community.
- Understand federal, state and local programs for the LMI community.
- Have a formal partnership with community agencies who service LMI families through the state programs.
- Provides multiple services to the LMI community, so that community solar can be a touchpoint for other beneficial services.
- Demonstrate a plan to assist LMI customers in the event of a lapse of payment.

Consumer Protection

The LMI market is vulnerable. The community is not something that is to be bought and sold.

The BPU should strengthen the consumer protection language in the program rules in order to address the possibility of a developer acquiring or being sold unsolicited lists of LMI potential off takers based solely on their income.

Also, the BPU should set up a mechanism which will track the customer from the entry of the pilot to their exit. This data should include how they came to the pilot and the reasons that they exited the pilot.

The BPU needs to explore a sliding scale of delinquent payment allowances for off takers. GBCA/Cap Solar currently collects data on its existing non-profit customers, as well as analyzes data from its other 23 programs. Some of our solar customers have lapsed on their monthly bill for as long as a year before they steadily paid off their balances. 2,700 LIHEAP clients in each cycle have their final disconnection notices and, therefore, by definition have not been able to pay their electric bill without assistance. If a developer removes any of these LMI off takers within the 2-month parameter of the rules, without trying to ascertain a possible payment



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schedule, they will be subjecting this off taker to further fiscal uncertainty. Before developers are allowed to access the LMI market, they should demonstrate experience servicing this population or, in the alternative, have a formal affiliation with a community organization which does so.

Interconnection Queue

Cap Solar has heard many larger developers talk about a “first come, first served” interconnection queue. While we agree that New Jersey does not want to fall prey to the issues that plagued New York when they had no requirements to enter the interconnection queue, “first come, first served” and a maturity pre-requisite only favors developers who have outsized resources which can sit idle for the several years it takes to build and put a community solar project into operation.

This is a pilot program. The whole point of a pilot program is to learn. Since the pilot takes such an ambitious approach to the LMI community, so should the benefits and incentives given to those developers who concentrate their effort in that area. With an interconnection queue which is criteria-based, the pilot will be able to collect data-points which are the foundation of a hypothesis as to what will and will not work, especially for the LMI community. “First come, first served” will have no root in any fact-finding for the LMI community. It is mostly based on securing a long-term financial instrument.

It is GBCA/Cap Solar’s mission to serve LMI households. GBCA/Cap Solar does not currently see private, economically outsized resources filling the gap when it comes to housing, educating and feeding this community. We do not expect to see it when it comes to helping to guide LMI families into community solar. While we agree that some pre-requisites should be put into place to access the queue, we believe that they should be scored as it was originally intended. Community solar investments with predominant lower end LMI participation should be moved to the head of the queue and given fast-tracked resources from the EDC and the state.

Siting

With regard to this pilot program, a portfolio of lands owned by the State of New Jersey or its affiliates should be made available for lease/purchase by organizations willing to focus the majority of their commitment to the low end of the LMI community. We would also encourage the BPU to enlist the State to work with local and regional governments to make lands available.

Existing incentives

Community-based non-profit organizations which are already familiar with the State energy assistance programs should lead the way for reworking existing incentives. In this manner, ratepayer subsidy would not have to necessarily rise to meet the challenge of incentives, and strategies could be implemented to make incentives revenue-neutral.



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Funds from RGGI, NJ Clean Energy Program, EDA, LIHEAP, Weatherization, Comfort Partners, USF and Lifeline should be accessed to create revenue-neutral incentives, reserves and guarantees so that the lowest end LMI customers can participate in the program. Applicants should be encouraged to provide strategies to show how they would maximize the impact of any dollars potentially redeployed from any of the above, existing programs.

Other items

It is essential that all billing functions be done at the EDC level. Consolidated billing will remove the need for any additional education needed for off takers, which, in the case of LMI participants, should lower the cost of their electricity. This is especially crucial for LMI off takers who sometimes have to choose which bills to pay. If a bill isn't recognizable, it is less likely to be paid.

GBCA/Cap Solar has significant experience with energy bill assistance for the LMI community. An unintended consequence of consolidated billing will arise when an LMI off taker only pays a portion of their bill in order to maintain an account in good standing. There will need to be an agreement with the EDC to determine how much of that partial payment will come to the community solar provider even if the partial payment only satisfies the natural gas portion of the EDC consolidated bill.

Mandatory data should be collected to perform a pilot-wide Social Return on Investment (SROI) study to measure the impact of lower energy costs through community solar. We believe this would represent the largest study of its kind ever performed for renewable energy.

In conclusion, it is our belief, given our extensive experience servicing the LMI community in NJ, that the only plausible way for this pilot to succeed, given its laudable objective of providing an extensive "carve out" for the LMI community, is to encourage those organizations which serve this population to be involved in the development, so as to ensure that a vulnerable part of New Jersey's communities are properly represented.



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Via electronic submission to rule.comments@bpu.nj.gov

TO:
Aida Camacho-Welch
Secretary
New Jersey Board of Public Utilities
44 South Clinton Avenue, 3rd Floor, Suite 314, CN 350,
Trenton, New Jersey 08625

FROM:
Brandon Smithwood
Policy Director
Coalition for Community Solar Access (CCSA)
Ph: 978-869-6845
Email: brandon@communitysolaraccess.org

November 26, 2018

RE: Development of a community solar pilot program, BPU Docket No. Q018060646

Dear Secretary Camacho-Welch,

Enclosed please find the comments of the Coalition for Community Solar Access on the draft community solar pilot regulations published in the New Jersey Register on October 1, 2018

/s/ Brandon Smithwood
Policy Director
Coalition for Community Solar Access (CCSA)

Summary

The Coalition for Community Solar Access thanks the BPU for their hard work on this important program and submits comments on the draft regulations. We provide our comments organized by the sections of the new NJ Administrative Code (NJAC) regulation for ease of review.

In addition to defining these changes in our comments below, we have also reflected our comments in revisions to the regulations (via strikethroughs and underlines) as an appendix to our comments.

We highlight our key recommendations here, including the most important areas of the program we strongly support and those we urge the BPU to further revise. These key recommendations include:

1. *Replace the Competitive Application with a First Come, First Served Application Process:* Drawing on CCSA member companies' extensive experience in markets around the country, it is critically important to note there is no example of a successful community solar program of meaningful scale that has utilized a competitive application process whereby projects are ranked based on criteria. There are apparent problems that arise from such an approach, such as many early stage projects applying but ultimately failing to reach operation and developer challenges to Board decisions on project selection if criteria is subjective. Therefore, we respectfully but strongly urge the BPU to replace the competitive application process with a first-come, first-served process in Year 1 of the Pilot Program with significant maturity requirements, or at minimum, the competitive application process should be substantively improved with upfront quantitative criteria, weighting that is transparent to project developers, and some project maturity requirements in Year 1. The program should then be converted to a first-come, first-served process which higher project maturity requirements in Year 2 and beyond.
2. *Provide Key Supports to Make the Low- and Moderate- Income Project Requirements Feasible:* While we support the proposed Low- and Moderate- Income (LMI) community solar program requirements as a policy goal, the proposed 51% of a project requirement is not viable for project development without key supports including consolidated billing with utility purchase of receivables (as is already done for competitive energy suppliers), the availability of financial supports (SRECs, RGGI, and Clean Energy Program funding), and an improved non-residential customer bill credit as described in #3. If consolidated billing with utility purchase of receivables is not implemented, then the 51% requirement per project needs to be reduced to a 20% per project requirement and other improvements will be especially important to deal with the loss of revenue expectation and higher LMI customer subscription costs.
3. *Provide a Residential Retail Rate Bill Credit to All Customers to Make Non-Residential Customer Participation Viable and Better Reflect the Value of Solar:* The bill credit methodology needs modification. A pilot program should test as many variables as practical and as customers under specific commercial tariffs in specific utility territories

will not be able to participate in community solar programs due to low kilowatt-hour value. In order to ensure full inclusion of a variety of utility customers, we urge the BPU to allow for residential retail rate net metering for ALL community solar participants, regardless of the tariffs they are under. In our comments we offer two options that are consistent with net metering. These approaches have been taken in the two most successful community solar markets in the country: Minnesota and Massachusetts. Furthermore, residential retail level rates comport with the “value of solar” in several peer reviewed studies across the Northeastern United States, including New Jersey.

4. *Specify the program size and project size in Megawatts-Alternating Current (MWac)* The contribution of the project to the electric grid, the effective capacity available to customers, and the ability to integrate energy storage are all impacted by the current draft regulation’s specification of capacity limits in Megawatts- Direct Current (MWdc). The program and project limits should be specified in Megawatts- Alternating Current (MWac).
5. *Synch Project Construction Milestone Timelines with the Application Process:* The Pilot Program project construction milestone timelines need to be synced with the application process selected (competitive application vs first-come first-served) and the closely related project maturity requirements of those different processes. The milestones should also be about the mechanical completion of the project, not final utility construction as utility timelines can be significant and are outside the control of the developer.
6. *Establish a Process for Determining Increases to Capacity Available in Pilot Program Years 2 and 3:* A process for stakeholder input should be established for determining how and when annual capacity limits beyond 75MW can be established for year 2 and year 3.
7. *Require 50% of Capacity of Each Project to be Subscribed by Small Customers:* Absent sufficient incentives through an interim SREC program, or SREC successor program, to incentivize small customer participation, each community solar project for the pilot program should be required to have 50% of its capacity subscribed by small (25kW or less) subscriptions.
8. *Interconnection Processes Need Improvement:* Interconnection process improvements detailed below, beyond hosting capacity maps, are urgently needed, the community solar program should be clearly identified to the utilities as net-metering so that projects proceed through the state jurisdictional interconnection process, and we ask the BPU to open a proceeding to update the current interconnection rules in coordination with the utilities and other stakeholders.
9. *Maintain Reasonable Siting Rules:* The draft regulations have a reasonable approach regarding project location and siting, as they create some restrictions while enabling the needed flexibility in location of projects to keep costs down for New Jerseyans and allow projects to serve as many people as possible.
10. *Improve Utility Billing Processes and Utility-Community Solar Provider Data Exchange Processes:* The draft regulations wisely create processes for routine data exchange between community solar providers and electric distribution companies. These

requirements should be strengthened by removing limits on the numbers of subscribers per megawatt and requiring consolidated billing with purchase of receivables

11. *Do Not Create Limits on an Individual Developer's Market Share*: The program should not artificially and arbitrarily limit individual developer's market share in the pilot program and thereby drive up costs.

Comments on Community Solar Energy Pilot Program Rules (N.J.A.C. 14:8-9)

14:8-9.2 Definitions

The Definitions of a Few Important Terms Should be Further Updated or Added

- 1) "Unallocated/reallocated capacity" definition:

In the draft regulations, "Unallocated/reallocated capacity" is defined as program capacity that is either not allocated to a community solar project approved within a given program year, or which was allocated to a community solar project approved within a given program year that has been deemed by the Board or Board staff, in its sole reasonable discretion, as no longer able to be completed.

This definition needs to be separated into definitions for "unallocated capacity" and "reallocated capacity" and defined such that any capacity available to Board-approved projects is provided to a queue of projects for that Program Year if and as projects fail to meet established construction timelines in the regulations after any extensions these projects may be granted by the Board. If there are an insufficient number of compliant projects applying to the program in a Program Year or if there are no longer projects in the queue to utilize capacity from that Program Year in the pilot program, capacity should be reallocated to subsequent years of the pilot program.

- 2) The "Program Year" definition needs to be modified to accommodate the treatment of annual capacity as defined above. Specifically, a Program Year is the *capacity* made available to a queue of projects within that calendar year.
- 3) "Mechanically Complete" should be added and defined as the physical completion of the developer portion of the project as evidenced by either Certificate of Completion signed by wiring inspection, or an affidavit signed by the Engineer of Record.
- 4) For reasons explained in our response to 14:8- 9.4, the "Co-Location" definition should be revised to refer to two community solar projects on the same parcel. Co-located community solar projects should not be allowed.

14:8-9.3 Pilot Program structure

The Competitive Application Process Should Be Replaced by a First-Come, First-Served Process in the Pilot Program with Significant Maturity Requirements

The draft regulations propose a competitive application process, for which BPU staff will present, at least once per year, a set of criteria to the Board for evaluating applications received from community solar developers and subsequently open an application period. Once the application period closes, BPU staff will select projects based on the criteria and present them to the Board for approval. CCSA is strongly opposed to a competitive annual application process; there is no example of a successful community solar program of meaningful scale that has utilized such a process. CCSA respectfully requests that the BPU adopt a first-come, first-serve process in conjunction with: significant project maturity requirements; and the establishment of a queue of projects including (and beyond) the allocated program capacity so that a wait list of projects is available to utilize allocated capacity should approved projects fail to meet project construction deadlines established in the regulations.

A competitive application process will encourage many early-stage projects that will fail to be completed

CCSA's assumption is that the annual competitive solicitation approach is intended to yield projects with different characteristics that the BPU may want to experiment with during the pilot program. However, given how projects are developed it is unlikely that the Board is going to realize the benefits they expect from this process. CCSA is concerned the proposed competitive application process is likely to yield awards to projects which ultimately may not be viable while discouraging development of viable projects due to the fact that there will be a strong incentive to propose earlier stage projects. The process also does not solve the challenge of overcoming the significant incremental costs of building projects with certain characteristics (such as being built on already disturbed sites of various types) should such characteristics be part of the evaluation criteria.

Most importantly, not knowing the evaluation criteria until shortly before each annual competitive application process will act as an enormous barrier to investment. The community solar project development cycle entails significant investment in early stage development activities such as siting, interconnection studies, and permitting. If developers do not know how projects will be evaluated, they cannot forecast and model likely business outcomes and thus cannot make these early stage investments. Therefore, it is essential for application criteria to be established and unambiguous well before proceeding down the path of project development.

Differentiated incentives are a better way to achieve desired outcomes of a competitive application process

The current consideration of an interim SREC program provides an opportunity to develop incentives to achieve different project types the Board may like to see in a community solar

pilot program. As proposed in CCSA’s comments related to the SREC program, filed with Secretary Camacho-Welch on November 2, 2018, SREC factors are an effective tool to incentivize development of projects that address policy goals, but have additional costs that could otherwise stymie their development. For example, projects in specific locations (rooftops, carports, etc.) or with specific target subscriber populations (LMI projects). SREC factors can support development of more megawatts of solar generation at lower cost without sacrificing affordable access or land use goals.

The project development cycle is fundamental to understanding the problems with the competitive application process

In Figure 1 we present two timelines outlining community solar project development: 1) an archetypal project development timeline where securing a site, being studied for interconnection, and project construction happen on time; and 2) one where interconnection challenges, local government permitting delays and other challenges delay the construction of projects. The second, delayed, timeline is representative of what community solar projects in nearby New York state have faced and is a reflection of the real-world delays in interconnection and local permitting faced by projects there and in other states.

Figure 1: Representative Community Solar Project Timelines



As outlined in the top timeline of Figure 1, in an ideal timeframe, a community solar project will take 24 months to develop from the project’s inception to when it is operating with subscribed customers. During the first nine months to a year the developer works on finding a site and securing a lease with the landowner or, occasionally, buying the land outright. During this same period, a project developer will also reach out to the utility to study the project’s ability to interconnect to the distribution grid. Having secured a site and having reasonable expectations of interconnection costs for the project, a project developer will begin to secure state and local permits needed to build the project. It is only well into the second year that the project --

having secured permits from local and state agencies and interconnection studies and agreements from the utility -- that project construction will begin. It is also in this second year, as the project nears completion, that subscribers will be signed up for the project.

It is important to note that the timeline described above is an idealized timeline – it is common and expected that development will almost certainly be delayed for a variety of reasons. The utility’s studies may be delayed, there can be delays in the utility upgrading the distribution grid to allow for the project to begin operating, the local government may put in place a moratorium on projects for a period of time before considering a project, or other challenges may present themselves which stretch the project development and construction process out longer. As our members are exploring potential locations for projects, they are learning that many municipalities in New Jersey do not yet have the requisite ordinances to permit projects and, in some instances other authorities having jurisdiction (such as the Pinelands Commission or Highlands Commission) as well as state agencies need to review and permit the project. As outlined elsewhere in our comments, the interconnection process has created challenges to efficient project development.

In a state with high maturity requirements, projects are well down this development process before applying to be part of a community solar program, typically having received an interconnection study, secured the site, and received all relevant permits to construct the project. In the event the BPU adopts a competitive application process, most developers will *not* make the substantial investment to get beyond early stage development of the project because of the uncertainty and limited program size, and thus having the optimal program maturity requirements will not be possible. As a result, the BPU will be evaluating early stage and potentially speculative projects. Many of these projects will fail to be built and BPU staff will spend countless hours reviewing project applications. Some of these projects will not be able to secure necessary permits from the local planning board, many will determine that interconnection costs are prohibitively expensive, or they will otherwise not be able to move forward. Even in states where programs require developers to demonstrate they have reached certain high maturity milestones (such as securing permits or making an interconnection payment) which demonstrates they are likely succeed, it is still common for a number of projects to fail to materialize. In New Jersey, since those maturity requirements are not compatible with the competitive application process, the situation is likely to be far worse.¹

¹ In places where there have not been maturity requirements for projects there have been many projects proposed which failed to materialize. New York’s interconnection queue, for example, had over 2 gigawatts of community solar before the rules were changed to require demonstration of landowner consent and for projects to submit an interconnection deposit in order to stay in the interconnection queue and thereby show their commitment to developing the project. Today in New York there is approximately one third of the initial 2 gigawatts of capacity remaining in the queue in large part resulting from projects dropping out of the queue. Illinois has put in place a lottery process for participating in their program and has low maturity requirements for projects. Many speculative projects, which are unlikely to be built even if selected, have applied to the Illinois program. Regulatory and energy agency staff in both New York and Illinois have had to spend hundreds of hours working through these difficult queue management issues; it is imperative that New Jersey avoid such confusion and inefficiency. A clear application process based on the regulations with objective criteria and coupled with maturity requirements (or other demonstrations that projects are serious and likely to succeed) is critical, as demonstrated by these

High maturity requirements are needed in conjunction with a first-come, first-served process

Given the problematic experience other states have had when adequate maturity requirements are not in place, CCSA recommends that the following measures be used to demonstrate maturity as part of a first-come, first-served system. These measures include (i) proof of site control, (ii) a signed interconnection agreement or proof of payment for a portion of the project's interconnection upgrade costs², and (iii) proof that all non-ministerial permits have been received. Projects meeting these maturity requirements and the other rules of the pilot program should receive capacity in the program based on the time of their application. The maturity requirements above are similar to those in other states (including nearby states like New York and Massachusetts) and are used to ensure that the projects approved by the Board have the highest possible chance of success.

If a First-Come, First-Served Approach is Not Adopted in Year 1, at Minimum the Competitive Application Process Should Be Substantively Improved and Include a Queue of Projects. It Should be Converted to a First-Come, First-Served Process with Higher Maturity Requirements in Year 2.

If despite the above, a first-come first-served approach is not immediately implemented for Year 1, then the competitive application process for Year 1 should be improved. The program should then be converted to a first-come first-served approach for Years 2 and 3. The Year 1 improvements should include: 1) the use of upfront quantitative criteria with weighting that is transparent to project developers, 2) some project maturity requirements, and 3) a queue above and beyond the 75MW of program year capacity so that capacity can be reallocated as projects fail to meet project milestones and are removed from the queue.

Include unambiguous criteria and weighting

It is essential for application criteria to be clear before proceeding down the path of developing a project. The criteria and weighting of those criteria for Year 1 should be set as soon as possible and be made transparent to developers. Any criteria and weighting should be objective, quantitative, and unambiguous in order to build investor confidence and interest. If other more qualitative metrics are used like points for siting type or even for economic development, the evaluation process gets complex and sends a poor market signal for investment while creating the chance that BPU's decisions are challenged by developers who have not secured capacity

experiences in other markets. Indeed, in New Jersey's experience with Subsection Q projects, a deposit or notice escrow was required to participate in the program to ensure that developers had "skin in the game".

² In our comments below, CCSA recommends improvements to the state's interconnection processes. As part of this revision, the BPU should amend the distribution utilities' interconnection process to require a 25% payment of interconnection costs as an interim step that can signal a developer's commitment to go forward with the project without having to pay 100% of the interconnection costs. If such a policy were in place by Year 2 of the pilot program, proof of 25% payment could be a maturity requirement, as it is in other jurisdictions with successful community solar programs.

due to a subjective assessment of a project's merits. In addition, we have found through substantial experience across the country that state preferences in those areas are best addressed by incentives, such as SREC factors, and not by the criteria for evaluating projects in an application process

Modify the maturity requirements should a competitive application process be maintained for the first Program Year

In the instance where the competitive application process remains for Year 1, the maturity requirements for Year 1 would need to be different than in the first-come first-served process detailed above. Specifically given the uncertainty of the process, developers will not be able to invest in projects as fully and will also not have sufficient time to secure all permitting and a signed interconnection agreement by the time the BPU begins receiving applications in Year 1. Therefore, ***for only the first year of the pilot program***, the BPU should consider a short-term, interim policy to only require (i) proof of site control, (ii) *an interconnection impact study* or signed interconnection agreement, and (iii) *proof of application* for all non-ministerial permitting. Because these are substantially weaker maturity requirements and thus will be less effective in ensuring that only viable projects qualify, the BPU should also require a bid deposit or notice escrow of \$60/kw that will be refunded if the project does not qualify for the pilot program or when the project reaches mechanical completion; this deposit would be similar to the process the Board used for Subsection Q projects.

Establish a queue

As currently structured, the competitive application process is likely to result in failed projects without a set of projects to replace them and therefore a queue is needed with all projects ranked by weighting of the evaluation criteria developed by BPU. Providing Board-approved application criteria to the marketplace shortly before the opening of a Program Year will discourage projects from moving well into the project development cycle before applying to the program. At the same time, the lack of maturity requirements will mean there is no incentive for developers to make some progress down the development process to show they are likely to succeed. As a result, many projects will be speculative and will ultimately fail after being selected. Under the proposed regulations at 14:8-9.3(c)5 “[p]rojects “will be presented to the Board for approval for participation in the Pilot Program beginning with the highest-scored project, and *until the allocated program capacity for that year is filled*” (emphasis added). This italicized clause suggests that 75MW of projects will be selected in the first application period of the program but that all other applications will be rejected. Further, 14.8-9.3(c) 7 requires projects be constructed within six months of Board approval but, given the timeline outlined above and depicted in Figure 1, that will not be possible given that companies are unlikely to start the permitting process until being accepted into the program. As a result, the Board will have to wait much longer than six months (likely 12-18) to fully determine which projects have succeeded. Particularly for later pilot years, this capacity will not be used by operating projects until after the pilot program has concluded.

Utility Projects and Existing Projects Should Not Be Allowed to Participate in the Program

CCSA agrees that participation by the electric distribution utilities in the program is problematic given the information asymmetries between the distribution utilities and other community solar developers who do not have access to the same data available with ease to the utilities. This data includes customer energy data (which is only available to third parties with customers' consent in advance) and knowledge of where there are the lowest-cost opportunities for interconnection to the distribution grid. Without a transparent interconnection queue and given an interconnection process in need of updating, it is also not clear that third-party projects would be assured of equal treatment vis-à-vis utility projects in the interconnection queue.

Utility participation with a rate-base model would also not fit with the state's goal of attracting private sector investment and driving down cost through competitive markets and would be inconsistent with the intent of the Electric Discount and Energy Competition Act of 1999.

The exclusion of existing projects is also appropriate. Community solar is intended to create new, customer-driven renewables and repurposing existing projects fails to achieve this goal.

Pilot Program Project Construction Milestone Timelines Need to Be Synced with the Decision on the Program Structure and the Associated Maturity Requirements and Take Utility Construction Timelines into Account

The first proposed requirement for projects to "begin construction" within six months of acceptance into the program is reasonable if our recommendation to move to a first-come first-served program with high maturity requirements in Year 1 is adopted. If CCSA's proposal is not adopted, and a competitive application process is maintained for the first year of the program, then the deadline for a project to have begun construction should be 12 months. Extensions should be provided in the instance where a developer places a refundable \$50/kW deposit.

"Begin construction" should be clearly defined. We recommend using the definition established by the Internal Revenue Service for eligibility for the renewable energy investment tax credit. Those requirements are: (1) engaging in significant physical work through either direct or contract "Physical Work Methods" or (2) achieving the "Five-Percent Safe Harbor" standard, whereby five-percent of the ultimate tax basis of the project is paid or incurred³.

Even if a first-come, first-served application process is adopted, it is unrealistic to have subscribers receiving bill credits within 12 months of a project's acceptance into the program. Given that larger community solar projects – since they are not being sized just to the on-site load of the building – may trigger additional utility distribution system upgrades there can be delays in when the project can come online. The utility procurement and construction timelines

³ Internal Revenue Service, Notice 2018-59, available here: <https://www.irs.gov/pub/irs-drop/n-18-59.pdf>

range from 6-18 months and can add significant time to a project's completion. This utility construction timeline is also not within the control of the community solar developer.

Given the potential needs for utility system upgrades, and the ensuing delays that can result, the second milestone to be achieved should be that the project is "mechanically complete" within 12 months of beginning construction. Thus projects be required to be mechanically complete rather than operating and serving customers, and mechanically complete should be defined as the physical completion of the developer portion of the project as evidenced by either Certificate of Completion signed by wiring inspection, or an affidavit signed by the Engineer of Record.

If our recommendation to move to first-come first-served with high maturity requirements is not taken up until Year 2, the construction requirements in Year 1 should be different because the maturity requirements for Year 1 would need to be much lower as detailed above. Thus in this case, projects selected in Year 1 should be required to reach "mechanical completion" within 12 months of beginning construction.

As discussed in our comments on the competitive application process, and demonstrated in Figure 1, in an ideal timeframe, a community solar project will take 24 months to develop from the project's inception to when it is operating with subscribed customers and can be as long as 36 months with delays outside of the developer's control. For this reason the changes to the project development milestones are critical and depend on whether the program launches with a first-come, first-served application process or not.

The Board Should Not Create Caps on How Many Projects a Single Developer Can Put Forward

The draft regulations leave open the possibility of Board staff limiting individual developers to a certain portion of capacity in a program year with the objective of ensuring developer diversity. Rather than making this limitation, which will yield less competitive and thereby less cost-effective projects, maturity requirements for projects and timelines for project completion should be used to ensure that developers are bringing forward their best projects and that those developers best able to complete projects are rewarded.

14:8-9.4 Pilot Program capacity limits

The Program Size and Project Size Should Be Specified in MWac

In order to drive enough investment in the state to further reduce costs, and for the program to be a meaningful step towards kicking off New Jersey's progress on addressing climate change, CCSA recommends that the pilot program size should be set as 75MWac (alternating current) in Year 1, not as 75 MWdc (direct current). As projects are typically sized with a range of DC ratios of 1.2x to 1.5x, using MWac makes a meaningful difference in program size which ultimately impacts how many customers can be served.

Likewise, the maximum project size allowed should also be 5MWac, rather than 5MWdc. The use of MWac for the maximum project size results in a meaningful reduction in cost as the larger projects bring economies of scale and is the common standard max project size typically allowed on the distribution system in many states including New York and Massachusetts. Other types of generators and wholesale markets all use MWac not MWdc.

Measuring the program and projects in direct current is not reflective of a project's impact on the grid nor the benefit accruing to NJ ratepayers. What matters for grid planning, capacity planning and customer benefit is what capacity is actually available to the grid—the AC rating of the project—not what capacity may exist behind the inverter.

In addition to reducing the usable capacity available to serve customers and meet the needs of the grid, sizing projects based on Direct Capacity creates bad incentives to suboptimally configure projects. For example, the draft regulations clarify that energy storage is not precluded from being part of these projects and we support this proposal. However, a maximum project size and program size designation in MWdc could have the effect of deterring coupling energy storage with these projects. Indeed, it is common to *increase* the DC-AC ratio as energy storage is added to a system.

Create an Opportunity for Stakeholder Comment on the Program Capacity Caps for Program Years 2 and 3

A strong and early market signal from the Board is key to making New Jersey's community solar program successful. Thus, the size of the pilot program is critically important to attract maximum private-sector investment and jobs, accelerate clean energy deployment and reduce emissions from the power generation sector. CCSA urges the Board to also consider the role that robust private-sector engagement can play in helping to address the complex policy goals of the program, such as high LMI requirements: the stronger the market signal, the greater the resources that will be devoted to developing innovative products.

CCSA recommends that the Board set out a process for stakeholder commenting on expanding capacity limits beyond 75MW for years 2 and 3 of the pilot program. We believe that such a process will show the need for- and desirability of- expanding the capacity available in years 2 and 3 of the program.

CCSA and many other stakeholders initially recommended 450MWac as the minimum necessary program size to accomplish the above outcomes but other stakeholders focused on climate progress have advocated for an even larger 1,000 MWac program. As we discussed in previous comments, the 450MWac program size would only be about three to six percent of the new solar needed by 2030 (depending on the amount of new renewable energy imports into the state. In addition, and critically, Vote Solar's most recent report⁴ concluded that a

⁴ Vote Solar, "Community Solar: Ready to Work for New Jersey" (September 2018), available at: https://votesolar.org/files/9715/3625/7088/NJ_Community_Solar_JEDI_2018.pdf

450MW pilot program can be done with little cost to residents and businesses, and with huge economic benefits to communities. With such a low cost, and in light of the fact that most New Jersey residents cannot place solar on their roof, it is critical that the community solar program be of sufficient scale to meet customer demand for clean energy equitably while contributing to climate and clean energy goals.

In addition, while the proposed regulations would allow the BPU to set the 2020 or 2021 Program Years program size as late as 30 days before the start of those years, we strongly urge the BPU to make that decision earlier and as soon as possible. Now is the most important time to signal to the commercial market that New Jersey wants significant solar development. A larger than 75MW per year program size in 2020 and 2021 could be extremely beneficial to the state and would provide even more data and lessons learned for a burgeoning DG market.

The Option to Reserve an Additional 10% of Capacity for Low-Income Projects Should be Reserved for Program Years 2 and 3

CCSA member companies share the Board's goal of engaging all customer segments, including low- and moderate-income customers. However, as noted in various stakeholder discussions, CCSA is concerned that the LMI provisions of the program will not be achieved without additional credit support. Given the challenges to achieving the existing 40% target proposed for LMI projects, and particularly given the limited capacity available in the first year, the Board should wait until the second and third years to make a determination of whether an additional 10% of the program should be reserved for low income projects. This determination should be made when the Program Year 2 and Program Year 3 capacity levels are announced, ideally well before the opening of that program year to help developers and interested participants understand what will be available for that year.

Treatment of Unallocated and Reallocated Capacity Should be Clarified and Made More Certain to Allow for Reallocation to Projects Further Down the Queue and to Roll into Subsequent Program Years Should the Queue Be Exhausted

As mentioned under the definitions section above, currently, 14:8-9.4 states that "Unallocated capacity at the end of a program year *may* be reallocated to subsequent program years". This definition should be modified to be clear that capacity *will* be reallocated to projects in that Program Year's queue until the queue is exhausted. Or, in the case that the queue of projects is exhausted or there are insufficient numbers of conforming project applications, that capacity will be allocated to future years. Especially if Year 1 is a competitive application process with the lower maturity requirements as discussed above, there will be project attrition. New Jersey should want to ensure that all planned capacity is built, and developers need certainty as to the availability of capacity and the terms under which that capacity is available.

Once projects are in the queue, there will need to be appropriate queue management procedures in place to ensure projects that do not continue through the development process are removed from the queue in a timely fashion. This can be accomplished by removing

projects that fail to be mechanically complete within the timeline (including an opportunity for extension) outlined in the comments on 14:8-9.3.

Co-Location of Two Community Solar Projects on the Same Parcel of Land Should be Prohibited

Some early community solar states saw the siting of multiple community solar projects on the same parcel of land, effectively leading to larger projects. In New Jersey, where sites for hosting projects are limited, this may not be a material problem. Nonetheless, the state should clarify its regulations to limit co-location.

Should New Jersey's regulations specify a 5 megawatt-ac project size limitation, there is no need to site multiple projects on the same parcel of land. This prohibition should not, however, extend to community solar projects sited on adjacent parcels or co-located solar projects that are not community solar.

14:8-9.5 Project siting requirements

The Draft Regulations Have a Reasonable Approach Regarding Project Location and Siting, as They Create Some Restrictions While Enabling the Needed Flexibility to Keep Costs Down for New Jersey Residents and Allow Projects to Serve as Many People as Possible

The land type restrictions in the draft regulations are reasonable. They recognize the significant existing regulations controlling project permitting that exist at the local, regional, and state level. These draft regulations also balance the need to keep costs down, provide benefits to many types of landowners, and encourage investment with the need to protect certain land categories through prohibition. The draft regulations create flexibility about where projects are located while creating some reasonable constraints: prohibiting development on preserved farmland and not allowing development on Green Acres properties (except with special Department of Environmental Protection approval). The Pilot Program will provide useful insights as to where projects are ultimately located and the best practices used by developers.

The proposed customer and project location rules are also reasonable, and similar to how this issue has been managed in other states. The draft regulations smartly allow projects to serve customers anywhere in the service territory giving the flexibility needed to site projects and for customers to be able to retain their subscriptions as they move. This is a best practice adopted in successful community solar markets and is critical to the program's success.

14:8-9.6 Subscription requirements

Absent an Interim SREC Program with Differentiated Incentives, Projects Must be Required to Have 50% Small Subscribers by Capacity.

As outlined in CCSA's comments filed with the Board on August 22nd, 2018, with a retail rate bill credit that supports participation by all customer classes (as discussed in our comments on 14:8-9.7) but absent incentives to encourage developers to overcome the increased customer acquisition costs of small subscribers, developers will gravitate towards serving large non-residential customers. Thus, without a strongly differentiated SREC credit in an interim (beyond 5.1%) SREC program, CCSA strongly recommends the BPU adopt a 50% small subscriber requirement, defined as 50% of the project's capacity serving customers with subscriptions of 25kWac or less.

With the net metering credit, as defined, it is almost assured that some utility service territories will have no non-residential customer participants, including housing authorities and other non-residential customers serving low- and moderate- income individuals. An insufficient bill credit for non-residential customers, however, is a sub-optimal way to ensure residential participation and is likely to make meeting the 40% low income target impossible (as discussed below). A better way to achieve small customer participation is to have a bill credit that supports participation by customers in all customer classes and ensures small customer participation through a per-project requirement.

Limiting the Number of Customers per Megawatt is Arbitrary and Problematic, and Instead to Reduce Potential Administrative Burden, Simpler Lower Cost Billing Solutions Should be Pursued

On its face, it seems reasonable that projects would be restricted to 250 customers per MW. For a project with 100% residential subscription, that works out to an average subscription size of 4kW per customer. However, many customers community solar is designed to reach - such as renters, urban dwellers, and low-income customers, use less energy and therefore will typically receive smaller subscriptions than average usage customers. In Maryland for example, numerous developers have petitioned the Commission for an exception to that program's rule to limit projects to 350 subscribers per project. Allowing for smaller subscription sizes is also important as the industry and state is looking forward to enabling business model innovation and flexibility, such as bundling community solar with other energy offerings. There is no reason to restrict community solar product innovation based on concerns about administrative burden for the utilities' billing departments when there are simple, low cost solutions for program administration. Regardless of whether this requirement is retained, the utilities should begin plans to automate their billing processes. With billing automation in place, there is not a constraint on the number of customers that can be subscribed per project.

This issue of the number of customers per project and the challenge of being able to subscribe a sufficient number of customers under the customer cap is also exacerbated by the retail rate compensation proposed based on the customer class of the customer and discussed in our comments on section 14:8-9.7. As structured the net metering credit will drive projects in most utility service territories to being 100% subscribed by residential customers. Most of the utilities have high demand charges (and thereby low volumetric rates) and therefore it is unlikely that community solar projects will include non-residential "anchor" customers. PSEG is

representative of this problem and is nearly 60% of the state's load; its non-residential rate designs it alone will have a significant impact on the outcomes of the entire pilot given the current net metering proposal. These non-residential customers, which help derisk the project from a financing standpoint and thereby lower costs for all customers, would also provide many other useful benefits, one of which is decreasing the number of subscribers required and thus reducing the importance of the customer limit issue.

Subscribers Should Not be Limited to One Project

The draft regulations require that a community solar customer subscribe to only one community solar project and that a community solar provider confirm that a prospective customer has not subscribed to another project. This is problematic both from a practical and a market perspective.

Practically it is the distribution utility, not the provider, who knows whether a customer has already subscribed to a community solar project, so unless the utility can screen for that when a customer's usage is obtained or the Board will accept attestations from customers, there is no practical way providers can assure that a customer is not already participating in another provider's project.

Beyond practical challenges of verifying a customer is only subscribed to one project, a one-project limitation has market implications for some non-residential customers. Even if a subscriber is defined as electric meter as proposed, limiting subscribers to one project may restrict the ability of non-residential customers who may have a small number of large meters from effectively participating in the project. If BPU retains this requirement clear instructions are needed for how the EDC or Community Solar Subscriber Organization would perform this task.

Subscriber transfer requirements need to be clarified

Currently the draft regulations read that a subscription can be sold or transferred back to the community solar project owner. However, it may be the Community Solar Subscriber Organization which manages subscriptions and it is responsible for transfer of subscriptions. The regulations should be flexible enough to accommodate different business models, which the regulations themselves recognize involve companies that provide different parts (or all) of the community solar offering.

Community solar subscriber organizations should have 60 days, rather than 30, to notify the utility when a customer's subscription is transferred to a new account.

14:8-9.7 Community solar bill credits

All Community Solar Customers Should Receive a Monetary Bill Credit Based on Residential Retail Rates.

Retail rate net metering as it is structured in New Jersey where the retail rate will be based on the subscriber's own rate class, and given rate designs in the state, is not capable of supporting non-residential subscribers without modifications. There are at least two solutions to this, both of which work within the framework of retail rate net metering.

By using that approach as the means of crediting customers, credit values will vary widely across utility service territories and between rate-classes, making non-residential customers unviable in some utility service territories. All of New Jersey's distribution utilities charge nearly all of their distribution charges for larger non-residential customers through a demand charge and all utilities in the state include some demand charge for small non-residential customers as well. The effect is that the retail rate per kWh for commercial projects in New Jersey is only slightly above wholesale energy prices, and commercial projects to date depend heavily on the current SREC program to be viable. As a matter of good public policy, the volumetric portion of a non-residential customer's rate is not a fair proxy for the value of that solar generation. As a practical matter, given the state of the SREC market, and the need for non-residential customers to "anchor" projects, especially low-income projects, the bill crediting methodology must be changed.

In order to provide a fairer and more viable retail rate net-metering credit, CCSA proposes two options: 1) develop a bill credit based on the Residential Applicable Retail Rate methodology put forward in CCSA and Gabel Associates' August 22nd and 23rd filings; or 2) provide *all* participating customers a bill credit based on the applicable default residential retail rate schedule. Details on each approach are below and given the short period between the adoption of these regulations and the launch of the program, our recommendation is that the Board use the second method.

Method 1: The Residential Applicable Retail Rate methodology: In this method all retail rate delivery and supply charges (i.e., \$/month, \$/kW, \$/kWh) are converted into \$/kWh amounts. The Residential Applicable Retail Rate approach is based on Minnesota's community solar program and was proposed in digital comments to Secretary Camacho-Welch by CCSA and Gabel Associates on August 22nd and 23rd respectively in this proceeding.

Method 2: Providing a retail rate bill credit inclusive of supply and delivery charges to all customers based on the default residential rate schedule: In Massachusetts, community solar customers under the net metering program have received bill credits based on the utility's default small commercial rate schedule, which is similar to the residential rate. As CCSA argued in its opening comments, the residential retail rate is a reasonable minimum proxy for value based on numerous value-of-solar studies in the Northeast; it is the feasible means of crediting customers at this juncture given the extensive work needed to develop a value-based credit. Beyond being a fair proxy for value, CCSA recommends the residential retail rate for customers in New Jersey given that small commercial rates in New Jersey include demand charges and therefore suffer the same challenges as the NEM bill credits for larger non-residential customers.

In either method, bill credits must be monetary because the credit is not necessarily the volumetric rate in the customer's particular rate schedule. Monetary bill credits also have the general important benefit of being far easier to administer and do not create accounting problems between the electric distribution companies (EDCs) and retail suppliers, because EDCs do not have to change the actual kWh delivered on the customer bills. Customers also typically have an easier time with monetary credits (as long as the kWh x retail rate is shown), and it more fairly compensates them for the higher value of energy produced in summer months but the credits for which might be rolled forward for a few months. We understand if this monetary credit does offset fixed and non-by-passable charges. As has been previously mentioned and detailed in Vote Solar's recent report, a retail rate net-metering approach via Method 1 or Method 2 can be done with very little cost impact to New Jersey residents.

The Draft Regulations Are Correct in Providing the Compensation Methodology and Bill Credit for the Life of the Project and Critically Allowing Developers and Subscribers to Bank Those Credits Month to Month for Up to One Year at a Time. The Regulations, However, Should Clarify What "Life of the Project" Means.

It is critical for a project's financeability that there be clarity about the bill credits over the full life of the project and that at minimum, bill credits for both generator accounts and subscriber accounts bank from month to month for up to one year. CCSA supports the draft regulations requirement that the compensation methodology and bill credit apply over the life of the project and the flexibility to bank and later allocate credits as some customers leave the project and new customers enter the project over the course of a year. One area of ambiguity, however, is what "life of the project" means. We recommend defining "life of the project" to be 35 years from the project's commercial operation date or when the project is decommissioned, should that occur before 35 years.

The Standardized Process for Community Solar Providers and Utilities Communicating is Essential

The draft regulations' requirement for clear and timely procedures for exchanging customer billing information back and forth between community solar providers and the EDCs is critical and it is important that the final regulations retain these requirements. It should be clarified, however, that the utilities are also required to provide a monthly report to the community solar provider on the value of bill credits applied to each customer's bill, any excess credits banked on that customers' bills to be carried forward to future months, and any excess credits not distributed and thus being carried forward on the project account. This is essential to confirm proper credit distribution and tracking, and it will also be helpful for subscriber organizations needing to review and possibly resize subscriptions after 3 years.

Requiring a New Customer Meter is an Unnecessary Cost and Challenge to Enrolling Customers, and the Requirement Should be Revised to be Optional

The draft regulations require that a customer consent to the installation of a remote-read meter at the EDC's request and that those costs be borne by the utility. The cost of the remote-

read meter, while appropriately not shouldered by the community solar subscriber, is however an unnecessary requirement and for some customers, can deter interest in participating in the program. It is another reason why a volumetric credit is problematic.

The community solar program does not require new remote-read meters to be successful. The customers meter reading can continue as previous done and the EDCs simply apply the monetary bill credit from the community solar subscription as described above. As a remote-read meter may be useful, however, for ensuring meter reading and billing is done monthly in remote areas and at the same time for all subscribers, we would support this being an option for the customer and EDC.

The Electric Distribution Utilities Should File Plans to Automate Billing and Data Exchange and Establish Consolidated Billing

As discussed in response to the per-megawatt subscriber limits in 14:8-9.6, utilities should be required to file plans for automation of bill crediting and communications between the utilities and community solar subscriber organizations. By statute community solar is going to be a component of the solar marketplace in New Jersey going forward and therefore there is no reason for the utilities to delay establishing automation. Xcel Energy in Minnesota has created strong automated billing and systems for communicating with community solar providers which could be a model for New Jersey's utilities.

In addition to ensuring bill credit automation, customers should have the ability, at the discretion of the community solar provider, to be able to pay for their community solar subscription via their utility bill. As discussed below, consolidated billing with purchase of receivables is most essential for the financeability of low- and moderate- income solar projects, but more generally it is a valuable service to all customers and is currently available to customers of competitive energy suppliers.

14:8-9.8 Low- and Moderate- Income Provisions

We Support the Proposed LMI Community Solar Program Requirements, but They are Not Viable for Project Development Without Key Supports and Modifications.

The proposed regulations would establish the most ambitious low- and moderate- income (LMI) solar program in the country requiring 40% of projects to have 51% LMI subscription, and while we support the requirements, for projects with 51% LMI customers to be financeable one or more additional provisions are needed.

This is the case because most LMI customers today are unable to meet standard FICO requirements set by the third-party investors who underwrite nearly all community solar projects. Customers who do not meet these requirements are considered by lenders to be "non-revenue" subscribers. Investors to date have typically only allowed a small fraction of the project to be composed of such "non-revenue" subscribers and only have done so if the

revenue from the remaining portion of the project can alone provide the needed investment metrics. Given how the investment community views revenue from these customers, the current proposed regulations would not be workable.⁵

Consolidated billing with utility purchase of receivables for LMI community solar customers – which means the EDCs would collect the customers’ community solar subscription payment through the subscriber’s utility bill and be responsible for collecting any defaults – would be a powerful tool for making the LMI provisions in the draft regulations work. This consolidation of the community solar bill into the LMI customer’s utility bill with the utility handling defaults increases probability of customer payment and completely addresses investors LMI concerns. Consolidated billing also has the added benefit of limiting the number of bills these customers need to pay on a monthly basis.

In addition to consolidated billing, we recommend:

- 1) providing factorized SRECs for LMI customers as part of an interim SREC program to help manage the additional cost of LMI customer subscription. Beyond the 5.1% program established by the Clean Energy Act of 2018 an interim SREC program could support low-income projects while a permanent SREC successor program is developed.
- 2) As discussed in our comments on the net metering credit, in order for non-residential customers to improve the financeability of LMI projects, a monetary bill credit based on residential retail rates is needed for the non-residential customers who act as “anchors” for the community solar project.
- 3) Alternative funding sources: BPU should use Clean Energy Program funds to offer incentives for LMI projects and /or align state energy efficiency (EE), Low-income Heating Assistance Program (LIHEAP) and Weatherization Assistance (WAP) programs and investments to support inclusion of community solar. In parallel, BPU should encourage the Economic Development Authority (EDA) to dedicate allocated Regional Greenhouse Gas Initiative (RGGI) funds to green bank financing mechanisms to support LMI inclusion in projects, and community solar workforce training opportunities. Such funding sources could provide a resource similar to the New York State Energy Research and Development Authority’s (NYSERDA) “Solar for All” program.

If consolidated billing with utility purchase of receivables for LMI customers is not implemented, the 51% per project LMI requirement must be changed to 20% low-and-moderate income subscribers per project, as proposed in CCSA’s July 31st opening comments.

Requirements for Proving Eligibility Will be an Unnecessary Challenge to Low- and Moderate-Income Customer Participation and Should be Replaced with an Attestation

⁵ We expect investors’ perceptions of non-payment risk from LMI customers to evolve in the coming years as we get more data to change the investment community’s perceptions, but it is not a change we can count on for this program. We recognize that working with affordable housing providers is also an option, which is easier for financing, but given the logistics of that and unknown variables, it is not appropriate to count on that alone as a solution.

As currently written, verifying moderate income subscriber eligibility will be problematic and verifying low income customers will be overly restrictive. The draft proposals allow for proof of participation in a number of assistance programs as proof of LMI eligibility but participation in these programs often requires customers to be low-income (and thus isn't an option for moderate-income customers) and requires customers to already be participating in those programs. The only other verification method the draft regulations allow for are the customer's three previous years' federal tax returns. In other states such financial disclosures are a massive barrier for moderate income participation. Three years of tax returns are challenging for customers to provide and such a requirement forces customers to disclose a substantial amount of financial data about themselves. At the same time, community solar providers are saddled with the responsibility not only for collecting this confidential and sensitive data, but also maintaining it in their records.

Without a simpler way to verify income eligibility, and especially *moderate* income eligibility, otherwise eligible customers will likely be left out of the program. Maryland is currently struggling with this issue and CCSA has recently submitted a proposal to allow customers to sign an attestation of income form in order to qualify. We suggest such an approach is taken in New Jersey as well.

14:8-9.9 Codes and standards

Interconnection Improvements, Beyond Hosting Capacity Maps, Are Needed

New Jersey has historically had functional distribution interconnection rules. However, these rules have not been updated since 2012 and several significant deficiencies exist given that, to date, the rules have only needed to serve solar projects on-site with customer load. Failure to address these issues will result in significant community solar project delays and otherwise viable and exciting projects becoming economically unworkable.

The needs for interconnection improvement include the availability of upfront data; maturity requirements for queue entry; timeline improvements with binding queue removal; payment structure improvements; and updated technical standards that are essential for cost-effective, fair, and accurate interconnection upgrades and also accommodate new technologies, such as energy storage. Project developers also struggle to understand where their project stands in the interconnection process given the lack of a transparent interconnection queue for New Jersey's distribution utilities.

The community solar pilot rules should be a catalyst for improved interconnection rules and practices by requiring upgrades in both process and standards. The proposed rule's requirement to create hosting capacity maps is one important step, but a more comprehensive set of reforms are needed such that each distribution utility in the state is conducting an interconnection process that has the following elements:

1. First come first serve approach and a transparent queue of projects
2. Pre-application reports available before hosting capacity maps are on-line and until the accuracy of those hosting capacity maps are proven, so developers can

get basic technical information on substation and feeder capacity without having to enter the queue

3. Maturity requirements to enter the queue
4. Sequential study
5. Reasonable timelines for both developers and utilities, and binding queue removal upon failure to meet set timelines
6. Updated modern technical screens and standards for project study
7. Clear communication of the application of those standards and study outcomes
8. Non 100% payment structure - 25% down payment to show commitment and 75% after a certain period of time

We ask the BPU to open a proceeding to update the current rules in coordination with the utilities and other stakeholders.

14:8-9.10 Consumer Protection

CCSA views the consumer protection measures outlined in the draft regulations are reasonable. In developing a consumer disclosure form, the BPU should look to the form developed by Maryland⁶ and adopted in similar form by New York⁷.

The right of rescission in most states, and for most consumer contracts, is three days rather than seven as specified in the draft regulations. We recommend modifying that requirement to 3 days.

14:8-9.11 Reporting

CCSA generally believes the reporting requirements are reasonable and provides no recommendations for modification. We do ask that any additional criteria the Board may want to use to evaluate the pilot at the end of its three years be defined now at the beginning of the program.

CCSA strongly suggests modifications to the LMI eligibility requirements in this program. In other markets demonstrating LMI eligibility becomes a substantial burden to participation by individuals who are already facing challenges to participation in clean energy. As noted above, customers should simply need to attest to their qualification under the LMI criteria. Not only does the collection of tax returns or pay stubs create a tremendous (and often insurmountable) barrier to access for LMI households, it also generates sensitive information which is burdensome for providers to retain securely.

⁶ Maryland's Community Solar Disclosure form is available here: https://www.psc.state.md.us/wp-content/uploads/Community-Solar-Contract-Disclosure-Form-and-Instructions_04162018.pdf

⁷ New York's Community Distributed Generation Consumer Disclosure Form is available here: <http://www3.dps.ny.gov/W/PSCWeb.nsf/All/EAB5A735E908B9FE8525822F0050A299?>

Proposed Revisions to Draft Regulations

In order to reflect the proposed changes outlined in our comments, CCSA has provided the following revisions to the text of the draft regulations:

SUBCHAPTER 9.

COMMUNITY SOLAR ENERGY PILOT PROGRAM RULES

14:8-9.1 Purpose and scope

This subchapter sets forth the rules for the establishment of a

Community Solar Energy Pilot Program, in accordance with N.J.S.A. 48:3-87.11.

14:8-9.2 Definitions

For the purposes of this subchapter, the following words and terms

shall have the following meanings, unless the context clearly indicates otherwise.

“Advertising” shall have the same meaning as set forth in N.J.A.C. 14:4-1.2.

“Affordable housing,” shall have the same meaning as “affordable,” as set forth in N.J.A.C. 5:80-1.2.

“Affordable housing provider” refers to any person or entity that owns, operates, or manages affordable housing units. Affordable housing providers may qualify as LMI participants in an LMI community solar pilot project, under the condition that they demonstrate in their application to the Board that they are passing along specific, identifiable, and quantifiable long-term benefits to their tenants/residents (see N.J.A.C. 14:8-9.8(a)).

“Annual net energy” means the total amount of energy produced by the community solar facility on an annual basis, measured at the EDCs’ meter.

“Annualized period” means a period of 12 consecutive monthly billing periods.

“Avoided cost of wholesale power,” shall have the same meaning as set forth in N.J.A.C. 14:8-4.2.

“Basic generation service” or “BGS” shall have the same meaning as set forth in N.J.A.C. 14:4-1.2.

“Bill credit” refers to the credit placed on community solar subscribers’ utility bills by their EDC, calculated according to the bill credit value as established in this subchapter.

“Board” or “BPU” shall have the same meaning as set forth in N.J.A.C. 14:3-1.1.

“Capacity” shall mean the nameplate capacity, measured as the sum of the nameplate capacities in DC rating of all individual photovoltaic panels physically interconnected to make up a community solar facility.

“Clean Energy Act” shall mean P.L. 2018, c.17, signed into law on May 23, 2018.

“Co-location” is defined as having two or more independent community solar facilities providing subscriptions to two separate and distinct subscriber groups that are sited on the same parcel ~~or contiguous parcels~~. “Co-location” does not occur when projects are located on adjacent parcels.

“Community solar developer” or “developer” means an entity that is duly authorized to do business in the State of New Jersey and constructs a community solar facility within the State of New Jersey.

“Community Solar Energy Pilot Program” or “Pilot Program” refers to the program being established in this subchapter.

“Community Solar Energy Program” refers to the full-scale community solar program for which the Board shall adopt rules no later than (36 months after the effective date of rules and regulations establishing the Pilot Program).

“Community solar facility” refers to the physical equipment, including, but not limited to, panels, inverters, racking, and balance of

systems, which constitutes a solar facility used for community solar, with a nameplate capacity in ~~DC~~ AC rating not to exceed five MW.

“Community solar operator” means the entity in charge of the day-to-day oversight, safety, and control of the community solar project. The community solar operator may or may not have an ownership stake in the community solar project.

“Community solar owner” means the entity that legally and financially controls the community solar project. The “community solar owner” can be distinguished from the “community solar site owner.”

“Community solar pilot project,” “community solar project,” or “project” refers to a community solar project approved by the Board for participation in the Pilot Program, including, but not limited to, the community solar facility, project participants, and subscribers.

“Community solar site owner” or “site owner” means the entity that legally and financially owns the real property on which the community solar facility exists.

“Community solar subscriber organization” or “subscriber organization” means the entity, duly registered with the Board that works to acquire original subscribers for the community solar project and/or acquires replacement subscribers over the lifetime of the community solar project and/or manages subscriptions for a community solar project. The community solar subscriber organization may or may not be, in whole, in part, or not at all, organized by the community solar developer, community solar owner, or community solar operator.

“Community solar subscriber” or “subscriber” refers to any person or entity who participates in a community solar project by means of the purchase or payment for a portion of the capacity and/or energy produced by a community solar facility. One electric meter denotes one subscriber.

“Community solar subscription” or “subscription” refers to participation in a community solar project, by which the subscriber receives a bill credit for a share for community solar capacity and/or energy produced by a community solar facility. A subscription may be measured as capacity in kW and/or energy in kWh, ownership of a panel or panels in a community solar facility, ownership of a share of a community solar project, or a fixed and/or variable monthly payment to the project operator.

“Customer information,” shall have the same meaning as set forth in N.J.A.C. 14:4-1.2.

“Days” means calendar days, unless otherwise specified.

“DEP” means the New Jersey Department of Environmental Protection.

“Electric distribution company” or “EDC” shall have the same meaning as an “electric public utility” provided in N.J.S.A. 48:3-51.

“Electric distribution system,” shall have the same meaning as set forth in N.J.A.C. 14:5-1.2.

“Electronic Data Interchange” or “EDI” refers to the direct computer-to-computer exchange and processing of standard business forms from one business application to another, as defined and administered by the Board’s Division of Energy.

“Entity” is defined as a natural person or persons or a legal person or persons.

“Existing solar project,” for the purposes of the Community Solar Energy Pilot Program, refers to a solar project having begun operation and/or been approved by the Board for connection to the distribution system prior to January 1, 2019.

“Farmland,” shall have the same meaning as set forth in N.J.A.C. 14:8-1.2.

“Good utility practice” shall have the same meaning as set forth in N.J.A.C. 14:8-5.1.

“Government entity,” shall have the same meaning as set forth in N.J.S.A. 48:3-51.

“Green Acres preserved open space” means land classified as either “funded parkland” or “unfunded parkland” under N.J.A.C. 7:36, or land purchased by the State with “Green Acres funding” (as defined at N.J.A.C. 7:36).

“Green Button” is the energy industry-led effort initiated by the U.S. Department of Energy to provide utility customers with easy and secure access to their energy usage information in a standardized, consumer-friendly, and computer-friendly format.

“Historic annual usage” means the average amount of electricity supplied by an electric power supplier or basic generation service provider to the customer over the most recent 12-month period.

“Historic fill,” shall have the same meaning as set forth in N.J.S.A. 48:3-51.

“HUD” means the United States Department of Housing and Urban Development.

“In-State retail electric sales” means the electricity sold by third party suppliers or BGS providers directly to end-use consumers within EDC service territories in the State of New Jersey.

“Interconnection agreement” means an agreement between a generator and an EDC, which governs the connection of the generator facility to the electric distribution system, as well as the ongoing operation of the generator facility after it is connected to the system. An interconnection agreement shall follow the standard form agreement developed by the Board and available from each EDC.

“kW” means kilowatts, a unit of power representing 1,000 watts. A kW equals 1/1000 of a MW.

“kWh” means kilowatt-hours, a unit of energy representing 1,000 watt-hours. A kWh equals 1/1000 of a MWh.

“Low-income household” means a household with adjusted gross income at or below 200 percent of the Federal poverty level.

“Mechanically Complete” means the physical completion of the developer portion of the project as evidenced by either Certificate of Completion signed by wiring inspection, or an affidavit signed by the Engineer of Record.

“Moderate-income household” means a household with a total gross annual household income in excess of 50 percent, but less than 80 percent of the median income, as determined by annual HUD income limits.

“Multi-family buildings” or “multiple dwellings” are defined as having three or more independent resident housing units, as per N.J.S.A. 55:13A-3(k) and the 2015 New Jersey International Building Code definition for Residential Group R-2.

“MW” means megawatts, a unit of power representing 1,000,000 watts. A MW equals 1,000 kW.

“Nameplate capacity” means the maximum rated output of an electric power generator under specific conditions designated by the manufacturer and usually indicated on a nameplate physically attached to the power production equipment.

“Open space” refers to land designated as “open” or a synonymous term in a municipal or county master plan or easement.

“Preserved farmland” means land from which a permanent development easement was conveyed and a deed of easement was recorded with the county clerk’s office pursuant to N.J.S.A. 4:1C-11 et seq., land subject to a farmland preservation program agreement recorded with the county clerk’s office pursuant to N.J.S.A. 4:1C-24, land from which development potential has been transferred pursuant to N.J.S.A. 40:55D-113 et seq. or 40:55D-137 et seq., or land conveyed or dedicated by agricultural restriction pursuant to N.J.S.A. 40:55D-39.1.

“Program year” or “PY” means ~~the 12-month period~~ the capacity made available for applications during the 12 month period from the official launch of the Community Solar Energy Pilot Program on January 1, 2019. Each of the three program years for the Pilot Program shall be numbered PY1, PY2, and PY3, respectively.

“Reallocated capacity” is defined as program capacity that is allocated by the Board to approved Community Solar Facilities in a Program Year but is subsequently provided to facilities in a queue as adopted facilities fail meet development timelines outlined in 14:8-9.3 (c) 8. Reallocated capacity also refers to capacity that is transferred from one Program Year to the next should the entire queue of projects for the Program Year fail to meet mechanical completion deadlines. ~~is either not allocated to a community solar project approved within a given program year, or which was allocated to a community solar project approved within a given program year that has been deemed by the Board or Board staff, in its sole reasonable discretion, as no longer able to be completed. that has failed to~~

“Regulated entity” shall have the same meaning as set forth in N.J.A.C. 14:3-1.1.

“Regulated service” shall have the same meaning as set forth in N.J.A.C. 14:3-1.1.

“Renewable Portfolio Standard” or “RPS” means the program established by N.J.A.C. 14:8-2.1.

“Residential customer” shall have the same meaning as set forth in N.J.A.C. 14:3-1.1.

“Sanitary landfill” shall have the same meaning as set forth in N.J.A.C. 7:26-1.4.

“Service area” means the entire geographic area over which a gas or electric light, heat, or power company has a privilege or franchise granted by the State or by any political subdivision of the State, in accordance with the provisions of N.J.S.A. 48:2-13 and 14.

“Societal benefits charge” shall have the same meaning as set forth in N.J.S.A. 48:3-51.

“Solar panel” shall have the same meaning as set forth in P.L. 2018, c. 17.

“Solar power” shall have the same meaning as set forth in P.L. 2018, c. 17.

“Solar renewable energy certificate” or “SREC” shall have the same meaning as set forth in N.J.S.A. 48:3-51.

“Telemarketing sales call” shall have the same meaning as set forth in N.J.A.C. 14:4-7.2.

“Unallocated capacity” is defined as program capacity which is not allocated to projects in a program year due to a insufficient number of qualifying projects applying to the program.

“Unsolicited advertisement” shall have the same meaning as set forth in N.J.A.C. 14:4-7.2.

14:8-9.3 Pilot Program structure

(a) The Pilot Program shall ~~run~~ be open to new project applications for a period of no more than 36 months, divided into Program Year 1 (PY1), Program Year 2 (PY2), and Program Year 3 (PY3). Program Year 1 shall begin January 1, 2019 and last for the full calendar year, until December 31, 2019.

(b) No later than (36 six months after the effective date of this subchapter), the Board shall adopt rules to convert the Pilot Program to a Community Solar Energy Program.

(c) For each of the three program years, Board staff shall initiate an annual application process pursuant to the Clean Energy Act as follows:

1. Board staff shall present to the Board for approval the application for participation in the Pilot Program ~~and the criteria for evaluation of said applications.~~

2. Board staff shall open applications for the Pilot Program for a length of time to be enacted at the official approval of the application. Projects will be allocated capacity on a first-come, first-served basis based on the date and time that a complete and conforming application was received by the Board.

~~3. Following the close of the application period, Board staff will evaluate and score projects based on criteria identified in the application. Only applications that are substantively complete by the close of the application period will be considered for participation in the Pilot Program for that program year.~~

4. Board staff will not accept applications for EDCs to develop, own, or operate community solar projects beyond the billing and other responsibilities set forth in this subchapter.

~~5. Projects will be presented to the Board for approval for participation in the Pilot Program beginning with the highest scored project, and until the allocated program capacity for that year is filled.~~

6. A queue of all projects applying shall be maintained for each program year so that Program Year capacity can be reallocated if and as projects in that Program Year fail to reach mechanical completion deadlines outlined in 14:8-9.3 (c) 8 or if those projects withdraw from the program.

~~6.7.~~ Board staff may reject applications that are substantively incomplete at the close of the application period, that are not in compliance with this subchapter, or that do not meet a minimum standard for selection, as set forth in the application. The Board reserves the right to request additional or modified information to complete an application.

~~7- 8.~~ [If a first come, first served approach is adopted in the first year] Approved projects are expected to begin construction within six months of their approval by the Board. Board staff may approve one ~~or more two~~ six-month extension if substantial progress is shown towards beginning construction within the initial six month-period, as determined upon review by Board staff based on the specific circumstances of the project and with a refundable deposit of \$50/kW. Projects are entitled to indefinite extensions in instances where utility interconnection delays have delayed project construction.

i. “begin construction” shall be defined as defined in US Internal Revenue Service Notice 2018-59: (1) engaging in significant physical work through either direct or contract “Physical Work Methods” or (2) achieving the “Five-Percent Safe Harbor” standard, whereby five-percent of the ultimate tax basis of the project is paid or incurred

-OR-

8. [If a first come, first served approach is not adopted in the first year] Approved projects are expected to begin construction within ~~six~~ twelve months of their approval by the Board. Board staff may approve one ~~or more~~ two ~~six~~-month extensions if substantial progress is shown towards beginning construction within the initial ~~six~~ twelve month-period, as determined upon review by Board staff based on the specific circumstances of the project and with a refundable deposit of \$50/kW. Projects are entitled to indefinite extensions in instances where utility interconnection delays have delayed project construction.

i. "begin construction" shall be defined as defined in US Internal Revenue Service Notice 2018-59: (1) engaging in significant physical work through either direct or contract "Physical Work Methods" or (2) achieving the "Five-Percent Safe Harbor" standard, whereby five-percent of the ultimate tax basis of the project is paid or incurred

~~8. 9.~~ Approved projects are expected to be mechanically complete become fully operational (up to and including having subscribers receive bill credits for their subscription to the project) within 12 months of beginning construction. Board staff may approve ~~one or more~~ a six-month extension if substantial progress is demonstrated towards becoming fully operational mechanically complete within the initial 12-month period, as determined by Board staff. as determined upon review by Board staff based on the specific circumstances of the project.

~~9- 10.~~ Board staff may initiate more than one application period per Program Year.

~~10- 11.~~ The application periods for PY2 and PY3 may be opened as early as 90 days prior to the end of the previous program year.

11. Projects that apply after the capacity for the current Program Year has been fully allocated will be in the project queue and thereby placed into a wait list based on the date and time their application was received, should their applications be complete and conforming with application requirements. These "wait listed" projects shall be allocated capacity should projects based on the date and time they were received should project(s) ahead of them fail to meet the project development timelines defined in 14:8-9.3(c) 7-8.

~~11. In the approval process, Board staff may determine that it is appropriate to limit the number of projects approved for a single developer in a program year, in order to promote a diverse pool of developers.~~

(d) Upon application to the program, projects shall provide to the Board, with its application (i) proof of site control, (ii) an interconnection impact study or signed interconnection agreement, (iii) proof of application for all non-ministerial permitting, and (iv) a bid deposit or notice escrow of \$60/kw of capacity (AC) which that will be refunded if the project does not qualify for the pilot program or when the project reaches mechanical completion;

~~(d)~~ (e) Electric distribution companies shall, subject to review and approval by the Board, be entitled to full cost recovery for any incremental costs incurred in implementation, compliance, and administration of the Pilot Program. EDCs may not set a separate fee or surcharge for community solar projects unless explicitly authorized to do so by the Board.

~~(e)~~ (f) The Board shall publish information pertaining to the New Jersey Community Solar Energy Pilot Program on its website including, but not limited to:

1. Application requirements and forms ~~and evaluation criteria.~~
2. The list of approved community solar projects, including names, locations, and sizes.
3. The total capacity of approved projects for each program year.
4. Contact information for community solar projects currently seeking subscribers.

14:8-9.4 Pilot Program capacity limits

(a) The annual capacity limit for all community solar projects ~~approved~~ allocated capacity for participation in the Pilot Program during PY1 shall not exceed 75 MW, defined as the ~~sum of the nameplate capacity in DC AC rating of all PV panels in projects approved for participation.~~ the community solar systems allocated capacity via the application process, including any reallocation of capacity that may take place.

(b) No later than 30 days prior to the start of PY2 and PY3, the Board shall set by Board Order an annual capacity limit for community solar projects approved for participation in the Pilot Program during PY2 and PY3. The annual capacity limit for PY2 and PY3 shall be at least 75 MW per program year, ~~sum of the nameplate capacity in DC AC rating of all PV panels in projects approved for participation.~~ the community solar systems allocated capacity via the application process. Prior to the Board setting this annual capacity limit Board staff shall seek stakeholder input on program capacity targets for the coming program year.

(c) ~~Unallocated capacity at the end of a program year may~~ If and as projects fail to meet construction timelines, or withdraw from the program, their capacity shall be reallocated to projects in the queue for that Program Year until the capacity is used by operating projects. Pilot program capacity shall be available, under the relevant terms of the pilot program, until capacity is used by operating projects.

(d) Unallocated capacity remaining after a Program Year's capacity has been exhausted shall be reallocated to future program years.

~~(d)~~ (e) The annual capacity limit will be divided among each EDC area based on their average respective percentages of in-State retail electric sales. The anticipated PY1 breakdown is as follows:

1. Atlantic City Electric 12.8%
2. Jersey Central Power & Light 27.5%
3. Public Service Electric & Gas 57.2%
4. Rockland Electric Co. 2.5%

~~(e)~~ (f) At least 40 percent of the annual pilot program capacity limit shall be allocated to LMI projects.

~~(f)~~ (g) Upon announcement of program capacity for years 2 and 3, In the application process approved by the Board, the Board may set aside up to an additional 10 percent of the annual capacity limit, in order to test new models for low-income community solar projects including, but not limited to, ownership of community solar assets by low-income subscribers. The application and criteria for these low-income projects shall be developed by the Board.

~~(g)~~ (h) The capacity limit for individual community solar pilot projects is set at a maximum of five MWs per project, measured as the ~~sum of the nameplate capacity in DC~~ the AC rating of all PV panels comprising the community solar facility.

~~(h)~~ (i) Each project shall be equipped with at least one utility grade meter.

~~(i)~~ (j) Existing solar projects may not apply to requalify as a community solar project.

~~(j)~~ (k) Co-location of multiple community solar facilities on a single parcel of land shall not be permitted. Community solar facilities may be located on parcels adjacent to other community solar projects and may be located on the same parcel as solar facilities that are not community solar facilities, subject to specific review and permission by the Board through the application process.

14:8-9.5 Project siting requirements

(a) Community solar projects may have subscribers anywhere in the EDC service territory in which they are located, unless they have indicated otherwise in their application to participate in the Pilot Program. Projects that have elected, in their application, to place a geographic restriction on the subscribers to the project must maintain that restriction for the lifetime of the Pilot Project. The Board may consider waiving this restriction during the project's operational period upon special request.

(b) For the purposes of this section, the location of a subscriber and/or a community solar project is identified by the location of its physical utility meter.

(c) The following siting restrictions shall apply to community solar projects:

1. Community solar projects shall not be allowed on preserved farmland.
2. Community solar projects shall ~~only~~ not be allowed on land designated as Green Acres preserved open space, or on land owned by the New Jersey Department of Environmental Protection, ~~by~~ unless those projects are granted special approval of ~~by~~ the DEP.

14:8-9.6 Subscription requirements

(a) All subscription requirements pertaining to the Pilot Program shall apply to both the original subscription and to all subsequent subscriptions enacted throughout the lifetime of a project, unless expressly determined otherwise by rule or Board Order.

(b) The minimum number of participating subscribers for each community solar project shall be set at 10 subscribers.

~~(c) The maximum number of participating subscribers for each community solar project shall be set at 250 subscribers per one MW installed capacity (prorated to project capacity).~~

(d) Multi-family buildings with a community solar project sited on their property are exempt from the 10-subscriber minimum, so long as they demonstrate in their application that the project is intended to provide specific, identifiable, and quantifiable benefits to the households residing in said buildings.

(e) All rate classes are eligible for participation in a community solar project. ~~In PY2 and PY3, the Board may set a minimum percentage requirement for residential subscribers.~~ At least 50% of a project's capacity shall be allocated to residential and non-residential customers with subscriptions that are less than or equal to 25kWac.

(f) The following subscription requirements shall apply:

1. Community solar pilot project subscriptions shall not exceed 100 percent of the subscriber's historic annual usage, calculated over the past 12 months, available at the time of the application. In cases where a 12-month history is not available, the community solar subscriber organization shall estimate, in a commercially reasonable manner, a subscriber's load based on available history.

2. No single subscriber shall subscribe to more than 40 percent of a community solar project's total annual net energy.

3. Subscriptions are portable, provided that the subscriber remains within the original EDC service territory and the same geographic limitations (if any) as the community solar pilot project to which they are subscribed. Appropriate notice of the change in residence and/or location must be provided to the EDC, no later than ~~30~~ 60 days after the effective date of the change in residence and/or location. In cases of relocation, subscribers are entitled to one revision per move to their subscription size to account for a change in average consumption.

4. Subscriptions may be sold or transferred back to the project owner or community solar subscriber organization by subscribers as applicable in their subscription agreements. Subscribers may not sell or transfer a subscription to another party other than the project owner or community solar subscriber organization.

~~5. A subscriber may not participate in more than one community solar project. It is the responsibility of the subscriber organization to verify that their subscribers are not already subscribed to another community solar project.~~

(g) In cases of master-metered buildings, the account holder of the master meter shall be allowed to subscribe to community solar subscriptions on behalf of his or her tenants. The account holder of the master meter will be required to demonstrate, in his or her application to the Board and with a signed affidavit, that specific, identifiable, sufficient, and quantifiable benefits of the community solar subscription are being passed through to the tenants. Nothing in this subsection prohibits the account holder of the master meter from signing a separate subscription for the separately metered building common areas.

14:8-9.7 Community solar bill credits

(a) The value of the bill credit shall be set at ~~retail rate net metering, inclusive of supply and delivery charges~~ the adjusted retail rate of the residential class, defined as class average customer charges, supply and default delivery charges (including demand charges) expressed in a single \$/kWh charge.

-OR-

(a) The value of the bill credit shall be set at the retail rate net metering rate (\$/kWh), inclusive of supply and delivery charges, for the utility's default residential rate schedule.

(b) The calculation of the value of the bill credit shall remain in conformance with retail rate net metering, as determined in (a) above and shall remain in effect for the life of the project which shall be defined as 35 years, or until the project is decommissioned if sooner than 35 years.

(c) The credit may not be applied to fixed, non-by-passable charges. (d) An annualized period shall be established for each subscriber.

1. The annualized period shall begin on the day a subscriber first earns a community solar bill credit based on the delivery of energy.

2. The annualized period shall continue for a period of 12 months, until the subscription ends, or until the subscriber's EDC account is closed, whichever occurs earlier.

(e) Credits shall carry over from monthly billing period to monthly billing period, with the balance of credits accumulating until the earlier of:

1. The end of the annualized period;

2. The closure of the subscriber's EDC account; or

3. The end of the subscriber's community solar subscription.

(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, wire transfer, or check.

(g) If a subscriber receives net excess credits for each of the three previous consecutive years, the subscriber organization must resize the subscriber's subscription size to ensure it does not exceed 100 percent of historic annual usage, calculated over the past 12 months, available at the time of the reassessment.

(h) Any generation delivered to the grid that has not been allocated to a subscriber may be "banked" by the project operator in a dedicated project EDC account for a period of up to 12 months. The banked credits may be distributed by the project operator to any new or existing subscriber during that 12-month period, in conformance with subscription requirements set forth in N.J.A.C. 14:8-9.6. At the end of the up to 12-month period, any remaining generation credits shall be compensated at the EDC's or BGS provider's avoided cost of wholesale power, calculated at the nearest node to the point of delivery of the community solar project.

(i) Subscribers must have an active EDC account within the EDC service territory of the community solar project to which they are subscribed.

~~(j) Subscribers must agree to a remote read smart meter upon EDC request, purchased and installed at EDC cost.~~

(k) EDCs must make appropriate data available through Green Button, subject to appropriate privacy protections. If Green Button capabilities are not available or are insufficient, the EDCs will work with Board staff to determine data sharing mechanisms and requirements between the EDCs and developers.

(l) Board staff shall work with the EDCs to develop a standardized process for sharing subscriber information between subscriber organizations and the EDCs in a way that minimizes errors and administrative costs. As part of this process, the EDCs shall present to Board staff a process by which subscriber organizations can submit the lists of subscribers. This process shall include:

1. A list of all appropriate subscriber information that must be transmitted to the EDC and the data that will be provided on a per-customer basis to the subscriber organization monthly, including bill credit values applied and any balances of credits accrued on that customer's account;

2. The standardized form for submission of subscriber information; and

3. The method of submission.

(m) Subscriber organizations shall send, to the relevant EDC via the method determined in (l) above, a list of subscribers to the project with all appropriate subscriber information, no later than 60 days prior to the first monthly billing period for the community solar project. Additionally, subscriber organizations shall send an updated list to the EDC once per month, following the method determined in (l) above.

(n) The billing process shall be administered by the EDCs, who shall apply the community solar bill credit to subscribers' utility bills in proportion to each subscriber's share of the community solar project as indicated on the most recent list received from the subscriber organization. Each EDC ~~may decide whether to~~ shall apply the bill credit as a dollar credit ~~and/or a kWh credit~~ on subscribers' utility bills, ~~so long as the~~ and meet the following conditions ~~are met:~~

~~1. The method of application of the bill credit (whether as a monetary (dollar) credit and/or a kWh credit) shall be the same for all community solar projects in the EDC service territory; and~~

~~2.1. The community solar bill credit shall be specifically identified as the “Community Solar Bill Credit” in a separate line on the subscribers’ utility bills.~~

~~2. The bill shall include the name of the community solar project to which the customer is subscribed and their community solar provider’s name.~~

(o) The EDCs may sync up the monthly billing period of subscribers and projects, by modifying, with due notice given, the monthly billing period for subscribers upon their first month of participation in the community solar project.

(p) The Board may modify standards to ensure billing accuracy and information sharing.

(q) Community solar projects shall be eligible to apply, via a one-time election prior to the delivery of any energy from the facility, for SRECs or Class I RECs, as applicable, or to any subsequent revision to the solar compensation mechanisms as determined by the Board pursuant to the Clean Energy Act.

(r) The project owner retains full ownership and rights to any renewable energy credits associated with the community solar project’s renewable energy generation, unless otherwise determined by contract.

(s) The Board may decide to create one or more additional incentive(s) paid and/or credited to community solar developers for specific types of community solar projects, including, but not limited to, community solar projects located in environmental justice communities and/or LMI projects.

(t) Nothing in this section prohibits the inclusion of storage in a community solar project, in accordance with all applicable Federal, State, and local laws, rules, and regulations, and in furtherance of the goals set forth in the Clean Energy Act.

(u) By March 1, 2019 the Electric Distribution Utilities shall propose plans for automating bill crediting and transmittal of data between the Utility and Community Solar Subscriber Organizations and for providing for the availability of consolidated billing that includes purchase of receivables for customers’ community solar subscriptions.

14:8-9.8 Low- and moderate-income provisions

(a) A low- and moderate-income subscriber for the purposes of this subchapter is as follows:

1. A low-income residential household or a moderate-income residential household as determined by annual adjusted HUD income limits.

2. Affordable housing providers may also qualify as an LMI subscriber for the purposes of a community solar project. In order to do so, they must:

i. Demonstrate in their application to the Board and sign an affidavit that they are passing along specific, substantial, identifiable, and quantifiable long-term benefits to their residents/tenants; and

ii. Sign and submit to the Board, an affidavit indicating that they will pass along said specific, substantial, identifiable, and quantifiable long-term benefits to their residents/tenants.

(b) An LMI community solar pilot project is defined as a community solar pilot project ~~in which a minimum 51 percent of project capacity is subscribed by LMI subscribers.~~ that serves, by capacity, at least 20% Low- and moderate- income residential subscribers, at maximum 80% affordable housing facilities or low-income service organizations, and at maximum 40% any other subscriber.

(c) An LMI community solar project may not accept participation by a non-LMI subscriber if doing so would cause LMI participation in the project to fall below ~~51~~ 20% percent of project capacity.

(d) The following LMI eligibility criteria shall be applied:

1. If the community solar pilot project is sited on government-owned property, and is serving LMI subscribers living on that property, the government site owner may provide a sworn statement that those community solar pilot project subscribers are considered LMI for the purposes of the Pilot Program.

2. In all other cases, subscribers must be individually qualified as LMI for the purposes of the Pilot Program. The subscriber organization for each project shall receive and review proof of LMI eligibility for each LMI subscriber. Any of the following may be accepted by a subscriber organization as proof of LMI status for individual subscribers:

i. Proof of participation in one or more of the following: LIHEAP, Universal Service Fund, Comfort Partners, and/or Lifeline Utility Assistance Program; or

ii. An attestation that the customer qualifies under the low or moderate income definitions outlined herein ~~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.~~

3. Qualification of a household as low-income or moderate-income is required only once per subscription, at the time of execution of the subscription agreement or contract.

4. A community solar subscriber whose subscription has, for any reason, ended must re-submit a new application along with LMI qualifying criteria if applicable.

14:8-9.9 Codes and standards

(a) Community solar pilot projects shall comply with all current and future applicable interconnection requirements applicable to each EDC, as set forth in N.J.A.C. 14:8-5 and shall be processed by the EDCs following normal interconnection procedures.

(b) Community solar projects must conform to all codes, standards, and licensing requirements that were applicable when the project was constructed.

(c) Community solar projects shall be considered as connected to the distribution system.

(d) Each community solar project shall telemeter its production data to the EDC on a monthly basis in accordance with EDC EDI procedures. (e) The EDCs shall be responsible for measuring the metered production of energy by community solar pilot projects, and for verifying that the community solar pilot projects are producing an amount of energy that is greater than or equal to the amount of energy that is being credited to subscribers' bills.

(f) The EDCs shall make available and update, in a commercially reasonable fashion, capacity hosting maps, within 90 days of the beginning of PY1.

(g) The EDCs shall file plans with the Board no later than March 31st, 2019 to update their interconnection standards and processes, subject to stakeholder input and subsequent Board approval

~~(g)~~ (h) A community solar project shall not subscribe more than 100 percent of the project's nameplate capacity in DC rating.

~~(h)~~ (i) Community solar developers and owners are responsible for complying with all applicable Federal and State securities laws, rules, and regulations.

14:8-9.10 Consumer protection

(a) Board staff shall develop a standard registration form for subscriber organizations. Subscriber organizations shall be required to complete and submit this form at least 30 days prior to first doing community solar business operations in New Jersey. Failure to comply may result in a temporary or permanent prohibition from conducting business related to community solar in New Jersey. Subscriber organizations must submit the form only once, unless there is material change to the content of the registration form, at which time a new registration form must be submitted.

(b) Community solar subscriber organizations must comply with all applicable laws, rules, and regulations governing advertising, marketing, and fair business practices. Additionally, the following consumer protection measures shall apply to all subscriber organizations, and any agent, contractor, subcontractor, or affiliated person.

1. As to subscriptions, as follows:

i. A community solar subscriber may not be subscribed without their affirmative written consent, either via wet or electronic signature.

ii. If a subscriber organization uses electronic methods to sign up, renew, or switch subscribers, the subscriber organization shall comply with the Uniform Electronic Transaction Act, N.J.S.A. 12A:12-1 through 26.

iii. A subscriber organization may not add a new charge without first obtaining affirmative written consent via wet or electronic signature from the subscriber, whether it be for a new service, existing service, or service option;

2. As to marketing, advertising, and solicitations, as follows:

i. Subscriber organizations may market and advertise community solar project(s). Under no circumstances can subscriber organizations, or any agent, contractor, subcontractor, or affiliated person knowingly make false or misleading marketing claims or suggestions, engage in marketing or advertising practices that are unfair, misleading, or deceptive, or in any way violate consumer protection laws and/or rules implemented or enforced by the New Jersey Division of Consumer Affairs.

ii. Subscriber organizations or any agent, contractor, subcontractor, or affiliated person must clearly identify themselves by the name of the subscriber organization, as registered with the Board. They may not falsely represent themselves as another party, including an EDC or a New Jersey government entity, such as the "New Jersey Board of Public Utilities" or the "New Jersey Clean Energy Program."

iii. Subscriber organizations may not use high-pressure sales tactics, including, but not limited to, excessive number of communications, whether in-person, by phone, e-mail, mail, and/or other forms of communications.

iv. Subscriber organizations shall comply with all FTC telemarketing rules, including, but not limited to, the restriction on telemarketing between the hours of 9:00 P.M. and 8:00 A.M., Eastern Standard Time.

v. Subscriber organizations must include in all advertisements, marketing, or sales materials, a toll-free or local telephone number and/or a link to a website through which customers can obtain further information regarding their product and/or services.

vi. Subscriber organizations are prohibited from contacting a potential subscriber by telephone for the purpose of making an unsolicited advertisement, if the subscriber organization does not have an existing business relationship with the potential subscriber and the potential subscriber's telephone number appears on the no telemarketing call list established and maintained by the Division of Consumer Affairs, pursuant to N.J.S.A. 56:8-127 or any successor statute, or the national do-not-call registry as maintained by the Federal Trade Commission. Any violation of this provision shall be forwarded to the Division of Consumer Affairs for further investigation.

vii. Subscriber organizations shall not contact, market to, or engage potential subscribers prior to registration with the Board under (a) above;

3. As to contracts, as follows:

i. Contracts must contain a plain-language description of the subscription agreement, including the type of agreement, date of enactment of the contract, duration of the contract, payment and pricing calculations, a good-faith written estimate of the savings a subscriber will earn per year (if applicable) and its disclosed assumptions, a clear description of the billing arrangements, and a complete list of any other fees, including, but not limited to, any applicable transfer and/or cancellation fees, due date for payment, late payment fees and the number of days after which a late payment fee may be applied, and any interest charges. The contract must also contain the specific conditions under which such penalties and/or fees can be imposed.

ii. Prices, whether in a quote or a contract, must include disclaimers that:

(1) Utility rates and projected savings are subject to change; and

(2) The Board does not regulate the price of community solar subscriptions, nor does it guarantee projected savings.

iii. Under no circumstances shall the contract contain a statement or provision by which a subscriber waives any rights they have under New Jersey or Federal consumer protection laws, rules, and/or regulations. The contract also may not include provisions (sometimes referred to as "material change notices") that permit the subscriber organization to change material terms of the contract without the subscriber's affirmative consent, unless the change is required by operation of law. "Material terms of a contract" include, but are not limited to, terms regarding the price, deliverability, or time period of the contract.

- iv. The use of robo-signing is prohibited: contracts must be signed either by a wet signature or by requiring the signer to take an affirmative action (at least a click) at each location in the document where the signatures and/or initials appear; if the signature is electronic, the software used must provide a digital certificate of the number of times each signature and set of initials was applied to the document.
- v. Subscribers will have a ~~seven~~ three-calendar-day rescission period, during which they may cancel their contract with no penalty. This rescission period must be clearly communicated to subscribers in the original signed contract.
- vi. Contracts must include a toll-free or local telephone number and/or e-mail address through which subscribers can request information, address complaints, and cancel or renew their subscription consistent with the terms of their contract.
- vii. Subscribers must receive, via electronic means and/or mail, a copy of the signed applicable contract and disclosure statement, no later than two calendar days after signing the contract and disclosure statement;

4. As to disclosure statements, as follows:

- i. Board staff will design and approve a specific disclosure statement that subscriber organizations must present to each community solar subscriber at the same time as their subscription contract. Each

14:8-9.9 Codes and standards

- (a) Community solar pilot projects shall comply with all current and future applicable interconnection requirements applicable to each EDC, as set forth in N.J.A.C. 14:8-5 and shall be processed by the EDCs following normal interconnection procedures.
- (b) Community solar projects must conform to all codes, standards, and licensing requirements that were applicable when the project was constructed.
- (c) Community solar projects shall be considered as connected to the distribution system.
- (d) Each community solar project shall telemeter its production data to the EDC on a monthly basis in accordance with EDC EDI procedures. (e)The EDCs shall be responsible for measuring the metered production of energy by community solar pilot projects, and for verifying that the community solar pilot projects are producing an amount of energy that is greater than or equal to the amount of energy that is being credited to subscribers' bills.
- (f) The EDCs shall make available and update, in a commercially reasonable fashion, capacity hosting maps, within 90 days of the beginning of PY1.
- (g) A community solar project shall not subscribe more than 100 percent of the project's nameplate capacity in DC rating.
- (h)Community solar developers and owners are responsible for complying with all applicable Federal and State securities laws, rules, and regulations.

14:8-9.10 Consumer protection

- (a)Board staff shall develop a standard registration form for subscriber organizations. Subscriber organizations shall be required to complete and submit this form at least 30 days prior to first doing community solar business operations in New Jersey. Failure to comply may result in a temporary or permanent prohibition from conducting business related to community solar in New Jersey. Subscriber organizations must submit the form only once, unless there is material change to the content of the registration form, at which time a new registration form must be submitted.
- (b) Community solar subscriber organizations must comply with all applicable laws, rules, and regulations governing advertising, marketing, and fair business practices. Additionally, the following consumer protection measures shall apply to all subscriber organizations, and any agent, contractor, subcontractor, or affiliated person.

1. As to subscriptions, as follows:

- i. A community solar subscriber may not be subscribed without their affirmative written consent, either via wet or electronic signature.
- ii. If a subscriber organization uses electronic methods to sign up, renew, or switch subscribers, the subscriber organization shall comply with the Uniform Electronic Transaction Act, N.J.S.A. 12A:12-1 through 26.

iii. A subscriber organization may not add a new charge without first obtaining affirmative written consent via wet or electronic signature from the subscriber, whether it be for a new service, existing service, or service option;

2. As to marketing, advertising, and solicitations, as follows:

i. Subscriber organizations may market and advertise community solar project(s). Under no circumstances can subscriber organizations, or any agent, contractor, subcontractor, or affiliated person knowingly make false or misleading marketing claims or suggestions, engage in marketing or advertising practices that are unfair, misleading, or deceptive, or in any way violate consumer protection laws and/or rules implemented or enforced by the New Jersey Division of Consumer Affairs.

ii. Subscriber organizations or any agent, contractor, subcontractor, or affiliated person must clearly identify themselves by the name of the subscriber organization, as registered with the Board. They may not falsely represent themselves as another party, including an EDC or a New Jersey government entity, such as the “New Jersey Board of Public Utilities” or the “New Jersey Clean Energy Program.”

iii. Subscriber organizations may not use high-pressure sales tactics, including, but not limited to, excessive number of communications, whether in-person, by phone, e-mail, mail, and/or other forms of communications.

iv. Subscriber organizations shall comply with all FTC telemarketing rules, including, but not limited to, the restriction on telemarketing between the hours of 9:00 P.M. and 8:00 A.M., Eastern Standard Time.

v. Subscriber organizations must include in all advertisements, marketing, or sales materials, a toll-free or local telephone number and/or a link to a website through which customers can obtain further information regarding their product and/or services.

vi. Subscriber organizations are prohibited from contacting a potential subscriber by telephone for the purpose of making an unsolicited advertisement, if the subscriber organization does not have an existing business relationship with the potential subscriber and the potential subscriber’s telephone number appears on the no telemarketing call list established and maintained by the Division of Consumer Affairs, pursuant to N.J.S.A. 56:8-127 or any successor statute, or the national do-not-call registry as maintained by the Federal Trade Commission. Any violation of this provision shall be forwarded to the Division of Consumer Affairs for further investigation.

vii. Subscriber organizations shall not contact, market to, or engage potential subscribers prior to registration with the Board under (a) above;

3. As to contracts, as follows:

i. Contracts must contain a plain-language description of the subscription agreement, including the type of agreement, date of enactment of the contract, duration of the contract, payment and pricing calculations, a good-faith written estimate of the savings a subscriber will earn per year (if applicable) and its disclosed assumptions, a clear description of the billing arrangements, and a complete list of any other fees, including, but not limited to, any applicable transfer and/or cancellation fees, due date for payment, late payment fees and the number of days after which a late payment fee may be applied, and any interest charges. The contract must also contain the specific conditions under which such penalties and/or fees can be imposed.

ii. Prices, whether in a quote or a contract, must include disclaimers that:

(1) Utility rates and projected savings are subject to change; and

(2) The Board does not regulate the price of community solar subscriptions, nor does it guarantee projected savings.

iii. Under no circumstances shall the contract contain a statement or provision by which a subscriber waives any rights they have under New Jersey or Federal consumer protection laws, rules, and/or regulations. The contract also may not include provisions (sometimes referred to as “material change notices”) that permit the subscriber organization to change material terms of the contract without the subscriber’s affirmative consent, unless the change

is required by operation of law. “Material terms of a contract” include, but are not limited to, terms regarding the price, deliverability, or time period of the contract.

iv. The use of robo-signing is prohibited: contracts must be signed either by a wet signature or by requiring the signer to take an affirmative action (at least a click) at each location in the document where the signatures and/or initials appear; if the signature is electronic, the software used must provide a digital certificate of the number of times each signature and set of initials was applied to the document.

v. Subscribers will have a ~~seven~~ three-calendar-day rescission period, during which they may cancel their contract with no penalty. This rescission period must be clearly communicated to subscribers in the original signed contract.

vi. Contracts must include a toll-free or local telephone number and/or e-mail address through which subscribers can request information, address complaints, and cancel or renew their subscription consistent with the terms of their contract.

vii. Subscribers must receive, via electronic means and/or mail, a copy of the signed applicable contract and disclosure statement, no later than two calendar days after signing the contract and disclosure statement;

4. As to disclosure statements, as follows:

i. Board staff will design and approve a specific disclosure statement that subscriber organizations must present to each community solar subscriber at the same time as their subscription contract. Each subscriber must sign an acknowledgement that they have received and read the disclosure statement.

ii. Disclosure statements are 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.

iii. Disclosure statements must be made available to a subscriber in Spanish, upon request of the subscriber;

5. As to non-discrimination, as follows:

i. Subscriber organizations may not discriminate against any customer on the basis of race, origin, gender, religion, sexual orientation, age, or engage in any other discriminatory practice.

ii. Subscriber organizations must apply uniform income, security deposit, and credit standards when deciding whether to offer a subscription to customers within a given customer class (low-income, moderate-income, or other). The subscriber organization may, however, apply separate sets of uniform standards for the purpose of promoting participation by low- and moderate-income residential customers.

iii. While a subscriber organization may market services on a geographic basis, they may not refuse to provide service to a customer based on the economic character of a geographic area or the collective credit reputation of the area;

6. As to inquiry and remediation, as follows:

i. Community solar developers, operators, owners, and/or subscriber organizations shall use good faith efforts to respond to and resolve all complaints promptly.

ii. The Board may revoke a subscriber organization’s registration, as set forth under (a) above, resulting in a temporary or permanent prohibition from conducting business related to community solar in New Jersey, if said subscriber organization has been found by the Board to have engaged in fraud, deception, misrepresentation, false promise or pretense, repeated acts of negligence, submissions of incorrect or incomplete data, significantly deficient service, sales, or commercial practices that are unethical, misleading, or illegal, or having been engaged in and/or

having been convicted of any crime or offensive action involving moral turpitude or relating adversely to the entity's or person's business.

iii. Community solar developers, operators, owners, and subscriber organizations are subject to formal pleadings and petitions procedures, as set out in N.J.A.C. 14:1-4 and 5.

7. As to document retention, as follows:

i. Signed contracts and disclosure forms, and the signed approval of any changes made to the original contract, must be kept by the subscriber organization for a minimum six years following the expiration of said contract, and be made available to the Board and Board staff upon request.

ii. Proof of eligibility for LMI subscribers must be collected by the subscriber organization and be kept by the subscriber organization for a minimum of six years following the expiration of the contract with said subscriber and be made available to the Board and Board staff upon request.

14:8-9.11 Reporting

(a) EDCs are required to submit monthly electronic reports to the Board on community solar pilot project interconnections and energy production, within 30 days of the end of the calendar month being reported upon. The content of the reports shall include, but not be limited to:

1. A list of community solar projects that submitted an interconnection application, including name, location, and proposed capacity;

2. A list of community solar facilities interconnected over the previous month, including name, location, and capacity;

3. The estimated kilowatt hours supplied to the distribution system by community solar facilities over the previous month, and a description of the estimation methodology used;

4. The total number of community solar subscribers, and estimated total community solar bill credits distributed to community solar subscribers, over the previous month;

5. The estimated "excess" kilowatt hours, that is, estimated kilowatt hours produced by a community solar facility that were not allocated to a community solar subscriber; and

6. The cumulative totals since the beginning of the Pilot Program. This shall include the total number of community solar interconnection applications received, total number of community solar facilities interconnected, total capacity of community solar facilities interconnected, estimated total kilowatt hours supplied to the distribution system by community solar facilities, estimated total community solar bill credits distributed to community solar subscribers, and estimated total number of community solar subscribers.

(b) The Board must be notified, in writing, of any change to the project developer, owner, or operator in case of sale, transfer, contract modification, or other material change to the parties initially listed in the community solar application. Specifically:

1. Within 30 days of a material change in control of the owner, such new "beneficial owners" are required to notify the Board of their individual and/or corporate names, tax ID, address, contact phone, and percent of ownership of the project.

2. Within 30 days of a material change in the community solar project operator, such new project operator is required to notify the Board of their individual and/or corporate names, tax ID, address, and contact phone.

3. The Board shall be kept apprised of all major project developments and milestones via written notification (e-mail or letter).

(c) Each EDC shall retain a record of the community solar project generation that was applied to each subscriber's bills for a period of six years.

(d) Each community solar subscriber organization, and any successor, shall retain a record of all subscriber contracts, disclosure forms, LMI proof of eligibility or attestations, and generation allocation lists for a period of at least six years from the date of their expiration. Each of these documents must be made available without delay upon request from the Board or Board staff.

**Environmental Defense Fund - Natural Resources Defense Council
NJ Conservation Foundation - NJ League of Conservation Voters
Pinelands Preservation Alliance**

November 30, 2018

Aida Camacho-Welch, Secretary
New Jersey Board of Public Utilities
ATTN: BPU Docket Number: QO18060646
44 S. Clinton Avenue, 3rd Floor, Suite 314
PO Box 350
Trenton, NJ 08625-0350

**RE: Comments on Community Solar Energy Pilot Program –
Proposed New Rules: N.J.A.C. 14:8-9**

Dear Secretary Camacho:

We, the undersigned organizations, would like to offer our comments on the draft rule for the Community Solar Energy Pilot Program. We strongly supported the Clean Energy Act, and support the development of appropriately-sited community solar projects to advance clean energy and ensure greater access to solar energy for residents and communities that have generally lacked access to solar energy. At the same time, New Jersey has placed a premium on preserving our remaining open spaces that sequester carbon and provide clean water, healthy produce, scenic beauty, wildlife habitat, and outdoor recreation for the benefit of present and future generations. Therefore, we urge the Board of Public Utilities to ensure that future solar development of all forms is subject to clear and strong siting guidelines and policies that guide solar development to preferred locations and avoid unnecessary conflicts with the state's longstanding and ongoing land preservation and natural resource protection efforts.

We support NJ DEP's 2017 updated solar siting guidelines that identified rooftops, brownfields, landfills and areas with existing impervious coverage that are generally urban, commercial or residential areas, as the preferred locations for solar development, and we support incentives and other policies needed to encourage solar in these locations. The final rule should identify these lands as the preferred locations for community solar projects.

The final rule should also identify non-preferred locations including:

- Farmland prioritized for preservation with Prime or Statewide Significant soils

- Waterbodies and regulated buffers
- Natural Heritage Priority Sites
- Critical wildlife habitat as identified by the State of NJ Landscape Project
- Regulated freshwater and coastal wetlands and their buffers
- Upland forest
- Floodplains (100 year flood)
- Sensitive lands in the Highlands Region, as delineated in the NJ Highlands Water Protection and Planning Act, the DEP Highland Rules, and the Highlands Regional Master Plan, and identified by the New Jersey Highlands Coalition (under separate cover)
- Sensitive lands as identified in the State Plan and other regional plans including those pertaining to the Pinelands, Meadowlands and emerging plans for the Delaware Bayshore, Sourlands and the coast.

The draft rule appropriately bans solar development on preserved farmland, but allows for solar development on Green Acres lands with special approval of NJ DEP. Like preserved farmland, solar development should not be permitted on Green Acres lands that have been set aside to protect natural, scenic and recreational resources. Possible exceptions might include solar canopies on parking lots at parks, or rooftop solar on park buildings, but any such exceptions should be clearly stipulated and exclude solar development that conflicts with protecting the natural, recreational or scenic values of these lands.

The draft rule seeks to encourage "applications for projects that make creative use of marginal or low-value lands" but contains no criteria or provisions to identify such lands or encourage development in those locations. We believe that a category of marginal lands between the preferred and non-preferred locations that is appropriate for solar development can be identified with careful analysis and criteria. There should be a process to identify such lands, with input from NJ DEP, NJ SADC, stakeholders and the public. Meetings between solar developers, conservation groups and the Farm Bureau have already taken place with some progress toward areas of agreement.

Finally, we support the recommendation of the NJ Environmental Justice Alliance to seek opportunities to locate community solar projects in Environmental Justice Communities, with input from those communities and proper planning, in order to bring important co-benefits to those communities.

We applaud your work to advance clean energy, including community solar, and are confident that clean energy initiatives can move forward in a way that is equitable and maintains New Jersey's commitment to preserving our precious open spaces.

Sincerely,

Mary Barber

Director, Strategic Alignment and Performance, State Implementation

Director, New Jersey Clean Energy

Environmental Defense Fund

Thomas Gilbert

Campaign Director, Energy Climate & Natural Resources

New Jersey Conservation Foundation

Nathanael Greene

Senior Renewable Energy Policy Analyst

Natural Resources Defense Council

Ed Potosnak

Executive Director

New Jersey League of Conservation Voters

Jaclyn Rhoads, Ph.D.

Assistant Executive Director

Pinelands Preservation Alliance



Exchange Place, 53 State Street, Suite 3802 | Boston, MA 02109
EdisonEnergy.com

November 30, 2018

VIA ELECTRONIC MAIL
rule.comments@bpu.nj.gov

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

RE: Edison Energy, LLC Comments on New Jersey's Community Solar
Energy Pilot Program (Docket No. QO18060646)

Dear Secretary Camacho-Welch:

Edison Energy, LLC ("Edison Energy") appreciates the opportunity provide brief comments in response to the Board of Public Utilities' ("BPU") October 1, 2018 Rule Proposal in Docket No. QO18060646. Edison Energy provides independent energy advisory services for commercial and industrial energy users, delivering comprehensive, data-driven and integrated energy solutions. Of Edison Energy's clients, 16 of them alone consume more than 530,000 MWh annually in New Jersey. Of these clients, 11 have ambitious sustainability and renewable energy goals that could be achieved through the addition of community solar to their energy procurement strategies.

Our comments focus on the changes necessary to attract corporate and institutional participation in New Jersey's community solar pilot program. Specifically, we urge the BPU to reconsider the one project per subscriber limitation to allow for a single non-residential customer to serve as a credit-worthy anchor tenant in multiple community solar projects.

Non-residential Subscribers Should be Allowed to Participate in Multiple Community Solar Projects

The proposed rule seeks to limit subscriber participation to only one community solar project¹. As mentioned in our previous comments and observed in other community solar transactions we have facilitated for corporate customers, large energy users are generally unable to subscribe or offset 100% of their energy usage through an individual community solar project. While this proposed rule would unnecessarily restrict larger energy users from accessing community solar projects in New Jersey, more importantly, it would significantly increase a developer's cost of customer acquisition, and therefore increase the cost borne by all ratepayers. As New Jersey's program is a 3-year pilot, this limitation at the outset is overly prescriptive and should be removed.

It is our opinion that the proposed subscription limitations that 1) a subscription cannot exceed 100% of the subscriber's historical annual usage and 2) a single subscriber cannot take more than 40% of the total project capacity, sufficiently alleviates any concerns that the pilot program would result in less access for residential and low-and-moderate income subscribers. Therefore, to encourage credit-worthy anchor tenants to invest in community solar pilot program in New Jersey and support the financing of community solar projects, we strongly recommend that the BPU allow a subscriber to participate in more than one community solar project, up to 100% of their historical annual usage.

Conclusion

Once again, Edison Energy appreciates the opportunity to comment on New Jersey's community solar pilot program. We thank the BPU for its consideration of our submission.

Respectfully submitted,

Shannon Weigel

Shannon Weigel
Director of Policy
Edison Energy, LLC
Shannon.Weigel@edisonenergy.com

Rich DiMatteo

Rich DiMatteo
Strategy, Solar Markets
Edison Energy, LLC
Richard.DiMatteo@edisonenergy.com

¹ N.J.A.C.14:8-9.6. (f)5 states "A subscriber may not participate in more than one community solar project. It is the responsibility of the subscriber organization to verify that their subscribers are not already subscribed to another community solar project."

Comments to BPU on Community Solar Rule Proposal

November 30, 2018

Flett Exchange, LLC

Comment #1: Low Income and Low and Moderate-Income Verification

RE:

2. In all other cases, subscribers must be individually qualified as LMI for the purposes of the Pilot Program. The subscriber organization for each project shall receive and review proof of LMI eligibility for each LMI subscriber. Any of the following may be accepted by a subscriber organization as proof of LMI status for individual subscribers:

- i. 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.

Suggested: Flett Exchange suggests that the LI and LMI subscribers should be able to self-certify. The above requirements are overly burdensome and will lead to reduced subscription numbers for LI and LMI customers. The following are LMI and LI forms for income self-certification from the Maryland working group for community solar in which this same topic came up this year. According to the Maryland comments of its working group it was overwhelming in support for simplicity and we suggest that New Jersey make similar consideration in its verification procedures.

AFFIDAVIT OF INCOME

Moderate-Income

Date: _____

Name: _____

Address: _____

Flett Exchange, LLC

Please complete this document by printing your name and signing below.

I _____, affirm my annual household income does not exceed the amount of \$_____. This includes, but is not limited to, income from wages or self-employment, rental income, unemployment benefits, pensions, retirement, social security benefits, alimony, interest income or IRA distributions.

SIGNATURE

I affirm that the information provided in this affidavit of income are true and accurate to the best of my knowledge and belief.

Signature: _____

Date: _____

Low Income Verification:

Please complete this document by filling out one of the two methods of income verification and signing below.

ELIGIBILITY BY INCOME

I _____, affirm my household includes ____ members and my annual household income does not exceed the amount of _____¹. This includes, but is not limited to, income from wages or self-employment, rental income, unemployment benefits, pensions, retirement, social security benefits, alimony, interest income or IRA distributions.

ELIGIBILITY BY ASSISTANCE PROGRAM PARTICIPATION

I _____, affirm that I am certified eligible for the following federal, state or local assistance program, which limits participation to households whose income is at or below 175 percent of the federal poverty level: _____.

SIGNATURE

I affirm that the information provided in this affidavit of income are true and accurate to the best of my knowledge and belief.

Signature: _____

Date: _____

¹ Per the Community Solar Energy Generation System rules at Code of Maryland Regulations 20.62.01.02.B.12, “‘Low income’ a subscriber whose gross annual household income is at or below 175 percent of the federal poverty level for the year of subscription or who is certified as eligible for any federal, state, or local assistance program that limits participation to households whose income is at or below 175 percent of the federal poverty limit.” [Recommend that either the income chart is provided to customers or a link where the income chart is available be included here]

For Reference:

Household Income Limits for Maryland's EmPOWER Program

Size of Family Unit	Maximum Annual Household Income*	Monthly Gross Income
1	\$24,280	\$2,023.33
2	\$32,920	\$2,743.33
3	\$41,560	\$3,463.33
4	\$50,200	\$4,183.33
5	\$58,840	\$4,903.33
6	\$67,480	\$5,623.33
7	\$76,120	\$6,343.33
8	\$84,760	\$7,063.33
each additional person	add \$8,640	

Effective 1/13/2018

*Your total household income must be below the amount listed for the number of residents in your household. Household income includes income from all residents 18 or over, including salaries and wages, retirement income, food stamps and investment income. For households with more than 8 persons, add \$8,320 for each additional person.

Comment #2 Low Income and LMI Community Solar Projects

RE: N.J.A.C. 14:8-9.4 At least 40 percent of total annual capacity shall be allocated to low- and moderate-income (LMI) projects, with an additional 10 percent of total annual capacity able to be set aside by the Board for low-income community solar projects. The maximum size for individual community solar projects is set at five MW.

14:8-9.8..... (b) An LMI community solar pilot project is defined as a community solar pilot project in which a minimum 51 percent of project capacity is subscribed by LMI subscribers.

The Community Solar Pilot Program is designed to give solar access to Low Income (LI) and Low and Moderate Income (LMI) electricity users with at least 10% for Low income and 20% for LMI in terms of Pilot program capacity which leaves 70% of the capacity for non LI and LMI. (LMI is at least 20% of Pilot Program capacity not at least 40% because it is derived from the above definition of an LMI project in which at least 51% of its output must be allocated to LMI subscribers) **Flett Exchange suggests to require all Community Solar Pilot Projects to have at least 10% of each projects output allocated to LI subscribers and at least 20% of each projects output allocated to LMI off takers and not to create 3 different classes of projects as defined** (current rules: LI project = 100% LI subscribers, LMI Project= 51% LMI subscribers and NON LI or LMI Project = 100% non LI and LMI subscribers) . This suggestion will ensure that these classes of customers will be serviced and avoid the potential of LI and LMI projects not getting financed. Each community solar project will have subscriber organizations that will provide the Flett Exchange, LLC

minimum mix of LI and LMI customers based on the 10% and 20% minimum requirements. 70% or less of non LI and LMI off-takers for each project will ensure that the projects will get financed because of the lower likelihood of payment defaults as opposed to projects with 100% LI or 51% or more of LMI as currently defined in the Rules. This process also simplifies the selection process.

This process also allows the BPU to increase the % of LI and LMI of each project based on the results of the Pilot Program because it will enable them to compare every project as opposed to just comparing the smaller amount of LMI Projects and the even smaller amount of LI Projects. This change ensures that LI and LMI subscribers are not left out for the next 3 years if the LI and LMI projects as stand-alone are not as financeable.



**COMMENTS ON THE BOARD OF PUBLIC UTILITIES'
PROPOSED COMMUNITY SOLAR ENERGY PILOT PROGRAM RULES**

Submitted by: Gabel Associates, Inc.

November 26, 2018

Gabel Associates appreciates the opportunity to provide the following comments on the Board of Public Utilities' (BPU) proposed Community Solar Energy Pilot Program rules that were published in the New Jersey Register on October 1, 2018. We believe that the success of the program would be greatly enhanced by the clarifications requested below, especially with respect to assuring that the program successfully serves the low and moderate income (LMI) population in New Jersey.

Comment 1:

Please clarify and confirm that Community Solar projects developed pursuant to this rule can rely on its provisions for a minimum of fifteen years. That is, even though the BPU is expected to move from a pilot program under these rules to a permanent program pursuant to the Clean Energy Act, municipalities and solar developers need certainty that the projects and commitments made pursuant to these rules can rely on its provisions, especially those rule provisions related to the price to compare/net metering credit; customer enlistment and participation; and that cost recovery will be honored over the life of any power purchase agreements (PPAs) (and other contract documents), which are usually for a term of at least fifteen years. Such durations are needed to attract capital for solar development. For example, solar PPAs under Department of Consumer Affairs (DCA) Guidelines can be for a term of fifteen years, and such projects are widely undertaken with that term length.

Comment 2:

With respect to 14:8-9.3 (c)(7) and (8), these provisions should have their time periods extended. Municipally-based projects require procurement in accordance with Local Public Contract Law, which has significant notice and procedural requirements. As such, beginning construction within six months and full operation within twelve months is not feasible. It is suggested that these time frames be increased to one year and 30 months, respectively, to more realistically and accurately reflect the schedule associated with solar project development.

Comment 3:

The proposed language at N.J.A.C. 14:8-9.10 (b) (1) should be clarified and amended to allow program participation to occur under the process used in the BPU's Government Energy Aggregation (GEA) Program regulations. Specifically, 14:8 – 9.10 (b) (1) should be supplemented to also allow customer subscription through N.J.A.C. 14.4-6.5 (a) to (k). This amendment would provide a pathway (with appropriate protections) for the Community Solar Program to subscribe residential customers under the "opt-out" provisions of the GEA regulations. This proven pathway has already been utilized by the BPU to permit hundreds of thousands of New Jersey residents to

receive the benefits of GEA-based rate reduction and to provide the opportunity for municipalities to procure enhanced renewable energy products on behalf of residents, and its use in Community Solar will enable a much more highly efficient and effective mechanism to subscribe customers for a community solar project. It will enable broad development of LMI participation and encourage solar developers to finance such LMI programs. Without such a pathway, realizing the Governor's key goal of expanding solar benefits to LMI customers will not be achieved. Accordingly, the proposed regulations should be amended to add an additional pathway for procurement by a municipality of solar power on behalf of a pool of LMI residential customers, and subsequent residential customer subscription, through an opt-out process. Specifically, 14:8 – 9.10 should be supplemented to also allow customer subscription through N.J.A.C. 14.4-6.5 (a) to (k).

Comment 4:

With respect to 14:8-9.3(d), it should be recognized that the full cost recovery by Electric Distribution Companies (EDCs) is an important program element. EDCs should be encouraged (not only in broad policy, but through ratemaking and financial alignment with State policy) to be enthusiastic about supporting the development of Community Solar. Accordingly, please clarify the EDC cost recovery component of the rule to make it clear that the BPU will allow EDCs to recover reasonable costs and lost margins so that they will not be financially worse off by helping the implementation of this rule.

Comment 5:

14:8-9.5(c)(2) should be clarified to make clear that Community Solar projects may be developed on other lands that are not a) preserved farmland, b) Green Acres preserved open space, nor c) land owned by the New Jersey Department of Environmental Protection (DEP). The sentence construction of the current language in this subsection could be read to limit development only to Green Acres, preserved open spaces, or DEP owned land. Please clarify that this is not the case; and that projects can developed on a wide variety of land designations that are not within the restrictions identified.

Comment 6:

14:8-9.7 (d) should be clarified to state that the subscriber organization should be able to make a one-time election of their anniversary date (as with current net metering rules).

Comment 7:

In the event the BPU increases the overall pilot annual capacity of 75 MW as currently proposed in the rule, it should also increase the maximum size for individual projects that serve only LMI customers above the currently proposed 5 MW limit. This will provide extra encouragement for projects to serve this market, since opening the solar market to LMI is a major initiative of the Murphy Administration.

Comment 8:

14:8-9.9 seems to suggest that a project can subscribe more than 100% of nameplate capacity based on DC rating. Please clarify that this means that annual energy consumption for a historical 12-month period of the subscribers in aggregate cannot exceed the estimated average annual production for the community solar project. This requirement should be on an annual energy basis, not power.

Comment 9:

With respect to 14:8-9.10, please confirm that if a community solar developer takes ownership of the SRECs/RECs, the subscribers may not make certain environmental claims associated with their subscription pursuant to established FTC and other guidelines.

We appreciate your consideration of these comments and look forward to the implementation of a successful Community Solar Program.

From: whatican@everyactioncustom.com [<mailto:whatican@everyactioncustom.com>]

Sent: Monday, November 19, 2018 10:53 PM

To: Comments, Rule

Subject: [EXTERNAL] Re: Draft community solar rules

Dear New Jersey Board of Public Utilities,

I'm writing to express my support for the proposed rules for New Jersey's new community solar program. The program will expand access to solar by giving renters and those whose roofs are not appropriate for solar the option to benefit from solar energy just as they would if the panels were on their own roof.

I support the goal of 75 MW of community solar for the first three years of the program, reserving 40% of the solar farms for low-to-moderate income communities, and prohibiting solar projects on preserved farmland.

To strengthen the program, I hope you will consider adding utility consolidated billing; funding community-based organizations to outreach to low-income communities about the program; and an easy and inclusive subscription application process.

Thank you for considering my comments and for your efforts to make affordable solar power accessible to all New Jersey families.

Sincerely,

Gretchen Boise

25 W Sumner Ave Beach Haven, NJ 08008-3973 whatican@hotmail.com



Via electronic submission to rule.comments@bpu.nj.gov

November 30, 2018

Secretary Aida Camacho-Welch
New Jersey Board of Public Utilities
44 S. Clinton Ave., 3rd Floor, Suite 314
PO Box 350
Trenton, NJ 08625-0350

ATTN: BPU Docket Number: QO18060646

Dear Secretary Camacho-Welch,

GRID Alternatives (GRID) appreciates the opportunity to comment on the Board of Public Utilities Community Solar Energy Pilot Program Rules Proposed New Rules published in the New Jersey Register on October 1, 2018. GRID has engaged in various stakeholder working groups around the Community Solar Energy Pilot Program and is a signatory of Vote Solar's comments with Earthjustice and Solar United Neighbors of New Jersey. GRID offers brief additional comments, enclosed.

Tom Figel
Policy & Regulatory Manager - Community Solar
GRID Alternatives



About GRID Alternatives

Formed over 15 years ago, GRID has been a national leader in making clean, affordable solar power and solar jobs accessible to low-income communities and communities of color. As a 501(c)3 nonprofit solar installer, GRID has completed over 11,000 commercial and residential solar projects for low-income families throughout the country, totaling over 46 megawatts. GRID's work has provided nearly 39,000 job trainees and community members with hands-on training to build the skills and experience necessary to secure jobs in today's rapidly growing solar industry. GRID is also a leader in low-income solar policy and partners with utilities, state agencies and other stakeholders across the country to increase solar access and equity. Towards that goal, GRID maintains the Low-income Solar Policy Guide¹ in partnership with Vote Solar.

GRID is also a leading developer of low-income community solar projects nationally. GRID has installed 5.3 MW community solar projects exclusively serving low-income customers and affordable housing providers and is currently developing another 9 MW. GRID strives to maximize the benefit of our projects through energy burden reduction for our customers and solar workforce training opportunity throughout installations.

Comments on Community Solar Energy Pilot Program Rules (N.J.A.C. 14:8-9)

GRID supports BPU's direction with the Community Solar Energy Pilot Program, as well as the proposed nationally-leading program target for LMI customer participation. GRID's recommendations aim to ensure that LMI Projects under the program target are successful and maximize benefits to low-income customers, including but not limited to bill savings and energy burden reduction, as well as solar workforce training and economic opportunities. GRID also urges BPU to center environmental justice, equity and inclusion within program's structure and implementation. GRID support's New Jersey Environmental Justice Alliance recommendation that projects should promote ownership, entrepreneurship, research and educational opportunities for EJ communities. BPU has strong authority to incorporate EJ principles and recommendations through Governor Murphy's Executive Order 23 concerning Environmental Justice issues².

New Jersey should aim to provide LMI customers proportionate access to program participation regardless of income level or housing type. New Jersey has approximately 1.9 million LMI households

¹ <https://www.lowincomesolar.org/>

² https://nj.gov/governor/news/news/562018/approved/20180420d_eo.shtml



based on HUD income definitions³, about 200,000 of which live in affordable housing units, half of which are master-metered. BPU should aim to ensure all these customers have proportionate access to participation within the pilot program, which can be achieved through program structure and implementation.

To ensure the success of the pilot program and maximize impacts for LMI customers and EJ communities, GRID offers the following comments and recommendations.

- **Incentives:** BPU should adopt incentives to support LMI customer participation and benefit in projects. Targeted incentives will ensure LMI projects are financeable, maximize customer benefit through energy savings and jumpstart the LMI solar market segment. Incentives have effectively spurred market development for the broader solar industry in the past, including underserved market segments, yet to date have not been dedicated to support LMI customers' participation.
 - Incentives should be differentiated between LMI affordable housing and LMI residential customers, recognizing that LMI residential customers face the highest financial barriers to participation. Incentives should be structured to enable deep energy cost savings for LMI customers, at least 50% savings is a national best practice for low-income solar incentives in states including Illinois, Washington DC and California⁴. LMI customer benefit requirement could also take the form of a requirement that LMI Projects dedicate at least 50% of their net metering or bill credit benefits to LMI customers, as included in Massachusetts SMART (Solar Massachusetts Renewable Target) program⁵.
 - Any SREC re-authorization or interim program should be a primary focus for incentives. SREC factors should be differentiated to support LMI affordable housing and LMI residential customer participation in projects. An example to draw from includes the SMART program structure, which includes an adder for Low-income Property owners, as well as a higher adder for Low-income Community Shared Solar Projects which dedicate least 50% of their output to low-income customers. The SREC program should also offer higher incentives for projects controlled by or otherwise directly benefiting environmental justice communities.
 - The Clean Energy Program and Regional Greenhouse Gas Initiative (RGGI) investments are also potential funding sources for incentives. As New Jersey ratepayers and taxpayers who contribute a higher percentage of their income to their utility bills, LMI

³ GTM Research (2018). The Vision For Community Solar: A Roadmap for 2030. Slide 137. Retrieved from: <https://votesolar.org/policy/policy-guides/shared-renewables-policy/csvisionstudy/#reportdownload>

⁴ Please see Attachment D, Incentive Structures for Low-income Solar, of GRID Alternatives' comments for Colorado Public Utilities Commission Proceeding 17M-0694E. Available [here](#).

⁵ http://masmartsolar.com/_documents/Low%20Income%20Guideline%2004.26.18.pdf



- customers should have at least proportionate access to direct benefits of solar adoption supported through these incentive pools. BPU should allocate BPU's RGGI funds, and advocate for state RGGI funds controlled by the Economic Development Authority (EDA) to support solar adoption and workforce development opportunities for low-income and EJ communities. EDA should also be encouraged to develop green bank financing mechanisms to support low-income and affordable housing inclusion in projects.
- As a community solar developer with experience in LMI projects, GRID is happy to support BPU with modeling or comments on appropriate SREC or incentive structures.
 - **Comprehensive programming:** BPU should work to align state energy efficiency (EE), Low-income Heating Assistance Program (LIHEAP) and Weatherization Assistance (WAP) programs and investments to support inclusion of solar, which can be an impactful strategy to provide long-term energy burden reduction for low-income customers through an approach that integrates solar into weatherization and efficiency services. Colorado offers an example of this strategy⁶. This effort could include solar workforce training, similar to Responsible Contractor Requirements New Jersey's WAP program has leveraged in the past, which encouraged the training and hiring of low-income individuals and individuals from distressed communities⁷.
 - **Application Process:** GRID supports an application process that is clear and transparent. GRID recommends that especially for LMI Projects under the program, BPU strive to maximize benefits to LMI customers and EJ communities. Benefits evaluated under the application process should include bill savings or energy burden reduction for participating LMI customers, participation of residential low-income customers in projects, coordination with energy efficiency measures and other complementary services for LMI customers, workforce development opportunities or hiring of EJ communities during project installation, and other direct benefits for EJ communities, including ownership, entrepreneurship, research and educational opportunities within EJ communities in which projects are located. These important benefits should be supported within the rules and included in the application to ensure they are incorporated into program and project development.
 - Any long-term bid commitments, such as a minimum bill savings commitment, should be required for the life of the project and include reasonable reporting and enforcement.
 - BPU should also extend the required timelines to begin project construction and become fully operational, from 6 months to 12 months and 12 months to 18 months, respectively, with opportunity for a single 6-month extension.

⁶ Please see NREL [report](#) and Colorado Energy Office [program](#)

⁷ See page 25 of https://www.nj.gov/dca/divisions/dhcr/offices/docs/wap/wb_418_508.pdf



- **Environmental Justice:** GRID supports the comments of New Jersey environmental justice organizations including New Jersey Environmental Justice Alliance. GRID strongly believes that BPU's solar program and investments should drive benefits primarily to New Jersey's low-income and EJ communities, including through job creation and entrepreneurship opportunities. BPU should center the voices of New Jersey's low-income and EJ communities in community solar program development and policy making. BPU could also pursue the creation of an equity or EJ advisory committee such as utility commissions in other states have adopted⁸, including direct representation by EJ communities, which could develop an equity or EJ framework to guide policy decisions.
- **LMI Qualification:** BPU's proposed definitions for LMI customers currently may create gaps in qualification of low-income customers. BPU's proposed definition for moderate income equates to HUD's definition of Low-income, which may create confusion amongst low-income program services and providers. GRID recommends BPU adopt a streamlined LMI definition of 80% of Area Median Income (AMI) for Low-income, 50% AMI for very low-income, in line with HUD definitions⁹, which qualifies many LMI customer through existing low-income housing services and programs. Furthermore, GRID recommends that BPU adopt a process for approval of additional programs, services and organizations to qualify customers, in addition to those listed in N.J.A.C. 14:8-9.8 (d)(2)(i). BPU should aim to allow customers to automatically qualify through existing low-income energy, housing and other services as much as possible, to reduce administrative burden for customers and subscriber organizations. BPU could also pursue a third-party low-income administrator under the program to oversee income qualification, ensure low-income consumer protection and program co-benefits, as included in states like Oregon, Illinois and California.
- **Consumer Protection:** GRID recommends that under N.J.A.C. 14:8-9.10 (b)(3)(ii)(2) BPU insert language to allow guaranteed savings for LMI projects or pilots¹⁰. Program reporting should also track the number of LMI subscribers, including residential customers vs. affordable housing tenants, and whether customers are individually or master-metered, which is an important metric for ensuring equitable access by housing type.
- **Affordable Housing Participation:** GRID supports BPU's inclusion of affordable housing as qualifying LMI community solar subscribers. Affordable housing providers often house the lowest-income customer segments, can anchor project financing and efficiently support LMI

⁸ For example, California Public Utilities Commission [Disadvantaged Community Advisory Group](#)

⁹ <https://www.huduser.gov/portal/datasets/il.html#2018>

¹⁰ N.J.A.C 14:8-9.10 (b)(3)(ii)(2) Currently states: (2) The Board does not regulate the price of community solar subscriptions, nor does it guarantee projected savings.



subscriber acquisition. GRID also recommends a requirement of a minimum amount of net metering or bill credit benefits for participating affordable housing properties (as well as LMI residential customers). One strategy the BPU may wish to consult for requiring demonstration of benefit passthrough could be the Solar on Multifamily Affordable Housing (SOMAH) program model in CA, which requires that tenants receive at least 51% of net metering credits of any SOMAH project. Similarly, the Massachusetts SMART¹¹ program has similar requirements for Low-income Facilities under the program¹².

- BPU should allow flexibility for the demonstration of passthrough benefits for affordable housing providers, because it is not always possible to pass community solar-related savings directly on to tenants. For example, in HUD subsidized properties, barriers including the split incentive related to utility bill subsidies, where bill savings from energy efficiency or renewable energy can be required to be returned to HUD, and HUD rules for renewable energy related the policies including the rate reduction incentive¹³, direct passthrough benefit to can be very difficult to achieve. As such, there are cases where it may be more effective to benefit the entire housing authority through supportive services or increased solvency, for example.
- **LMI Residential Customer Participation:** GRID supports the recommendation of CCSA and Vote Solar that a 50% residential and small commercial customer participation requirement be adopted, which will be important to LMI residential customer participation, especially if SRECs or other incentives are not available for LMI residential customers. Without a minimum requirement and/or incentives, developers will very likely gravitate predominantly towards master-metered affordable housing, as it is much easier to acquire and finance a single customer rather than many LMI residential households. It is important that BPU ensure that LMI customers in all housing types have equal access. As stated above, master-metered housing only represents about 100,000 of New Jersey's LMI households, or roughly 5%.
 - GRID also supports a minimum subscription size of 1 kW, with no overall cap on LMI subscribers
- **Consolidated billing:** BPU may also want to consider utility purchase of receivables for collecting LMI community solar subscriptions, or a similar on-bill finance / recovery strategy to help mitigate payment barriers for participating low-income customers. GRID has successfully

¹¹ <https://www.mass.gov/solar-massachusetts-renewable-target-smart>

¹² http://masmartsolar.com/_/documents/Low%20Income%20Guideline%2004.26.18.pdf

¹³ <https://www.hud.gov/sites/documents/PIH2014-18.PDF>



leveraged on-bill financing in LMI community solar projects¹⁴ and recommends the pursuit of such a strategy in New Jersey.

- **Program Crediting:** BPU should ensure that program crediting is adequate for non-residential rate classes to allow participation by a wide range of "anchor" offtakers, which are very important to supporting LMI project financing. GRID recommends that a residential rate credit be applicable to all participating rate classes.

GRID Alternatives looks forward to continued participation in New Jersey's community solar program to ensure the successful development and implementation of LMI program targets and direct benefits for New Jersey's low-income, EJ and underserved communities.

Respectfully submitted by:

Tom Figel
Policy & Regulatory Manager - Community Solar
GRID Alternatives
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¹⁴ A number of GRID's projects within the Colorado Energy Office Low-income Community Shared Solar Demonstration Project included on-bill financing or on-bill cost recovery. Project report may be accessed [here](#).

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BOARD OF PUBLIC UTILITIES
TRENTON, NJ

Howard Lee
191 Lorraine Dr
Berkeley Heights 07922
10/31/2018

Aida Camacho-Welch,
Secretary New Jersey Board of Public Utilities
ATTN: BPU Docket Number: QO18060646
44 S. Clinton Ave., 3rd Floor, Suite 314 PO Box 350 Trenton, NJ 08625-0350

**COMMENTS ON RULES FOR COMMUNITY SOLAR -
BEFORE COMMUNITY SOLAR CAN WORK WE NEED TO REFORM MUNICIPAL SOLAR FINANCING**

Dear Aida,

It makes sense that Community Solar in much of NJ would be catalyzed by township local government, BUT municipalities are *structurally disadvantaged* when it comes to solar financing.

It is hard for municipalities to raise the capital to install solar. As a result, they either don't install it, or they lease. Leasing delivers poor value to the owner compared to ownership, so taxpayers of NJ pay more for their taxes as municipalities pay more for their electricity than they need to. In addition, a 15- or 20-year lease today will become uneconomical as electricity prices are predicted to flatten and fall around 2030, according to the US Energy Information Administration.

- For Community Solar to be widely adopted, municipalities need access to capital on taxpayer-favorable rates.
- Municipalities should be able to receive incentives equivalent to those that are available via the tax system for residential and commercial customers

Because municipalities must always put solar projects out to tender and must always go for the lowest bid, it's hard to get many solar companies interested in the business. This is because the lowest bid will tend to have cheap panels of a lower quality/efficiency/reliability. Lower quality panels generate less electricity and need fixing or replacing more often, but the lease model is not set up to pay the installer for the additional maintenance involved.

- For Community Solar to deliver value for taxpayers, a QUALITY standard for Municipal and Community Solar equipment should be instituted and revised every year.
- Municipalities should not be required to accept bids that are based on equipment below the quality threshold

A future where New Jersey municipalities can be the engines of a green energy transformation enabled by Community Solar is only possible if it's a LOT easier for municipalities to finance solar power,

yours sincerely,

Howard Lee

HL
A. Ford
C. Vachon
Clean Energy



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November 30, 2018

Aida Camacho-Welch
Secretary
New Jersey Board of Public Utilities
ATTN: BPU Docket Number: QO18060646
44 S. Clinton Ave., 3rd Floor, Suite 314
PO Box 350
Trenton, NJ 08625-0350

RE: Comments on BPU Docket Number: QO18060646 / Proposal Number: PRN 2018-090

Dear Secretary:

Independence Solar is based in Cherry Hill, New Jersey and has been an advisor, developer, installer and operator of commercial and industrial solar energy projects since 2007. We respectfully submit our comments below on the Community Solar Energy Pilot Program Rules Proposed New Rules: N.J.A.C. 14:8-9.

We comment on four key provisions of the Pilot Program:

1. Timeline
2. Developer Caps & Preference for NJ-Based Developers
3. Application Overhang
4. Rooftop-Site Projects

1. Timeline

As an experienced installer of commercial and industrial solar energy projects, we would like to express that the 12-month allotted timeline is likely insufficient to construct AND to provide bill credit to subscribers. While a < 5 MW solar project can be constructed in under 12 months under ideal conditions, this timeframe does not allow for upfront zoning and construction approvals, lead time for material deliveries or weather delays. In addition, outside of the timeline for solar construction, the EDC may require incremental timeline for facility upgrades for interconnection. On its own, this EDC interconnection work might incur an additional 6-12 months of timeline. Finally, this is a new process for EDC billing systems and will require some additional timeline to process the first credits onto subscribers' bills. The developer/owner has not authority to control that portion of the timeline. Although there is a provision for timeline extension, the baseline expectation is not reasonable and should be extended – to at least 15-18 months.



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2. Developer Caps & Preference for NJ-Based Developers

Although it is in the best interest of NJ ratepayers and taxpayers to deliver the Pilot Community Solar projects at the lowest cost, it is also in the best interest of all NJ stakeholders that the benefits of the Pilot Community Solar Program accrue within the state of NJ. Given the national interest in this Pilot Program, we believe that there is a risk that out-of-state developers could monopolize the entire allocation of the Pilot Program. Many of these developers “helicopter in” from out-of-state and bring in non-NJ labor and management to construct their solar projects. Ultimately, profits, capital and jobs do not remain in NJ. This Program is subsidized on the backs of NJ ratepayers and should create benefits that remain in-state. To retain these benefits in-state, we recommend that the Program maintain developer caps and also create a set-aside or preference for NJ-based developers.

3. Application “Overhang”

We are anticipating overwhelming interest in the Pilot Community Solar Program. The BPU can expect that the number of applications will far exceed the initial 75 MW allocation. The Program needs to think through how this “overhang” of projects is treated. For instance, should projects that are not accepted be placed on a “waiting list” ? The waiting list might be used to replace approved projects that are not built. Further, should non-accepted projects automatically be placed in a queue for the 2020 Pilot Program ? It may be in the best interests of the Program to give non-accepted developers some preference or security towards the 2020 allocation. With this security, developers would continue to “season” their projects during the course of 2019, rather than to simply wait for the results of a new 2020 application. We recommend that the Program at least explore options for how to treat the excess of applications that are not accepted in the first year of the Pilot Program.

4. Rooftop-Sited Projects

Community solar projects that are located on existing rooftops offer significant benefits over land-based locations. Rooftop projects do not encumber any farmland and do not necessitate infrastructure upgrades, civil improvements or zoning approvals. Rooftop projects also do not incur the significant costs of land acquisition or rental. For these reasons, rooftop projects can be built more cost effectively and with less impact on NJ land and neighborhoods. These reduced construction and operating costs can be passed through in the form of lower rates to LMI subscribers. In addition, rooftops tend to be located in higher-density areas that correlate with areas of grid congestion. Projects located in rural areas with lighter grid usage do not help alleviate issues of grid congestion. For these reasons, we recommend that a set aside be made for rooftop projects and/or that rooftop projects receive a preference in scoring.

The NJ Municipal Land Use Law calls solar an “inherently beneficial use”. In most cases, rooftop projects are permissible by right and do not require special zoning review (at the local level) or NJDEP approval



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(at the state level). In general, rooftop-located solar projects only require construction permits and therefore are on a faster track to approval and completion. This fast track could help the BPU ensure the goals of the Pilot Program within the first year of the program. At the very least, we suggest that the BPU relax any requirement for rooftop projects to obtain a checklist review, approval or meeting from the NJDEP, as an NJDEP review is not germane to rooftop projects.

We respectfully submit these comments with the best interests of the Program and NJ ratepayers and taxpayers in mind.

Best,

Keith Peltzman
President

Community Solar Energy Pilot Program – Written Comments

Hello Board of Public Utilities. My name is Jay Norman and I attended the public hearing on November 8, 2018 at 1:00 PM. I made oral comments at the hearing. I am submitting written comments below that correspond with my oral comments.

My name is Jay Norman and I represent Village Green Condominiums in Woodbury, New Jersey. We are a small community of 39 units, in 8 buildings. We have several owners who are retirees, and some are on fixed incomes. We have wanted to go solar for 2 years and have met with a few solar companies. However, no solar company has been able to resolve the dual ownership issue of unit owners owning the inside and the condominium association owning the outside of the buildings, including the roofs. The owners in Village Green do not understand why this is an issue, as the owners are the condominium association.

We have written 2 letters to our state representatives, with no response (I just got a call from the statehouse today). We were excited to learn of the Community Solar Pilot; however, we could not find any mention of condominiums in the program rules. So, we are asking that condominiums be included in the program. We want to do our part with sustainable energy. We do not want to be left out. Village Green Condominiums would like to be part of the pilot program.

Thank you,

Jay Norman

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Woodbury, NJ 08096
(856) 202-5490
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November 30, 2018

VIA ELECTRONIC MAIL

Aida Camacho-Welch, Secretary
New Jersey Board of Public Utilities
44 South Clinton Avenue, 3rd Floor
Suite 314
Trenton, New Jersey 08625
Rule.Comments@bpu.nj.gov

Dear Secretary Camacho-Welch:

Jersey Central Power & Light Company (“JCP&L” or the “Company”) is pleased to submit comments regarding the Board of Public Utilities’ (the “Board” or the “BPU”) proposed new rules establishing a Community Solar Energy Pilot Program (“Pilot Program” or “Program”). JCP&L thanks the Board for the opportunity to provide these comments and looks forward to working with Staff further to ensure successful implementation of the community solar program. Please find below JCP&L’s comments on the rules promulgated in the October 1, 2018 edition of the New Jersey Register. The Company’s comments are arranged in subchapter order.

N.J.A.C. 14:8-9.2 Definitions

The definition of “Community solar subscriber” or “subscriber” should be modified to state the following, “refers to any person or entity *who is a customer of an Electric Distribution Company* who participates in a community solar project ...”

N.J.A.C. 14:8-9.3 Pilot Program Structure

Under N.J.A.C. 14:8-9.3(c) 4, the Company does not believe it is appropriate to restrict or otherwise limit the Electric Distribution Companies (“EDCs”) from developing, owning, or operating community solar projects beyond the billing and other responsibilities set forth in the subchapter. JCP&L also believes that this provision is inconsistent with the legislative intent of the Clean Energy Act, which allows for EDC-owned community solar when the BPU establishes a permanent community solar program. *N.J.S.A. 48:3-87.11(f)*. EDCs are uniquely positioned in that they would be in the best position to locate and operate projects to provide the most benefit to the grid and its customers, including underserved communities. Appropriate locations could be selected that benefit the grid by limiting constraints or by operation to provide reactive voltage support and voltage regulation. Further, by restricting EDCs from participation in the Pilot Program, the Board would be excluding potential participants that may add valuable information

to the lessons learned from the evaluation of results of a pilot program. Also, it places the EDCs at a disadvantage to effectively participate when the final Program, in which EDCs are permitted by law to participate, is ultimately approved by the Board.

The Company also believes that N.J.A.C. 14:8-9.3(c) 7, which addresses the expected time to begin project construction following BPU approval, should be thoroughly vetted and expanded. The Company's comments are limited to the interconnection requirements as they would apply to the Program. The rule includes an expectation that approved projects begin construction within six months of approval by the Board. It is not clear whether this assumes that the interconnection requirements for such projects have already been reviewed by the EDCs. The EDCs stress that the interconnection application for any projects should not occur prior to Board approval of a project applicant. The EDCs believe it to be inefficient to devote resources to perform interconnection studies for projects prior to application that ultimately may not be selected by the Board. In order to prevent unnecessary and inefficient use of resources, the timeline for completion should be expanded to allow for projects to undergo the interconnection process only after they have been selected by the Board to construct a community solar project.

In Maryland, the regulations require community solar projects to be placed in service within 12 months after the interconnection study is completed. The Company's experience in Maryland is that all of the larger community solar projects have required 6-month extensions, with some projects filing for an additional 6-month extension as well. Based on this experience, the timeline to allow for construction should be extended to allow time for the interconnection application and approval review.

Lastly, N.J.A.C. 14:8-9.3(d) indicates that, "Electric distribution companies shall, subject to review and approval by the Board, be entitled to full cost recovery for any incremental costs incurred in implementation, compliance, and administration of the Pilot Program." The Company believes that full and timely cost recovery should explicitly include the recovery of lost distribution revenues. Participants in community solar projects do not reduce their use of the distribution system by the virtual crediting mechanism contained in a community solar program. There is no geographic restriction for siting projects relative to the location of participating subscribers, other than the requirement that participants and the project be located within the territory of the same EDC. The Company anticipates that the majority of these projects will not be located on the same premise as the load. Subscribers will be relying on the distribution system to deliver 100% of their power requirements, for which service subscribers will not be paying a share of distribution costs.

N.J.A.C. 14:8-9.4 Pilot Program capacity limits

N.J.A.C. 14:8-9.4 (h), states that "Each project shall be equipped with at least one utility grade meter." This should be clarified as to whether this is the same as the EDC meter as provided for in 14:8-9.9 or a separate additional meter. If this is an additional meter, this should be clarified and also should specify that it is to be paid for by the community solar project.

N.J.A.C. 14:8-9.7 Community solar bill credits

N.J.A.C. 14:8-9.7 (a), states that “The value of the bill credit shall be set at retail rate net metering, inclusive of supply and delivery charges.” The Company believes that the bill credit for the Program projects should be based on the cost of retail generation service, such as Basic Generation Service (“BGS”). Under this Program, it is likely that the host is not collocated with the load. Inarguably there is use of the distribution system, and in some cases, the transmission system, to provide this service. Therefore, credits or excess credits should not be applied to retail distribution charges, including distribution base rate charges and riders.

N.J.A.C. 14:8-9.7(d) established an annualized period for each subscriber, with that period beginning on the day a subscriber first earns a community solar bill credit based on the delivery of energy. The Company believes that there should be a single, pre-set annualized period for each project, as defined within the EDC tariff for all community solar participants. This will allow for the matching of the annualized period for all subscribers to the project that they are associated with. This will simplify record keeping and billing activities, particularly in terms of the dates of meter reading and billing for participating accounts.

N.J.A.C. 14:8-9.7 (f) states as follows: “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, within the EDCs zone, 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, wire transfer, or check.”

The provision does not make clear the entity who is to make the compensation payment. The Company believes that the payment for excess compensation should be made by the community solar project because if a participant subscribes for more energy than used, then the project would simply be refunding the subscriber's excess payment. The Company believes if a subscription share is sized properly, there should be no excess credits at the end of the annualized period, or minimal at best. However, if the intent is that the EDCs are to pay out the excess of net bill credits, to the extent that there are excess credits at the end of the annualized period, regulations should provide that the cost of this cash-out should be fully recoverable by the EDCs. In addition, other than closed customer accounts, the only mechanism that should be used for returning of this excess compensation should be via a credit to the customers' account for electric service.

Under N.J.A.C. 14:8-9.7 (h) any generation delivered to the grid that has not been allocated to a subscriber may be "banked" by the project operator in a dedicated project EDC account for a period of up to 12 months. The banked credits may be distributed by the project operator to any new or existing subscriber during that 12-month period, in conformance with subscription requirements set forth in N.J.A.C. 14:8-9.6. At the end of the up to 12-month period, any remaining generation credits shall be compensated at the EDC's or BGS provider's avoided cost of wholesale power, calculated at the nearest node to the point of delivery of the community solar project.

The Company believes that there should be no “banking” of generation as described in this section of the rules. The provisions of the Clean Energy Act signed into law on May 23, 2018 did not require or provide that a banking mechanism be part of the Pilot Program. The EDCs do not have a means to store the generation output from a project for later use. Energy from this generation source would be distributed in real time. Any excess generation that is not subscribed for would simply flow to the grid and this should be compensated in the manner of any wholesale market transaction. Any project in the Program should be restricted to the appropriate size of their active subscription base, so as to avoid the need for a banking provision.

N.J.A.C. 14:8-9.7(j) indicates that subscribers must agree to a remote read smart meter upon EDC request, purchased and installed at EDC cost. This provision is not clear as to the cost recovery mechanism for this meter. The provisions of the law allow for the recovery of costs as stated in N.J.A.C. 14:8-9.3 (d), which states that “Electric distribution companies shall, subject to review and approval by the Board, be entitled to full cost recovery for any incremental costs incurred in implementation, compliance, and administration of the Pilot Program. Installation of a remote read smart meter would better support the billing activities for a community solar program and the EDC should be entitled to full and timely cost recovery as an incremental program cost, whether paid directly by the owner of the project or the participating subscriber.

N.J.A.C. 14:8-9.7(t) states that “Nothing in this section prohibits the inclusion of storage in a community solar project, in accordance with all applicable Federal, State, and local laws, rules, and regulations, and in furtherance of the goals set forth in the Clean Energy Act.” The Company believes that this section of the rule should be removed. The Company suggests that the Board complete the analysis and report on energy storage, as required by the Clean Energy Act, prior to any consideration of adding storage as a component of the Pilot Program.

N.J.A.C. 14:8-9.9 Codes and standards

N.J.A.C. 14:8-9.9 (d) requires each community solar project shall telemeter its production data to the EDC on a monthly basis in accordance with EDC Electronic Data Interchange (“EDI”) procedures. The Company believes that the telemetering of production data should be on a real-time basis, which would better support the information needs of the energy market.

N.J.A.C. 14:8-9.9 (e) states that the “EDCs shall be responsible for measuring the metered production of energy by community solar pilot projects, and for verifying that the community solar pilot projects are producing an amount of energy that is greater than or equal to the amount of energy that is being credited to subscribers' bills”. This provision of the law seems to indicate that this should be the responsibility of the community solar project owner. The text of the law states as follows: “*The board shall establish standards and an application process for owners of solar energy projects who wish to be included in the Community Solar Energy Pilot Program. The standards for the Community Solar Energy Pilot Program shall include, but need not be limited to, a verification process to ensure that the solar energy projects are producing an amount of energy that is greater than or equal to the amount of energy that is being credited to its participating customer's electric utility bills pursuant to subsection b. of this section, and consumer protection measures.*” (emphasis added). Because these standards and application

process are to apply to owners of community solar projects, it stands to reason that the verification standard would apply to the project owners as well, and not the EDCs.

N.J.A.C. 14:8-9.9 (f) requires that the EDCs shall make available and update, in a commercially reasonable fashion, capacity hosting maps, within 90 days of the beginning of PY1. The Company does not believe that this is a requirement under the recently signed law and as such the requirement should be eliminated from the rules. In addition, hosting capacity maps are not suitable for the interconnection of large projects, which will require a detailed interconnection study. JCP&L currently does not have detailed records of installed secondary conductors, which is often the limiting factor for solar hosting capacity. Updates to any available hosting maps will always be on a lagging basis, as new applications either received, approved or installed may not be reflected. The format of the available maps would not be capable of real-time updates.

If this is ultimately required, then the EDC should be entitled to full and timely recovery of the costs of analysis and providing this information. Further, because of the time it will take to perform the required studies and develop a process to create and publish these maps, the EDCs should be provided the opportunity to request a reasonable extension of time to complete this process.

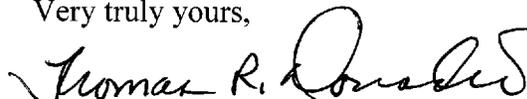
N.J.A.C. 14:8-9.9 (g) states that a community solar project shall not subscribe more than 100 percent of the project's nameplate capacity in Direct Current ("DC") rating. The Company suggests that there be an established conversion ratio to convert the DC rating of a system to the kWh usage of subscribers.

14:8-9.11 Reporting

N.J.A.C. 14:8-9.11 (a) states that the "EDCs are required to submit monthly electronic reports to the Board on the Pilot Program interconnections and energy production, within 30 days of the end of the calendar month being reported upon". The Company suggests that this reporting be submitted on a quarterly basis instead of monthly. This monthly activity could prove to be burdensome. The language contained within the signed law did not require monthly reporting by the EDCs. Only the operators of solar energy projects were subject to a monthly reporting requirement. A suggested alternative would be to require reporting of limited information on a monthly basis, with the more extensive information provided on a quarterly basis.

JCP&L again thanks the Board for the opportunity to provide comments on this important issue. If you have any questions or would like to further discuss any of JCP&L's above comments, please do not hesitate to contact me.

Very truly yours,



Thomas R. Donadio

Dear Secretary Cammacho,

Below are my comments on the BPU'S COMMUNITY SOLAR rule proposal. I have also included, further below, my earlier July comments.

I want to re-emphasize, as I stated in my July comments, that the Community Solar residential pilot projects should be grandfathered with net metering and/or SRECs. The developers need to have certainly before they begin to develop and finance a pilot project. Thus the Board should make known this decision on these critical issues ASAP.

I thank the Board for recently releasing the draft application materials and for scheduling stakeholder meetings concerning them.

There are many sections for which I wholeheartedly concur and which are in alignment with the legislation, e.g. not allowing EDCs to develop, own or operate projects; staff being able to make pilot decisions, e.g. the number of applications for a single developer; resign of subscription size if 3 years of excessive credits; the Green Button; the website requirements;

SOCIAL IMPACT: COMPETITIVE SCORING PROCESS:

I agree with the proposal as drafted. However, I do recommend that the staff sit down and review with the stakeholders before being ent to the Board for adoption via Board Order.

I suggest the following for extra "points": LMI; Environmental Justice community; load close to the generation - the closer load is to generation, the more points (maybe a sliding scale); brownfields; parking lots/decks; maybe rooftops; jobs in the community. By the conclusion of the pilot, the Board must get the incentives right.

PILOT PROGRAM STRUCTURE 14:8-9.3:

I agree that that each of the 3 pilot years should have individual application processes because of the changes likely to be made.

Like this year, staff should meet with stakeholders before the Board approves the final revised application form.

As stressed by a number of developers, it takes 2 years to finalize a typical community solar project due to local siting requirements, financing, etc. Thus, I suggest the staff may approve construction extensions by up to six months. I also suggest that you either extend the "fully operational" requirement to 18/24 months AND/ OR allow special exceptions, e.g. AND/OR staff be allowed to approve extensions up to 12 months. Staff should discuss with other states, e.g. Maryland.

PILOT PROGRAM CAPACITY LIMITS: 14:8-9.4

Division of the annual capacity limit among the EDCs is reasonable.

While I applaud the Board's desire to require at least 40% (and up to 50%) to LMI projects, I am concerned that developers will have a hard time acquiring financing. I suggest below - under LMI - a 30% for the 1st year.

I am concerned that the 5MW size IF it be permitted on open land. It should not be. See my earlier comments. I am fine with up to 5MWs on roofs, parking lots/decks/brownfields.

SITING 14:8-9.5:

As stated in more detail in my July comments, I urge the Board to seriously reconsider the provision to allow "community solar" anywhere in an EDC's franchise area. This is NOT "COMMUNITY solar". PSE&G runs from Newark to Camden and JCP&L is actually divided by PSE&G's franchise area. This provision, if not changed, would require significant upgrades of distribution and even transmission lines - for which the utility ratepayers would pay (rate-based). Transmission lines should never be included in or upgraded for/due to Community Solar.

The Board should not approve solar projects on any farmland - not just that under the State Farmland Preservation Program - unless the electricity will be used on that site or within a mile of that site.

Seriously consider using DEP's solar siting guidelines, e.g. rooftops, parking lots, impervious surfaces. Put a tight limitation on clear cutting. Projects should not be allowed if they impact threatened or endangered species. The Board should not allow any deforestation or wetlands fill. Trees and wetlands remove carbon from the air as well as cool the area.

While the legislation states that the maximum project size is five MWs, I recommend downsizing the maximum during the pilot or only allow a few larger projects. Five MWs is about 25 acres. If large projects are allowed, I recommend that the load be nearer to the project - say at most, within a few miles - again not to require an upsizing of the distribution lines - and to allow it to truly be "community" solar.

I suggest that both the DEP and the BPU be required to approve any NJDEP owned land but such land should be a very infrequent exception that is clearly "in the public interest."

SUBSCRIPTION REQUIREMENTS 14:8-9.6:

I suggest that you increase the single subscriber limit to no more than 50% instead of 40%. LMI projects may have to rely on a large customer as their base subscriber if several LMI customers drop out as subscribers.

I am really concerned about the "portability" of subscriptions. These projects will last at least 20 years. Many people, especially LMI, move fairly frequently. How can the subscriber organizations handle this? How is this "COMMUNITY solar"? This makes little sense. This provision wouldn't be as significant a problem IF the Board, eliminates the EDC's entire franchise area provision.

How can a subscriber organization "verify" that their subscribers are not already subscribed? I believe this would be very difficult, if not impossible unless the EDCs do the work.

I do assume that if an individual owns 2 homes in New Jersey they would qualify for 2 separate subscriptions.

BILL CREDITS 14:8-9.7:

Does (a) & (b) grandfather the pilot projects for retail net-metering? If not, I urge that at least LMI and other residential Community Solar projects, e.g. condo association, be grandfathered at retail rates.

(l): I recommend that all EDCs have the same standardized process for sharing subscriber information. This will be simpler for the (limited) Board staff and the subscriber organizations (which will likely be sharing best practices) and a fairer process for all.

(n): I presume that the EDCs choosing a dollar credit or a kWh credit is due to the different EDC billing processes and that it doesn't impact customers differently.

(q): Why the "one time election" for SRECs or Class I RECs? How will this be impacted by the expected changes in the current SREC program?

Several developers raised a problem that PSE&G's non-residential charges are higher than the other EDCs (commercial rates exclusive of demand charge) and thus would not allow for some community solar projects to be viable in PSE&G's franchise area. One stated that Minnesota overcame a similar problem. I urge Board staff to delve into this potential problem. All EDCs should allow for basically the same community solar projects - out of fairness to all New Jersey customers.

I strongly support (s) : allowing the Board to create additional incentives during the pilot and, I suggest, also for the permanent Community Solar program. I suggest a modification that specifically allows the Board to also delete or modify incentives as well.

I appreciate (t) so that energy storage may be a part of a project. In the future, hopefully, community solar and storage will routinely be interconnected with a number of them being included in community micro-grids.

LMI PROVISIONS 14:8-9.8:

I commend the BPU and the Murphy administration for prioritizing LMI in Community Solar. The 40/50% LMI set aside is the most ambitious in the country. But developers do need to be able to finance their projects. Because New Jersey wants a successful pilot program, I recommend lowering this requirement to 30% (with an additional 20% set aside possible) at least for the first year of the pilot. It can always be raised in year 2 and/or 3.

I am concerned that the hard 51% requirement that may cause difficulties because some LMI subscribers may be removed from the project before others rejoin. I suggest some additional, maybe time-based, discretion.

(c)3.I suggest reconsidering this provision. Qualification only once may well cause unfairness. A subscriber might well continue for the lifetime of the project and their income might rise dramatically, e.g. a married couple - one working & one in graduate school who later makes a very good income. I suggest thinking about other possible options, possibly a recheck after ten years.

CODES & STANDARDS 14:8-9.9:

(f) I suggest a specific time requirement be added for the EDCs to update the capacity maps - possibly every six months.

CONSUMER PROTECTIONS 14:8-9.10:

The consumer protections section is quite good. What are the enforcement possibilities? Suggest adding something that the Board may, by Board Order, adopt enforcement mechanisms.

2(v) and 3(vi): Subscriber organizations should be required to have BOTH a toll-free or local telephone number AND a link to a website.

(vi): I am concerned that the wording of this provision would raise the question if a homeowners' association would be able to discuss this beforehand, however, the "existing business relationship", I assume is meant to cover such situations.

(vi): As written, this appears that it would be a problem for homeowners' associations. Maybe clarify if that is not the intent.

4(i): I suggest adding that all subscriber acknowledgments must be retained by the subscriber organization for 6 years - could be added to 9.11(d).

REPORTING 14:8-9.11(d):

Define what "without delay" means, e.g. within 2 weeks or within a reasonable time frame as established by the staff or something more specific.

From: Jeanne Fox <jeanne.fox52@gmail.com>
Subject: Community Solar Energy Pilot Program: Comments from Jeanne Fox
Date: July 31, 2018 at 4:56:13 PM EDT
To: rule.comments@bpu.nj.gov

--The BPU should set a reasonable plan to grow our solar program over time in order to meet the Governor's 50% clean energy goal by 2030 as well as the GWRA's mandates. The Board should balance the tremendous growth expected for Offshore Wind with that of solar and other Distributed Energy Resources.

--Proximity of project to subscribers is an important determinant of the extent to which subscribers identify with a project. It can also result in an improvement in the health of project subscribers, when community solar is deployed instead of a traditional power generation facility.

--More proximate siting can also result in lower transmission line power loss and a relative lessening of the burden on grid distribution lines so that EDC costs (borne by the ratepayers in rate base for decades) will not unnecessarily be increased and additional RE may still be added to the distribution lines. As the Board is well aware, a number of South Jersey distribution lines cannot now allow any more RE connections due to the solar farms built early in this decade.

--Subscribers should be located within the same service territory and, additionally, within the same or an adjacent municipality, provided that, if the subscribers are in an adjacent municipality, they must under no circumstances be located at a distance further than 25 miles from the project site. However, BPU should retain the authority to grant a waiver from this proximity requirement for a specific project via Board Order if there are reasons that justify the project as in the public interest.

-- In order to obtain the most benefit from the pilot aspect of the program, BPU should create categories for participation in the program based upon the siting of projects, and provide incentives for project development where appropriate. Certain categories should have standardized approval requirements.

— I recommend that (notwithstanding the legislation) neither individual projects nor any co-located group of related projects, be deployed with a capacity in excess of 2 MW. Generally speaking, projects with such capacity require approximately 10 acres of surface area. Projects with capacity in excess of 2 MW would be inconsistent with the need for NJ to preserve its limited open spaces, as well as to site projects in close proximity to applicable subscribers. Subscribers should be able "to relate" to their "community" solar site.

New Jersey is unique: we are the most densely populated state and we routinely vote to preserve our open space and farmland. We are the "Saudi Arabia" of rooftops, e.g. Secaucus big box stores and Exit 8A warehouses. We have many available parking lots & decks. While roof and canopy PV might cost approximately 20% more than ground mounted PV, preservation of our limited farmland, forests and open space is critical. It has already been predicted that New Jersey will be at full "buildout" by 2050. While very large PV projects may be more "cost

effective”, that fact needs to be weighed against New Jersey’s desire to retain our open space and farmland.

- Categories for deployment should include brownfields, government building rooftops and parking facilities, multi-apartment (especially LMI) building rooftop and parking facilities, warehouse rooftops and parking facilities, other commercial building rooftops and parking facilities. We should avoid as much open, undeveloped land as possible.

- No Community Solar should be sited on existing forested land nor on Open Space or Farmland preserved via a State ballot question. Nor should it be sited on agricultural land unless it is deminimis and serving a LMI community within no more than 5 miles of the site.

I suggest that incentives/adders be given to brownfields that serve LMI communities. However, I urge that landfills be treated quite differently than brownfields because they are extremely expensive for solar deployment. Landfills “settle” over many years so that strong (& expensive) infrastructures would need to be built to actually support the weight of the PV. Any landfill solar (community or otherwise) should be privately funded. Possibly tax incentives could be given for privately owned landfills. Public landfills may be given some incentives but not from ratepayers. I urge you that ratepayers not be required to cover any landfill solar costs (at least not above what they would for brownfields). Nether the State nor ratepayers should assume any liability that may arise in the future as a result of any deployment of Community Solar on any brownfield or landfill site.

— I suggest that the pilot include at least one project deployed on an integrated basis with a municipal micro-grid system. The Board should consider incentives/adders for such municipal (and possibly county) projects. I truly believe that such arrangements are part of New Jersey’s energy future. In fact, school and government building roofs & parking lots should be prime locations for community solar.

— I recommend that at least one pilot be with a homeowners’ association. I expect that homeowners' associations will be a prime source for community solar in the future. For instance, the senior citizen complexes near Exit 8A would be a good partner for projects deployed on nearby commercial warehouse roofs.

-- Special considerations and incentives must be given to LMI Community Solar projects:

- I suggest that at least 15 to 20% of the community solar capacity be allocated to LMI solar - both single/double family housing as well as for affordable (public) LMI housing - both privately and publicly owned.

- Of course, these projects would also require something like a 40% allowance for anchor subscribers. In addition to “normal” anchor subscribers, they should also include housing entities and community service organizations.

- I recommend that during the pilot, LMI Community Solar projects go to the front of the application queue, and that LMI customers be guaranteed to receive at least 25% in electric bill savings.

- Consideration should be given to providing an Adder, calculated on a sliding scale based on percentage of LMI participation in the project capacity.

--As much as possible, the BPU should coordinate the Community Solar Program, with the BPU's Energy Efficiency Programs, especially if roof replacement would be necessary on the site.

--The EDA should be involved in this Community Solar effort. Hopefully, a NJ Green Bank will be established - partnering government funds with private funds. Then the EDA should use this opportunity to help fund LMI Community Solar and have a Community Solar carve-out.

— I strongly recommend that the RGGI monies be exclusively dedicated to LMI Community Solar - at least the BPU and EDA portions. If at all possible, the DEP RGGI portion should supplement these projects, e.g. by planting trees in these LMI subscriber communities.

--The Board should also review whether a portion of CEP Renewable Energy funds should go toward Community Solar.

-- I urge that EDCs not be authorized to install Community Solar unless there is market failure in a specific area, i.e. no other option for an urban LMI community solar installer. Competition should be the goal. Even in market failure locations, these project costs should not be rate-based but be given the same incentive/adder that would go to a private installer.

-- Bottom line, New Jerseyans are already facing significant rate increases, e.g. the nuclear subsidy, OSW, RGGI, large rate case & infrastructure filings. The BPU must avoid as much as possible adding unnecessary costs to the ratepayers, through utility rate-basing or by other means such as increasing the Clean Societal Benefit Charge (SBC). Instead, incentives, e.g. tax credits and public/private partnerships, should be utilized.

—Because New Jersey is a high cost-of-living state, I recommend that the Board should consider defining LMI as 200% of federal poverty level. It may be possible to use a definition already in use for another purpose, e.g. LIHEAP. The Board may want to make it higher, especially if in an Environmental Justice community. You might also repurpose some LIHEAP funds when LIHEAP customers become Community Solar subscribers.

— The Community Solar bill credit process and practices should be handled as closely as possible to how solar net-metering credits are currently done by the EDCs, e.g. on the customer's EDC bill. For the pilot, I recommend using the solar current net-metering process and later grandfather in those initial residential pilot projects. This will greatly encourage Community Solar pilot projects. Community Solar should be included in the SREC review process, which should eliminate all net-metering going forward.

—Community Solar marketing must be controlled so that potential subscribers are not unfairly harassed. I suggest that the BPU establish a simple review process for all marketing materials or set forth specific guidelines, e.g. compare EDC's costs to Community solar costs, etc.

Consideration should also be given to prohibiting robocalls.

LMI communities solar workforce development training programs should be established by other New Jersey agencies, likely via the Department of Labor and/or the Department of Community Affairs, in which grants could be provided to community organizations, e.g. Isles and Casa de Don Pedro. Monies other than ratepayers should be utilized. These programs should then match urban trainees with the IBEW as interns (as is being done in Baltimore).

During the SREC review and Energy Master Plan Processes, I recommend that the BPU/State:

- Include DCA building codes to prepare for future Community Solar, other renewables, energy storage, electric vehicles, etc. The State should consider something like the New York City “Stretch Building Code” or “beneficial strategic electrification”.
 - Develop a energy efficiency requirement for future RE programs.
 - The State should quickly move away from costly (to the ratepayers) net-metering and to a simpler Value of DER similar to California or New York..
 - The SREC successor should include differentiated incentives to support low-income residential customer solar adoption, and affordable housing operator solar adoption. The SREC successor should also be structured to drive access, ownership, and job opportunities for environmental justice communities and communities of color.
 - Consider requiring municipalities to have Community Solar based upon their percentage of LMI residents (aka Mount Laurel housing).
 - Prioritize and possibly incentivize Community Solar as well as RE, EE and other DER programs in the most congested areas of the State to cut the expensive peak load that impacts all customers. EDCs must identify these most congested locations.
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I have also attached a Princeton Woodrow Wilson School graduate report that BPU staff and some commissioners already have so that it can be a part of the official record. Thank you.

Jeanne Fox
former BPU President/Commissioner
Adjunct Professor, Columbia SIPA
[973-271-0500](tel:973-271-0500)



November 21, 2018

To: Aida Camacho, Secretary
New Jersey Board of Public Utilities
44 South Clinton Avenue, 3rd Floor, Suite 314
Trenton, New Jersey 08625

From: Ed Potosnak, Executive Director
New Jersey League of Conservation Voters
707 State Road, Suite 223
Princeton, NJ 08540

Re: New Jersey League of Conservation Voters Community Solar Comments

The **New Jersey League of Conservation Voters** (New Jersey LCV) would like to thank the BPU undergoing this stakeholder process to design New Jersey's Community Solar Pilot Program. New Jersey LCV worked closely with the legislature and the administration to pass the Clean Energy Bill and fully support the continued growth of responsibly developed solar energy as a clean source of electricity generation, and the implementation of the Community Solar Energy Pilot Program to ensure that there is more equitable access to solar energy for residents and communities that have not enjoyed the benefits of solar energy, including multi-residential dwellings and low- and moderate-income communities.

New Jersey LCV would like to focus our comments on potential issues with the current Community Solar Pilot Program Rules and provide recommendations that address these issues, including:

- Responsible and Appropriate Siting Requirements,
- Ensuring LMI participation in the Community DG pilot
 - Overall program carve-out, and;
 - Systems-based planning
- Technical Programmatic Changes
 - Units of program in AC
 - Consolidating Billing, and;
 - Competitive-bids

I. Responsible and Appropriate Siting Requirements

Appropriate siting for community solar projects is critical to avoid impacts to open space, sensitive environmental resources and important agricultural lands. As indicated in Section 14:8-9.5, we support a continued prohibition for solar energy development on preserved lands, except in approved cases of



colocation on underutilized or low value lands. The NJ Department of Environmental Protection’s Solar Siting Analysis 2017 Update identified “Preferred” locations for solar as areas with existing impervious coverage that are generally urban, commercial or residential areas and **we urge the BPU to align the conclusions identified** within this report to be the standard for residential and community distributed generation siting. Brownfields, landfills, parking lots and rooftops are the preferred locations for solar development and believe this should be the focus on the community solar pilot program siting requirements. New Jersey LCV recognizes that incentives and/or policy changes may be needed to make these locations more desirable or feasible for solar developers, and we support the development of such incentives. But even with a 100% solar objective for the states electrical consumption requires only 302 square miles or 14.3% of New Jersey’s Preferred Land area.

NJ DEP’s Solar Siting Analysis 2017 Update identified “Non-Preferred” locations as including forests, wetlands and agricultural lands. “Non-Preferred” locations should be avoided to prevent damage to critical environmental or agricultural resources. However, it may be possible to identify a category of marginal, undeveloped lands that are not environmentally sensitive, nor identified priorities for land preservation, that may be suitable for community solar projects, as determined on a site-by-site basis. With partners, we have identified a list of environmentally sensitive areas that should **be excluded**, including:

- Preserved open space & other parkland
- Preserved farmland
- Waterbodies and regulated buffers
- Natural Heritage Priority Sites
- Habitat for federal and state Endangered, Threatened & species of special concern
- Regulated freshwater and coastal wetlands and their buffers
- Upland forest
- Floodplains (100 year flood, updated with climate projections)
- Lands that are priorities for farmland and open space preservation

In the New Jersey Highlands Region, community solar should be **prohibited** in:

1. The Preservation Area delineated in the Highlands Act, except in Highlands/DEP approved Redevelopment Areas;
2. The Protection Zone delineated by the Highlands Council in the Highlands Regional Master Plan (RMP);
3. The Environmentally Constrained Conservation Zone, delineated in the RMP;
4. The Conservation Priority Area delineated in the RMP;
5. The Agricultural Resource Area delineated in the RMP; and
6. The Environmentally Constrained Existing Community Zone delineated in the RMP.

II. Ensuring LMI Participation in the Community DG Pilot



New Jersey LCV strongly supports the considerable LMI provisions within the pilot program, provisions of which would be the most aggressive in the country. Of the community solar projects deployed to-date, only 5% of projects serve more than 10% low- and moderate-income customers, despite their representing a tremendous segment of the market. **There's an opportunity to further expand access and participation in community solar projects by low-income households through policy, innovation, financing and programmatic support.** However, while this noteworthy goal should be applauded, it will be difficult to translate into realized policy success unless there are platforms in place that incentive LMI uptake and investment from developers. New York's lack of success is a direct paradigm that exemplifies this experience. Their CDG program had a 20% LMI carveout, and they failed to get any projects off of the ground due to a lack of policy supports.

Therefore, New Jersey LCV recommends considering changing the per-project carve-out for LMI households to a program wide LMI goal. There are several advantages to this approach. Lessons adapted from learning documents from NYSERDA indicate that while not a requirement, the overall community solar program goal could still be potentially achieved with the expertise of the BPU to oversee and administer LMI participation. The program-wide goal would also allow for variations among projects, and would incentivize some developers to design projects for the purpose of enabling high levels of LMI customer participation. This would greatly reduce barriers to entry for potential Community DG developers and/or sponsors, while providing increased support for projects that attain high low-income customer participation.

Whether or not the LMI carve-out stays the same, **the BPU should highly consider leveraging funds from the Clean Energy Fund to increase LMI solar participation** through targeted activities in the next three years and has recently approved allocations to do so. Other incentives like per watt incentives for LMI participation benchmarks could encourage investment.

Furthermore, and adapted from NYSERDA community-solar evaluation documents¹, since incentives would reduce the upfront cost barrier for low-income participation, and Community DG developers must be able to determine which incentives are suitable and/or which incentive levels are available for potential subscribers. One approach could be the adaption of existing assessment tools for Community DG. The two following tools were discussed for potential use: the System Advisor Model (SAM), which was developed by the National Renewable Energy Laboratory (NREL) with U.S. Department of Energy (DOE) funding; and, the Clean Power Estimator, which is administered through the BPU.

SAM enables NREL and DOE to develop program planning and grant programs; manufacturers to evaluate the effectiveness of efficiency improvements and energy cost reductions of installed systems; and PV solar project developers to research different incentive mechanisms to determine electricity costs and savings. The Clean Power Estimator enables an electric residential or small commercial consumer to receive a customized estimate of the costs and savings of a solar installation through a

1

[http://www3.dps.ny.gov/W/PSCWeb.nsf/ca7cd46b41e6d01f0525685800545955/8a75b07f45e1672485257edd00602d7c/\\$FILE/15-E-0082%20Low%20Income%20Collaborative%20Report%208-15-16.pdf](http://www3.dps.ny.gov/W/PSCWeb.nsf/ca7cd46b41e6d01f0525685800545955/8a75b07f45e1672485257edd00602d7c/$FILE/15-E-0082%20Low%20Income%20Collaborative%20Report%208-15-16.pdf)



participating NY-Sun developer, including information such as utility rates, accessibility to sunlight, and incentives and tax credits.

Last, our clean energy future, if designed effectively, will be defined by integrated systems planning. **Integrating community solar with energy efficiency and energy assistance programs**, such as Low-Income Home Energy Assistance Program (LIHEAP), according to GTM Research, community solar subscriptions are more likely to reach at least 20%-50% savings via a bundled product offering. Certain states, such as Colorado and Minnesota, are also using LIHEAP to finance community solar projects, recognizing that community solar can serve as a long term, flexible solution to energy assistance. This could be taken a step further and recommend the BPU to tie community distributed generation to redevelopment projects and consider EV charging infrastructure, more inclusive energy efficiency programs funded by the Clean Energy Fund that provide weatherization services and rebates of energy efficient appliances.

III. Technical Recommendations

New Jersey LCV recommends some small programmatic changes to the Community Solar Pilot Program. **First**, the program, as mentioned by a wide variety of stakeholders at the draft rule hearing, should be **specified in units of Alternating Current (AC)**, not Direct Current (DC), similar to New York's Shared Solar Program.

In addition, we strongly **encourage consolidated billing practices**. One barrier to participation in shared solar, is that billing can become separated from conventional one bill methods from utilities where power and distribution is on one bill. Issuing another bill to a subscribing customer can become confusing and serve as a barrier to participation, therefore we strongly encourage these practices to streamline simplicity and ease of use for customers.

We recommend replacing the competitive application process **with first-come, first-serve application** process with clearly outlined project maturity requirements. The current solicitation process is ambiguous and does not specify any criteria used in determining projects. We should let the market decide, given a specified foundation of mandatory requirements in each project is provided, which firms or EDC's can provide the best product/service.

In conclusion, New Jersey LCV looks forward to working with the Board of Public Utilities and other stakeholders to develop an effective Community Solar Energy Pilot Program that will bring the benefits of clean, solar energy to more residents and communities, and that is appropriately sited to protect the state's critical environmental and agricultural resources and put our state on a path to realize our clean energy future.

Aida Camacho-Welch, Secretary
New Jersey Board of Public Utilities
ATTN: BPU Docket Number: QO18060646
44 S. Clinton Avenue, 3rd Floor, Suite 314
PO Box 350
Trenton, NJ 08625-0350

**RE: Comments on Community Solar Energy Pilot Program –
Proposed New Rules: N.J.A.C. 14:8-9**

Dear Secretary Comacho-Welch:

I am an organic farmer writing to urge the NJ BPU to take great care when siting solar development in New Jersey, under the Community Solar Program and all solar programs that take place in our state.

It is imperative that the Board of Public Utilities ensure future solar development of all forms is sited first on rooftops, brownfields, landfills and areas with existing impervious coverage. These are predominantly located in urban, commercial or residential areas, and should be the preferred locations for solar development. It is important that the BPU provide sufficient financial incentives and other policies needed to encourage solar in these locations. The final rule for the Community Solar Energy Program should identify these lands as the preferred locations for community solar projects.

I had heard that the NJ Department of Environmental Protection was working to remove the barriers that exist for solar development on brownfields and other already disturbed sites. I urge the BPU to work with DEP to make this a reality, because we don't need any more greenfield development in New Jersey.

Our open lands and forests provide a wealth of health benefits for current and future generations of NJ residents, including clean drinking water, healthy food, scenic beauty and outdoor recreation. These lands also sequester carbon, absorb flood water and provide wildlife habitat.

New Jersey has a very valuable preservation ethic and it is important that we uphold the state's longstanding and ongoing land preservation efforts, both on lands that have been protected, as well as agricultural lands with prime and other important soils, and forest lands that have not yet been preserved.

I support the development of appropriately-sited community solar to advance clean energy and ensure greater access to solar energy for residents and communities that have generally lacked that access. The recommendation of the NJ Environmental Justice Alliance to seek opportunities to locate community solar projects in Environmental Justice Communities, with input from those communities and proper planning, is critically important.

The final rule should also identify the following locations as off limits, including:

- Farmland prioritized for preservation with Prime or Statewide Significant soils
- Waterbodies and regulated buffers
- Natural Heritage Priority Sites
- Critical wildlife habitat as identified by the State of NJ Landscape Project
- Regulated freshwater and coastal wetlands and their buffers
- Upland forest
- Floodplains (100 year flood)
- Sensitive lands in the Highlands Region, as delineated in the NJ Highlands Water Protection and Planning Act, the DEP Highland Rules, and the Highlands Regional Master Plan

The draft rule appropriately bans solar development on preserved farmland, and should strictly ban solar development on all Green Acres lands. Like preserved farmland, solar development should not be permitted on Green Acres lands that have been set aside to protect natural, scenic and recreational resources.

It is important that any other lands be identified with input from the DEP, State Agriculture Development Committee, stakeholders and the public.

Thank you for the opportunity to provide comments. The BPU's advancement of clean energy and community solar is one step toward achieving a livable future for our children and future generations. An equitable community solar program can work hand in hand with New Jersey's commitment to preserving our precious open spaces.

Sincerely,

Mark Canright
Comeback Farm
8 Deboer Farm Ln
Asbury NJ 08802

From: rkarim@everyactioncustom.com [<mailto:rkarim@everyactioncustom.com>]

Sent: Monday, November 19, 2018 6:46 PM

To: Comments, Rule

Subject: [EXTERNAL] Re: Draft community solar rules

Dear New Jersey Board of Public Utilities,

I'm writing to express my support for the proposed rules for New Jersey's new community solar program. The program will expand access to solar by giving renters and those whose roofs are not appropriate for solar the option to benefit from solar energy just as they would if the panels were on their own roof.

I support the goal of 75 MW of community solar for the first three years of the program, reserving 40% of the solar farms for low-to-moderate income communities, and prohibiting solar projects on preserved farmland.

To strengthen the program, I hope you will consider adding utility consolidated billing; funding community-based organizations to outreach to low-income communities about the program; and an easy and inclusive subscription application process.

Thank you for considering my comments and for your efforts to make affordable solar power accessible to all New Jersey families.

Sincerely,

Mohammad Karim

8 Harmony School Rd Flemington, NJ 08822-2605 rkarim@yahoo.com

November 29, 2018

Aida Camacho-Welch, Secretary
New Jersey Board of Public Utilities
ATTN: BPU Docket Number: QO18060646
rule.comments@bpu.nj.gov
44 S. Clinton Ave., 3rd Floor, Suite 314
PO Box 350
Trenton, NJ 08625-0350

Dear Secretary Comacho-Welch:

NAIOP NJ, the Commercial Real Estate Development Association, represents 850 developers, owners, investors and related professionals in commercial, office and mixed-use real estate. Our members create and transform spaces and communities, bringing jobs and investments to NJ. We appreciate the opportunity to share our support for the BPU's proposed Community Solar Energy Pilot Program Rules (N.J.A.C. 14:8-9) as published in the October 1, 2018 New Jersey Register.

Community Solar expands the concept of aggregating customers beyond the four corners of a property in order to take advantage of large, centrally located solar projects. Community Solar helps drive down the cost of solar and energy to consumers, because it allows those who cannot afford to install individual solar projects to share the use of one centrally located solar project with multiple investors permitted. Therefore, NAIOP strongly supports the BPU's Community Solar Pilot Program.

In our October 11 comments on the Energy Master Plan, we recommended expanding the State's policy and focus on Community Solar beyond the pilot program to the broadest array of participants to provide additional incentives to businesses to undertake large-scale solar projects that will support the State's goal of advancing solar development while cutting costs. We suggested that the State undertake a review of the relevant statutes and regulations that govern or impact Community Solar projects and identify opportunities to foster and expand the type of service sharing described above. There also needs to be uniformity in the law governing contracting with public entities so that the process is fair and affords the maximum amount of coverage.

Accordingly, we recommended that the BPU, in conjunction with Department of Community Affairs, the Department of Education and the Division of Law and Public Safety, undertake a complete review of its statutes and implementing regulations to ensure that Community Solar projects can be applied uniformly to all government entities in the most efficient manner possible. NAIOP New Jersey believes that such an exercise would result in changes in all applicable regulations that affect solar agreements to make them consistent and avoid conflict. We recognize that in some cases legislative changes may be needed. We expect that legislators will be eager to embrace policies that encourage the continued development of

Community Solar agreements so that clean energy can be enjoyed by all demographics in urban and suburban communities.

We hope that the suggestions and recommendations offered herein will assist the Murphy Administration in developing and implementing rational, cost-effective and workable energy policies that reduce overall energy usage and our carbon footprint while enabling New Jersey to reap the economic benefits of being a leader in the renewable and sustainable energy industry.

Please feel free to contact me with any questions at 732-729-9900.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael A. McGinnis". The signature is fluid and cursive, with a long, sweeping tail on the final letter.

Chief Executive Officer
NAIOP NJ
317 George Street, Suite 205
New Brunswick, NJ 08901

New Jersey Environmental Justice Alliance
315 W. State Street
Trenton, NJ 08618

November 30, 2018

Aida Camacho-Welch
Secretary
New Jersey Board of Public Utilities
44 South Clinton Avenue, Third Floor,
Site 314, CN 350
Trenton, New Jersey 08625

Dear Ms. Camacho-Welch:

The New Jersey Environmental Justice Alliance (NJEJA) welcomes the opportunity to submit the following comments to the New Jersey Board of Public Utilities (BPU) on the proposed regulations it recently issued on the community solar pilot program (Docket No. QO18060646; Proposal Number: PRN 2018-090). NJEJA is the only statewide organization whose sole focus is on environmental justice (EJ) issues¹ and its primary concern with respect to the community solar pilot program is to ensure that it benefits and is accessible to New Jersey EJ communities (i.e. communities Of Color and low-income communities). NJEJA initially introduced the ideas discussed below in comments it submitted previously on the community solar pilot program and reiterates these concepts in the context of the proposed regulations.²

Several other organizations have indicated a desire to sign onto these comments and they are identified at the conclusion of the document.

¹ The NJEJA mission statement reads as follows: “The New Jersey Environmental Justice Alliance is an alliance of New Jersey-based organizations and individuals working together to identify, prevent, and reduce and/or eliminate environmental injustices that exist in communities of color and low-income communities. NJEJA will support community efforts to remediate and rebuild impacted neighborhoods, using the community’s vision of improvement, through education, advocacy, the review and promulgation of public policies, training, and through organizing and technical assistance.”

² See New Jersey Environmental Justice Alliance, *Comments on the Community Solar Pilot Program (Docket Number: QO18060646)*, prepared by Nicky Sheats (July 31, 2018).

Definition of Low and Moderate-Income

BPU has developed definitions for low and moderate-income households that read as follows:

“Low-income household” means a household with adjusted gross income at or below 200 percent of the Federal poverty level.

“Moderate-income household” means a household with a total gross annual household income in excess of 50 percent, but less than 80 percent of the median income, as determined by annual HUD income limits.³

While NJEJA does not necessarily oppose this definition, it does question whether race was sufficiently considered before this definition was adopted. As indicated in the previous set of comments on the community solar pilot program submitted by NJEJA, the organization believes that because significant race based inequalities persist in our nation,⁴ race should be considered

³ Community Solar Pilot Program Rules, Proposed New Rules: N.J.A.C 14:8-9, BPU Docket Number: QO18060646; Proposal Number: PRN 2018-090, N.J.A.C. 14:8-9.2 Definitions at 14 (Hereinafter referred to as “Community Solar proposed rules”). Note that the copy of the proposed regulations from which the author of these comments worked had no pagination and the pagination provided here is done so by the author.

⁴ NJEJA made this point about continuing race and income based inequalities to BPU in comments it recently filed on the community solar pilot program (*see* New Jersey Environmental Justice Alliance, *supra* note 2, at 2) and energy master plan (New Jersey Environmental Justice Alliance, *Responses to Questions Posed by the Board of Public Utilities Regarding New Jersey’s Next Energy Master Plan*, prepared by Nicky Sheats, at 1-2 (October 12, 2018)). Information on race and income based inequalities was included in the comments in the form of a footnote reproduced from other NJEJA comments. That footnote is reproduced again here:

“...in previous comments we pointed out disparities in health, wealth and pollution exposure that might contribute to a heightened vulnerability to pollution. For more information on health disparities *see Health, United States, 2012: With Special Feature on Emergency Care*, NATIONAL CENTER FOR HEALTH STATISTICS (2013); Rachel Morello Frosch et al., *Understanding the Cumulative Impacts of Inequalities In Environmental Health: Implications for Policy* 30 HEALTH AFFAIRS 879, 880-881 (2011); Nancy Adler and David Rehkopf, *US disparities in health: descriptions, causes, and mechanisms*, 29 ANNU REV PUBLIC HEALTH 235 (2008); William Dressler, *Race and Ethnicity in Public Health Research: Models to Explain Health Disparities*, 34 ANNU. REV. ANTHROPOL. 231 (2005); Roberta Spalter-Roth, *Race, Ethnicity, and the Health of Americans*, American Sociological Association Series On How Race And Ethnicity Matter, SYDNEY S. SPIVACK PROGRAM IN APPLIED SOCIAL RESEARCH AND SOCIAL POLICY (2005); George Mensah, *State of disparities in cardiovascular health in the United States*, 111 CIRCULATION 1233 (No. 10) (2005).

For information on wealth disparity see Thomas Shapiro, *The Roots of the Widening Racial Wealth Gap: Explaining the Black-White Economic Divide*, INSTITUTE ON ASSETS AND SOCIAL POLICY (2013).

For information on disparities in exposure to air pollution *see generally* Michael Ash et al., *Justice in the Air: Tracking Toxic Pollution from America’s Industries and Companies to Our States, Cities, and Neighborhoods* (2009); Manuel Pastor et al., *The air is always cleaner on the other side: Race, space, and ambient air toxics exposures in California*, 27 JOURNAL OF URBAN AFFAIRS 127 (No. 2) (2005); Douglas Houston et al., *Structural disparities of urban traffic in Southern California: implications for vehicle related air pollution exposure in minority and high poverty neighborhoods*, 26 JOURNAL OF URBAN AFFAIRS 565 (No. 5) (2004); Manuel Pastor et al., *Waiting to Inhale: The Demographics of Toxic Air Release Facilities in 21st-Century California*, 85 SOCIAL SCIENCE QUARTERLY 420 (No. 2) (2004); Michael Jarrett et al., *A GIS- environmental justice analysis of particulate air pollution in Hamilton, Canada*, 33 ENVIRONMENT AND PLANNING A 955 (No. 6) (2001); D.R. Wernette and L.A.

in some manner when fashioning a definition for low-and moderate income.⁵ NJEJA suggested in those comments, and does so again here, that BPU consider multiple definitions for low and moderate-income and select that definition that captures a significant number of residents not only based on income but also on race.⁶ Reading the regulations does not provide a clear picture of what considerations went into the definition of low and moderate-income that was adopted and whether race was a factor in any way. The regulations also do not indicate how many residents would fall under the proposed definition and how many of those would be Of Color. BPU should make this information known so interested stakeholders can make informed comments on this this very important topic.

In the previously submitted comments NJEJA also suggested that a definition of low and moderate-income community be developed and that certain institutions that served those communities should be allowed to participate in the community solar pilot program.⁷ The types of institutions NJEJA is contemplating includes public schools, community centers, churches and day care centers. It is not clear to NJEJA whether as currently worded the proposed regulations allow these institutions to be part of the program.⁸ This is an issue that should be given further consideration by BPU, and NJEJA and its allies would welcome the opportunity to engage BPU on this topic.

Nieves, *Breathing Polluted Air*, 18 EPA JOURNAL 16 (1992). These investigations found a racial component to exposure to air pollution. Another study also presented evidence that in California people Of Color households live closer to polluting facilities at all income levels than White residents. See Manuel Pastor et al., *Minding the Climate Gap, What's at Stake if California's Climate Law Isn't Done Right and Right Away*, COLLEGE OF NATURAL RESOURCES, UNIVERSITY OF CALIFORNIA, BERKELEY, USC PROGRAM FOR ENVIRONMENTAL & REGIONAL EQUITY, *Minding the Climate Gap Report 4*, at 9 (Figure 2). “

The previous comments referenced earlier in this footnote are: Nicky Sheats, *Comments on the Newark Bay Partnership LP Application for Permit Renewal and Minor Modification*, Program Interest Number: 07617, Air Pollution Control Bureau of Air Permits Activity Number: BOP 150001 (June 11, 2018), submitted by the New Jersey Environmental Justice Alliance, at pg. 5 fn. 14.

⁵ See New Jersey Environmental Justice Alliance, *supra* note 2, at 3.

⁶ *Id.*

⁷ *Id.* at 4.

⁸ Although several knowledgeable stakeholders do believe these institutions can participate in the program as it is currently defined by the proposed rules.

Low and Moderate-Income Set Aside

While NJEJA strongly supports the 40% generated capacity low and middle-income set aside that is currently in the proposed regulations the organization also believes that at least 10.4%⁹ of this set aside should be reserved for low-income customers. NJEJA interprets the proposed regulations as currently stating that BPU, at its own discretion, can add a 10% set aside for low-income customers to the 40% low and middle-income set side but a 10% low-income set aside for low-income customers is not a requirement.¹⁰ Therefore, it is possible that the entire 40% low and moderate-income set aside could be devoted to middle income customers with no additional set aside created for low-income customers. NJEJA realizes that it is unlikely there would be no low-income customers but it does see a real possibility that the percentage of low-income customers could be significantly lower than 10.4% given it is likely to be more difficult to establish community solar projects in low-income communities than in other communities. The 10.4% low-income set aside might be essential in forcing providers to devote a fair share of the electricity generating capacity produced by community solar projects to low-income residents in New Jersey.

BPU should detail how it will enforce these set asides and what happens if they are not met. It should also give consideration to providing incentives to low and moderate-income residents, particularly low-income residents, to join the program. This could be in the form of some type of monetary incentive (including, perhaps, guaranteed reduced energy rates) to individuals and co-benefits (see below) to communities and their residents. Another issue is how the outcomes of the pilot program will be evaluated? What constitutes success, especially for EJ communities? This could be the subject of another comment period.

⁹ According to one report, 10.4% reflects the percentage of New Jersey residents that live below the 100% federal poverty line. See Brandon McKoy, *A \$15 Minimum Wage Would Help Over 1 Million Workers and Boost New Jersey's Economy, Raising wages would help fight poverty and improve the well-being of workers & their families*, (February 2018), New Jersey Policy Perspective. This topic was also discussed in the previous comments NJEJA submitted on the community solar pilot program. See New Jersey Environmental Justice Alliance, *supra* note 2, at 4.

¹⁰ See Community Solar proposed rules, *supra* note 3, at 4 and 19-20. The corresponding sections of the proposed rules are the section entitled "Summary" and N.J.A.C. 14:8-9.4(f), respectively.

One issue that NJEJA and allies would like to discuss with BPU is whether set asides should apply to each electric distribution company or just to the state as a whole.

Community Solar Pilot Project Co-Benefits and Project Criteria

In its previous comments on the community solar pilot program NJEJA maintained that the community solar projects should deliver more benefits to EJ communities than the production of electricity and reduction of air pollution emissions.¹¹ Projects should also strive to produce economic benefits for community residents such as quality jobs,¹² an opportunity to participate in the ownership of the project and renewable energy entrepreneurship opportunities.¹³ NJEJA also suggested that projects provide educational and research opportunities by linking them to the local public education system.¹⁴ In this way, the community solar projects could help make EJ neighborhoods and New Jersey's urban areas centers of clean energy innovation.¹⁵ In the proposed rules, BPU comments that the regulations will have a positive social impact "by creating an opportunity for access to solar energy" by New Jersey residents that have thus far been excluded from such access.¹⁶ However, it does not provide much further detail on any other positive social impacts that will be derived from the community solar projects.¹⁷ The co-

¹¹ See New Jersey Environmental Justice Alliance, *supra* note 2, at 2 and 6. Also see New Jersey Environmental Justice Alliance, *Responses to Questions Posed by the Board of Public Utilities Regarding New Jersey's Next Energy Master Plan*, *supra* note 4, at 5.

¹² "Quality jobs" at least partly means they should be of minimum wage with paid sick leave and the majority should be permanent. There should also be rules that ensure local residents will have the opportunity to obtain the jobs. NJEJA allies such as the Ironbound Community Corporation have experience in this area and are willing to share it with BPU.

¹³ See New Jersey Environmental Justice Alliance, *supra* note 2, at 2 and 6; New Jersey Environmental Justice Alliance, *Responses to Questions Posed by the Board of Public Utilities Regarding New Jersey's Next Energy Master Plan*, *supra* note 4, at 5.

¹⁴ See New Jersey Environmental Justice Alliance, *supra* note 2, at 2 and 6. Also see New Jersey Environmental Justice Alliance, *Responses to Questions Posed by the Board of Public Utilities Regarding New Jersey's Next Energy Master Plan*, *supra* note 4, at 5.

¹⁵ See New Jersey Environmental Justice Alliance, *Responses to Questions Posed by the Board of Public Utilities Regarding New Jersey's Next Energy Master Plan*, *supra* note 4, at 5.

¹⁶ See Community Solar proposed rules, *supra* note 3, at 5. The corresponding section of the proposed rules is entitled "Social Impact".

¹⁷ At one point the proposed rules do mention ownership of community projects by "low-income" subscribers in a positive light. *Id.* at 19-20 (N.J.A.C. 14:8-9.4(f)).

benefits discussed briefly above would be other positive social impacts and NJEJA suggests requiring that a certain number of projects, or perhaps those in EJ communities, must include mechanisms that will achieve several of these co-benefits. In other words, for a certain number of projects these co-benefits should be included in the evaluation criteria¹⁸ that BPU will develop for project proposals. As an important aside, NJEJA would also like to note that project evaluation criteria developed by BPU should be made public and subject to public comment. This includes any evaluation criteria developed specifically for projects in low-income communities.¹⁹ Given the interest demonstrated in the community solar pilot program during the recent stakeholder hearings and comment period it is reasonable to assume that the number of projects submitted will exceed the number selected for implementation and therefore project providers will be willing to develop projects that provide the aforementioned co-benefits. A less certain way to attempt to ensure the co-benefits are part of community solar projects would be to incentivize their inclusion by awarding “additional points” to, i.e. prioritizing, project proposals that integrate them into the project.

One of the co-benefits listed above, that of possible ownership interests in a local community solar project by local residents, deserves more comment due a restriction contained in the proposed rules. As currently constructed, the proposed rule limits the number of participating subscribers to 250 per project.²⁰ NJEJA is concerned that a higher number of subscribers might be needed, or at least desirable, in low-income communities especially if that community has developed some type of joint ownership strategy.

Siting Community Solar Projects in EJ Communities

NJEJA is in favor of siting community solar projects in EJ communities but it must be done with community input and some degree of planning that emanates from the community where the project is to be sited. Siting projects in the community would probably facilitate the co-benefits discussed above. However, not every open space in a community should be eligible for a

¹⁸ *Id.* at 17 and 18 (N.J.A.C. 14:8-9.3(c)(1) and (e)(1)).

¹⁹ *Id.* at 20 (N.J.A.C. 14:8-9.4(f)).

²⁰ *Id.* at 21 (N.J.A.C. 14:8-9.6(c)).

community solar project. For example, some brownfields might be suitable candidates for a community solar project and others might not. The questions that need to be answered, in this context, are which brownfields would be suitable, who makes that decision and how is that decision made? BPU could form a stakeholder group that includes community and EJ representatives to create a set of guidelines but ultimately the decision of where projects are sited in a community should be made largely by the community. Perhaps the community would prefer a different project to be developed on a particular brownfield site and thinks another empty space would be better for a community solar project. Or vice versa. These siting decisions should be made with significant community input and this leads to the idea of community energy planning that NJEJA raised in its previous comments²¹ and that is discussed again below.

NJEJA believes that placing solar panels on the roof-tops of residential housing or of institutions that desire them is generally a good idea, but notes that additional financial resources might frequently be needed in low-income neighborhoods to make this possible. This is at least partly true because housing in low-income communities may be of lesser quality than in other communities and has to be improved before solar panels can be placed on roofs.²² NJEJA has suggested that a portion of the clean energy fund should be dedicated to costs such as this in order to ensure that EJ communities in New Jersey have access to renewable energy and energy efficiency²³. Here, NJEJA recommends that the portion of the fund so dedicated should be at least 33%. The proposed rules should reflect this need and solution in some manner.

²¹ See New Jersey Environmental Justice Alliance, *supra* note 2, at 6; New Jersey Environmental Justice Alliance, *Responses to Questions Posed by the Board of Public Utilities Regarding New Jersey's Next Energy Master Plan*, *supra* note 4, at 4-5.

²² Cecilia Martinez makes the point that the costs of energy efficiency may be higher in low-income communities partly due to lesser quality housing stock and NJEJA makes this point about solar power in low-income communities using similar reasoning. See Cecilia Martinez, *Environmental Justice And The Clean Power Plan: The Case of Energy Efficiency*, 41(2) WILLIAM AND MARY ENVIRONMENTAL LAW AND POLICY REVIEW 605, 626-627 (2017).

²³ See New Jersey Environmental Justice Alliance, *supra* note 2, at 6.

Another siting related issue that is worthy of discussion is whether or not property in EJ communities that is in the state's Blue Acres program should be available for community solar projects.²⁴ NJEJA and its allies would like to engage BPU on this topic.

Community Energy Planning

Obtaining input from community residents and organizations on siting locations for community solar projects and other issues could be performed through a community energy planning process.²⁵ Community energy planning would allow community residents, community groups and EJ groups to be part of a process that normally excludes them. Typically, energy planning is dominated by energy professionals, private energy companies and government officials. If a community energy planning process is implemented, that involves people and groups connected to the community, then instead of energy decisions being made *for* the community they could be made largely *by* the community. This type of public planning process could help ensure that community residents are not solely consumers of energy but also have significant input into how their energy is produced, where and what type of energy projects are located in their community, and what type of co-benefits are connected to energy production. As suggested above with respect to co-benefits, projects (or at least a certain number of projects) could be required to include a community energy planning process. Or, alternatively but probably less effective, "points" could be awarded to projects in the selection process that include community energy planning in their project proposals as a way of incentivizing and prioritizing such projects.

²⁴ The proposed rules state that community solar projects can only be sited on Green Acres Program land if special approval is received from the New Jersey Department of Environmental protection but does not specifically mention the Blue Acres Program. Community Solar proposed rules, *supra* note 3, at 6 (N.J.A.C. 14:8-9.5(c)(2)). The Blue Acres Program is part of the Green Acres Program. *See* Frequently Asked Questions, New Jersey Department of Environmental Protection, Superstorm Sandy Blue Acres Buyout Program, updated September 16, 2015. (available at <https://www.nj.gov/dep/greenacres/pdf/faqs-blueacres.pdf>)

²⁵ The concept of community energy planning was developed by the Center for Earth, Energy and Democracy (CEED) in Minneapolis. CEED is a close ally of NJEJA and is willing to bring their expertise on energy and EJ to New Jersey.

Conclusion

NJEJA would welcome the opportunity to discuss any and all of the ideas contained in this document with BPU and hopes to have an ongoing discussion with BPU concerning renewable energy, energy efficiency and EJ communities.

Submitted by:

New Jersey Environmental Justice Alliance

Additional Signatories

Ironbound Community Corporation

The Wei LLC

Prepared by:

Nicky Sheats, Esq., Ph.D.

Director, Center for the Urban Environment

John S. Watson Institute for Public Policy at Thomas Edison State University

609-558-4987 (mobile)



November 30, 2018

Aida Camacho-Welch, Secretary
New Jersey Board of Public Utilities
ATTN: BPU Docket Number: QO18060646
44 S. Clinton Avenue, 3rd Floor, Suite 314
PO Box 350
Trenton, NJ 08625-0350

RE: Comments on Community Solar Energy Pilot Program – Proposed Rules: N.J.A.C. 14:8-9

New Jersey Future is a statewide nonprofit that wants New Jersey to be a great place to live, with a strong, prosperous economy; safe, healthy, thriving communities; and its shores, parks, and open spaces protected. New Jersey Future develops innovative practical solutions that bring together transportation, water-infrastructure, environmental protection, and smart development.

As the most developed state in the country, New Jersey must choose carefully how its remaining open space is used. Sprawling development away from centers continues to be a highly inefficient use of land and taxpayer resources. Locating a utility far from the end use results in the development of more roads and transmission infrastructure to access the utility. This expanding infrastructure then encourage the development of homes and businesses when development should be concentrated in already built areas.

Solar is going to be important for New Jersey to reach the governor's goals of 50% clean energy by 2030 and 100% clean energy by 2050. But where we put solar has significant implications. We support the development of appropriately-sited community solar to advance clean energy and increase access for residents who have traditionally lacked access to solar. However, we urge the Board of Public Utilities to ensure that future solar development is subject to clear guidelines that steer solar development to locations in the developed core near the end user.

We support NJDEP's 2017 updated solar siting guidelines that identified areas with impervious cover, such as rooftops, brownfields and landfills, which are are generally found in urban, commercial or residential areas, as the preferred locations for solar development. We understand that locating solar in these areas increases the cost of the project and we support incentives and other policies needed to encourage solar in these locations. The final rule should identify these lands as the preferred locations for community solar projects.

The final rule should also identify locations that are not preferred for solar development. These locations should include farmland prioritized for preservation, critical wildlife habitats, regulated wetlands, and sensitive lands in the Highlands. Additionally, the final rule should prohibit tree removal greater than five acres per project.

The draft rule bans solar development on preserved farmland, but allowed for solar development on Green Acres land with NJDEP approval. Solar development on Green Acres land should be restricted to solar canopies on parking lots or rooftop solar on public building, and the final rule should make these stipulations clear.

The draft rule mentions “marginal land” without defining what this term refers to. Land that is unable to be put to other productive use may exist and may be an appropriate location for solar development, but this term and the land it describes must be clearly defined in the final rule. A process to identify such land involving NJDEP, stakeholders, and the public should be required.

Thank you for your work to advance clean energy. We are confident that clean energy initiatives, including properly-sited solar development, can create a more sustainable and equitable future for New Jersey.

Sincerely,

Peter Kasabach
Executive Director
New Jersey Future



NEW JERSEY HIGHLANDS COALITION

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November 30, 2018

New Jersey Board of Public Utilities Commissioners:

Joseph L. Fiordaliso, *President*

Mary-Anna Holden, *Commissioner*

Dianne Solomon, *Commissioner*

Upendra Chivukula, *Commissioner*

Robert M. Gordon, *Commissioner*

c/o: Aida Camacho-Welch, *Secretary*

New Jersey Board of Public Utilities

ATTN: BPU Docket Number: QO18060646

44 S. Clinton Avenue, 3rd Floor, Suite 314

PO Box 350

Trenton, NJ 08625-0350

rule.comments@bpu.nj.gov

RE: Comments on Community Solar Energy Pilot Program –

Proposed New Rules: N.J.A.C. 14:8-9.5 - Project siting requirements

The New Jersey Highlands Coalition is a non-profit 501.c.3 coalition of nearly 100 organizations and businesses which seeks to protect, enhance and restore the water, forests, farmland and other natural, historic, scenic and recreational resources of the New Jersey Highlands Region. These goals were embodied in the 2004 New Jersey Highlands Water Protection and Planning Act, the DEP Highlands Rules for the Highlands Preservation Area, and the 2008 Highlands Regional Master Plan (RMP). The Highlands region is nationally significant, as recognized in the 2004 federal Highlands Conservation Act, which provides funding for land preservation in a four-state Highlands Region that includes New York, Connecticut, and Pennsylvania.

The New Jersey Highlands Coalition supports the development of appropriately-sited community solar to advance clean energy, as well as greater access to solar energy for residents and communities that have generally lacked access to solar energy. We support NJ DEP's 2017 updated solar siting guidelines that identified rooftops, brownfields, landfills and areas with existing impervious coverage that are generally urban, commercial or residential areas, as the preferred locations for community solar projects. We believe that additional sites appropriate for solar development beyond these locations may be identified with careful analysis and guidelines.

YOUR WATER YOUR FUTURE

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However, the draft Community Solar Energy Pilot Program Rule does not contain such careful analysis and guidelines and runs the risk of fostering solar development on inappropriate lands and inappropriate locations. This is of particular concern regarding the Highlands Region, which is, as noted, recognized for its natural and cultural resource values in both state and federal law.

The 2004 NJ Highlands Act delineated an 860,000 acre Highlands Region, comprised of 88 municipalities located in portions of seven counties: Bergen, Passaic, Morris, Sussex, Warren, Hunterdon and Somerset. The Act also identified and delineated the most environmentally critical, primarily forested half of the Highlands as the "Preservation Area," with the other half of the Region designated as the "Planning Area." The Preservation Area is subject to the DEP Highlands Rules, while conformance with the Highlands Regional Master Plan is intended to provide improved planning and enhanced resource protections in the Planning Area.

The Regional Master Plan, which includes fifteen Technical Reports that document the research and analysis supporting the RMP, delineated six zones in the Highlands Region. The zones are based on the character, quality and environmental sensitivity of their resources, and their appropriateness for development. The RMP also identified specific Resource Priority Areas. These identified zones and priority areas provide a sound basis within which the appropriateness of proposed community solar installations can be determined.

Because of the region's federal- and State-recognized resource values and because of the regional planning initiative established by the Highlands Act and administered by the Highlands Council to guide appropriate development for the region, we propose the following requirements for the appropriate siting and location of Community Solar Pilot Program Projects in the Highlands Region, based on the Highlands Act, the DEP Highlands Rules and the Highlands Regional Master Plan.

1. In the Preservation Area, community solar projects should be restricted to Redevelopment Areas approved by the DEP and Highlands Council.

2. In the Planning Area, proposed community solar projects may be considered and evaluated in the Existing Community Zone and the Conservation Zone.

In the Planning Area, community solar projects should not be allowed in the following areas delineated by the Regional Master Plan:

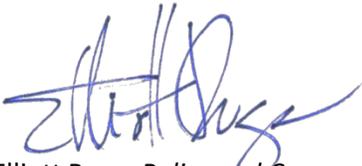
- A. The Protection Zone;
- B. The Environmentally Constrained Existing Community Zone;
- C. The Environmentally Constrained Conservation Zone;
- D. The Lake Management Zone;
- E. The Conservation Priority Area;
- F. The Agricultural Resource Area;
- H. The Highlands' Special Environmental Zone, and other natural lands, historic sites or historic structures identified for resource protection or preservation.

3. Re: Green Acres Lands: We are deeply concerned that, although the Project Siting Requirements (14:8-9.5) proposed in the draft rule appropriately bans solar development on preserved farmland, it allows for solar development on Green Acres lands with special approval of NJ DEP. Like preserved farmland, solar development

should not be permitted on Green Acres lands - anywhere in the State, including the Highlands - that have been set aside to protect natural, scenic and recreational resources. Possible exceptions might include solar canopies on parking lots at parks, or rooftop solar on park buildings, but any such exceptions should be clearly stipulated.

We urge that the specific requirements described above be included in the Final Community Solar Energy Pilot Program Rule.

Thank you for your consideration of our comments.

A handwritten signature in blue ink, appearing to read "Elliott Ruga". The signature is fluid and cursive, with a large initial "E" and "R".

Elliott Ruga, *Policy and Communications Director*

**Natural Resources Defense Council – NJ Conservation Foundation
NJ League of Conservation Voters**

November 30, 2018

Aida Camacho-Welch, Secretary
New Jersey Board of Public Utilities
ATTN: BPU Docket Number: QO18060646
44 S. Clinton Avenue, 3rd Floor, Suite 314
PO Box 350
Trenton, NJ 08625-0350

**RE: Comments on Community Solar Energy Pilot Program –
Proposed New Rules: N.J.A.C. 14:8-9**

Dear Secretary Camacho:

We, the undersigned organizations, would like to offer our comments on the draft rule for the Community Solar Energy Pilot Program. We strongly supported the Clean Energy Act, and support the development of appropriately-sited community solar projects to advance clean energy and ensure greater access to solar energy for residents and communities that have generally lacked access to solar energy. At the same time, New Jersey has placed a premium on preserving our remaining open spaces that sequester carbon and provide clean water, healthy produce, scenic beauty, wildlife habitat, and outdoor recreation for the benefit of present and future generations. Therefore, we urge the Board of Public Utilities to ensure that future solar development of all forms is subject to clear and strong siting guidelines and policies that guide solar development to preferred locations and avoid unnecessary conflicts with the state's longstanding and ongoing land preservation and natural resource protection efforts.

We support NJ DEP's 2017 updated solar siting guidelines that identified rooftops, brownfields, landfills and areas with existing impervious coverage that are generally urban, commercial or residential areas, as the preferred locations for solar development, and we support incentives and other policies needed to encourage solar in these locations. The final rule should identify these lands as the preferred locations for community solar projects.

The final rule should also identify non-preferred locations including:

- Farmland prioritized for preservation with Prime or Statewide Significant soils
- Waterbodies and regulated buffers

- Natural Heritage Priority Sites
- Critical wildlife habitat as identified by the State of NJ Landscape Project
- Regulated freshwater and coastal wetlands and their buffers
- Upland forest
- Floodplains (100 year flood)
- Sensitive lands in the Highlands Region, as delineated in the NJ Highlands Water Protection and Planning Act, the DEP Highland Rules, and the Highlands Regional Master Plan, and identified by the New Jersey Highlands Coalition (under separate cover)
- Sensitive lands as identified in the State Plan and other regional plans including those pertaining to the Pinelands, Meadowlands and emerging plans for the Delaware Bayshore, Sourlands and the coast.

The draft rule appropriately bans solar development on preserved farmland, but allows for solar development on Green Acres lands with special approval of NJ DEP. Like preserved farmland, solar development should not be permitted on Green Acres lands that have been set aside to protect natural, scenic and recreational resources. Possible exceptions might include solar canopies on parking lots at parks, or rooftop solar on park buildings, but any such exceptions should be clearly stipulated and exclude solar development that conflicts with protecting the natural, recreational or scenic values of these lands.

The draft rule seeks to encourage "applications for projects that make creative use of marginal or low-value lands" but contains no criteria or provisions to identify such lands or encourage development in those locations. We believe that a category of marginal lands between the preferred and non-preferred locations that is appropriate for solar development can be identified with careful analysis and criteria. There should be a process to identify such lands, with input from NJ DEP, NJ SADC, stakeholders and the public. Meetings between solar developers, conservation groups and the Farm Bureau have already taken place with some progress toward areas of agreement.

Finally, we support the recommendation of the NJ Environmental Justice Alliance to seek opportunities to locate community solar projects in Environmental Justice Communities, with input from those communities and proper planning, in order to bring important co-benefits to those communities.

We applaud your work to advance clean energy, including community solar, and are confident that clean energy initiatives can move forward in a way that is equitable and maintains New Jersey's commitment to preserving our precious open spaces.

Sincerely,

Thomas Gilbert
Campaign Director, Energy Climate & Natural Resources
New Jersey Conservation Foundation

Nathanael Greene
Senior Renewable Energy Policy Analyst
Natural Resources Defense Council

Ed Potosnak
Executive Director
New Jersey League of Conservation Voters

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November 30, 2018

VIA ELECTRONIC MAIL

Aida Camacho-Welch, Secretary
New Jersey Board of Public Utilities
33 S. Clinton Ave., 3rd Floor, Suite
Trenton, New Jersey 08609
rule.comments@bpu.nj.gov

Re: BPU Docket No.: QO18060646, PRN 2018-090 - Community Solar Energy Pilot Program Rules, Proposed New Rules N.J.A.C. 14:8-9

Dear Secretary Camacho-Welch:

This letter contains questions and comments of Pearlman Miranda, LLC (the “Firm”) hereby submitted in connection with the rules proposed by the Board of Public Utilities (the “Board”) in the October 1, 2018 New Jersey Register (50 N.J.R. 2048-56) (the “Proposed Rules”), establishing a three-year “Community Solar Energy Pilot Program” (the “Pilot Program”). The Firm submits these questions and comments to the Board based on their solicitation of same to be received on or before November 30, 2018. Please find below the Firm’s questions and comments on the Proposed Rules for the Pilot Program.

I. Questions:

1. N.J.A.C. 14:8-9.4(i) of the Proposed Rules states the following: “Existing solar projects may not apply to requalify as a community solar project.”¹ Additionally, N.J.A.C. 14:8-9.2 of the Proposed Rules defines an “existing solar project” as “a solar project having begun operation and/or been approved by the Board for connection to the distribution system prior to January 1, 2019.”² Pursuant to subsection (t) of P.L. 2012, c. 24, as codified at N.J.S.A. 48:3-87 et seq. (also known as the “Solar Act”), the Board has established an application and certification process for certifying solar generation projects on brownfields, areas of historic fill, and landfills. Through this process, certain projects may obtain an initial “conditional certification,” requiring

¹ Board of Public Utilities, Community Solar Energy Pilot Program, Community Solar Energy Pilot Program Rules, Proposed New Rules: N.J.A.C. 14:8-9, BPU Docket Number QO18060646, Proposal Number PRN 2018-090.

² Id.

certain conditions subsequent to be satisfied, prior to obtaining “full certification” for such project. Could the Board please clarify whether a project that has obtained conditional certification, but has not yet received full certification, under subsection (t), is considered an “existing solar project” pursuant to N.J.A.C. 14:8-9.2 of the Proposed Rules, and whether such conditionally certified project is intended to be eligible to participate in the PILOT Program?

We submit that projects that have received conditional certification, but have not yet received full certification, under subsection (t) of the Solar Act should remain eligible to participate in the PILOT Program. Projects that receive conditional certification under subsection (t) of the Solar Act are often located on governmentally owned properties and the primary benefit of such projects to the land owning government entity, is often receipt of a lease payment from a private solar development company, who will then finance, construct, and operate the solar project, and sell the energy generated thereby into the PJM wholesale market. However, if such projects are eligible to participate in the PILOT Program, the land owning government entity will be in a position to realize significantly greater benefits as a result of the solar project, as it would be able to negotiate not only a lease payment with the solar developer, but also the right to receive community solar bill credits. Government entities should not be precluded from realizing this benefit, simply because the underlying, yet to be constructed solar project, has received conditional certification under subsection (t) of the Solar Act.

2. N.J.A.C. 14:8-9.4(e) of the Proposed Rules states the following: “At least 40 percent of the annual capacity limit shall be allocated to LMI projects.”³ Pursuant to N.J.A.C. 14:8-9.8(a)(2) of the Proposed Rules, an affordable housing provider may qualify as an LMI subscriber for purposes of the Pilot Program if they:

- “i. Demonstrate . . . that they are passing along specific, substantial, identifiable, and quantifiable long-term benefits to their residents/tenants; and
- ii. . . . indicate that they will pass along said specific, substantial, identifiable, and quantifiable long-term benefits to their residents/tenants.”⁴

Could the Board please clarify what it will consider to be “specific, substantial, identifiable, and quantifiable long-term benefits”? Specifically, how will these benefits be quantified and how much of these quantifiable benefits will be required to be passed along to the affordable housing provider’s residents/tenants? We respectfully submit that the PILOT Program rules should allow for a reasonable sharing of the project benefits, by and among the solar developer, the owner of the LMI project, and the residents/tenants at the LMI project. There is a concern that, if all material benefits of the project are required by the Board to be passed through to the residents/tenants, then there will be little to no incentive for any for-profit owners of LMI buildings to participate in the PILOT Program, which would ultimately be to the detriment of the residents/tenants.

³ Id.

⁴ Id.

II. Comments:

1. One recommendation to the Board would be for the Board to provide a special allocation of the Pilot Program to certain urban municipalities or an entire geographically benefitted area, as opposed to limiting the Pilot Program's application to individual projects throughout the State. Our State statute and the Internal Revenue Code (the "Code") already provide the framework to determine these areas of need. For instance, the Local Redevelopment and Housing Law⁵, specifically under N.J.S.A. 40A:12A-5, delineates specific conditions for which a governing body can determine an area to be "in need of redevelopment". In addition, as part of the 2017 federal Tax Cuts and Jobs Act⁶, the Opportunity Zones program was enacted, which added Sections 1400Z-1 and 1400Z-2 to the Code. Under rules released by the U.S. Department of Treasury, the Treasury certified roughly 9,000 zones in all 50 states, 169 tracts of which were created in New Jersey alone. Finally, the Grow New Jersey⁷ and ERG⁸ programs both specify targeted urban areas that are financially distressed that could be used by the Board to provide a special allocation of the Pilot Program for the benefit of such areas.

The Firm appreciates the continued efforts by the Board to develop and implement the community solar program and the opportunity to comment and further ensure the successful implementation of the Pilot Program. Thank you for your consideration of the Firm's questions and comments related to the Pilot Program.

Yours truly,

Stephen B. Pearlman, Esq.

⁵ N.J.S.A. 40A:12A-1 et seq.

⁶ Section 13823 of P.L. 115-97 (12/22/2017).

⁷ N.J.S.A. 34:1B-242 et seq.

⁸ N.J.S.A. 52:27D-489a et seq.

November 30, 2018

Aida Camacho-Welch, Secretary
New Jersey Board of Public Utilities
ATTN: BPU Docket Number: Q018060646

Dear Ms. Camacho-Welch,

The Port Authority of New York & New Jersey respectfully submits the following comments for consideration in development of the New Jersey Community Solar Energy Pilot Program. The proposed rule, N.J.A.C. 14:8-9, establishes a three-year Community Solar Energy Pilot Program. A full-scale Community Solar Energy Program will subsequently be developed drawing upon the experiences and lessons learned from the Pilot Program.

The Port Authority builds, operates and maintains infrastructure critical to the New York/New Jersey region's trade and transportation network. These facilities include America's busiest airport system, marine terminals and ports, the PATH rail transit system, six tunnels and bridges between New York and New Jersey, the Port Authority Bus Terminal in Manhattan, and the World Trade Center. For more than eight decades, the Port Authority has worked to improve the quality of life for the more than 17 million people who live and work in New York and New Jersey – a region that supports 8.6 million jobs with an estimated gross regional product of more than \$929 billion.

The Port Authority is committed to reducing its Greenhouse Gas emissions through multifaceted programs that include on-site renewable energy, energy conservation, vehicle electrification, and efficient and clean building design.

We respectfully submit the following comments for consideration on the Community Solar Energy Pilot Program:

1. The Board should consider a rolling basis for applications awarded on a first-come, first-served basis, as opposed to an annual application process. The uncertainty resulting from an annual application process as proposed restricts a project owner's ability to effectively plan projects.
2. As stated in our comments to the Board on the Energy Master Plan (October 12, 2018), participation in the Community Solar Program should not limit or preclude participation in other programs being developed by the BPU, including the new SREC program and remote net metering. It should also not limit or preclude the amount of renewable energy that may be generated for on-site consumption ("behind-the-meter").

The Port Authority appreciates the opportunity to comment on the proposed rulemaking. Please contact Dana Mecomber at dmecomber@panynj.gov or 212-435-4405 with any questions.

Sincerely,

Christine Weydig
Director
Office of Environmental and Energy Programs

Joseph A. Shea, Jr.
Associate General Regulatory Counsel

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November 30, 2018

VIA ELECTRONIC DELIVERY & OVERNIGHT MAIL

Aida Camacho-Welch, Secretary
New Jersey Board of Public Utilities
44 S. Clinton Avenue
3rd Floor, Suite 314
CN 350
Trenton, NJ 08625-0350

Re: Clean Energy Act – Community Solar Pilot Rules

Dear Secretary Camacho-Welch:

Public Service Enterprise Group, Inc. (“PSEG” or the “Company”), on behalf of affiliates Public Service Electric and Gas Company (“PSE&G”) and PSEG Power LLC (“PSEG Power”), appreciates the opportunity to provide comments in response to the Board of Public Utilities’ (BPU) request for comments on the Community Solar Energy Pilot Program Rules proposed under N.J.A.C. 14:8-9 (“Proposed Rules”).

PSEG has a long history of partnership with the state and aligning its interests with those of New Jersey. This partnership has been instrumental in helping the state achieve several important public policy goals, including making New Jersey a nationally recognized leader in the installation and operation of clean, carbon-free energy technologies. The passage of the Clean Energy Act, along with Governor Murphy’s energy vision and the BPU’s efforts to develop community solar provides a unique opportunity to build on that prior success as we implement a 100% clean energy future accessible to all customers, provide the most public benefit at the lowest cost, and ensure that the benefits of solar (financial and otherwise) are available to customers that previously have not benefitted.

As the Board reviews written comments and evaluates the input that was received at the public hearings held on November 8, 2018, PSEG respectfully request that the Board consider the following.

Public Utilities are Key Partners to Achieving a Successful Community Solar Pilot Program

The aspirations of the Community Solar Energy Pilot are admirable, especially the goal to allocate high percentages of the program to Low-to-Moderate Income (“LMI”) customers and communities. We believe that public utility companies, with their relationships with all customers, are best positioned to effectively serve the goals of the Community Solar Pilot. Accordingly, we believe that the proposed Section 14:8-9.3(c)4 should be modified to permit EDCs to develop, own, or operate community solar projects.

The Clean Energy Act (P.L. 2018, c. 17) requires the Board, after 36 months, to convert the Community Solar Energy Pilot Program to a permanent program with the proviso that “*the board shall adopt rules and regulations for the permanent program that set forth standards for projects owned by electric public utilities, special purpose entities, and nonprofit entities.*” (N.J.S.A. 48:3-87.11 5(f)) This language specifically allows electric public utilities to own community solar facilities and directs the BPU to create standards governing EDC conduct. The draft rulemaking language that prohibits EDC participation in the pilot program is inconsistent with the statute and should be revised to allow the EDCs to develop, own, and operate community solar projects in the pilot program.

The pilot program is the only opportunity that the BPU has to design and test the standards for projects prior to the transition to the permanent program. Inasmuch as electric public utilities are permitted to participate under the permanent program, barring their participation in the Community Solar Energy Pilot Program will put public utilities on unequal footing with all other market participants in developing innovative, cost-effective projects that are critical to the achievement of the Governor’s goals. By aligning the Proposed Rules with the statute and including EDCs in the pilot program, the utilities can develop and implement best practices and lessons learned on a par with other participants prior to the launch of the permanent program. Further, the BPU would eliminate the risk of creating a market dynamic in the permanent program that otherwise would not have been tested in the pilot program, gain a full understanding of the market capabilities – a market that includes EDCs – and develop lessons-learned that would inform the permanent program. This would ensure the most cost-effective, seamless, and user-friendly transition to the permanent program.

We propose that Section 14:8-9.3 (c) 4 of the Proposed Rules be deleted or at a minimum be modified to read: “*Board staff will not accept applications for EDCs to develop, own, or operate community solar projects beyond the billing and other responsibilities set forth in this subchapter, absent a Board Order or Board-approved application process setting forth the standards for EDC participation in the community solar pilot program.*” This change would permit the electric public utilities to participate in the pilot program, subject to the same application requirements as any other industry participant, with the goal to determine best practices to serve our customers. This change also maintains the original language proposed by BPU staff, gives the Board flexibility to issue standards governing EDC participation during the pilot period, and allows the Board to issue such standards via an Order or Application without undertaking a new rulemaking.

Utilities Can Most Successfully Serve LMI Program Goals

PSEG is aligned with the state and many stakeholders that want to see the Low and Moderate Income portion of the Pilot Program be a national model that ensures significant benefits are passed along to the LMI participants. We commend the goal to enable access to solar energy to electric utility customers that previously had been unable to participate in solar energy due to a variety of barriers, and support the requirement that “at least 40 percent of the annual capacity limit shall be allocated to LMI projects.”

The comments from the community solar developers during the stakeholder process have been clear that the 40% LMI target for the program will be challenging. The Board heard from developers that the 40% LMI carve-out should be reduced, since financiers and lenders are not ready to finance LMI projects, the risks of LMI subscriber credit are too great, and the uncertainty and costs to acquire LMI subscribers are too high. The developers argue they need higher, additional incentives to increase their returns to compensate for these risks, plus seek to transfer their subscription collection risks to the electric utilities. They say without this risk transfer and additional incentives, no LMI projects will be built.

In fact, the more cost-effective, lower risk path forward would be to allow electric utilities to leverage their existing relationships with customers currently underserved in this market to develop and own LMI projects. There is a substantial market of LMI customers to serve in PSE&G’s service territory that meet the definition of Low-Income Household, with adjusted gross income at or below 200 percent of the Federal poverty level, and customers that meet the definition of Moderate-Income Household, with a total gross annual household income in excess of 50 percent, but less than 80 percent of the median income, as determined by annual HUD income limits.

PSEG welcomes partnering with the BPU, the state, cities and municipalities, and other stakeholders to design community solar programs for these customers to help them achieve demonstrable savings and provide access to other utilities services, such as home comfort programs and energy efficiency measures. This approach to LMI community solar would build upon PSE&G’s commitment and successful history of serving LMI customer needs through its Multifamily Energy Efficiency and Comfort Partner programs. These have been very successful programs:

- Under its Multifamily programs, PSE&G has completed 66 projects representing almost 17,000 multifamily units, many of which are low income senior customers, plus another 22 projects in development for another 8,000 resident units.
- Under the Comfort Partners program, PSE&G has provided energy efficiency services to approximately 70,000 low income customers since 2001.

Amending the Community Solar Energy Pilot rules to permit EDC participation enables the utilities to work with the BPU and other stakeholders to create programs that support the state’s goals for solar development with social impact and environmental justice benefits by delivering meaningful savings to LMI customers.

Credits and Compensation Should be Fair

Participant Credits

Section 14:8-9.7(a)-(c) of the Proposed Rules sets the value of the participant credit at the retail rate used for net metering, inclusive of supply and delivery charges, which credit is not to be applied to fixed, non-by-passable charges. PSEG agrees, in part, with the language of this section of the Proposed Rules in that the participant credit should be based on the energy portion of the customer's bill. However, PSEG continues to believe that the avoided wholesale energy cost is the most appropriate participant credit that correctly values the energy delivered from a community solar project to the grid. Using the retail rate is an implicit subsidy, in addition to the SREC and/or other subsidies, that is not transparent in the Board's valuation of solar, or to customers who either participate or bear the burden of the cross-subsidy. The proposed crediting mechanism is further complicated by the fact that PSE&G will continue to incur costs related to the delivery and supply credits given to participants in the community solar program.

However, if the Board adopts its Proposed Rules, PSEG recommends that the participant credit be calculated based upon the following principles:

1. Consistent with the Proposed Rules, EDCs must retain the option of crediting participants on a dollar basis based on each participant's share of the project's monthly kWh and each participant's corresponding rate class.
2. Since the EDCs do not have Third Party Supplier (TPS) pricing information, there should be no credit for supply related costs for participants being served by a TPS
3. "Fixed, non-by-passable charges" should not be included in the participant credit calculation, including the service charge, capacity and transmission obligation charges, demand charges, and all non-by-passable clauses or riders such as, but not limited to, the SBC, GPRC, NGC and the pending ZEC.

Even with these proposed clarifications, certain rate class structure and the calculation of the participant credit need to be addressed such as monthly volumetric differentiated rates (e.g., different kWh rates for 0 to 600 kWh, and > 600 kWh) and time-of-use rates.

Unsubscribed Energy Credits

Section 14:8-9.7(h) of the Proposed Rules allows any generation delivered to the grid that has not been allocated to a subscriber to be "banked" by the project operator in a dedicated project EDC account for a period of up to 12 months, and then distributed by the project operator to any new or existing subscriber, at full retail crediting, during that 12-month period. This "banking" of credits to be distributed to customers who sign up at a later point in time is not reasonable from a utility billing or settlement perspective. Further, this "banking" provision does not fairly address the value of the "unsubscribed" energy and should be modified. If it is the Board's intent for community projects to not bear the loss of unsubscribed energy, then this energy should be compensated at the wholesale rate, the same rate used to compensate community solar project owners for excess credits at the end of the 12-month period. This is consistent with many of the stakeholder comments submitted on July 31st regarding compensation of unsubscribed energy.

We propose Section 14:8-9.7(h) of the Proposed Rules be replaced with the following language: *“Any generation delivered to the grid that has not been allocated to a subscriber shall be compensated at the EDC’s or BGS provider’s avoided cost of wholesale power, calculated at the nearest node to the point of delivery of the community solar project.”*

Utility Business Interests Should be Aligned with Making Community Solar a Success

The Board should clarify the cost recovery mechanism set forth in the draft rulemaking: *“Electric distribution companies shall, subject to review and approval by the Board, be entitled to full cost recovery for any incremental costs incurred in implementation, compliance, and administration of the Pilot Program. EDCs may not set a separate fee or surcharge for community solar projects unless explicitly authorized to do so by the Board.”* N.J.A.C. 14 8-9.3 (11)(d). The rules should be explicit that the incremental costs of community solar include the full value of the credit provided by the EDCs under the program, which should be fully recoverable by the EDCs.

The proposed financial benefits to customers that subscribe to the community solar program are clear – participants will receive a bill credit based on the methodology outlined above, while the actual value of the energy produced by a community solar project is the wholesale price of electricity, since the energy is not actually delivered at the subscriber’s point of consumption on the distribution system. This pricing differential is the key incentive that the state is proposing to both subscribers and developers in its program design. As community solar is a means to bring the benefits of solar to all customers, the participant credit incentive should be supported by all customers, not supported solely by a reduction in EDC billing which would inappropriately result in an earnings loss and misalign EDC objectives with State Policy.

Allowing EDCs to recover the full value of the participant credit fairly recognizes that community solar is different than “normal” net metering, in that it avails solar to all customers. Further, the community solar crediting is purely financial, and is not based on physical production of a system interconnected to a customer’s meter, reducing the participant’s specific consumption from the grid, as in “normal” net metering. The related treatment of cost recovery of this crediting should be treated differently. Of note, this position was supported by a number of stakeholders in the comments submitted on July 31st. Lastly, allowing EDCs to recover the full value of the credit better aligns the treatment of EDCs with the objectives of the Community Solar Pilot.

PSEG proposes that the aggregated dollar-credits applied to subscribers’ bills, as well as any payments made to the host facility by the EDC for any unsubscribed allocation of the system capacity, be recoverable through the Non-Utility Generation Charge (NGC) or similar EDC mechanisms. This method of cost recovery is consistent with the treatment of other solar facilities that currently sell their output to PSE&G under its PEP tariff-based purchase schedule, and would also provide a clear accounting of the total dollars associated with the credits. Additionally, as PSE&G proposes that the host facility be directly connected to the distribution system, such a system will effectively reduce losses on PSE&G’s distribution system, which should benefit all customers’ supply bills (and serve as an offset to the costs recovered through the NGC).

In order to avoid any confusion or improper treatment of costs, the Board should issue an Order further clarifying this cost recovery section, working with the EDCs to determine what mechanisms for recovery work best for each utility. This will allow EDCs to properly record the costs associated with the pilot program and the permanent program, as well as assure timely recovery of those costs.

Application Process and Program Mechanics Should be Logical, Efficient and Cost Effective

The Proposed Rules (N.J.A.C. 14:8-9.9) do not specify the timing of EDC interconnection engineering review of each proposed solar project. The rulemaking should state that the projects should be submitted for EDC interconnection review based on the ranked order identified by the BPU in the competitive application process. This additional language to the rulemaking will help to avoid the following: 1) unnecessary costs and time for the EDC engineering teams to review proposals that are not accepted or lowly ranked by the BPU; and 2) the potential result of a higher ranked project receiving a higher interconnection cost simply because it is later in the queue.

PSE&G will follow normal interconnection procedures, including collecting fees and charges for system studies, equipment and upgrades for any community solar projects submitted for EDC interconnection review.

Lastly, there should be continued dialogue between the Board, EDCs and other stakeholders to determine the most logical, efficient and cost effective mechanics regarding the metering, billing system upgrades, reporting and billing of the projects. Only in a collaborative way that recognizes the system challenges and investments that these requirements will create, can these new processes be established effectively.

Once again, PSEG appreciates the opportunity to provide these comments. We thank Staff for its consideration of our submission.

Respectfully submitted,



Joseph A. Shea, Jr.
PSEG Services Corporation
80 Park Plaza, T-5
Newark, NJ 07102

Comments on behalf of Radiant Energy, LLC
to BPU Community Solar Energy Pilot Program Proposed Rules

My name is Lloyd Levenson. I am Chief Executive Officer of Cooper Levenson, Attorneys at Law. I represent the private owner of Price's Landfill in Atlantic County, New Jersey. This landfill is a listed Superfund site and is currently undergoing extensive groundwater remediation. Region II of the United States Environmental Protection Agency (US EPA) and the New Jersey Department of Environmental Protection (NJDEP), under the provisions of a Superfund Agreement, have joint responsibilities for the remediation and operations and maintenance of this landfill.

EPA notified the owner of the property that the landfill, once capped, would be available for solar development and that this would be the only viable commercial use of the property for the subsequent projected 30 years of remediation.

My firm also represents Radiant Energy, a solar development organization which has a ground lease for those portions of the site determined by EPA and NJDEP to be available for solar development.

It is the intention of Radiant Energy to apply under the proposed New Jersey Board of Public Utilities (NJ BPU) Community Solar Pilot Program, whose proposed regulations are the subject of today's public hearing.

One comment to the Proposed Rules concerns the issue of how these proposed NJ BPU regulations define an "existing solar development".

As provided in the current version of the rules at N.J.A.C. 14:8-9.2, an:

"Existing solar project," for the purposes of the Community Solar Energy Pilot Program, refers to a solar project having begun operation and/or been approved by the Board for connection to the distribution system prior to January 1, 2019."

As indicated in the proposed rules, an "existing solar project" is precluded from participation in this program.

Radiant Energy has not "begun operation". It has not begun site work, or construction. It has not obtained all necessary permits and approvals to begin construction. It does however, have an NJ BPU Subsection (t) approval. This approval states:

"Projects certified under this subsection shall be considered "connected to the distribution system" [and] shall not require such designation by the Board."

It is not clear that the definition of an “existing solar project” under these proposed Community Solar Pilot Program Rules intended that such language in a Subsection (t) Order would define a development as an existing solar project. When the proposed rule defines an existing solar project as being one in operation, there is clarity and we do not object to that portion of the definition. However, where the definition goes on to say “and/or has been approved by the Board for interconnection to the distribution system” we do object for the following reasons:

1. Solar projects, such as Radiant Energy’s, can have an approved Subsection (t) Order, but be nowhere near having all approvals necessary to begin construction, let alone be in operation.
2. The proposed Community Solar Pilot Program Rules should acknowledge that obtaining all necessary approvals for a mixed grid supply and NEM solar project on a Superfund site undergoing active ground-water remediation (despite being supported by state and federal public policies), is far more complex, time-consuming and expensive than any other solar project. Radiant Energy needs to interface with the US EPA, the Federal Energy Regulatory Commission (FERC), the Defense Logistics Agency (DLA), the U.S. Army Corps of Engineers, the NJ BPU, the NJDEP, the NJ Department of Treasury, Egg Harbor Township, the City of Pleasantville, Atlantic County and Atlantic City Electric. The mere fact that a solar developer received an NJ BPU Subsection (t) Order, without securing many of the other required approvals, and without having even begun construction, should not disqualify this project from participation in this program just because it has Subsection (t) approval.

For the above reasons, we respectfully suggest the following alternate definition of an “existing solar project”:

“Existing solar project,” for the purposes of the Community Solar Energy Pilot Program, refers to a solar project having begun operation and/or begun construction, prior to January 1, 2019.”

Our second comment concerns the proposed NJ BPU Community Solar Pilot Program rules which contemplate the ability of NJ BPU to provide additional financial incentives to selected participants. Radiant Energy endorses this concept and respectfully suggests that such financial incentives recognize those solar projects located on Superfund sites and those that exceed the minimum target Low- and Moderate-Income (LMI) subscriber participation of 40% of project generated solar energy. The reason for this recommendation is that solar projects located on Superfund sites with LMI subscribers incur pre-development and development costs not experienced by rooftop or ground mounted projects that are not located on such environmentally sensitive sites. Such incentives could include community solar rebates based

upon the magnitude of renewable energy provided in kWh or MW (AC).

Thank you for the opportunity to submit these comments.

Respectfully Submitted,

BY: Lloyd D. Levenson, Esquire
Attorney for Radiant Energy, LLC
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Atlantic City, NJ 08401
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PHIL MURPHY
Governor

SHEILA OLIVER
Lt. Governor

STEFANIE A. BRAND
Director

November 30, 2018

VIA ELECTRONIC MAIL (rule.comments@bpu.nj.gov)
AND HAND-DELIVERED

The Honorable Aida Camacho-Welch, Secretary
New Jersey Board of Public Utilities
ATTN: BPU Docket Number: QO18060646
44 S. Clinton Avenue, 3rd Floor, Suite 314
Trenton, New Jersey 08625-0350

**Re: I/M/O Community Solar Energy Pilot Program Rules
Proposed New Rules: N.J.A.C. 14:8-9
BPU Docket No. QO18060646
Proposal No.: PRN 2018-090**

Dear Secretary Camacho-Welch:

Please accept this letter as the comments of the New Jersey Division of Rate Counsel ("Rate Counsel") regarding the above-referenced rulemaking. Enclosed is one additional copy. Please date stamp the copy as "filed" and return to our courier. Thank you for your consideration and attention to this matter.

INTRODUCTION

The above-referenced rule proposal has been issued by the New Jersey Board of Public Utilities ("BPU" or "Board") to implement Section 5 of P.L. 2018, c. 17 (the "Clean Energy Act"), N.J.S.A. 48:3-87.11, which provides for the establishment of a "Community Solar Energy Pilot Program" to allow electric utility customers to participate in and receive bill credits from

solar projects that are located remotely from the properties where they receive electric service. The purpose of the pilot, as stated in the legislation, is to facilitate the implementation of a permanent community solar program within 36 months of the adoption of the rules establishing the pilot program. N.J.S.A. 48:3-87.11(f). The legislatively established goal for the permanent program is “at least 50 megawatts of solar energy projects per year, taking into account any changes in the SREC program;” N.J.S.A. 48:3(f)(2).

Instead of establishing a pilot program that would provide necessary experience and groundwork for the development and implementation of the permanent program, the proposed rules would mandate a full-scale program with a target capacity starting at 75 megawatts in the initial year of the pilot, and potentially increasing in the succeeding two years. The purpose of a pilot program is to provide information and feedback on program design, market responses and lessons learned to inform the development of a more permanent program down the road. A full-scale roll-out of community solar does not serve this purpose. Further, the proposed rules do not provide for the data collection, reporting and evaluation activities that are essential component of a pilot.

The Board also must be cognizant of the fact that New Jersey’s solar energy market is in transition. The Clean Energy Act states that the Board must adopt rules to close its current Solar Renewable Energy Certificate (“SREC”) program to new applicants upon the attainment of 5.1 percent of retail sales, and no later than June 1, 2021, and must also develop a modified or new program to replace the current program. N.J.S.A. 48:3-87(d)(2). At this time, the Board is in the process of making the decisions that will shape New Jersey’s future solar energy market. Based on input provided in the stakeholder proceeding that the Board is currently conducting to consider how the transition will be achieved, it appears likely that the current SREC market will

close during the first quarter of calendar year 2019, and that thereafter an interim program will be in effect until a permanent replacement program can be developed and implemented. See Comments on behalf of New Jersey League of Conservation Voters et al. regarding New Jersey's Solar Market Transition (Nov. 2, 2018). Implementation of a large-scale program during the transition could disrupt the State's solar energy market and complicate the transition.

Further, the rules expose non-participating ratepayers to rate increases to pay for incremental costs incurred by New Jersey's electric distribution companies ("EDCs"), including the costs of providing above-market "retail" net metering credits, system upgrades, advanced meters, information technology upgrades, and incentive "adders" for specific types of projects. The EDCs may also seek to recover claimed "lost revenues."

The Clean Energy Act establishes caps on the rate increases that may be incurred to meet the State's goal. N.J.S.A. 48:3-87 (d) (2) requires that 50% of the kilowatt-hours of electricity sold in the State to come from Class I renewable energy sources, and limits the cost of achieving that goal to nine percent of the total amount paid for electricity by all consumers in New Jersey through energy year 2020 and seven percent of the total amount paid for electricity by all consumers in New Jersey thereafter. Achieving the goal within the cost cap will be challenging, as the need to compensate the owners of "legacy" solar projects will consume a large share of the available budget. Accordingly, it is important for the Board to carefully evaluate the costs of all initiatives to incentivize solar development. The rule proposal does not quantify or even acknowledge the potential costs of the program envisioned by the Board, or its impact on the State's ability to achieve its overall clean energy goals. A smaller scale pilot will help the Board in evaluating and managing the costs of community solar.

For these reasons, the Board should not implement the full-scale program contemplated in the rule proposal. The pilot program should be limited to projects totaling no more than 16 megawatts (“MW”) per year, for a total of 48 MW. Further, these projects should be limited to those that serve low-income and moderate-income households, and communities that have been historically disproportionately affected by the health and other impacts of environmental degradation. The limited resources available for the pilot program should be used to assist households and communities that face the steepest obstacles to participation in the solar market, and that have experienced the greatest adverse impacts from the State’s dependence on fossil fuels.

It will also be important to structure the program to allow competitive forces to minimize costs. Rate Counsel supports the Board’s decision to select projects through a competitive process, rather than on a “first come, first serve” basis. However, it is unclear whether the application process provided in the rules will result in the selection of projects that will accomplish the State’s goals at the lowest cost. Since the proposed rules do not specify any of the criteria the Board proposes to use to select projects, it is unclear to what extent cost effectiveness will be considered. The rules should be amended to provide for the selection of projects through an RFP process. The Board should not select projects based on multiple factors that involve subjective judgments, and should not establish “adders” or additional incentives for specific project characteristics. Instead, the Board should specify the relevant requirements, so that the market can find the most cost-effective projects.

Rate Counsel’s comments on specific provisions of the proposed rules are set forth below.

COMMENTS ON REQUIRED IMPACT ANALYSES

Economic Impact

The proposed new rules will provide the opportunity for the development of a new market for solar generation. In conformance with the Clean Energy Act, the proposed rules establish a value of the credit on each subscriber's bill. This value, set at retail rate net metering minus fixed, non-by-passable charges, has been selected based on reasonable and prudent estimates of the cost of community solar project development. Additionally, the proposed credit and annual capacity set forth in this subchapter are within the scope of the existing solar Renewable Portfolio Standard (RPS). The majority of those costs and impacts have already been accounted for in previous rulemaking proceedings. The Community Solar Energy Pilot Program may be subject to changes to existing solar compensation mechanisms (including, but not limited to, Solar Renewable Energy Certificates (SRECs) and the RPS) as they may be modified. Finally, the three-year pilot program will generate actual market information and data that will be used to inform the development of the full-scale Community Solar Energy Program, including an evaluation of the value of the bill credit.

Comments:

This statement fails to provide the expected economic impact of the proposed rules. Based on the above statement, the Board has not provided any quantitative analysis because the “majority” of the costs and impacts of the proposed rules “have already been accounted for in previous rulemaking proceedings.” However, this is not the case. The rules as proposed would create several categories of costs that would presumptively be paid by non-participating ratepayers. In addition to rate increases to cover the costs of above-market net metering credits, the rules create a presumption that non-participating ratepayers would pay for -any incremental costs incurred by the EDCs to accommodate community solar projects, as well as, specifically, the costs of installing advanced meters, the implementation of “Green Button” or similar data sharing, administration of the bill credits, and “adders” or additional incentives the Board may establish for specific types of projects.

All of these costs would have an impact on the State’s economy. When utility rates are increased to pay for renewable energy initiatives, there is a corresponding reduction of economic activity in other sectors of the economy. A complete analysis of the economic impact of the proposal must consider both the positive impacts mentioned in the above-quoted statement and the negative impact that resulting from the rate increases that are contemplated in the proposal.

The Board’s economic impact statement is also deficient because it does not consider the potential impact of the proposed rules on the State’s ability to meet its overall renewable energy goals within the cost caps established in the Clean Energy Act. Following the closure of the current SREC program to new applicants, existing “legacy” projects will continue to receive SRECs for the remainder of their 15-year SREC eligibility period. The cost cap must accommodate both the costs of compensating legacy projects for their SRECs and the costs of new renewable energy development.

At current retail sales levels and SREC prices, the funds needed to cover the cost of SRECs generated by legacy projects will meet, or even exceed the Clean Energy Act cost cap. Assuming total retail sales of 75 million MWh and an average retail rate of \$0.13 per kWh, the cost cap will be about \$900 million for the first three years and \$700 million for each year after. Based on SREC prices at \$212 per MWh, the total dollar amount needed to fund the SREC program at 5.1 percent would be over \$800 million, or 90 percent of the cap for Energy Year 2019 through Energy Year 2021. This leaves very little, if any, funds remaining for new programs and even exceeds the cost cap of \$700 million for EY22 and beyond.

Current SREC Program Estimated Cost		
Total Retail Sales (MWh)	(a)	75,000,000
Solar RPS (%)	(b)	5.1%
Solar RPS (MWh)	(c) = (a)*(b)	3,825,000
Current SREC Price (\$/MWh)	(d)	\$ 212.00
Total SREC Cost (million \$)	(e) = (c)*(d)	810.9

Thus, the Board must reduce the amounts paid for SRECs from legacy projects to create a budget for the costs of new renewable energy initiatives that will affect utility rates during and after energy year 2022. The additional costs for community solar that are contemplated in the proposed rules will be included in that budget. A quantification of those costs is essential in order to establish the budget for the pilot and permanent community solar programs, and the economic impact of these rules.

Rate Counsel notes also that the Board has not supported the statement that one of costs of the program, the net metering credit, “has been selected based on reasonable and prudent estimates of the cost of community solar project development.” The rule proposal contains no analysis of the “cost of community solar project development” nor the level of the net metering credit required to cover such costs.

Jobs Impact

The proposed new rules are designed to operate within, and expand, the solar market in New Jersey, by enabling access to solar energy for customers unable to benefit from traditional solar. The proposed new rules are designed to operate within the existing solar RPS, and, thus, contribute to the associated impacts on jobs in the development, construction, and operation of solar facilities, and in the sales and management of community solar subscriptions.

Comments:

The jobs impact statement is flawed because it does not consider the impact of the rate increase that would result from the proposed rules. When rates and other costs increase to pay for clean energy investments such as community solar, there is a corresponding reduction of economic activity in other sectors of the economy, and a reduction in jobs in those sectors. Although the lost jobs are not as easily identifiable as the created jobs, they can be estimated

using accepted economic models. A complete jobs impact analysis must consider both positive and negative jobs.

COMMENTS ON PROPOSED RULE PROVISIONS

N.J.A.C. 14:8-9.2 Definitions

“Existing solar project”

“Existing solar project,” for the purposes of the Community Solar Energy Pilot Program, refers to a solar project having begun operation and/or been approved by the Board for connection to the distribution system prior to January 1, 2019.

Comments:

Rate Counsel supports this definition of “existing solar project.” This definition properly excludes projects that have already been deemed financeable without the net metering credits available to community solar projects.

“Low-income household” and “Moderate-income household”

“Low-income household” means a household with adjusted gross income at or below 200 percent of the Federal poverty level.

“Moderate-income household” means a household with a total gross annual household income in excess of 50 percent, but less than 80 percent of the median income, as determined by annual HUD income limits.

Comments:

Under the definitions as proposed, the upper end of the “low-income” range is not the same as the lower end of the “moderate-income” range. The two definitions should be coordinated so that there is no gap or overlap between the two definitions. Also, the term “LMI” is used in the proposed rules but is not defined. A definition of this term should be added.

“Service area”

“Service area” means the entire geographic area over which a gas or electric light, heat or power company has a privilege or franchise granted by the State or by any political subdivision of the State, in accordance with the provision so N.J.S.A. 48:2-13 and 14.

Comments: This definition is inconsistent with the text of the rules, which uses the term “EDC area.”

“Solar panel”

“Solar panel” shall have the same meaning as set forth in P.L. 2018, c.17.

Comments:

This definition is inconsistent with the text of the rules, which uses the term “PV panel.”

“Telemarketing sales call” and “Unsolicited advertisement”

“Telemarketing sales call” shall have the same meaning as set forth in N.J.A.C. 14:4-7.2.

“Unsolicited advertisement” shall have the same meaning as set forth in N.J.A.C. 14:4-7.2.

Comments:

The referenced definitions contained in N.J.A.C. 14:4-7.2 refer specifically to sales calls and advertising related to the competitive market for electric generation and gas supply. These definitions should be re-written so that they apply to the community solar market. In addition, the term “telemarketing sales call” does not appear elsewhere in the text of the proposed rules, which uses the term “telemarketing.”

Unused definitions

Comments:

The following definitions do not appear to be needed, as they are not used elsewhere in the draft rules:

“Customer information”

“Good utility practice”

“Historic fill”

“Regulated entity”

“Regulated service”

“Renewable Portfolio Standard” or “RPS”

“Sanitary landfill”

“Solar power”

N.J.A.C. 14:8-9.3 Pilot Program Structure

Subsection (c)

For each of the three program years, Board staff shall initiate an annual application process pursuant to the Clean Energy Act as follows:

- 1. Board staff shall present to the Board for approval the application for participation in the Pilot Program and the criteria for evaluation of said applications.*
- 2. Board staff shall open applications for the Pilot Program for a length of time to be enacted at the official approval of the application.*
- 3. Following the close of the application period, Board staff will evaluate and score projects based on criteria identified in the application. Only applications that are substantively complete by the close of the application*

period will be considered for participation in the Pilot Program for that program year.

- 4. Board staff will not accept applications for EDCs to develop, own, or operate community solar projects beyond the billing and other responsibilities set forth in this subchapter.*
- 5. Projects will be presented to the Board for approval for participation in the Pilot Program beginning with the highest-scored project, and until the allocated program capacity for that year is filled.*
- 6. Board staff may reject applications that are substantively incomplete at the close of the application period, that are not in compliance with this subchapter, or that do not meet a minimum standard for selection, as set forth in the application. The Board reserves the right to request additional or modified information to complete an application.*
- 7. Approved projects are expected to begin construction within six months of their approval by the Board. Board staff may approve one or more two-month extensions if substantial progress is shown towards beginning construction within the initial six month-period, as determined upon review by Board staff based on the specific circumstances of the project.*
- 8. Approved projects are expected to become fully operational (up to and including having subscribers receive bill credits for their subscription to the project) within 12 months of their approval by the Board. Board staff may approve one or more six-month extensions if substantial progress is demonstrated towards becoming fully operational within the initial 12-month period, as determined upon review by Board staff based on the specific circumstances of the project.*
- 9. Board staff may initiate more than one application period per Program Year.*
- 10. The application periods for PY2 and PY3 may be opened as early as 90 days prior to the end of the previous program year.*
- 11. In the approval process, Board staff may determine that it is appropriate to limit the number of projects approved for a single developer in a program year, in order to promote a diverse pool of developers.*

Comments:

Rate Counsel supports the Board's proposal to use a competitive process to select community solar projects. However, the details of the application and subsequent scoring process are not specified in the proposed rules, making it nearly impossible for stakeholders to evaluate the intention and process in these provisions. The Board should issue a detailed proposal for public comment.

As discussed elsewhere in these comments, it is important that the Community Solar program be conducted in the most cost-effective manner possible. In order to accomplish this, a competitive RFP process should be used to select projects for both the pilot and permanent

programs. A competitive RFP process for the pilot program will provide the necessary groundwork and experience for designing an RFP process for the permanent program. In addition, it is important to focus on cost-effectiveness for the pilot program to provide the basis for budgeting for the costs of a permanent Community Solar program. A focus on cost-effectiveness will help to ensure that this program and other renewable energy initiatives are not limited by the payment of unnecessarily high incentives to some projects.

Rate Counsel also notes the absence of provisions for data collection and program evaluation in this proposed rule. Data collection as part of a pilot program is critical so that the Board and stakeholders can track program development and identify both successes and/or failures of the program. The RFPs issued for community solar projects should include sufficient data collection requirements to support the Board's evaluation activities. .

Rate Counsel supports the Board's proposal to exclude the State's EDCs from participating in this program beyond the billing and other responsibilities specified in the proposed rules. Although the Clean Energy Act provides for EDC participation in the permanent Community Solar program, this provision does not appear in connection with the pilot program. Allowing participation in the pilot program by EDCs that can receive a return on their investments from captive customers would hinder the Board's ability to use competitive market forces to identify the lowest-cost options for community solar.

Subsection (d)

Electric distribution companies shall, subject to review and approval by the Board, be entitled to full cost recovery for any incremental costs incurred in implementation, compliance, and administration of the Pilot Program. EDCs may not set a separate fee or surcharge for community solar projects unless explicitly authorized to do so by the Board.

Comments:

This appears to be an open-ended provision guaranteeing the EDCs cost recovery for incremental costs coupled with the presumption that those costs will fall on all ratepayers. Any allowable incremental EDC costs should be defined in the rules, as should a process for challenging these recoverable charges. Incremental costs associated with development and interconnection should be the responsibility of the developer. This would include a variety of administrative and other costs, including advanced metering (as required in subsection 14:8-9.7(j)); any Green Button capability costs (as required in subsection 14:8-9.7(k)), any EDC interconnection costs and any EDC billing and collection fees (as outlined in subsections 14:8-9.7(l) through (p)). Any costs incurred by ratepayers and/or EDCs would only reduce the funds left available under the Clean Energy Act cost cap.

Additionally, EDCs and project developers should be required to work together to identify areas of constraint as well as areas where capacity and/or resiliency may be needed and where projects may provide the highest value. Rate Counsel suggests this be part of the regulations.

The Board should reject suggestions presented during the public hearings held in this rulemaking proceeding that these rules establish special mechanisms for the recovery of "lost revenues" by the State's electric distribution utilities. The utilities already have the ability to file

for base rate increases in the event their revenues are insufficient to cover their cost of service, including a reasonable return on their investments. The utilities currently benefit from a number of special rate mechanisms that allow them to increase rates outside of a base rate proceeding. There has been no showing that additional mechanisms are necessary to provide the utilities with an opportunity to cover their costs and earn a fair rate of return. Such mechanisms would be unreasonable for ratepayers, and would further reduce the resources available under the Clean Energy Act cost cap to meet the State's renewable energy goals.

N.J.A.C. 14:8-9.4 Pilot Program Capacity Limits

Subsections (a) and (b)

- (a) The annual capacity limit for all community solar projects approved for participation in the Pilot Program during PY1 shall not exceed 75 MW, defined as the sum of the nameplate capacity in DC rating of all PV panels in projects approved for participation.*
- (b) No later than 30 days prior to the start of PY2 and PY3, the Board shall set by Board Order an annual capacity limit for community solar projects approved for participation in the Pilot Program during PY2 and PY3. The annual capacity limit for PY2 and PY3 shall be at least 75 MW per program year, defined as the sum of the nameplate capacity in DC rating of all PV panels in projects approved for participation.*

Comments:

The above provisions would establish a capacity cap of 75 MW for the first program year, with increases in unspecified amounts for the second and third program years. The first-year programs size represents over 25 percent of the solar capacity that was installed on average over each of the last three energy years, EY2016 through 2018. In addition, these caps exceed the 50 MW per year target provided in the Clean Energy Act for the permanent program. N.J.S.A. 48:3-87.11(f)(2). The proposed caps are too high for New Jersey's community solar pilot.

The purpose of a pilot program is to provide information and feedback on program design, market responses and lessons learned; and to give policy makers an opportunity to adjust the program structure as needed. A cap is a necessary component of any pilot program and should allow for enough projects to provide information and feedback, but not so many that the program becomes overwhelmed before it can be evaluated for problems or needed changes. While an uncapped program may allow the market to determine the scale of deployment it may also cause implementation issues if growth exceeds expectations. For instance, uncapped programs in Minnesota and New York had unexpectedly high numbers of applicants shortly after the introduction of their programs.

Program caps vary by state and experience. In Connecticut, a 2015 law established a two-year pilot program for shared clean energy facilities (including community solar), authorizing a competitive solicitation for projects totaling no more than 6 MW. Capacity in the program was split between service territories: 4 MW in the Eversource service territory; and 2 MW in the United Illuminating service territory. This pilot program was initiated after a study

on the topic of shared clean energy facilities had been completed by the state. Other states are limited by pre-existing caps on net metering, such as the 1 MW cap in New Hampshire and a 30 MW cap in Rhode Island. Virginia has a 40 MW cap on community solar but has required each investor-owned utility to develop its own pilot program. In Maryland, the Public Service Commission is piloting a community solar program with three program caps totaling approximately 193 MW over three years of which 30% is allocated for small projects under 500 kW, 40% is allocated for larger projects between 500 kW and 2 MW (the maximum allowable project size), and 30% is allocated for projects that primarily serve low- and moderate-income households.

The Board should take a cautious approach with the community solar pilot program. As previously discussed, New Jersey's solar market is undergoing a major transition. It is unclear how this pilot program and the subsequent permanent community solar program will fit in with the ongoing changes in the SREC program and its imminent closure. Specifically, it is unclear what value SRECs generated in the community solar pilot program will receive.

More importantly, the costs of this program, including the compensation provided for community solar projects under the current SREC program and the successor program, will be subject to the cost cap established under the Clean Energy Act. Given the range of pilot programs in other states, and the current status of New Jersey's solar energy market, the pilot program capacity limits should be at the lower end of the range of the caps in effect in other states. Thus, Rate Counsel recommends a program cap of no more than five percent of recent annual installations, or about 16 MW for each of the three years of the pilot program, for a total of 48 MW.

Further, the pilot program should be focused on projects that serve low-income and moderate-income utility consumers, and projects that benefit "environmental justice" communities, that is, communities that have historically been disproportionately affected by air, water and soil pollution and other impacts of environmental degradation. The objective of community solar is to make the benefits of solar energy available to those for whom solar energy is presently inaccessible. In view of the limited resources available for the pilot program, those resources should be devoted to customers facing the greatest obstacles to access, and those who have historically sustained the most harm from the State's reliance on fossil fuels.

Rate Counsel agrees that the annual capacity limit for all community solar projects be defined as the sum of the nameplate capacity in DC rating of all PV panels in projects approved for participation. In the public hearings held in this rulemaking proceeding there was some discussion about the possibility of expressing the limit in terms of AC capacity. If the Board chooses to define the limit in terms of AC capacity, it should provide a standard conversion rate to adjust this measure to DC capacity, as this is how solar capacity in the State has been measured since the inception of the Renewable Portfolio Standards and the SREC program.

Subsection (c)

Unallocated capacity at the end of a program year may be reallocated to subsequent program years.

Comments:

The roll-over of unsubscribed capacity is unnecessary. If there is a lack of interest in the program adding more capacity to subsequent program years is likely to be futile. The foregoing comment is consistent with the Board’s experience in the SREC-II financing program, approved by Board Order dated December 18, 2013 in BPU Dkt. Nos. E012090799, E012080750 and E013020118, where there was little interest in unsubscribed capacity that was carried over to subsequent solicitations.

Subsection (d)

The annual capacity limit will be divided among each EDC area based on their average respective percentages of in-State retail electric sales. The anticipated PY1 breakdown is as follows:

1. *Atlantic City Electric* 12.8%
2. *Jersey Central Power & Light* 27.5%
3. *Public Service Electric & Gas* 57.2%
4. *Rockland Electric Co.* 2.5%

Comments:

Rate Counsel agrees with this allocation.

Subsection (e)

At least 40 percent of the annual capacity limit shall be allocated to LMI projects.

Comments:

It is unclear from the rule provision as proposed whether the 40 percent is to be applied to the overall capacity limit, or each EDC’s allocated capacity limit. If the pilot program is focused on low- and moderate-income households and environmental justice communities as recommended by Rate Counsel, this provision will not be necessary.

Subsection (f)

In the application process approved by the Board, the Board may set aside up to an additional 10 percent of the annual capacity limit, in order to test new models for low-income community solar projects including, but not limited to, ownership of community solar assets by low-income subscribers. The application and criteria for these low-income projects shall be developed by the Board.

Comments:

As discussed elsewhere in Rate Counsel’s comments, the pilot program should be limited to 16 MW per year, for a total of 48 MW.

Subsection (g)

The capacity limit for individual community solar pilot projects is set at a maximum of five MWs per project, measured as the sum of the nameplate capacity in DC rating of all PV panels comprising the community solar facility.

Comments:

Based on Rate Counsel's recommended size for the pilot program, the capacity limit for individual projects should be much smaller. Rate Counsel recommends a one MW cap for projects within ACE, JCP&L and PSE&G and a 400,000 kW cap for RECO.

Subsection (h)

Each project shall be equipped with at least one utility grade meter.

Comments:

Assuming this refers to a meter to measure output from the solar generation facility, Rate Counsel agrees with this provision. Rate Counsel suggests that the language be amended to specify the type of meter required.

Subsection (i)

Existing solar projects may not apply to requalify as a community solar project.

Comments:

Rate Counsel agrees with this provision, for the reasons stated in Rate Counsel's comments on the proposed definition of "Existing solar project."

Subsection (j)

Co-location of solar facilities shall be permitted, subject to specific review and permission by the Board through the application process.

Comments:

Rate Counsel agrees with this provision as it may help to facilitate lower-cost market-based community solar projects.

14:8-9.5 Project siting requirements

- (a) Community solar projects may have subscribers anywhere in the EDC service territory in which they are located, unless they have indicated otherwise in their application to participate in the Pilot Program. Projects that have elected, in their application, to place a geographic restriction on the subscribers to the project must maintain that restriction for the lifetime of the Pilot Project. The Board may consider waiving this restriction during the project's operational period upon special request.*
- (b) For the purposes of this section, the location of a subscriber and/or a community solar project is identified by the location of its physical utility meter.*

(c) The following siting restrictions shall apply to community solar projects: °

- 1. Community solar projects shall not be allowed on preserved farmland.*
- 2. Community solar projects shall only be allowed on land designated as Green Acres preserved open space, or on land owned by the New Jersey Department of Environmental Protection, by special approval of the DEP.*

Comments:

Rate Counsel agrees with the provisions in this section. The rules should also include a provision to clarify that these rules do not override local land use restrictions such as limitations on the development of “open space” as defined in this rule proposal. In addition, there should be restrictions on siting solar facilities on forested land, wildlife habitat and other environmentally sensitive locations. Such restrictions should be developed in consultation with the DEP.

14:8-9.6 Subscription requirements

Subsection (f)

The following subscription requirements shall apply:

- 1. Community solar pilot project subscriptions shall not exceed 100 percent of the subscriber’s historic annual usage, calculated over the past 12 months, available at the time of the application. In cases where a 12-month history is not available, the community solar subscriber organization shall estimate, in a commercially reasonable manner, a subscriber’s load based on available history.*
- 2. No single subscriber shall subscribe to more than 40 percent of a community solar project’s total annual net energy.*
- 3. Subscriptions are portable, provided that the subscriber remains within the original EDC service territory and the same geographic limitations (if any) as the community solar pilot project to which they are subscribed. Appropriate notice of the change in residence and/or location must be provided to the EDC, no later than 30 days after the effective date of the change in residence and/or location. In cases of relocation, subscribers are entitled to one revision per move to their subscription size to account for a change in average consumption.*
- 4. Subscriptions may be sold or transferred back to the project owner by subscribers. Subscribers may not sell or transfer a subscription to another party other than the project owner.*
- 5. A subscriber may not participate in more than one community solar project. It is the responsibility of the subscriber organization to verify that their subscribers are not already subscribed to another community solar project.*

Comments:

This section should define whether a subscriber's share is on an energy basis (kWh) or a capacity basis (kW). If the subscriber's share is based on a capacity basis (kW), a method for calculating the subscriber's share based on its historic annual usage should be defined (e.g., capacity factor).

14:8-9.7 Community solar bill credits

Subsections (a) and (b)

- (a) The value of the bill credit shall be set at retail rate net metering, inclusive of supply and delivery charges.*
- (b) The calculation of the value of the bill credit shall remain in conformance with retail rate net metering, as determined in (a) above and shall remain in effect for the life of the project.*

Comments:

The value of the bill credit should be set at the EDC's avoided cost. There is no reason to set the bill credit at any rate higher than the avoided cost, particularly for the pilot program. As stated, the purpose of a pilot program is to provide information and feedback on program design, market responses and lessons learned, and to give policy makers an opportunity to adjust the program structure as needed. If the pilot program generates interest and development using the avoided cost, then it will show that avoided costs are sufficient as an incentive and there is no need to over-incentivize by using the retail rate, or any rate higher than the avoided cost.

At the stakeholder meeting held in this matter there were suggestions to increase bill credits for commercial customers, such as by including demand charges or by crediting multi-family building owners based on hypothetical residential bills for the residents. If the Board chooses to adopt a "retail" bill credit it should not change the current reimbursement methodology for commercial customers which is currently based on specific, measurable usage and tariffed rates. It is unclear how the proposed adjustments would be determined, how they would be made operational, or how they would differ across utilities. There has been no showing that this type of adjustment is required to assure adequate participation in the pilot program. Further, there has been no analysis of the costs and benefits and ratemaking implications of this proposal.

Subsection (c)

The credit may not be applied to fixed, non-by-passable charges.

Comments:

Assuming the Board's intent is to require community solar subscribers to pay the societal benefits charge ("SBC") and other non-bypassable charges, Rate Counsel is in agreement with this provision. The word "fixed" should be deleted from the provision as proposed, to clarify that it is intended to cover charges such as the SBC that vary with the customer's usage.

Subsection (h)

Any generation delivered to the grid that has not been allocated to a subscriber may be “banked” by the project operator in a dedicated project EDC account for a period of up to 12 months. The banked credits may be distributed by the project operator to any new or existing subscriber during that 12-month period, in conformance with subscription requirements set forth in N.J.A.C. 14:8-9.6. At the end of the up to 12-month period, any remaining generation credits shall be compensated at the EDC’s or BGS provider’s avoided cost of wholesale power, calculated at the nearest node to the point of delivery of the community solar project.

Comments:

Rate Counsel agrees that project operators should be allowed to distribute banked credits to new or existing subscribers during that 12-month period. However, developers should not be allowed to carry over unlimited banked credits from year to year, as this would create a disincentive for developers to initially enroll and maintain subscribers for the full capacities of their projects. There should be reasonable limits on year-to-year carryovers to assure that the resources being spent on community solar provide the intended benefits. At the end of each 12-month period, the amount of remaining generation credits should be limited to a specific share of the project. Rate Counsel recommends a 10 percent cap on the total annual project generation that could be carried over at the end of a 12-month period. This limit would provide developers with flexibility and certainty, while providing them with incentives to use the full capacities of their facilities.

Subsection (k)

EDCs must make appropriate data available through Green Button, subject to appropriate privacy protections. If Green Button capabilities are not available or are insufficient, the EDCs will work with Board staff to determine data sharing mechanisms and requirements between the EDCs and developers.

Comments:

This provision may unnecessarily increase costs by requiring the EDCs to implement a Green Button or similar interface. There is no explanation as to why this capability is needed and it could involve significant cost to ratepayers. If the capability is needed, the costs incurred to establish Green Button capabilities should be borne by the developer as noted in Rate Counsel’s comments to Section 14:8-9.3(d).

Subsection (s)

The Board may decide to create one or more additional incentive(s) paid and/or credited to community solar developers for specific types of community solar projects, including, but not limited to, community solar projects located in environmental justice communities and/or LMI projects.

Comments:

Rate Counsel disagrees with this provision. There should be no incentives or adders for specific types of projects. In addition, as written, this appears to give the Board unlimited discretion to implement additional incentives, with no criteria to guide the Board in the exercise of its discretion, except the presumption that the cost of these additional incentives will fall onto ratepayers. Any capacity developed through this program should be market-driven and secured in a least-cost, competitive fashion. As noted by Rate Counsel in subsection 14:8-9.4 (a), (b) and (e), this pilot should be limited in size and focused on LMI subscribers and environmental justice communities. Based on this recommendation, there would be no need for special incentives for these types of projects. In addition, rather than using additional incentives or adders, the Board should allow competitive forces to determine the costs of projects with the relevant characteristics. As stated elsewhere in Rate Counsel's comments, the Board should use an RFP process to select projects. The RFPs should specify the requirements for such projects, and allow competitive forces to determine the costs. Projects with differing characteristics should be solicited through separate RFPs.

14:8-9.8 Low- and moderate-income provisions

(a) A low- and moderate-income subscriber for the purposes of this subchapter is as follows:

- 1. A low-income residential household or a moderate-income residential household as determined by annual adjusted HUD income limits.*
- 2. Affordable housing providers may also qualify as an LMI subscriber for the purposes of a community solar project. In order to do so, they must:*
 - i. Demonstrate in their application to the Board and sign an affidavit that they are passing along specific, substantial, identifiable, and quantifiable long-term benefits to their residents/tenants; and*
 - ii. Sign and submit to the Board, an affidavit indicating that they will pass along said specific, substantial, identifiable, and quantifiable long term benefits to their residents/tenants.*

(b) An LMI community solar pilot project is defined as a community solar pilot project in which a minimum 51 percent of project capacity is subscribed by LMI subscribers.

(c) An LMI community solar project may not accept participation by a non-LMI subscriber if doing so would cause LMI participation in the project to fall below 51 percent of project capacity.

(d) The following LMI eligibility criteria shall be applied:

- 1. If the community solar pilot project is sited on government-owned property, and is serving LMI subscribers living on that property, the government site owner may provide a sworn statement that those*

community solar pilot project subscribers are considered LMI for the purposes of the Pilot Program.

2. *In all other cases, subscribers must be individually qualified as LMI for the purposes of the Pilot Program. The subscriber organization for each project shall receive and review proof of LMI eligibility for each LMI subscriber. Any of the following may be accepted by a subscriber organization as proof of LMI status for individual subscribers:*
 - i. *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.*
3. *Qualification of a household as low-income or moderate-income is required only once per subscription, at the time of execution of the subscription agreement or contract.*
4. *A community solar subscriber whose subscription has, for any reason, ended must re-submit a new application along with LMI qualifying criteria if applicable.*

Comment:

It is not clear whether this proposal reflects any input from communities with low and moderate-income consumers. These proposed rules reflect a set-aside for LMI subscribers, but the provisions do not include suggestions offered by community representatives in the stakeholder process conducted by the Board before these rules were published for comment. The rules should include provisions for projects developed in collaboration with target communities, as it is important to meet the needs of the communities, not the developers.

14:8-9.10 Consumer protection

General

Comments:

Rate Counsel supports the proposal to include detailed consumer protection standards, including oversight by the Board.

Subsection (b)(3)(i)

Contracts must contain a plain-language description of the subscription agreement, including the type of agreement, date of enactment of the contract, duration of the contract, payment and pricing calculations, a good-faith written estimate of the savings a subscriber will earn per year (if applicable) and its disclosed assumptions, a clear description of the billing arrangements, and a complete list of any other fees, including, but not limited to, any applicable transfer and/or cancellation fees, due date for payment, late payment fees and the number of days after which a late payment fee may be applied, and any interest charges. The contract must also contain the specific conditions under which such penalties and/or fees can be imposed.

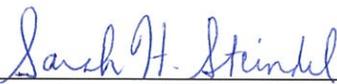
Comments:

This subsection could be improved by the addition of language specifically requiring a plain-language description of the subscription fee and other clarifying changes. A suggested revision is as follows, with deleted text enclosed in square brackets and added text underlined.

Contracts must contain a plain-language description of the subscription agreement, including the type of agreement, effective date of [enactment of] the contract, duration of the contract, a clear description of the amount and terms of payment of the subscription fee [payment and pricing] and the underlying calculations, a good-faith written estimate of the savings a subscriber will [earn] realize net the of subscription fee per year or other applicable period [(if applicable)] and [its disclosed] the assumptions underlying such estimate, a clear description of the billing arrangements, and a complete list of any other fees, including, but not limited to, any applicable transfer and/or cancellation fees, due date for payment, late payment fees and the number of days after which a late payment fee may be applied, and any interest charges. The contract must also contain the specific conditions under which such penalties and/or fees can be imposed.

Respectfully submitted,

STEFANIE A. BRAND
DIRECTOR, DIVISION OF RATE COUNSEL

By: 
Sarah H. Steindel, Esq.
Assistant Deputy Rate Counsel



Margaret Comes
Associate Counsel
Law Department

November 30, 2018

Aida Camacho-Welch, Secretary
New Jersey Board of Public Utilities
ATTN: BPU Docket Number: Q018060646
44 S. Clinton Ave., 3rd Floor, Suite 314
PO Box350
Trenton, NJ 08625-0350

RE: Community Solar Energy Pilot Program Rules
Proposed New Rules: N.J.A.C.14:8-9
Comments of Rockland Electric Company
BPU Docket Number: QO18060646

Dear Secretary Camacho-Welch:

Attached please find Comments of Rockland Electric Company on proposed new rules at *N.J.A.C.* 14:8-9 in the above matter.

Respectfully submitted,

/s/ _____
Margaret Comes

Enc.

Proposed New Rules: N.J.A.C.14:8-9
Comments of Rockland Electric Company
BPU Docket Number: QO18060646

In accordance with the Notice in the New Jersey Register of October 1, 2018, Rockland Electric Company (“RECO” or “Company”) submits the following comments on the New Jersey Board of Public Utilities’ (“BPU” or “Board”) proposed new rules establishing a Community Solar Energy Pilot Program (“Pilot Program”). As a preliminary matter, RECO emphasizes its support for New Jersey’s clean energy goals and the development of programs that increase the opportunity for low- and moderate-income (“LMI”) customers to participate in clean energy programs. Below the Company submits its General Comments on the proposed rules, and then submits its Comments on specific sections of the proposed new rules.

I. General Comments

RECO offers the following recommendations regarding the Pilot Program in order to strengthen the Board’s ability to meet New Jersey’s Clean Energy objectives and develop a process that will have the flexibility to address potential issues that may arise in implementation of the Pilot Program. As an initial matter, the Company stresses the importance of developing a Community Solar program that benefits customers who otherwise could not take advantage of rooftop solar, while weighing the costs of such a program, which are costs that will be paid by all customers, particularly non-participating customers. Further, to inform the development of the permanent program, the Pilot Program must be based on established, pre-set goals, and measures of success. Finally, In order to develop a robust Community Solar Program and achieve New Jersey’s Clean Energy goals, the Board should encourage the participation of all stakeholders, including developers and the New Jersey Electric Distribution Companies (EDCs”). Encouraging the participation of developers and EDCs, will strengthen the permanent program by incorporating all of the lessons learned from the Pilot Program.

The EDCs can strengthen the Pilot Program because of their long-standing relationship with customers, where they can provide customer engagement and outreach, as well as customer education. These customer relationships will assist the Pilot Program achieve both the MW and LMI participation targets for the three pilot years. EDC ownership of solar projects is particularly suited in circumstances where the Community Solar project is located on an EDC’s property or serves customers on feeders where there may be a greater need for the resource, or in circumstances where there are not enough viable Community Solar projects to meet either the MW or low-income targets of the Pilot Program or the ten percent annual capacity set aside for LMI projects.

The Company notes that section 5(f) of the of the Clean Energy Act (L. 2018, c. 17, effective May 23, 2018) expressly states that the permanent Community Solar Program will include projects owned by the EDCs. Therefore, to properly evaluate the Pilot Program and prepare for the solar project ownership of the EDCs in the permanent program, the EDCs necessarily should be permitted to own Community Solar projects in the Pilot Program.

The Company also notes that the proposed rules do not set forth clear guidelines and timelines for project interconnection review and / or approval by both the Board and the EDC. For example, the rules should provide for at least sixty business days for review by the EDC, as part of the annual application process. This review will identify any impediments to the

Proposed New Rules: N.J.A.C.14:8-9
Comments of Rockland Electric Company
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successful completion of the Community Solar projects. The Company suggests that the BPU establish a working group to determine an application fee schedule that would cover this preliminary review of the project for feasibility. Further, when the EDC completes the technical review of a Community Solar project, and the developer decides to move forward, the clock can start for the six-month timeline provided for the start of construction. In addition, RECO recommends that the Board establish a process in which proposed projects are publicly ranked, whether by date submitted or other measures, before the EDCs must commence their technical review. Such ranking is a critical component of a transparent process that will facilitate the successful development of Community Solar projects in New Jersey. Finally, the proposed new rules should insure that the EDCs are compensated for the technical review of Community Solar projects, and any other costs for the development of the Community Solar Projects. As the primary beneficiaries of these projects, developers, rather than ratepayers, should shoulder these costs.

The three-year Pilot Program will help to determine whether Community Solar projects can contribute meaningfully to accomplishing the Board's clean energy goals, while also serving LMI customers, and an issue that arises in the Pilot Program is billing. The issue of consolidated billing for subscription fees raises a number of complex policy and legal issues, as well as issues of practicality, costs, mechanics, and data exchange. To address these issues will require input from stakeholders, particularly the EDCs, who have separate billing systems. The Company stresses that the risk of uncollectible subscription fees should remain with the Community Solar Project and the subscriber organization, and the risk should not be borne by the EDCs and non-participating ratepayers. Further, implementing a purchase of receivable concept introduces a new set of policy and legal complexities including existing payment, credit, and collection procedures that are not appropriate for a pilot or even longer-term program.

To be cost effective, the NJ Community Solar program should provide some flexibility, recognizing that each EDC has its own distribution and billing systems. Moreover, given RECO's unique situation of being connected to both PJM and NYISO, the final rules should be structured to accommodate differences between the transmission organizations' rules to avoid unintended consequences.

Finally, the Company recommends the Board establish a technical and policy working group composed of BPU Staff, EDCs and solar developers. These working groups will address issues that certainly will arise during the three-year Pilot Program, as well as make recommendations to the Board on issues involving technology advancements within the solar and utility industry, metering, reporting, and periodic policy review. Further, this working group can identify issues and explore solutions to support the Pilot Program as well as clean energy development in New Jersey.

II. Section by Section Comments

14:8-9.2 Definitions:

The proposed new rules define the term “Annual Net Energy” as “the total amount of energy produced by a Community Solar facility on an annual basis, measured at the EDCs’ meter.” This definition should be revised to clarify that it is “the total amount of net energy produced by a Community Solar facility,” which is the energy that is exported to the EDC distribution system, and not the total amount generated by the facility. The energy used by the facility behind-the-meter cannot be allocated to subscribers.

A “Community Solar Subscription” may be determined in any method that the project owner or Community Solar Subscriber Organization deems appropriate, within the confines of the proposed new rules. Regardless of the method, the Community Solar Subscriber Organization must provide the amount of each subscription to the EDC as a percentage share of the net energy exported to the distribution system. By assigning a percentage allocation to each subscriber, a Subscriber Organization can ensure that it is never agreeing to transfer more than 100 percent of net energy to the subscriber group. This percentage allocation method also will ensure that the Subscriber Organization can maximize the allocation of net energy while meeting the requirement to subscribe no more than a project’s nameplate capacity rating.¹ The limitation on subscription size as well as other rules on subscriptions set forth in section 14:8-9.6 must be followed.

Section 14.8-9.3 (d)

The proposed new rule provides that EDCS shall, subject to review, be entitled for full cost recovery for incremental costs incurred for implementation, compliance, and administration. In addition to administrative costs that may be incurred, including for billing and technical review, the Company will also incur costs associated with software. For purposes of this section, these costs should fall under the term “incremental.” To the extent the EDC bears the cost of electric distribution system upgrades to install Community Solar projects, these costs should likewise be considered “incremental” subject to full cost recovery. However, it is the Company’s position that DER interconnection costs should be borne by the developer. It is important that the EDCs be entitled to full cost recovery in both the Pilot Program, as well as a permanent program.

Section 14:8-9.4(c) Pilot Program Capacity Limits

The proposed rules allow for the reallocation of unallocated capacity at the end of one program year to subsequent program years. To maintain consistency with section 14:8-9.4(d), which provides that annual capacity is divided among the EDCs based on their average percentages of in State retail electric sales, capacity should only be carried over by the same EDC. Put another way, unallocated capacity that has been assigned to one EDC in a specific program year cannot be reassigned to a different EDC in a subsequent program year. This will

¹ See Section 14:8-9.9(g).

preclude one EDC from ending up with a larger share of the capacity than is set forth in Section 14:8-9.4(d). A larger share of capacity equates to increased costs to non-participating customers.

Section 14:8-9.4 Pilot Program Capacity Limits

The limitations set forth in this section are best monitored by the BPU in order to verify that New Jersey's goals are being met. To the extent the size and type of Community Solar projects do not further the state's goals, the BPU will be able to act quickly to approve an updated mix of project types serving the needs of different types of customers and communities. The EDCs cannot be responsible for monitoring and verifying compliance with these rules. For example, in Section 14:8-9.4(e) forty percent of the annual capacity limit is set aside for low- and moderate-income ("LMI") customers. In addition, the ten percent of annual capacity is set aside for testing new low-income models in 14:8-9.4(f). Neither of these goals should require the EDCs to undertake additional administrative and implementation responsibilities. Rather, the EDCs should rely that the subscriber lists provided by the Community Solar Organization meet BPU subscriber mix goals and requirements.

14:8-9.6(e) Subscription requirements

Because the proposed new rules include a credit based on retail rate net metering that cannot offset fixed, non-by-passable charges, which is akin to a volumetric or kWh credit, only customers that are metered and have kWh usage should be able to participate as a subscriber. Allocation of a percentage of facility generation will be equal to an amount of kWh which would be netted against the subscriber's actual usage. Customers, such as public or private lighting customers, that are not billed on usage should be ineligible to be a subscriber. Therefore, Section 14:8-9.6(e) should be revised to clarify that only customers on a rate class that is metered can be a subscriber. Further, allowing municipally owned street lighting to be a subscriber is counter to the BPU's purpose of "creating an opportunity for access to solar energy to consumers who have previously been excluded" (*e.g.*, customers who cannot place solar on their own property for various reasons, including, "because they are renters, have a shaded or unsuitable roof, or are unable to afford the upfront capital costs"²). RECO notes that its current electric tariff does not allow public street lighting or private overhead lighting to participate in net metering.³

14:8-9.6(f)(3) Subscription requirements

The proposed new rules provide for, and RECO supports, the portability of subscriptions. A strong relationship between subscriber and Community Solar subscriber organization / project is essential to the subscriber maintaining a positive experience. As such, the subscriber should communicate any account number changes to the subscriber organization, and the latter must notify the EDC when a subscriber account number changes. Because an EDC should not interfere with the agreement between subscriber organization and subscriber, the EDC will not

² Social Impact Statement.

³ Rider for Net Metering and Interconnection Standards for Class I Renewable Energy Systems.

make a change to a subscriber's relationship, including account number or percentage allocation, without notification from the subscriber organization. Further, any changes provided to the EDC will be effective on the facility's next billing date, if the updated allocation form is received in conformance with the procedural requirements agreed upon for submission of the standardized form. (see proposed rule at 14:8-9.7(l).)

14:8-9.7(f) Community Solar Bill Credits

The proposed new rule contemplates that a subscriber will be compensated for net excess credits in a manner similar to the current rules for net metering.⁴ The proposed new rule then discusses the manner in which a cash payment can be made. Given that the Community Solar program is intended to allow customers to participate in solar who may not otherwise be able, the rules for compensation of net excess credits should be the same. Consequently, the language referencing wire transfer or check should be deleted. Allowing the EDC to implement consistent rules will reduce the EDCs' administrative burden, thereby reducing costs to ratepayers. In the alternative, to the extent the EDC must make a cash payment for net excess credits, the method of compensation should be the one that is most cost-effective for the EDC.

14:8-9.7(h) Community Solar Bill Credits

The proposed rule should be clarified to indicate that unallocated generation that is placed in a Bank will accumulate during a 12-month period that begins on the project's PTO date. At the end of that first 12-month period, a second 12-month period will begin. These 12-month periods will continue during the life of the facility. Tracking Bank accumulations in this manner will assist in the management of the Bank by both the project and the EDC. Each month's Banked generation cannot have a separate 12-month life.

The unallocated generation placed in a Bank should not be purchased by the EDC but rather should remain in the Bank, available for subsequent distribution to subscribers or subject to forfeiture. The Community Solar project should bear the financial risk of producing excess energy over an extended period of time. The Bank will allow for changes in the subscriber base, for example, when one subscriber leaves the project and is not replaced for a month or two. The unallocated generation placed in a Bank can remain for a period of time, *e.g.*, two years, and if not allocated after that period, the excess generation would be forfeited. The intent of Community Solar is to allow customers without viable rooftops to participate and receive the benefits of rooftop solar. Community solar should not be a vehicle employed to offload excess generation (which likely will be unneeded) on to the EDCs and their customers.

If a forfeiture rule is not adopted and a cash out is required, the accumulation of a large Bank during each 12-month period is counter to the BPU's goals to provide an opportunity to participate in the benefits of solar energy by a larger number of customers than do so today. Consequently, a cap should be placed on the Bank with the requirement that a certain percentage should be forfeited each quarter. A limitation on the amount of a Bank for which a project can be compensated, also minimizes the cost burden that is shifted to non-participating

⁴ See 14:8-4.3(e).

customers because the cap encourages project owners to size their projects appropriately for the anticipated total subscriber size. A large Bank should not be a means for projects to sell generation to the EDC under the guise of a Community Solar program.

Section 14:8-9.7(k) Community Solar Bill Credits

RECO supports the use of Green Button standards to provide the Community Solar Subscriber Organization with historical usage to be used when enrolling a customer in the Community Solar project and determining the appropriate allocation size. Green Button is a national standard that sets forth specific datasets that meet this standard, including meter number, energy or net energy usage (kWh, net kWh, CCF), and reactive power (kVAR). Green Button Connect allows customers to authorize registered third parties to access their energy data through an automated process in machine-readable format. Using Green Button will automate and facilitate the transfer of customer data without requiring numerous individual requests for customer data be made to the EDC.

Section 14:8-9.7(n) Community Solar Bill Credits

The calculation of the subscriber's credit should be by means of a volumetric credit at the subscriber's rate. Because Community Solar is intended to allow more customers to enjoy the benefits of solar energy when a viable rooftop is not available, the subscriber should receive a net metering credit calculated as if the subscriber had a net meter on its premises. Under this scenario, the kWh generation credit would offset the subscriber's kWh usage. Charges billed not on a kWh basis should not be offset by this credit. This includes demand charges, customer charges, and lighting that is billed on a burn-hour basis. To allow otherwise would increase significantly the cost shift of the credit to non-participating customers.

Section 14:8-9.7(s) Community Solar Bill Credits

The benefits from incentives provided to a particular project or class of projects should be weighed against the costs that will be borne by non-participating customers. Any additional incentives, whether for environmental justice or low-income communities, that are paid to a project should be included in the cost cap placed on all Class I Renewables under the Clean Energy Act (L. 2018, c. 17, effective May 23, 2018). Such costs include the cost of SRECs and RECs, as well as net metering which, as currently structured, shifts the costs to build and maintain a reliable distribution system from net metered customers to customers without net metering. In addition, any analysis of the need for additional incentives must include the revenues received by the project from all sources, including subscription fees, the annual cash out, SREC or Class I REC revenues, and any other revenues received such as those for capacity and ancillary services from PJM or NYISO.

Section 14:8-9.7(t) Community Solar Bill Credits

Prior to allowing storage to participate in the Community Solar Pilot Program, additional provisions for the installation of storage, including those involving metering, compensation, and interconnection standards, should be developed as part of technical and policy working groups.

Proposed New Rules: N.J.A.C.14:8-9
Comments of Rockland Electric Company
BPU Docket Number: QO18060646

For example, rules must be developed that do not permit the compensation of energy discharged by a battery into the grid that was charged by energy from the grid. Any rules that allow for storage to be paired with solar must require that the aggregate nameplate capacity of all technologies in a project continues to comply with the 5MW per project cap.

Section 14:8-9.8(b), (c), (d) Low- and Moderate-Income Provisions

RECO supports inclusion of low- and moderate-income customers in Community Solar projects so that this class of customers may also enjoy the benefits of renewable energy. However, EDCs should not be required to monitor and police the capacity requirements imposed on projects considered LMI Community Solar pilot projects. Rather, the Community Solar Subscriber Organization should be responsible for monitoring and enforcing that the project meets the fifty-one percent requirement. This is in line with the requirement that the Community Solar Subscriber Organization must verify whether a customer is low- or moderate-income and that a project may not enroll a non-LMI customer if doing so would cause the project to fall below the fifty-one percent threshold.



RE-Imagine Real Estate, LLC

JUST IMAGINE

29 November 2018

New Jersey Board of Public Utilities
44 S. Clinton Avenue
3rd Floor, Suite 314
PO Box 350
Trenton NJ 08625-0350

Via email – rule.comments@bpu.nj.gov

Attn: Aida Comacho-Welch, Secretary

Re: Community Solar Pilot Program Proposal
Comments by RE-Imagine Real Estate, LLC

Ms. Camacho-Welch and BPU Staff

On behalf of RE-Imagine Real Estate, a company that acquires landfills and brownfields for redevelopment as solar energy generation facilities based in New Jersey, please accept the following comments regarding the BPU proposal for the Community Solar Pilot Program:

Background

RE-Imagine Real Estate is a company seeking to acquire landfills and brownfields to redevelop them as solar energy generation facilities. Trevan J Houser of RE-Imagine Real Estate is a landfill expert and was involved with the development of the 2012 and 2018 Solar Laws and commented extensively in public sessions and individual meetings regarding the reuse of former landfills for solar energy generation facilities. Most importantly, Mr. Houser advocated that only properly closed landfills be qualified for receiving Solar Renewable Energy Credits (SREC's) and being considered "connected to the distribution system". This was intended to create opportunities to properly close many of New Jersey's old landfills and utilize closed landfills as solar energy generation facilities, benefitting both the New Jersey Environment as well as local municipalities through lower energy costs. However; in 2013, the NJ Legislature passed the Legacy Landfill Law, which created financial obstacles to properly closing legacy landfills. Very little landfill redevelopment has taken place since the enactment of this law. We would greatly like to see that change. Our goal is to see New Jersey have more properly closed landfills supporting solar energy generation through the Board of Public Utilities (BPU) Community Solar Pilot and Remote Net Metering Programs. A program that promotes both landfill closure and reuse for solar energy generation achieves not only environmental benefits, but economic development and municipal fiscal savings as well. Our comments are geared toward bringing about that opportunity.

Our comments on the Community Solar Pilot Program rule proposal follow:

1. **Section 14:8-9.3 – Pilot Program Structure** RE-Imagine Real Estate (RIRE) disagrees with the comments made by several commenters at the public hearing held on November 8, 2018 at Rutgers who commented that Pilot Program applications should be processed and approved on a “first come, first served” basis. This does not take into consideration that the Solar Law and Community Solar Program have been enacted in order to accomplish certain priority policy objectives and that simply approving application because they have been submitted first does nothing but serve the solar developer’s agenda. RIRE strongly urges the Board to maintain an application process that specifies certain policy objectives as criteria and ensures that projects meet the requirements to satisfy those objectives.

Further, RIRE urges the Board to adhere to the intent of the 2012 Solar Act that clearly made “properly closed sanitary landfill facilities, brownfields, and areas of historic fill” priority locations for solar electric energy generation facilities. Solar installations under any program, including the Community Solar Pilot Program, permanent Community Solar Program, and Remote Net Metering Program, should all be required to meet this intent and the Community Solar Pilot Program application should properly incentivize projects that are proposed to be installed on these lands.

2. RIRE suggests that the “construction commencement” period be extended from 6 months following approval to 12 months from approval, with the ability to extend by one or more (2) periods of three (3) months each, if appropriate milestones are being achieved, as determined by the Board.
3. RIRE suggests that the “fully operational” period be extended from 12 months following approval to 24 months from approval, with the ability to extend by one or more periods of six (6) months each, if appropriate milestones are being achieved, as determined by the Board.
4. RIRE strongly encourages the Board to limit the number of projects approved for a single developer during a program year. This further emphasizes that a “first come, first served” application process should not be considered. Under such a process, a single developer could submit multiple applications and dominate the program. This does not seem consistent with the intent of the Solar Act.
5. **Section 14:8-9.5 – Siting Requirements** RIRE again reiterates that the Pilot Program project application should have criteria regarding project siting that scores projects located on properly closed sanitary landfill facilities, brownfields, and areas of historic fill higher than other projects. Preference should be granted to these facilities as they promote smart land use choices which have been identified as policy objectives under the Solar Act. This once again suggest that a “first come, first served” application process would not serve to support the policy goals that have been clearly identified in the Solar Act.

6. **Section 14:8-9.5(b) – Siting Requirements** RIRE respectfully requests the Board define the location of a Community Solar Pilot Project in a manner that would allow projects to be located at a site that does not currently have a utility meter. Many remote landfill locations may not have utility meters and remain excellent locations for solar electric power generation facilities.

Thank you for the opportunity to provide comments on this exciting program. RIRE is optimistic about the potential for the Community Solar program to reap many future benefits for low and moderate income households in New Jersey. RIRE strongly believes that the vast number of improperly closed landfills in New Jersey can be safely and efficiently redeveloped as solar electric power generation facilities and provide environmental as well as economic benefits to our residents. We again urge the Board to continue the intent of the Solar Law by limiting development on otherwise useable lands and make properly closed sanitary landfills, brownfields, and areas of historic fill the preferred location for Community Solar Pilot Program projects.

We thank you for your consideration of our comments. If we can provide any further information to you or the Board, please let us know. We are happy to come in and sit with you or members of the staff or other representatives to further discuss our comments. Please feel free to contact me at 609.820.4527 or TrevanHouser@gmail.com to either schedule a follow-up or for any information needs you may have.

Gratefully,

RE-Imagine Real Estate, LLC



Trevan J Houser
President



NEW JERSEY CHAPTER

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Aida Camacho-Welch,
Secretary New Jersey Board of Public Utilities
S. Clinton Ave., 3rd Floor, Suite 314
PO Box 350 Trenton, NJ 08625-0350
rule.comments@bpu.nj.gov

November 29, 2018

Re: BPU Docket Number: QO18060646 44

Dear Ms. Welch,

The Sierra Club supports the community solar program in New Jersey. Community solar allows those who can't put solar panels on their own homes to buy into solar power. While we're happy to see this begin, we believe the program needs to be expanded and targeted more towards moderate- and low-income communities.

We would like to see a rise from 40 to 50 percent of solar targeted to low and moderate- income communities. We would also like to have a 50-50 percent set aside for low and moderate- income communities. For far too long, solar power has only been available to more wealthier communities, but this program allows other to buy in.

We recommend that BPU should target community solar projects for affordable housing. People of modest should also receive a 50% reduction on their electric bills. Expanding the community solar project may cost more to get it built. In this case the BPU should use funds from the societal benefits charge (SBC).

New Jersey only has a 10% carve out for community solar in low and moderate income communities, we ideally want at least 20% set aside for community solar in New Jersey and for the state to remove the size cap it has for these community projects to allow for larger projects that can extend to whole neighborhoods and even towns. We also need to remove the cap on the size of the systems themselves. Maryland has a 30% carve-out for community solar for projects where 20% of the output serves low- and moderate-income communities and Massachusetts has roughly 23%.

There should be a percentage carve out from the current SREC program for community solar in case the SREC solar market crashes. This will prevent the the community solar program from crashing. While this program is a good thing, we believe it should be expanded. The maximum for each project should be expanded from 5 MW to 10 MW or 20 MW. We would also like to see the program doubled from 75 MW to 150 MW a year, if not 200 MW. Additionally, we'd like to bring utility-scale solar programs to towns who can see the benefits of this renewable energy.

These projects will help the many people who can't put solar panels on their own property for different reasons. Some properties can't utilize solar because of their location, physical limitations, or unstable roofs. Having more solar power saves ratepayers money and helps deal with climate change while



NEW JERSEY CHAPTER

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growing our economy. We must continue to grow our community solar program because it's an important way to advance clean energy while helping environmental justice communities.

If you have any questions or would like to discuss this matter further, please feel free to call me at (609) 558-9100.

Sincerely,

A handwritten signature in cursive script that reads "Jeffrey H. Tittel".

Jeff Tittel
Director, New Jersey Sierra Club



November 30, 2018

VIA ELECTRONIC MAIL

rule.comments@bpu.nj.gov

Aida Camacho-Welch, Secretary^[L]_[SEP]
New Jersey Board of Public Utilities
ATTN: BPU Docket Number: QO18060646
44 S. Clinton Ave., 3rd Floor, Suite 314^[L]_[SEP]
PO Box 350^[L]_[SEP]
Trenton, NJ 08625-0350

**RE: DOCKET NO. QO18060646; Proposal Number: PRN 2018-090
Community Solar Energy Pilot Program Rules
Proposed New Rules: N.J.A.C. 14:8-9**

Dear Secretary Camacho-Welch:

Summit Ridge Energy (Summit Ridge) submits the following comments on the Community Solar Energy Pilot Program Rules. Summit Ridge is an active participant in established community solar programs across the U.S. and looks forward to participating in New Jersey's pilot and permanent programs.

We applaud the Board and its staff for proposing regulations that have clearly benefited from stakeholder input and from experience gained in community solar programs already underway in other states. We have overarching concerns, however, with regard to the timeline set forth in the regulations and with regard to the number and nature of program details that still need to be finalized. We also have a number of specific recommended changes to the proposed regulations to provide further clarity and to support program efficiency and effectiveness. We also want to express concerns about the negative effect that uncertainties about the future of New Jersey's solar incentives may have on program success. Finally, given the strong interest in community solar that has been demonstrated in other states, we suggest that the pilot program size be restored to the 450 MW figure that had been discussed earlier.

To support program success and efficiency for all parties, we suggest the following revised timeline and propose a list of issues to be resolved prior to accepting applications for Program Year 1.

1. Program timeline
 - a. December 1, 2018 through Jan 15, 2019 – Board staff convenes stakeholders to finalize program application details



- b. January 16, 2019 through January 31, 2019 – Board staff compiles stakeholder comments and submits program details for Board approval
 - c. February 28, 2019 – Board approves program details
 - d. April 1, 2019 – Pilot program application window opens (official beginning of Program Year 1) and utilities begin accepting interconnection applications for community solar projects
 - e. April 30, 2019 – Pilot program application window closes
 - f. May 30, 2019 – Board announces successful Program Year 1 applications*
2. Program details to be submitted to the Board and approved prior to the opening of the pilot program application window for Program Year 1:
- a. The program application form and scoring system called for in 14:8-9.3(c)(1)*
 - b. Recommendation on whether the number of projects submitted by a developer should be limited pursuant to 14:8-9.3(c)(11) unless clarified in regulations
 - c. Recommendation for any fees utilities may charge during the pilot program pursuant to 14:8-9.3(d)
 - d. Recommendation on co-location restrictions pursuant to 14:8-9.4(j)** unless clarified in regulations
 - e. Affidavit form(s) for multi-family buildings to qualify as participants as required by 14:8-9.6(g), 14:8-9.8(a)(2), and 14:8-9.8(d)(1)
 - f. Definition of “avoided cost of wholesale power” as used in 14:8-9.7(f) and (h) if not included in regulations.
 - g. Clarification of banking period for unallocated project production pursuant to 14:8-9.7(h) unless clarified in regulations
 - h. Utility selections of dollar credit or kWh credit mechanisms pursuant to 14:8-9.7(n)(1)
 - i. Recommendation for additional incentives for Program Year 1 as permitted by 14:8-9.7(s)
 - j. The registration form for subscriber organizations required in 14:8-9.10(a)
 - k. The discloser statement to be presented to each subscriber as required by 14:8-9.10(b)(4)(i) and (iii)
 - l. List of major project developments and milestones to be submitted to the Board by developers as required by 14:8-9.11(b)(3)
 - m. Pro-forma calculations of bill credits for each utility rate schedule
 - n. Recommended data transfer protocols between utilities and subscriber organizations including:
 - i. Validation that subscriber is not subscribed to another project as required by 14:8-9.6(f)(5)
 - ii. Definition of data to be transferred via Green Button pursuant to 14:8-9.7(k)
 - iii. Standardized processes for sharing subscriber information between subscriber organizations and EDCs, and the submission of lists of subscribers including identification of subscriber information to be transmitted, standardized forms and methods of submission as required by 14:8-9.7(l)

- iv. Identification of any data to be transferred by EDI, if used, and associated transactional formats
- v. Methods for providing validation of subscriber participation in LIHEAP, Universal Service Fund, Comfort Partners, and/or Lifeline Utility Assistance Program as required in 14:8-9.8(d)(2)(i)

* As discussed in our detailed recommendations below, we suggest that the regulations be revised to accept projects on a first come first served basis, rather than undergoing a scored selection process.

** As discussed in our detailed recommendations below, we suggest that co-location not be permitted in the pilot program. Should the Board accept our recommendation this program detail could be eliminated.

In addition to these proposals on timelines and program details, below are detailed comments organized to follow the regulations section by section. The detailed comments include, in some cases, recommended modifications to the regulations. We recognize the time frame for publishing pilot program regulations prescribed by statute, but we fully support the Board taking such additional time as needed to get the final regulations right. Our experience in community solar programs across the country leads us to the strong conviction that proper attention to detail at the outset is essential to program success.

With respect to New Jersey's solar incentives, community solar projects in program years 1, 2 and 3 should be pre-qualified to generate NJ SRECs as distribution grid-connected generators so as to enable the success of the program and prevent market disruption. A carve-out for community solar projects will enable developers to successfully develop and build across all NJ utility service territories for all 3 years of the pilot program, given that following closure of the SREC program, there is likely to be a multiyear lag before an SREC successor program is launched. Even when assuming 100% residential subscribers (as has been the experience in the nearby Maryland community solar pilot program) and reasonable build and interconnection costs, community solar project development will halt in JCP&L territory without SRECs (or a similar incentive). We believe project development would freeze elsewhere, given present financing assumptions in the commercial offers being made with landowners and project hosts. Additionally, given the steeper discount that the developer community assumes is required to entice subscriptions with the LMI community, and the associated risk-adjusted return for project financiers, economics will be challenging statewide. We strongly urge the BPU to pursue every avenue possible to pre-qualify Pilot Program projects for SRECs.



Respectfully submitted,

Will Fischer

Vice President, Business Development
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Detailed comments follow

14:8-9.2 Definitions

“Affordable housing provider” refers to any person or entity that owns, operates, or manages affordable housing units. Affordable housing providers may qualify as LMI participants in an LMI community solar pilot project, under the condition that they ~~demonstrate in their application to the Board~~ provide to the subscriber organization on a form approved by the Board, an affidavit that they are passing along specific, identifiable, and quantifiable long-term benefits to their tenants/residents (see N.J.A.C. 14:8-9.8(a)).

Comment: We recommend that the Board staff develops, and the Board approves, a suitable format and content for an affidavit, and that the regulations are modified to indicate that the affidavit be submitted to the subscriber organization to be held on file with other subscriber qualification information.

“Avoided wholesale cost of power” includes the locational marginal price for energy, ancillary services, adjustments for distribution losses, and allowances for reductions in installed capacity charges and transmission charges (NITS).

COMMENT: We suggest this additional definition be inserted to support section 14:8-9.7(f). If this definition is not added, we suggest that the definition of the avoided wholesale cost of power be approved by the Board through another means prior to the opening of the application window for Program Year 1.

“Co-location” is defined as having two or more independent community solar facilities providing subscriptions to two separate and distinct subscriber groups that are sited on the same parcel or contiguous parcels.

Comment: As discussed below, we recommend that co-location not be allowed in the pilot program. If that recommendation is not accepted, we note that the meaning of “*providing subscriptions to two separate and distinct subscriber groups*” is not clear and should be clarified by the Board prior to the opening of the application window for Yr. 1.

“Community solar developer” or “developer” means an entity that ~~is duly authorized to do business in the State of New Jersey and constructs a community solar facility within the State of New Jersey.~~ identifies potential solar project locations and may submit project applications for pilot program capacity.

“Engineering, procurement and construction company (EPC)” means an entity that is duly authorized to do business in the State of New Jersey and constructs a community solar facility within the State of New Jersey.

Comment: We recommend revising the definition of “Community solar developer” and adding an appropriate definition for “Engineering, procurement and construction company” or “EPC”.

In common solar industry terminology, a “developer” is an entity that identifies potential solar project locations, negotiates land leases or purchases, initiates interconnection applications, initiates permitting, and evaluates project economics based on costs, revenues and financing options. The developer may or may not ultimately be responsible for constructing a project, a responsibility that may be undertaken by a “Community solar owner”. Engineering, procurement and construction firms (EPCs) are the entities that generally carry out construction activities and are appropriately licensed within the state where the project construction takes place.

“Community solar subscription” or “subscription” refers to participation in a community solar project, by which the subscriber receives a bill credit for a share for community solar capacity and/or energy produced by a community solar facility. A subscription may be measured as capacity in kW and/or energy in kWh, ownership of a panel or panels in a community solar facility, ownership of a share of a community solar project, or a fixed and/or variable monthly payment to the project operator.

COMMENT: Summit Ridge supports the flexibility given to subscription structure provided in this definition.

~~*“Electronic Data Interchange” or “EDI” refers to the direct computer-to-computer exchange and processing of standard business forms from one business application to another, as defined and administered by the Board’s Division of Energy.*~~

COMMENT: EDI is only used in the regulations with respect to section 14:8-9.9(d). As noted below, it is not clear that EDI protocols are necessary for the intended data exchange.

“Existing solar project,” for the purposes of the Community Solar Energy Pilot Program, refers to a solar project having submitted an interconnection application to an EDC, begun operation and/or been approved by the Board for connection to the distribution system prior to January 1, 2019.

COMMENT: We suggest that new projects be developed for the pilot program and that projects previously proposed for other purposes and already under evaluation for interconnection not participate. Stimulating new development activity on the parts of firms focused on the community solar market will best position the State for success in its permanent program. Note that the cut-off date of January 1, 2019 is tied to our recommended program timeline. Should the Board select a different start date for accepting new interconnection applications for the pilot program, this definition should be revised accordingly.

“Low-income household” means a household with adjusted gross income at or below 200 percent of the Federal poverty level.

“Moderate-income household” means a household with a total gross annual household income in excess of 50 percent, but less than 80 percent of the median income, as determined by annual HUD income limits.

COMMENT: The definitions of “Low-income household” and “Moderate-income household” should be expanded to provide more detail, including specific data sources for the Federal poverty level and HUD income limits. The definition should also clarify whether household size need be considered in qualifying a subscriber, or whether a default household size will be used. The definition should also clarify how households with more than one wage earner should be qualified. Finally, the definitions should clarify that participation in LIHEAP, Universal Service Fund, Comfort Partners, and/or the Lifeline Utility Assistance Program are alternative means of establishing eligibility per section 14:8-9.8(d)(2)(i).

“Pilot program year” is the year in which an application window opens for pilot program capacity.

COMMENT: The definition above should be added to clarify the precise meaning of a program year. The regulations, as drafted, contemplate three program years. Section 14:8-9.3 further described that the first program year would conclude 12-months after it begins, with all projects Year 1 projects operational at that time.

As discussed below, we do not think the Board should expect projects will be completed within 12-months of being awarded pilot program capacity. Therefore, pilot program years should simply be defined and referenced to the year of project award.

14:8-9.3 Pilot Program structure

§ 14:8-9.3(a) The Pilot Program shall run for a period of no more than 36 months, divided into Program Year 1 (PY1), Program Year 2 (PY2), and Program Year 3 (PY3). Program Year 1 shall commence begin January 1, 2019 July 1, 2019. and last for the full calendar year, until December 31, 2019.

COMMENT: Program Year 1 should begin when the Board has approved the full range of program details described above, and we suggest that this can be completed by July 1, 2019. Further, based on our proposed definition of “Pilot program year” we suggest that a specific end date for Pilot Program Year 1 not be specified.

(c)(1) Board staff shall present to the Board for approval the application for participation in the Pilot Program and the criteria for evaluation of said applications. Application criteria shall be as follows for the Pilot Program:

(i) applications shall be accepted on a first-come-first-served basis upon the opening of each application window, subject to the limitation on applications per developer established under subsection (c)(11) below.

(ii) complete applications will include: proof of site control in the form of an executed site lease, land purchase, or option to lease or purchase; proof of receipt of a completed interconnection study from the EDC executed by the developer accepting the terms of interconnection subject to acceptance into the Pilot Program; and proof that any local permitting application processes have been initiated.

COMMENT: The process for selecting projects for each Program Year should be simple. A first-come-first-served process has been used successfully in community solar programs in other states, including Maryland. In order to assure, however, that applying projects are likely to achieve operation, we suggest that a “complete application” include requirements for site control, interconnection and permitting as set forth in the recommended language above. These criteria have been used successfully to allocate limited pilot program capacity in other jurisdictions, including Maryland.

(c)(4) Board staff will not accept applications for EDCs to develop, own, or operate community solar projects beyond the billing and other responsibilities set forth in this subchapter.

COMMENT: We strongly support the restriction on EDC participation in the pilot program.

~~*(c)(7) Approved projects are expected to begin construction within six months of their approval by the Board. Board staff may approve one or more two-month extensions if substantial progress is shown towards beginning construction within the initial six month period, as determined upon review by Board staff based on the specific circumstances of the project.*~~

~~*(c)(8) Approved projects are expected to become fully operational (up to and including having subscribers receive bill credits for their subscription to the project) within 1224 months of their approval by the Board. Board staff may approve one or more six-month extensions if substantial progress is demonstrated towards becoming fully operational within the initial 1224-month period, as determined upon review by Board staff based on the specific circumstances of the project.*~~

COMMENT: The regulations should not include a project commencement requirement and should extend project completion deadlines.

The tasks required to bring a community solar project on line include: 1) identifying a project site and securing site control; 2) applying for utility interconnection and receiving study results; 3) applying for and being awarded pilot program capacity; 4) applying for and receiving local zoning approval; 5) authorizing the utility to begin the interconnection process and having the utility complete its work, 6) initiating and completing project construction, and 7) initiating and completing subscriber acquisition.

Experience in the nearby Maryland community solar pilot program indicates that projects might not become operational for 24 months or more after beginning the first of these steps. In that program, Year 1 began with utility interconnection applications submitted in June 2017, and program slots were awarded a few months later. As of October 2018, only one small, rooftop community solar

project has been completed, and it appears that most projects are targeting commercial operation in the second or third quarter of 2019. Unfamiliarity with solar siting issues by local zoning authorities and elected officials, as well as other stakeholders, have resulted in long time frames for local permitting, a key factor in extended completion timeframes. Maryland regulations call for projects to be completed within 18 months, causing numerous petitions to the Maryland PSC for extensions.

To benefit from Maryland's experience and to avoid burdening the Board staff with an excessive number of extension applications, we suggest a completion timeframe of 24 months be established.

(c)(11) In the approval process, Board staff may determine that it is appropriate to limit the number of projects approved for a single developer in a program year, in order to promote a diverse pool of developers.

COMMENT: We support a limitation on the number of projects that can be awarded to a single developer in each Program Year. This will help assure that a large number of developers and subscriber organizations become active in the State and are ready to support the permanent program. We suggest a limit of 2 projects per developer per utility service territory per program year. This is the limit agreed to by a large number of stakeholders for Years 2 and 3 of the Maryland community solar pilot program

(d) Electric distribution companies shall, subject to review and approval by the Board, be entitled to full cost recovery for any incremental costs incurred in implementation, compliance, and administration of the Pilot Program. EDCs may not set a separate fee or surcharge for community solar projects unless explicitly authorized to do so by the Board.

COMMENT: Any separate fee or surcharge to community solar projects should be established in advance of the opening of application windows for each program year. The open-ended financial uncertainty inherent in the proposed language will frustrate the financing process for projects, and potential undermine interest in the Pilot Program.

14:8-9.4 Pilot Program capacity limits^[1]_[SEP]

(a) The annual capacity limit for all community solar projects approved for participation in the Pilot Program during PY1 shall not exceed ~~75~~150 MW, defined as the sum of the nameplate capacity in DC rating of all PV panels in projects approved for participation.

(b) No later than 30 days prior to the start of PY2 and PY3, the Board shall set by Board Order an annual capacity limit for community solar projects approved for participation in the Pilot Program during PY2 and PY3. The annual capacity limit for PY2 and PY3 shall be at least ~~75~~150 MW per program year, defined as the sum of the nameplate capacity in DC rating of all PV panels in projects approved for participation.

COMMENT: We recommend restoring the Pilot Program to the 150 MW per Program Year capacity level discussed originally. The enabling legislation calls for a full-scale program to be put

into place in three years, and that transition would benefit from a larger program involving a greater number of developers and subscriber organizations gaining a foothold in the New Jersey market.

(e) At least ~~40~~ 10 percent of the Program Year 1 annual capacity limit shall be allocated to LMI projects, 20% in Program Year 2, and 30% in Program Year 3.^[17]_[SEP]

COMMENT: Community solar, despite its popularity as a new solar market structure, is still a nascent market with unique financing challenges. The financing community has been slow to adapt to community solar markets like New York and Maryland where developers are commonly allocating 100% of project output to residential subscribers. Adding LMI requirements further complicates the underwriting of this new asset class.

We believe a 40% LMI requirement in Program Year 1 will impede financing for a large percentage of the Pilot Program and suggest the Board begin with a 10% carve-out in Program Year 1, a 20% carve-out in Program Year 2, and 30% carve-out in Program Year 3 to better keep pace with the rate of adoption in the financing community, while setting meaningful targets for LMI participation.

(g) The capacity limit for individual community solar pilot projects is set at a maximum of ~~five~~ two MWs per project, measured as the sum of the nameplate capacity in DC rating of all PV panels comprising the community solar facility.

COMMENT: Given the limited aggregate size of the Pilot Program, even with our recommended expansion to 150 MW per year, a 5 MWdc project size limit will limit developer participation in the Pilot Program, create a large, volumetric over-subscription of the program, and create administrative challenges for the BPU. Nearby markets with similar aggregate program capacities have limited project size to 2 MWac, and we recommend the BPU adopt that restriction as well.

(i) Existing solar projects may not apply to requalify as a community solar project.

COMMENT: We support this restriction of Pilot Program qualification to new solar projects to spur further solar deployment in New Jersey. We suggest that the BPU define “Existing solar projects” as those that have applied for interconnection prior to the launch of the Pilot Program, in line with our recommended definition above.

(j) Co-location of solar facilities shall not be permitted, subject to specific review and permission by the Board through the application process.

COMMENT: Co-location should not be allowed in the pilot program, in order to maximize project geographic diversity and to provide a clear distinction between community solar and utility-scale

development. If the Board finds some compelling reason to allow co-location it should be the exception, not the rule.

14:8-9.5 Project siting requirements

^[1]_{SEP}(a) *Community solar projects may have subscribers anywhere in the EDC service territory in which they are located, unless they have indicated otherwise in their application to participate in the Pilot Program. Projects that have elected, in their application, to place a geographic restriction on the subscribers to the project must maintain that restriction for the lifetime of the Pilot Project. The Board may consider waiving this restriction during the project's operational period upon special request.*

COMMENT: The BPU should clarify, prior to the commencement of Program Year 1, how a developer might be characterized as placing a geographic restriction on the subscribers to a Project. We do not support any required restriction that would reduce the available subscribers for a given project to anything less than ratepayers that share the EDC service territory. Maximizing geographic inclusion will ease financing and reduce the risk of revenue disruption during the project's operational life.

(c) The following siting restrictions shall apply to community solar projects:

- 1. Community solar projects shall not be allowed on preserved farmland.*
- 2. Community solar projects shall only be allowed on land designated as Green Acres preserved open space, or on land owned by the New Jersey Department of Environmental Protection, by special approval of the DEP.*

COMMENT: We support the Board's proposed siting restrictions. This will allow developers to be flexible in siting projects, while preserving New Jersey's natural resources.

14:8-9.6 Subscription requirements^[1]_{SEP}

(b) The minimum number of participating subscribers for each community solar project shall be set at 10 subscribers.

(c) The maximum number of participating subscribers for each community solar project shall be set at 250 subscribers per one MW installed capacity (prorated to project capacity), unless subscriptions are being allocated to affordable multi-family housing.

COMMENT: We believe the proposed subscriber restrictions are workable, though an exception should be made for affordable multifamily housing, as described below, where use per dwelling unit might be significantly smaller on average than the broad base of residential accounts.

(d) Multi-family buildings with a community solar project sited on their property or subscribing to off-site community solar projects are exempt from the 10-subscriber minimum, so long as they demonstrate in their application that the project is intended to provide specific, identifiable, and quantifiable benefits to the households residing in said buildings.

COMMENT: We support the exemption to the 10-subscriber minimum requirement for the situation described in the original language. We suggest, in fact, that the 10-subscriber minimum should be lifted for any project serving a master-metered building as a subscriber, including those which qualify as affordable housing for the purpose of fulfilling LMI participation requirements. By virtue of being multi-unit buildings, these subscriber profiles will be satisfying the intent of the 10-subscriber minimum.

(f) The following subscription requirements shall apply:

- 1. Community solar pilot project subscriptions shall not exceed 100 percent of the subscriber's historic annual usage, calculated over the past 12 months, available at the time of the application. In cases where a 12-month history is not available, the community solar subscriber organization shall estimate, in a commercially reasonable manner, a subscriber's load based on available history.*
- 2. No single subscriber shall subscribe to more than 40 percent of a community solar project's total annual net energy, unless the single subscriber is a master metered multi-family building.*

COMMENT: We generally support these limits. The 100% usage limit helps avoid unwelcome subscriber "cash outs" at lower, generation credit rates. The 40% limit for a single utility meter/account is reasonable and in line with restrictions in programs in other states. We also support the "commercially reasonable" standard for subscriber organization usage estimates where necessary.

In the case of a master-metered multi-family building serving as the subscriber for a project, however, the 40% restriction should be lifted to allow developers flexibility in allocating credits while avoiding unnecessary restrictions. We believe this aligns with the goal of the program to bring credits to as many diverse participants as possible.

(f)(5) A subscriber may not participate in more than one community solar project. It is the responsibility of the subscriber organization to verify that their subscribers are not already subscribed to another community solar project.

COMMENT: Whether a potential subscriber is already subscribed to another community solar project can only be fully validated by communication with the utility. The Board should establish a process for this validation as part of the overall utility data exchange requirements.

(g) In cases of master-metered buildings, the account holder of the master meter shall be allowed to subscribe to community solar subscriptions on behalf of his or her tenants. The account holder

of the master meter will be required to provide to the subscriber organization on a form approved by the Board, an affidavit demonstrate, in his or her application to the Board and with a signed affidavit, that specific, identifiable, sufficient, and quantifiable benefits of the community solar subscription are being passed through to the tenants. Nothing in this subsection prohibits the account holder of the master meter from signing a separate subscription for the separately metered building common areas.

COMMENT: We recommend that this section be revised to state that an affidavit be provided to the subscriber organization as with all other subscriber qualification information. It would be available for review by the Board or its staff on request.

14:8-9.7 Community solar bill credits^[L]_[SEP]

(a) The value of the bill credit shall be set at retail rate net metering, inclusive of supply and delivery charges.^[L]_[SEP]

COMMENT: We strongly support the proposal that bill credits are for the full retail rate.

(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, wire transfer, or check.

COMMENT: The "avoided cost of wholesale power" should be clearly defined in the regulations, and we have suggested a definition earlier in these comments. The avoided cost should include the locational marginal price for energy, ancillary services, adjustments for distribution losses, and allowances for reductions in installed capacity charges and transmission charges (NITS).

The meaning of "appropriate billable charges" should also be clearly defined. Specifically, it should be clarified whether "excess credits" mean credits associated with kWh allocated over the subscriber's actual kWh, or excess total dollar credits relative to the total subscriber billed amounts.

(h) Any generation delivered to the grid that has not been allocated to a subscriber may be "banked" by the project operator in a dedicated project EDC account for a period of up to 12 months following the delivery of the generation to the grid. The banked credits may be distributed by the project operator to any new or existing subscriber during that 12-month period, in conformance with subscription requirements set forth in N.J.A.C. 14:8-9.6. At the end of the up to 12-month period, any remaining generation credits shall be compensated at the EDC's or BGS provider's avoided cost of wholesale power, calculated at the nearest node to the point of delivery of the community solar project.

COMMENT: We support the banking provisions as a means of assuring full allocation of solar production to subscribers and limiting the need for excess energy payments. We have provided additional language to clarify that each month's delivery is eligible to be banked 12 months into the future.

(k) EDCs must make appropriate data available through Green Button, subject to appropriate privacy protections. If Green Button capabilities are not available or are insufficient, the EDCs will work with Board staff to determine data sharing mechanisms and requirements between the EDCs and developers.

COMMENT: The particular data flows through Green Button should be established prior to the start of Program Year 1.

(n) The billing process shall be administered by the EDCs, who shall apply the community solar bill credit to subscribers' utility bills in proportion to each subscriber's share of the community solar project as indicated on the most recent list received from the subscriber organization. Each EDC may decide whether to apply the bill credit as a dollar credit and/or a kWh credit on subscribers' utility bills, so long as the following conditions are met:

- 1. The method of application of the bill credit (whether as a dollar credit and/or a kWh credit) shall be the same for all community solar projects in the EDC service territory; and*
- 2. The community solar bill credit shall be specifically identified as the community solar bill credit in a separate line on the subscribers' utility bills.*

COMMENT: From a subscriber perspective, a dollar credit is preferable, if by dollar credit it is meant that a published dollar per kWh credit is used for all kWh allocated for the month. This method allows subscribers, subscriber organizations and EDCs to communicate consistently and transparently about the bill credit amount. Given that some subscribers will take generation services from competitive suppliers and some will take Basic Generation Service (BGS) from their EDCs, using the BGS rate to determine the dollar credit per kWh for all subscribers would create the most transparency and consistency. This approach of using dollar credits based on default generation service rates is being used successfully in Maryland and is consistent with the proposed regulations' requirement that excess generation cash-outs be paid at BGS rates.

The selection of dollar credits or kWh credits by each utility should be established prior to the start of Program Year 1. While not a necessary part of language in these regulations, we recommend that utilities be required to provide pro-forma calculations of the credit rate including all billing determinants prior to the start of Program Year 1.

Additionally, we recommend that the Board establish a process by which subscriber organizations can bill subscribers for bill credits in advance of when they are applied to the bill; this will reduce potential revenue disruptions due to subscriber non-payment and enhance the financeability of the market. By providing sufficient data access to subscriber organizations, we believe this can be implemented while avoiding consumer protection overreaches.

(q) Community solar projects shall be eligible to apply, via a one-time election prior to the delivery of any energy from the facility, for SRECs or Class I RECs, as applicable, or to any subsequent revision to the solar compensation mechanisms as determined by the Board pursuant to the Clean Energy Act.

COMMENT: As discussed in our cover letter, a project's qualification for SRECs is crucial to the success of the Pilot Program, and the parallel process underway in New Jersey to reform the SREC program is injecting uncertainty into the market and could undermine the program's success. To mitigate this risk, we recommend that the full size of the Pilot Program be carved out of the existing or any successor SREC program so that any project that qualifies for the pilot program will be eligible for SRECs. Alternatively, pre-qualification could be limited to those projects that allocate at least seventy-five percent (75%) of their credits to residential subscribers, thus rewarding subscriber organizations whose projects will have the highest positive impacts on New Jersey ratepayers.

(s)The Board may decide to create one or more additional incentive(s) paid and/or credited to community solar developers for specific types of community solar projects, including, but not limited to, community solar projects located in environmental justice communities and/or LMI projects.

COMMENT: We recommend that the Board establish and announce any applicable incentives in advance of the start of the Program Year 1. The Board should consider additional incentives that encourage development of solar projects on brownfields and landfills.

14:8-9.8 Low- and moderate-income provisions^[1]_[SEP]

(a) A low- and moderate-income subscriber for the purposes of this subchapter is as follows:^[1]_[SEP]

- 1. A low-income ~~residential~~ household or a moderate-income ~~residential~~ household as ~~determined by annual adjusted HUD income limits~~ defined in 14:8-9.2.*

COMMENT: As noted above, the definitions in 14:8-9.2 should include more specifics on where the relevant income data is available on how it should be applied to households of various sizes and with one or more household incomes. We also recommend that this section be revised to refer more completely to the expanded definitions developed for 14-8-9.2.

(a)(2). Affordable housing providers may also qualify as an LMI subscriber for the purposes of a community solar project. In order to do so, they must:

i. ~~Demonstrate in their application to the Board and sign an affidavit that they are passing along specific, substantial, identifiable, and quantifiable long-term benefits to their residents/tenants; and~~

ii. Provide to the subscriber organization on a form approved by the Board Sign and submit to the Board, an affidavit indicating that they will pass along said specific, substantial, identifiable, and quantifiable long- term benefits to their residents/tenants.

COMMENT: Section (i) appears redundant to section (ii) and can be stricken. We recommend, as in earlier sections, that the affidavit be provided to the subscriber organization to be maintained consistent with all other customer qualification information.

(b) An LMI community solar pilot project is defined as a community solar pilot project in which a minimum 5130 percent of project capacity is subscribed by LMI subscribers.

(c) An LMI community solar project may not accept participation by a non-LMI subscriber if doing so would cause LMI participation in the project to fall below 5130 percent of project capacity.

COMMENT: We are not aware of any existing community solar market that requires LMI participation as high as 51 percent, and we expect that such a high allocation to LMI subscribers will make projects very expensive to finance as financing partners are pricing perceived LMI payment risk into their terms. Billing and collections from LMI subscribers have proven difficult in other community solar markets, in part due to the fact that LMI households have access to fewer bank accounts, the preferred payment method to minimize default risk and revenue disruption to the project sponsor.

A 30% LMI subscriber requirement for LMI projects would accomplish the objectives of the pilot program without creating significant financing barriers. At 30% LMI, the remaining subscribers act as a sufficient buffer against any perceived payment risk.

(d) The following LMI eligibility criteria shall be applied:

1. If the community solar pilot project is sited on government-owned property, and is serving LMI subscribers living on that property, the government site owner shall provide to the subscriber organization on a form approved by the Board an affidavit ~~may provide a sworn statement that those community solar pilot project subscribers are considered LMI for the purposes of the Pilot Program.~~

COMMENT: We recommend that the form and content of this affidavit should be determined by the Board and provided to subscriber organizations for use in the pilot, and further recommend that the affidavit be provided to the subscriber organization to be maintained consistent with all other customer qualification information.

(d)(2). In all other cases, subscribers must be individually qualified as LMI for the purposes of the Pilot Program. The subscriber organization for each project shall receive and review proof of LMI eligibility for each LMI subscriber. Any of the following may be accepted by a subscriber organization as proof of LMI status for individual subscribers:

i. Proof of participation in one or more of the following: LIHEAP, Universal Service Fund, Comfort Partners, and/or Lifeline Utility Assistance Program; or

ii. An affidavit, signed by the LMI subscriber on a form approved by the Board, confirming their income qualification as either a low-income household or moderate-income household as defined in the 14:8-9.2. ~~A copy of the first and second page of the subscriber's three previous most recent years' Federal income tax returns, or an equivalent income verification. 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.~~

COMMENT: With respect to subsection (i), we suggest it be clarified that utilities shall provide this information to subscriber organizations as part of the utility data exchange requirements. Note that we have also recommended that the definitions of “Low-income household” and “Moderate-income household” be expanded to include these alternate qualifiers.

With respect to subsection (ii), we urge the Board to modify the requirements. Placing onerous documentation requirements on low- and moderate-income subscribers will deter participation by the very individuals the Pilot Program seeks to benefit. A signed affidavit from the subscriber on a form approved by the Board, which would include a listing of the income qualification levels, should be sufficient evidence. The effectiveness of this affidavit approach could be evaluated as part of the Pilot Program.

14:8-9.9 Codes and standards^[1]_{SEP}

(d) Each community solar project shall telemeter its production data to the EDC on a monthly basis in accordance with EDC EDI procedures.

(e) The EDCs shall be responsible for measuring the metered production of energy by community solar pilot projects, and for verifying that the community solar pilot projects are producing an amount of energy that is greater than or equal to the amount of energy that is being credited to subscribers' bills.

COMMENT: Utilities should be required to supply their EDC meter readings to the project owners and subscriber organizations in a timely fashion. It is especially important that readings forming the basis of allocating kWh to subscribers be provided prior to credits being allocated. Subscriber organizations need to be able to validate this EDC billing determinant and assure that their customer charges for subscription credits are properly aligned. It is not clear that EDI transaction formats are needed for this communication.

(f) The EDCs shall make available and update, in a commercially reasonable fashion, capacity hosting maps, within 90 days of the beginning of PY1.

COMMENT: We strongly support the requirement that EDCs publish hosting capacity maps alongside the opening of the Pilot Program. This will reduce the number of projects withdrawn during the pilot and allow developers to more properly site potential projects to maximize their benefit to the distribution system and minimize avoidable interconnection upgrade costs. If projects with high interconnection costs are awarded capacity in the Pilot Program, there is significant risk to achieving commercial operation, given the high margin impacts of such costs.

(g) A community solar project shall not subscribe more than 100 percent of the project's nameplate capacity in DC rating, as measured by the sum of each subscriber's allocation in Wdc.

COMMENT: It should be established how this provision relates to the allocation of banked energy from the project. The allocation of banked capacity to subscribers might take the form of what appears to be a total subscription rate greater than 100% for a particular month.

14:8-9.10 Consumer protection^[1]_{SEP}

(a) Board staff shall develop a standard registration form for subscriber organizations. Subscriber organizations shall be required to complete and submit this form at least 30 days prior to first doing community solar business operations in New Jersey.

COMMENT: As noted earlier, we suggest that this registration form be developed and approved prior to the start of Program Year 1.

(4)(i) Board staff will design and approve a specific disclosure statement that subscriber organizations must present to each community solar subscriber at the same time as their subscription contract.

COMMENT: As noted earlier, we suggest that this registration form be developed and approved prior to the start of Program Year 1.

(4)(iii) Disclosure statements must be made available to a subscriber in Spanish, upon request of the subscriber;

COMMENT: We suggest that the Spanish language version of this disclosure statement be designed and approved by the Board staff along with the English language version.

(7)(ii) Proof of eligibility for LMI subscribers must be ~~collected by the subscriber organization and be kept maintained by the subscriber organization for a minimum of six~~ three years ~~following the expiration of the contract with said subscriber and be made available to the Board and Board staff upon request.~~

COMMENT: Given that the proof of eligibility is a one-time requirement for each subscriber and given the sensitivity of the personal information being disclosed, we suggest a shorter document retention period for this information of 3 years. This will give the Board and its staff sufficient time to review the information without unnecessarily exposing the subscribers' sensitive personal information.

(b) The Board must be notified, in writing, of any change to the project developer, owner, or operator in case of sale, transfer, contract modification, or other material change to the parties initially listed in the community solar application. Specifically:

- 1. Within 30 days of a material change in control of the owner, such new "beneficial owners" are required to notify the Board of their individual and/or corporate names, tax ID, address, contact phone, and percent of ownership of the project.*
- 2. Within 30 days of a material change in the community solar project operator, such new project operator is required to notify the Board of their individual and/or corporate names, tax ID, address, and contact phone.*

COMMENT: We support the Board clarifying and establishing a procedure to allow for ownership transfers in a project. As a part of the solar development process, a project can change hand as many as two or three times, and it is crucial that the Pilot Program allows for this ownership transfer to happen, as long as the receiving party adheres to all Pilot Program rules and regulations.

14:8-9.11 Reporting

(b)(3) The Board shall be kept apprised of all major project developments and milestones via written notification (e-mail or letter).

COMMENT: We suggest that the specific milestones and project developments that need to be reported upon be established prior to the start of Program Year 1.

(d) Each community solar subscriber organization, and any successor, shall retain a record of all subscriber contracts, disclosure forms, ~~LMI proof of eligibility~~, and generation allocation lists for a period of at least six years from the date of their expiration. Each of these documents must be made available without delay upon request from the Board or Board staff.

COMMENT: We suggest deleting the reference to LMI proof of eligibility since it is already covered in 14:8-9.11(b)(3)

Aida Camacho-Welch, Secretary
New Jersey Board of Public Utilities
ATTN: BPU Docket Number: QO18060646
44 S. Clinton Ave., 3rd Floor, Suite 314
PO Box 350
Trenton, NJ 08625-0350

To Whom it May Concern:

My name is Steven Durst and on behalf of my company Synnergy I am submitting comments for the Community Solar Program. We believe these programs are very important and have multiple benefits for municipalities, however there may be some issues that would be hard for these groups to overcome. I would like to reiterate the points that we voiced previously to President Fiordaliso when we met with him and his staff to discuss relief that municipalities should be afforded with any new solar legislation.

The SREC term should remain 15 years verses 10 for governmental organizations and

- 1) nonprofits. This is the most important element since the SREC's represent at least 80% of the income in a solar project, dramatically affecting the financing.
- 2) The relief sought is limited to municipally owned projects as well as schools and hospitals involved in community solar since they more directly benefit the tax payers in a community.
- 3) Waive any escrow requirement for the above captioned uses.
- 4) Change the requirement for starting a project until such time as the necessary state or local authority has granted the necessary permits and/or approvals required for the project.
- 5) Eliminate any wheeling fees for the above captioned uses imposed by the serving utility.

As an example of the possible consequences arising out of both escrow and time frame parameters as proposed, please consider the following. We are in our fourth year of seeking approvals for a 3 MW solar project to serve Ewing Lawrence Sewer Authority. We have expended well over \$300,000, have obtained all DEP permits and approvals, and are to be heard at the Hamilton Township Planning Board on December 13. It is obvious that we would have lost our escrow and the money and time that we have expended in this project under the proposed guidelines. Opposing factors could merely drag out the approval process of any transaction and cause a well meaning developer to lapse into default. This is a specific example of why we ask that both the escrow and time frame requirements be amended to prevent such risk.

These are the most significant issues facing small developers and municipalities who are wishing to be involved in these community solar projects - these projects would directly and positively impact the burden on local tax payers.

Thank you for your time and please if you have any questions or would like to discuss this further, let me know.

Regards,
Synnergy LLC
Steve Durst
Phone: 215-669-7620

**Comments of the Nature Conservancy on
Siting Requirements of the
Community Solar Energy Pilot Program Rules
Proposed by the NJ Board of Public Utilities
N.J.A.C 14:8 - 9.5
November 29, 2018**

The Nature Conservancy is a global conservation organization working in all fifty states and over 70 other countries. In New Jersey, we have helped to preserve over 55,000 acres of natural lands; we own and manage a network of nature preserves; and we conduct restoration projects along the State's coasts and rivers. We hold land and water conservation as central to our mission, to healthy societies and a healthy planet. The Conservancy also regards renewable energy deployment as indispensable for reducing greenhouse gas emissions that pose a catastrophic threat to humans and the natural world we depend on. As such, the Conservancy supports and is working to help advance renewable energy deployment in the U.S. and globally.

There are many benefits to solar over conventional electric generation, but solar facilities can also have negative land use impacts. Utility-scale solar is a land intensive energy source requiring about 5-7 acres/megawatt. Unlike smaller-scale rooftop installations, larger-scale ground-mounted solar installations require development of sizable tracts of land. Sites are typically cleared of any vegetation and seeded with fescue grass that is maintained through mowing and spraying of herbicides. The impacts of solar development include direct impacts, such as soil disturbance, habitat fragmentation, and indirect impacts, such as changes in surface water quality because of soil erosion at the construction site.

With the continued growth of solar energy there is an increasing need to locate and design solar facilities in ways that have the least impact to natural systems and biodiversity. Considering environmental factors in siting decisions on the front end of projects is the most effective way to protect natural landscapes. Solar facilities located in low-impact areas avoid threats to natural systems and biodiversity while helping accelerate the transition to a clean energy economy.

Utilizing previously disturbed lands also reduces the amount of carbon lost due to site construction. We believe that clearing forestland, grasslands, and productive agricultural lands should be avoided. Clearing forestland in the U.S. creates a carbon loss of 40 – 100 tons per acre, thus offsetting benefits of clean energy production. Similarly, if a grassland is cleared and graded for solar, it results in loss of carbon from the soil organic layer, decreased microbial biomass and activity, and additional loss of soil through erosion and runoff. Solar energy developers should preferentially site solar facilities on cleared land with poor soils and that are least suitable for agriculture.

In general, solar facilities should be sited on previously disturbed areas, such as rooftops, brownfields, underutilized industrial areas and mine-scarred lands. Areas to be avoided include areas of high native biodiversity and high quality natural habitats, including conservation lands, natural heritage priority sites, wetlands, and frequently flooded areas. In addition, siting to optimize existing transmission infrastructure is also important, avoiding the need for new

transmission and transmission interconnection facilities that often have significant habitat impacts.

Employing the principles outlined above, The Nature Conservancy supports the development of community solar to advance clean energy and provide greater access to solar energy for residents and communities that lack access to solar energy. We support the NJ Department of Environmental Protection's 2017 updated solar siting guidelines that identify rooftops, brownfields, landfills and areas with existing impervious coverage that are generally in urban, commercial or residential areas, as the preferred locations for solar development, and we support incentives and other policies needed to encourage solar in these locations.

We believe that additional sites appropriate for solar development beyond these locations can be identified with careful analysis and guidelines. However, the draft Community Solar rule does not contain guidelines for careful analysis and runs the risk of fostering solar development on inappropriate lands potentially undermining public support for solar energy, while unnecessarily damaging valuable natural lands or farmland.

The draft rule appropriately bans solar development on preserved farmland, but allows for solar development on Green Acres lands with special approval of the NJ DEP. Like preserved farmland, solar development should not, in general, be permitted on preserved Green Acres lands that have been set aside to protect natural, scenic and recreational resources. Possible exceptions might include solar canopies on parking lots or rooftops at parks, but the limited circumstances under which community solar facilities could be sited in parks should be clearly stipulated in the rule.

The draft rule seeks to encourage "applications for projects that make creative use of marginal or low-value lands" but contains no criteria or provisions to identify such lands or encourage development in those locations. The rule should include a process to identify such lands, with input from NJ DEP, NJ SADC, stakeholders and the public.

In addition to prohibiting community solar on preserved farmland, the State should not subsidize solar development on farmland with the best soils that has been identified by the NJ SADC, counties and municipalities as high priority for farmland preservation. In addition, the State should not subsidize solar development that results in the clearing of more than 1/2 acre of forest so that we important carbon sequestration and other benefits of our State's forests are maintained.

Finally, the rule should prohibit community solar in critical wildlife and conservation areas as identified by the State's Landscape Project or in conservation areas identified by the NJ Highlands Council.

The Nature Conservancy appreciates the opportunity to provide comments to the Board of Public Utilities on the siting aspects of its proposed community solar pilot program rules.

Thomas Wells, NJ Director of Government Relations
The Nature Conservancy
200 Pottersville Road
Chester, NJ 07930

November 30, 2018

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 Draft Rule
In the Matter of the New Jersey
Solar Energy Pilot Program**

Docket No. QO18060646

Dear Secretary Camacho-Welch,

On behalf United States Solar Corporation, I respectfully submit the attached *Comments on Draft Rule* in response to the Board's draft Rule published in the New Jersey Register on October 1, 2018.

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 is currently developing projects in four states, with over 50 MWs of community solar installed and subscribed to date.

We attended and participated in both the July 24 and November 8 stakeholder workshops, and respectfully submit these comments in response to the Board's draft Rule published on October 1, 2018.

I. Provisions re: the project site

a. Program capacity and maximum project sizes, etc. should be measured using an AC rating (instead of DC)

We respectfully request that the Rule adopt an AC rating for project and program sizing, since AC rating is more flexible and easier to administer for both the developer and the interconnecting utility. The AC output is also what the distribution grid actually receives from the solar garden and – unlike aggregate sum of DC panel ratings – the AC output can be physically capped by simply programming the inverter settings.

b. Bright line rule on project co-location

The Board should revise the co-location definition and provision to: (i) prohibit two CSG applications from being approved on the same parcel, but (ii) allow CSGs to be sited on adjacent parcels.

This is an easy-to implement approach that is fair and transparent for all the parties. By adopting this approach (or another bright line approach) the Rule would improve market clarity and avoid the prospect of potential disputes over project priority, etc. (Under this approach, if

any two developers do apply for the same parcel, the applicant with the earliest site-control agreement would win priority.)

c. Maximum project timelines

The Board should adopt a more reasonable and less stringent maximum project timeline (versus what's in the draft Rule) because this is a new pilot program and a new market, with untested permitting and interconnection procedures.

Project applicants will typically need to close contracts with subscribers plus set up financing before they can begin construction, which could take as long as 24 months or more. Projects with one or more innovative elements (*e.g.*, innovative or difficult site, energy storage) could obviously take longer than the average project to develop, but this rule would disadvantage them. Similarly, local and regional permitting jurisdictions may need extra assistance to craft and pass ordinances or process applications.

Rather than “hard code” a maximum project time in the Rule, the Board may want to simply formalize the delegation of that authority to itself, so that it can tailor the maximum project timeline based on pilot project learnings.

d. Clarification of PPA term definition

We request that, for the avoidance of doubt, the Board clarify draft Rule section 14:8-9.7(b) as follows:

The calculation of the value of the bill credit shall remain in conformance with retail rate net metering, as determined in (a) above and shall remain in effect for the life of the project, terminating when the project is decommissioned.

e. Project application deposit

The Board should consider requiring of a fully-refundable \$50/kW application deposit, which can be held in escrow similar to the Minnesota deposit requirement. This approach has been successfully used in Minnesota and elsewhere to incentivize applicants to cancel the project (and thus receive their deposit back) if and when it becomes clear (to the applicant) that the project does not have a path forward.¹

Once paid, the application deposit could be tied up for multiple years (*i.e.*, from the application date to the final project commissioning), making an escrow option especially important – both to make the deposit financeable, but also to enable robust third-party cash controls and reporting (neither of which is normally available from the utility).

¹ See *e.g.*, Xcel Energy's Minnesota Section 9 tariff, at Sheet 68.14 (“The Company will allow for the use of an escrow agreement for deposits made and will facilitate the transfer of deposits currently held by the Company into escrow upon the applicant's request and at the applicant's cost. . .”).

f. Improved interconnection rules and tools

As seen in other states, New Jersey’s new community-solar program is likely to place new demands on the EDCs current interconnection processes and practices – due to both the volume and complexity of the interconnection requests.

For this reason, the Board should consider directing the relevant EDCs to file a readiness plan (for the expected volume and complexity of these interconnection requests), including the consideration of community-solar interconnection rules and tools that have proven successful in other states. Ideally, these would include but not be limited to:

- a publicly available interconnection queue, with monthly updates;
- a site-specific capacity pre-screen report (providing the line voltage, transformer rating, minimum load, etc. for a potential site location) made available to the developer at a reasonable cost (*e.g.*, \$250);
- clear utility process and timelines for all interconnection steps;
- accurate interconnection cost estimates, with actual interconnection costs capped at no higher than 20 percent above the estimate;
- a fair and workable mechanism for resolving interconnection disputes; and
- the ability for projects to voluntarily “move back” in the queue.

II. Provisions re: the subscriber side

a. The Board should mandate a dollar-denominated subscriber credit

As experience in other states has shown, a dollar-denominated bill credit is both financeable and appealing to residential subscribers. The alternative kWh-denominated approach is inferior, because that makes it much harder for the subscriber to accurately estimate the financial benefit under the subscription agreement. Think of it from the subscriber’s perspective. With a dollar-denominated credit, the math is simple: expected credit benefits = (subscriber’s project allocation, in kW) x (project’s estimated solar production, in kWh per kW) x (market standard bill-credit rate, in \$/kWh).

But under the disfavored kWh-denominated approach, each unit (kWh) of a solar garden’s production will have a different value depending on a whole host of factors, including seasonal and/or daily fluctuations in the price of many customers’ delivered electricity. Unlike above, there is no straightforward math equation to estimate the customer’s expected financial benefit.

The dollar-denominated credit has a good track record and has been adopted in the majority of active jurisdictions.² We therefore request the following language change to section 14:8-9.7(n) of the draft Rule:

² See CCSA (2017), Community Solar Policy Decision Matrix, at 6 (available at <http://www.communitysolaraccess.org/resources/>).

. . . Each EDC ~~may decide whether to~~ shall apply the bill credit as a dollar credit ~~and/or a kWh credit~~ on subscribers' utility bills, so long as the following conditions are met

b. LMI and Residential requirements

We respectfully request that the Board refrain from increasing the low-to-moderate-income LMI requirement for the Pilot Program – above the already-challenging 40 and 51 percent requirements in the Draft Rule – unless and until the Board has collected actual program data sufficient to support that increase in the LMI requirement. The Year 1 LMI requirement Draft Rule is already among the most demanding in the nation, and it will take a significant amount of time to develop the new contracts and relationships necessary to deliver on the initial LMI requirement.

Note, we do not object to the provision in the draft Rules that allows the Board some discretion to increase the LMI requirement for future pilot program years. We simply ask that the Board make any such decision based on actual program data, including data on the program's future success (however mixed) with meeting the initial LMI requirement.

This same logic would apply equally to setting a minimum percentage requirement for residential subscribers (which the Draft Rule allows the Board to do in the program's second or third year). We're not against the provision; we just ask that the Board base that future decision on actual program data, including the level of residential subscriptions.

c. Geographic qualification of LMI Subscribers

Additionally, there are ways to simplify the verification of LMI status that could significantly ease program adoption. For example, the Rules could establish that any person residing in an "environmental justice community" (or similar designation) is pre-qualified to be an LMI subscriber.³ This would allow project developers to easily identify pre-qualified LMI subscribers by census block group (without the need for burdensome individualized verification) and market to them through direct mail, thereby speeding adoption.

Alternatively, the Rule could reference a similar geographical designation already in statute, rather than adopt a different (or merely restated) definition here.

d. Don't require tax qualification for LMI subscribers

The Board should delete the draft requirement to verify LMI subscribers' status by reviewing "three previous years' Federal income tax returns" (pg. 10) That requirement would be an overreach and seriously hinder the demand for residential LMI subscriptions.

³ See e.g., CT Gen Stat § 22a-20a ("Environmental justice community" means (A) a United States census block group, as determined in accordance with the most recent United States census, for which thirty per cent or more of the population consists of low income persons who are not institutionalized and have an income below two hundred per cent of the federal poverty level, or (B) a distressed municipality").

We anticipate that this requirement was perhaps intended to verify whether a given LMI customer may be offered an “ownership stake” in a community solar garden, such as part ownership of the physical asset or investment in an energy cooperative. But it does not make sense in the context of the much-more prevalent “pay-as-you-go” contract approach – under which the subscriber takes no ownership and/or risk of ownership. For this majority of subscription contacts (including residential LMI subscription contracts) the customer can be qualified by a simple credit-score check.

We thus recommend the Board simply strike the following text from section 14:8-9.8(d)(2)(ii) of the draft Rule:

~~“An attestation that the customer qualifies under the low or moderate income definitions outlined herein. 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.”~~

Alternatively, the Board could choose to revise this section, to tailor it more narrowly to solve any specific, articulated concerns.

e. On-bill repayment for LMI subscribers

Serving LMI customers is a policy goal shared by community solar programs in other states.⁴ But based on the significant challenges around credit-qualifying LMI customers seen in other community solar programs, we don’t think that serving a significant number of residential LMI subscribers is realistic unless the program makes it very easy to identify qualified LMI subscribers and sign them up for a utility-provided on-bill repayment option.⁵

As the Low-Income Solar Policy Guide explains, on-bill repayment of solar loans (or here, pay-as-you-go solar subscriptions) can significantly reduce the barriers to LMI credit-qualification and participation.⁶ One way it does that is by allowing the LMI customer to

⁴ See Jeffrey Cook and Monisha Shay (2018), *Focusing the Sun: State Considerations for Designing Community Solar Policy* (NREL/TP-6A20-0663), Table ES-1.

⁵ This mechanism may sometimes also be referred to as “consolidated billing” or “purchase of receivables.”

⁶ Low-Income Solar Policy Guide, On-Bill Recovery / On-Bill Financing, at <http://www.lowincomesolar.org/toolbox/on-bill-recovery/> (citing a NYSERDA pilot program initiated in October 2015). See also Financing Solutions Working Group, Financing Energy Improvements on Utility Bills: Market Updates and Key Program Design Considerations for Policymakers and Administrators (May 2014), at 1-2 (noting that at least thirty utilities offer some form on-bill-repayment for loans used to

subscribe without committing themselves to a new monthly bill – even one that pays for itself in energy savings – especially if the LMI customer doesn’t have a bank account that allows for automatic monthly payments. On-bill repayment also allows the EDC to play an important role in enabling the provision of subscription benefits to LMI customers, including by lowering the financial risk of non-payment to the project and (in theory) reducing the need for subscriber credit qualification.

f. Prohibition on subscribing to more than one community-solar facility

There are many legitimate reasons that one subscriber may want to subscribe to more than one community-solar facility. For example, many school districts and local-government subscribers are motivated by the by the goal to cover 100 percent of their electricity use, which would likely be impossible unless they subscribe to more than one facility. This draft prohibition would also prevent a given customer from contracting with two different solar providers, restricting their freedom to contract and reducing the level of market competition for subscribers.

For these reasons, we recommend the Board simply strike the following text from section 14:8-9.6(f)(5) of the draft Rule:

~~A subscriber may not participate in more than one community solar project. It is the responsibility of the subscriber organization to verify that their subscribers are not already subscribed to another community solar project.~~

III. Conclusion

For the reasons set forth above, we respectfully request that the Board adopt the recommendations set forth herein.

Sincerely,

s/ Ross Abbey

Ross Abbey
Senior Development Specialist,
United States Solar Corporation

install energy-efficiency improvements); *id.*, at 6 (Noting that California, Hawaii, and Oregon have also launched on-bill-repayment pilots).

UU FaithAction NJ



November 30, 2018

Aida Camacho-Welch, Secretary
New Jersey Board of Public Utilities
ATTN: BPU Docket Number: QO18060646
44 S. Clinton Ave., 3rd Floor, Suite 314
PO Box 350
Trenton, NJ 08625-0350

**Ref: Community Solar Energy Pilot Program Rules
BPU Docket Number: QO18060646**

Dear Ms. Camacho-Welch,

Thank you for the opportunity to comment on the proposed rules for the Community Solar Pilot Program. UU FaithAction NJ is a faith-based organization advocating for social justice and legislative policy initiatives in the state of New Jersey. We concentrate on six issue areas: Economic Justice, Environmental Justice, Reproductive Justice, Immigration Reform, Gun Violence Prevention, and Criminal Justice Reform.

Sincerely,

UNITARIAN UNIVERSALIST FAITHACTION NEW JERSEY
LEGAL ADVOCACY PROJECT

BY: 
Reverend Rob Gregson,
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Comments on Community Solar Energy Pilot Program Rules, BPU Docket Number: QO18060646

Introduction

As a faith-based group, Unitarian Universalist Faith Action addresses issues of equality and social justice, in line with our first and second principles, “[t]he inherent worth and dignity of every person” and “[j]ustice, equity, and compassion in human relations.” In addition, our seventh principle, “[r]espect for the interdependent web of all existence of which we are a part,” motivates us to work to care for our environment. In line with these principles, we are concerned with promoting access to renewable energy and to equal access for low and minority income households.

In answering the Board of Public Utilities’ (“**BPU**”) questions, Docket Number QO18060646, promulgated for commentary on the proposed Community Solar Energy Pilot Program (proposed rule N.J.A.C. 14:8-9) (the “**Program**”), we considered three important goals:

- A. Attract solar developers to providing access to Low and Moderate Income (LMI) households.
- B. Attract Low and Moderate Income households to community solar.
- C. Make it easy for the BPU to administer and for households to apply.

We limit our comments to those questions that we believe impact Low and Moderate Income (“**LMI**”) households and communities; we have no opinion on other

questions. We also support the recommendations of the NJ Environmental Justice Alliance.

Discussion

For the Program to be a success, there will have to be clear benefits both to potential subscribers and to developers, and those benefits will have to be clearly and believably explained. There will be problems on both the subscriber and the developer sides. In the past, LMI households have been misled by promises to reduce their electricity bills, only to find them increasing after the first month. Also, since LMI households are expensive to sign up, and LMI projects typically have higher finance charges, developers tend to avoid developing these projects and possibly manipulate the rules to minimize the number of LMI subscribers. Unfortunately, as will be discussed below, the rules interact in such a way as to allow such manipulation.

We propose that the Program can also provide a great benefit to LMI communities by providing quality jobs (permanent jobs paying at least minimum wage), and entrepreneurial opportunities and opportunities for research and education, in addition to lowering bills. These benefits might be obtained by redefining LMI projects as those with ownership in an LMI community, or those in which twenty percent of the workers are from LMI households or twenty percent of the subscribers are LMI households. This approach to defining the projects would provide more benefit to LMI communities; it would discommode developers less; it would reduce the cost to ratepayers, who will have to subsidize lower rates for LMI households to provide motivation to sign up; and would have minimal effect on progress toward one-hundred percent renewables, since the LMI households involved would most likely contribute a

relatively small part of the capacity. Another issue is the definition of Low and Moderate Income communities. We agree with NJ Environmental Justice Alliance that the definition should capture subscribers based on race as well as income.

1. Jobs

The development of solar projects is a grand opportunity to create jobs and provide job training in a new industry. LMI communities could become hubs for renewable energy innovation. Minority entrepreneurs should be encouraged to develop related businesses and local educational institutions can provide training. Workers from LMI households should be involved in construction and installation of the Program. There should be training and certification programs available to the community, and such trainees should be preferred for work on the project in some capacity. An alternative—already mentioned—to requiring that a minimum number of LMI household subscribers is to define an LMI project as one in which ownership is in an LMI community or at least twenty percent of the workers on the project are from LMI households. This could provide a great benefit to LMI communities, particularly if the jobs pay well and are permanent, at least as much as providing lower bills through community solar, and would not require that ratepayers or tax dollars subsidize lower bills for LMI households.

2. Cost and Credibility

LMI households will not be able to subscribe unless their bills are lowered. No one struggling to pay bills can afford to subscribe to a program that increases the size of a bill. The hurdle with potential LMI subscribers is not just to make the cost lower, but also to make a believable case that their bills will be smaller. LMI households have had bad experiences with changing their electricity supplier and finding that even though the bill

is lower in the first month, it is higher afterwards. In the short term, making sure that the bills are lower may require subsidies. Two questions arise based on this (1) can this be done, and (2) how will subsidies be funded? One approach is to dedicate a portion of the Societal Benefits Charge to this purpose.

From a ratepayer point of view, the cheapest way to provide lower costs to LMI households would be to provide utility-scale solar, since utility-scale solar is most cost effective. Another approach would be to encourage municipalities to partner with developers to develop community solar projects. This could address both the trust and the cost issues (presumably, the municipality would require contractual assurances from the developer that rates would actually be lowered).

3. Number of LMI Households Served

In the current draft, forty percent of capacity must be reserved for LMI projects, and to be an LMI project, a project must have fifty-one percent LMI subscribers, i.e., just more than half. There is a temptation to divide forty percent by two and interpret this as saying that twenty percent of the subscribers will be LMI subscribers. But this rule does not actually require that and it allows very different results. In particular, the number of LMI subscribers represented in the pilot could be a much smaller percentage of the total subscribers under these rules. This could happen if each LMI project includes only a small number of households, and other projects include many.

Example: Suppose there are fifty projects, of which twenty are LMI projects and thirty are not. Let us suppose the twenty projects serve ten subscribers each, of which six are LMI, and the thirty other projects serve

one hundred subscribers each, of which none LMI households.¹ Then there will be one hundred-twenty LMI subscribers on the Community Solar Pilot Project and three thousand-eighty subscribers that are not LMI. Therefore, fewer than four percent of the subscribers in the Community Solar Pilot will be LMI.

Is that really the intent?

The BPU might consider a more specific requirement on the number of households represented, for example, that at least twenty percent of the subscribers served in the Community Solar Pilot be LMI households. This could be implemented by requiring each developer to serve at least twenty percent LMI households or by any other means that the BPU can devise that does not delay implementation of Community Solar.

4. Evaluation

Every program should be evaluated, and it is especially important to consider how a pilot program should be evaluated. From the point of view of LMI households, the following should be measured, both total and broken out by Electric Distribution Company (“EDC”) and by developer:

1. The total number of LMI households (not just the number of LMI projects, but the number of LMI households) served and the percentage of subscribers represented by LMI subscribers.
2. The total capacity allocated to LMI subscribers (not just the capacity allocated to LMI projects, but that allocated to LMI subscribers).

¹ The twenty LMI projects have to represent forty percent of the total capacity of the pilot program, and that could be achieved by including some institutional subscribers requiring very large capacity in each LMI project. This would be do-able under the rules because subscribers can be anywhere in the EDC area.

3. The number of LMI subscribers in income ranges of \$5,000 (e.g., under \$5,000, \$5000-\$10,000, etc).
4. Number of subscribers, number of jobs created, job training opportunities at local schools and on the job, and number of new businesses started, broken out by municipality and income level.
5. Average savings per subscribing household, broken out by municipality and income level.

5. Other comments

The following are additional comments the BPU should consider in their implementation of the Program:

- a) Co-location: the rules should specify that co-location of facilities not increase the cost over what it would be if the site were a single project. If a single site were broken into multiple community solar projects, multiple interconnections and metering would increase the cost of the project without adding any benefits over a single larger project. The main benefit of allowing co-location would be to ensure that the communities served are coherent, possibly making the community solar projects too small to fill the site. However, a better approach to serving “communities of interest” would be to locate the solar farms in the communities. Such siting decisions should be made with community input.
- b) Projects that restrict membership to smaller areas than the EDC area—in particular, to municipalities—should be scored more highly than projects with no restrictions. This could be handled with the rules for scoring projects. This is important for a couple of reasons — if municipalities develop projects, the profit

that has to be allowed for developers does not arise, so it reduces the cost to ratepayers; also, subscribers will be more committed to the project if it is local effort. In addition, local governments that choose to commit to such a project are being responsible to their residents, and this deserves to be rewarded.

- c) On page seventeen of the draft rule, there is a nearly incomprehensible sentence that should be re-written:

“Board staff shall open applications for the Pilot Program for a length of time to be enacted at the official approval of the application.”

This sentence appears to use two different meanings for the word “application,” the first being a request from a project developer to set up a project and the second being the application form to be created by the board. The word application seems to be used in subsequent text with both meanings as well, making it all quite ambiguous and confusing.

6. Conclusion.

To serve LMI communities, the pilot must provide clear benefits to them, such as steep reductions in the cost of energy or improvements to the local economy through new business, job training, and education opportunities. The definition of an LMI community is an issue, and because of the history of structural racial bias should address race as well as income. Furthermore, the combination of the definition of an LMI project and the carve-out for LMI customers has such unpredictable effects that a simpler rule, such as

20% of subscribers must be LMI, should be adopted in its place. Finally, careful consideration must be given to evaluation of the impacts on LMI communities.

UNITARIAN UNIVERSALIST FAITHACTION NEW JERSEY
LEGAL ADVOCACY PROJECT

BY: 

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Dated: November 29, 2018

November 29, 2018

Aida Camacho-Welch, Secretary
New Jersey Board of Public Utilities
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Ref: Community Solar Energy Pilot Program Rules
BPU Docket Number: QO18060646
Proposal Number: PRN 2018-090
Proposed Rules: N.J.A.C. 14:8-9

Dear Ms. Camacho-Welch,

Earthjustice, Environment New Jersey, GRID Alternatives, Solar United Neighbors of New Jersey, and Vote Solar (“Community Solar Equity Parties”) appreciate the opportunity to provide comments on the Board of Public Utilities’ (Board or BPU) proposed rules establishing a Community Solar Energy Pilot Program (Pilot Program). Our organizations have been active participants beginning with the consideration and passage of the Clean Energy Act, providing verbal comments at BPU’s stakeholder meeting on July 24, written comments submitted on July 31, and further verbal comments on November 8.

We appreciate that the BPU has taken stakeholder feedback into consideration as it has developed the rules contained in Proposal Number PRN 2018-090. Our organizations are encouraged by the proposed rules and offer the following comments and a redline version of the proposed rules as recommendations. We believe if our recommendations are adopted in the final rules, the community solar marketplace will function in a way that works for community solar providers, will successfully encourage and incentivize participation from Low- and Moderate-Income customers, and will establish a functioning pilot program that can be easily transitioned to a permanent program.

Below, our comments generally follow the order of the proposed rules and offer detailed suggestions for revisions, which we incorporate into the attached redlines to the proposed rules. However, we emphasize up-front several aspects of the proposed rules and other programmatic aspects that are crucial for a successful Pilot Program:

- **Transparent and Inclusive Processes.** Throughout our comments, we note opportunities for the BPU to engage in transparent and inclusive processes that relate to

the rollout, implementation, and review of the Pilot Program. We believe the BPU can use the Pilot Program to increase engagement with communities who do not have the resources to participate in what are often complex, opaque, and inaccessible proceedings, as well as stakeholders who can offer technical expertise. BPU and the Board staff should endeavor to hold conversations *early* with underserved communities and groups that represent them when it comes to consideration of program design, implementation, review and adjustment.

- **Bill Credit Rate.** We strongly encourage the BPU to establish a residential retail rate credit applicable to all residential and non-residential rate classes in place of the proposed value of bill credit structure outlined in Section 12:8-9.7. A residential retail rate credit is necessary to support participation in the pilot program by all customer classes and, in particular, commercial, industrial and affordable housing entities that may serve as creditworthy offtakers to support the successful financing of LMI projects.
- **Pilot Program Size.** We are encouraged that the BPU has identified 75 MW as a capacity limit for Year 1 of the Pilot Program. We encourage the BPU to undertake an inclusive process to determine appropriate capacity limits for Year 2 and Year 3, with an eye toward expanding the minimum 75 MW capacity allocations in Years 2 and 3 to help meet the State’s aggressive clean energy goals. At a minimum, we request that the capacity units for the Pilot Program be set out in alternating current (AC) instead of direct current (DC).
- **Application Process.**
 - *Transparency.* We appreciate the BPU’s effort to solicit feedback on the application process with three stakeholder meetings and the opportunity to submit written comments. However, we urge the BPU to establish a streamlined, inclusive and transparent application process that facilitates project development. The solicitation of stakeholder feedback into the development of any application process and associated evaluation criteria should include the opportunity for in-person meetings to ensure that groups representing low-income communities, communities of color, and environmental justice communities are able to participate.
 - *Minimize Application Complexity.* We also encourage the BPU to consider the level of complexity associated with the application to ensure it does not unintentionally limit participation by non-traditional community solar providers, such as local non-profits, community-based organizations, and others. We also suggest an application process that makes it reasonably straightforward for the BPU to compare projects across multiple evaluation criteria.

- *Maturity Requirements:* We acknowledge that the draft application form includes an opportunity for community solar providers to list the permits and approvals received; however, we encourage the BPU to establish a minimum set of project maturity requirements so that community solar providers clearly understand the necessary permits or approvals necessary to gain acceptance into the program. Transparency around project maturity requirements is critical to reduce the number of speculative projects that apply for capacity in the pilot program and provide an even playing field for community solar providers attempting to secure capacity in the pilot program.
 - *Forward-Looking Processes.* We encourage the BPU to institute an inclusive stakeholder process to elicit feedback on the application process, to inform adjustments to the process in Years 2 and 3 of the Pilot Program and transitioning into the permanent program.
 - *Co-benefits:* We encourage the application process to facilitate co-benefits, including economic opportunities, workforce training, and local hiring for projects, especially for environmental justice communities and people of color, and for projects that will promote ownership, entrepreneurship, research and educational opportunities in the EJ community in which they are located.
 - *Bid Commitments:* Any bid commitments, especially relating to LMI customers, bill savings, or impacts for EJ communities, should be maintained and enforceable for the life of the project, where applicable.
- **LMI Project Provisions.**
 - *40 Percent LMI Project Capacity Target.* We fully support the Proposed Rules that set aside 40 percent of total annual capacity in the Pilot Program for LMI projects, and we want to make sure these projects succeed in order to set the bar for other statewide community solar programs across the country. We seek clarification that the 40 percent LMI project set aside should apply in a manner that ensures that these projects are distributed across New Jersey, ideally corresponding with LMI household concentration. We also encourage the BPU to be transparent and clear about how it intends to ensure that 40 percent of the capacity for projects selected for the Pilot Program are, in fact, LMI projects that serve 51% LMI subscribers.
 - *Low-Income Residential Participation in LMI Projects.* We also support the requirement that 51% of a LMI project must serve LMI subscribers. However, we urge the BPU to ensure that each LMI project serves at least 10.4 percent low-income residential customers, as recommended by the New Jersey Environmental Justice Alliance. However, given that up to 25% of the state's population is considered low-income, we urge the BPU to ensure that participation standards

for low- and moderate- income households be consistent with the rates of people at these income levels living in the area where a project is located.

- *Incentives and Other Measures to Ensure Benefits for Underserved Communities.* The results of a report GTM Research prepared for Vote Solar are clear -- potential LMI subscribers are most motivated by tangible economic savings and “often need higher relative discounts on their energy bills -- sometimes at least 20%-50%.”¹ Vote Solar encourages the BPU to explore targeted incentives to meet the policy goals of the Community Solar Gardens Act, particularly to support LMI project development, job creation, customer savings, and any other policy goals such as ownership by or siting in environmental justice communities, as long as these communities are involved in the decision-making process. Incentives should be structured to ensure that project developers may overcome financing barriers for LMI projects, and offer LMI customers a significant economic savings to motivate their participate at scale, and ensure their long-term benefit through participation in the pilot program. Incentives could either come initially from the state’s interim SREC program in the form of adders or multipliers or an incentive from the State’s Clean Energy Program.
- To assist with customer enrollment in community solar, we also encourage the BPU to fund community-based organizations who are already providing services to LMI households, such as organizations who are coordinating energy efficiency work.
- BPU could also work to align state energy efficiency (EE), Low-income Heating Assistance Program (LIHEAP) and Weatherization Assistance (WAP) programs and investments to support inclusion of community solar, which can be an impactful strategy to provide long-term energy burden reduction through an approach that integrates solar into weatherization services.²
- *Racial Sensitivity Analysis.* We support the suggestion of the New Jersey Environmental Justice Alliance to conduct a racial sensitivity analysis, to determine how many People of Color may fit within the definitions in the Proposed Rules relating to low-income and moderate-income households.
- *Mitigation of Financing Barriers.* We encourage the BPU to explore programs, should they have the authority, such as a loan loss reserve or other credit enhancements to facilitate the financing of LMI projects. BPU could also encourage the pursuit of such programs through the Economic Development Authority (EDA), including through the investment of Regional Greenhouse Gas Investment (RGGI) allocated to EDA

¹ GTM Research (2018). *The Vision For Community Solar: A Roadmap for 2030*. Slide 92. Retrieved from: <https://votesolar.org/csvision>.

² Colorado offers an example of this strategy. Please see NREL [report](#) and Colorado Energy Office [program](#).

- *Consolidated Billing*: Finally, we encourage BPU to adopt utility consolidated billing for community solar subscribers, along with purchase of receivables.

Comments Organized by Section

14:8-9.2 Definitions

We offer the following changes to the definition section:

- Affordable Housing – BPU has proposed that “affordable housing” have the same meaning as “affordable” in N.J.A.C. 5:80-1.2. We believe this cross-reference may be a typo as the word “affordable” does not appear in 5:80-1.2. We believe a more appropriate definition of affordable is contained in N.J.A.C 5:80-26.2 which reads: “*Affordable*” means, in the case of an ownership unit, that the sales price for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.6 and, in the case of a rental unit, that the rent for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.12.” The attached redlines reflect our suggested change to this definition.
- Community Solar Developer – We suggest broadening the definition of “community solar developer.” There are many steps along the development process for all solar projects including community solar projects. A “developer” may be engaged in a wide range of activities related to bringing a project to interconnection including permitting, site development, financing, and the actual construction. A “developer” may sign contracts for all or parts of the actual construction of projects and providing that flexibility in the definition will require registration of the primary entity responsible but allow flexibility for contracts to be signed for discrete task such as site preparation, pile driving, and panel installation without each specific contactor having to register with the state. The attached redlines reflect our suggested change to this definition.
- Community Solar Facility– We suggest adjusting the definition of a community solar facility to reflect a maximum capacity as measured in Alternating Current (AC), rather than Direct Current (DC). Clarification that the Year 1 Pilot is 75 MW AC significantly impacts the pilot program size. A Year 1 pilot program capacity of 75 MW AC will also drive greater investment in the state, expand solar access to a greater number of individuals and businesses, and make a greater contribution to the state’s clean energy goals. The attached redlines reflect our suggested change to this definition.
- Community Solar Subscription –We suggest several changes to the “community solar subscription” definition. First, we suggest clarifying that the subscription is an actual agreement, rather than the act of participation. Second, we believe that the use of the word “share” may confuse subscribers who participate in the most common model of community solar currently offered in the US. The noun, “share,” can and generally does convey some level of ownership.

Ex. Merriam Webster “a portion belonging to, due to, or contributed by an individual or group.”

Ex. Oxford Dictionary of Law “A unit that measures the holder’s interest in and liability to a company. Because an incorporated company is in law a separate entity from the company membership, it is possible to divide and sell that entity in specified units. In the case of a company limited by shares the liability of shareholders is confined to the purchase price of the shares. Once purchased, these units of the company become intangible property in their own right and can be bought and sold as an activity distinct from the trading activities of the company in question. While the company is a going concern, shares carry rights in relation to voting and sharing in profits. When a limited company is wound up the shareholders have rights to share in the assets after debts have been paid. If there are no such assets shareholders lose the amount of their investment but are not liable for the company’s debts.” Because many community solar projects will be set up as distinct limited liability companies, the use of the word “share” or “shares” in the regulations and possibly in subscription agreements (which use language that often mirrors agency rules) may inadvertently confuse subscribers. Therefore, we suggest “share” be replaced by “portion” which generally does not include a sense of ownership. The attached redlines reflect our suggested change to this definition.

- Good Utility Practice – This defined term does not appear anywhere else in the rules. Accordingly, we suggest removing the definition if it is not used in the subsequent sections of the community solar rules. The attached redlines reflect our suggested change to this definition.
- Historic Fill -This defined term does not appear anywhere else in the rules. Accordingly, we suggest removing the definition if it is not used in the subsequent sections of the community solar rules. The attached redlines reflect our suggested change to this definition.
- Low-income Household and Moderate-income Household– First, in the definition of “moderate-income household” the unit of measurement for eligibility is “median income, as determined by annual HUD income limits.” We believe the word “area” was inadvertently excluded from this sentence and should be added directly before “median”. Second, the definitions of “low-income household” and “moderate-income household” uses two different baseline units for determining eligibility. The “low-income household” definition uses the federal poverty level while the “moderate-income household” definition uses “[area] median income”. We believe the baseline units for these two definitions should be the same as this will ensure that there is minimal overlap in the two definitions and perhaps more importantly, there are no gaps between the two definitions. We suggest using “area median income as determined by annual HUD income limits” as the baseline units. With this change we believe *low-income* can be defined as having an adjusted gross income below 80 percent of the area median income, and *moderate-income* can be defined as having an income between 80 percent and 120 percent of the area median income. The attached redlines reflect our suggested change to these definitions and add a definition for “very low-income.”

- Sanitary Landfill - This defined term does not appear anywhere else in the rules. Accordingly, we suggest removing the definition if it is not used in the subsequent sections of the community solar rules. The attached redlines reflect our suggested change to this definition.

14:8-9.3 Pilot Program Structure

- Project Selection. We appreciate the Commission's intent to select projects that will help make a successful pilot program, and we urge the BPU to establish a streamlined, inclusive and transparent process early on to facilitate project development. We appreciate that the Board is seeking public input on the application process for the pilot program and has established three stakeholder meetings and the opportunity for written comments. The process should also include the opportunity for in-person meetings to provide an opportunity to seek input from organizations representing low-income communities, communities of color, and environmental justice communities that might not be able to participate in a more formal comment-driven stakeholder feedback process. We also encourage the BPU to consider the level of complexity associated with the application to ensure it doesn't unintentionally limit participation by non-traditional community solar providers, such as local non-profits, community-based organizations, and others. However, we also encourage a process that requires a reasonable level of certainty that community solar projects have met certain maturity criteria. Project maturity requirements will reduce the number of speculative projects that apply for capacity in the pilot program. They will also help the Board review projects with a high likelihood of success instead of reviewing projects that may meet or exceed certain evaluation criteria, but in the end may be unfinanceable. Finally, we encourage the BPU to institute an inclusive stakeholder process to elicit feedback on the application process, to inform adjustments to the process in years 2 and 3 of the pilot program, and transitioning into the permanent program.

For any application process to select projects into the pilot program, be it just for the LMI projects or all projects, we believe significant clarification and transparency should be added to the proposed rules. We offer the following changes to the Pilot Program structure section:

- Application Development– The process outlined in 14:8-9.3 (c) begins with Board staff presenting to the Board for approval the application for participation in the Pilot Program and the criteria for evaluation of said applications. We appreciate that the Board is seeking public input on the application process for the pilot program and has established three stakeholder meetings and the opportunity for written comments. We support a formal, transparent process to develop the application which will be used to select projects to participate in the pilot program. Although the Board has organized three stakeholder meetings, it is also necessary to establish in-person meetings with groups that may not have the ability to attend or participate in a formal solicitation requesting feedback on the application, such as groups representing underserved communities.

This is especially true because of the fast timeline the BPU has outlined for feedback on a long and seemingly complex draft application document. The community solar pilot program has received significant interest from New Jersey residents and organizations who desire to ensure the pilot program is successful and gives New Jersey residents a new way to access clean energy. Additionally, the pilot program has received significant interest from community solar developers and policy experts who have significant expertise in the appropriate application criteria and evaluation methods. The only way to ensure that the application process is legitimate is to ensure an open and transparent process into its development prior to its presentation to the Board. We also encourage the BPU to consider the level of complexity associated with the application to ensure it doesn't unintentionally limit participation by non-traditional community solar providers, such as local non-profits, community-based organizations, and others.

Looking forward, we encourage BPU to consider adjustments to the project selection process for years two and three of the Pilot Program. Please see our suggested revisions to 14:8-9.3(c) in our attached redlines.

Aside from the process to develop the application for participation in the Pilot Program, we see the application as a means of ensuring key benefits for underserved communities. As recommended by the New Jersey Environmental Justice Alliance, we recommend that enhanced scoring be awarded for projects that result in jobs for residents of environmental justice communities and other underserved communities, and for projects that will promote ownership, entrepreneurship, research and educational opportunities in the EJ community in which they are located. Proposals for projects sited in EJ communities should only be awarded points if they include measures for obtaining community input into siting.

- Timelines – 14:8-9.3(c)7 and 8 outline the amount of time approved projects have to begin construction and to become fully operational. The proposed timelines are very short and may result in the Pilot Program being unsuccessful. As the BPU heard during the November 8, 2018 public comment hearing, the development timeline for community solar projects can be very long. For LMI projects, the complexities relating to customer acquisition and financing can make timelines even longer. BPU should extend the proposed timelines to begin project construction and become fully operational, from 6 months to 12 months and 12 months to 18 months, respectively, with opportunity for extensions to begin construction, as well as a single 6-month extension to become operational. The attached redlines reflect our suggested changes to 14:8-9.3(c)7 and (c)8.

- Limitation on Projects by a Single Developer– In 14:8-9.3 (c) 11, the proposed rules allow Board staff to limit the number of projects approved from a single developer in a program year. While we believe that it is a near certainty that there will be more applications than available program capacity, we think it is important to clarify that this provision should only be used when

there are more applications for capacity than the annual capacity limit established pursuant to 14:8-9.4 (b). The attached redlines reflect our suggested change to 14:8-9.3 (c) 11. (Please note, this subparagraph is renumbered as 14:8-9.3 (c) 13 with other redline additions.)

- **EDC Participation:** We support the proposed rule in 14:8-9.3(c)4 that prohibits the EDCs from developing, owning, and operating community solar projects. However, we note that there are a number of ways the EDCs can support community solar, and particularly LMI subscriber participation. As outlined by GTM Research in *The Vision for U.S. Community Solar: A Roadmap to 2030*, regulated utilities can facilitate LMI participation in a number of ways that do not interfere with community solar market development, such as:
 - *Facilitate LMI subscriber enrollment, education and engagement;*
 - *Facilitate on-bill payment and/or financing (or consolidated billing per above recommendation) to increase low-income customers' access to solar;*
 - *Facilitate siting for solar projects that will serve low-income customers;*
 - *Serve as a backup subscriber in the event that LMI subscribers default; and*
 - *Facilitate the participation of other large entities as backup subscribers.*³

14:8-9.4 Pilot Program Capacity Limits

We appreciate the proposed rules defining a specific annual program capacity of at least 75 MW in each program year of the pilot, however we note that this capacity limit is significantly less than many parties advocated for during the stakeholder meeting process. We encourage BPU to evaluate the interest in the Pilot Program and be aggressive when it determines the program capacity for program years two and three. We believe there will be robust demand for community solar in New Jersey and enabling consumers to participate in this program will help New Jersey meet its clean energy and climate goals with local projects. Additionally, we are encouraged by BPU's commitment to ensure that a significant portion of the community solar program is made available to low- and moderate-income subscribers and affordable housing providers. The 40 percent carveout for LMI projects is aggressive, but achievable with an efficient program structure and with appropriate mechanisms designed to encourage LMI participation and bill savings.

We offer the following changes to the Pilot Program structure section:

- **40% LMI Carveout:** 14:8-9.4 (e) establishes a program wide carveout for LMI projects. We believe a clarification is necessary to help ensure that LMI projects are distributed throughout the entire state according to concentrations of LMI households. We believe that the 40% capacity set-aside for LMI projects should apply not only to the overall program, but to the individual

³ GTM Research (2018). *The Vision For Community Solar: A Roadmap for 2030*. Slide 95. Retrieved from: <https://votesolar.org/csvision>.

EDC service territories as well for the first year of the Pilot Program. Thereafter, we suggest that the Board staff review LMI project and subscriber data to make adjustments in PY2 and PY3, to ensure that LMI projects are serving LMI households proportionally across the state, according to the concentration of LMI households. Therefore, we suggest clarifying this language in 14:8-9.4 (e). The attached redlines reflect our suggested change to this section.

Moreover, we agree with groups like the New Jersey Environmental Justice Alliance that the Board should strive to ensure that participation in the Pilot Program matches New Jersey's population. To that end, we have included suggested language in our attached redlines at 14:8-9.4(e).

- Co-location: 14:8-9.4 (j) establishes a process by which co-location will be reviewed by the Board during the application process. We believe this provision is better stated in either 14:8-9.3 (Application Process) or 14:8-9.5 (Project Siting Requirements). We have suggested a change in the attached redlines that moves this provision to the Project Siting Requirements Section at 14:8-9.4(d).

14:8-9.6 Subscription Requirements

We offer the following changes to the Subscription Requirements section:

- Maximum Number of Subscribers per Project: We encourage BPU to carefully consider any limitation on the maximum number of subscribers per project, keeping in mind that several important demographics that community solar is designed to benefit are often relatively low usage customers when considered individually. For example, apartment dwellers, condo owners, and low- and moderate – income individuals maybe have relatively small subscription sizes; however, when considered in the aggregate they are a high percentage of New Jersey's population and can help New Jersey meet its clean energy and climate goals through participation in community solar projects. The provision contained in 14:8-9.6 (c) limits the maximum number of participating subscribers for a community solar project to 250 subscribers per one MW installed capacity prorated to project capacity. This maximum is too low. In the case of a 1 MW community solar system that is serving primarily residential customers, this would result in an average subscription size of 4 kW, which is too high an average subscription size to account for low-usage customers. In addition, given the structure of the proposed value of the bill credit in Section 14:8-9.7, we expect limited participation by customers with high demand charges and greater participation by small customer classes, again making the arbitrary cap on the number of subscribers per project problematic. We believe the more appropriate mechanism is to place a minimum subscription size in the rules, and we would suggest 1kW to ensure that all New Jersey customers, event those with relatively small individual load, can

participate in the clean energy economy. The attached redlines reflect our suggested change to 14:8-9.6 (c).

- Residential subscriber participation: 14: 8-9.6 (e) provides the Board authority to set a minimum percentage requirement for residential subscribers. We support the need to set minimum participation targets and targeted incentives to offset the added customer acquisition, billing and administrative costs of a large portion of small subscribers. As we saw in Minnesota's statewide community solar program without a residential or small customer participation target, only 10% of the overall capacity in Xcel's service territory was dedicated to residential customers.⁴ Therefore, we recommend that each project serve at least 50% residential and small commercial customers. The Board can accomplish this target with a requirement that 50% of each project is allocated to subscriptions of 25 kW or less.
- Participation in Multiple Community Solar Projects: We encourage BPU not to limit the ability of large customers to participate in more than one community solar project. New Jersey is home to some large energy users, many of whom may have individual climate or clean energy goals and no other adequate programs available for them to meet those goals with in-state clean energy. Consider a large hospital who believes that clean energy helps reduce air pollution, and thereby helps the overall health of the community. With the limitation of no single subscriber subscribing to more than 40% of a community solar project, and the 5 MW size cap and, the limitation on participating in one community solar project, the hypothetical hospital may not be able to place as much clean energy on the system as they would like to help clean the air with locally sited renewables. We believe that 14: 8-9.6 (f) 5, is unnecessary considering the provisions in 14:8-9.6 (f) 2 and the definition of community solar facility in 14:8-9.2 which includes the 5 MW project cap. We suggest striking this provision, and our attached redlines include this change.
- Master-Metered Buildings: 14: 8-9.6 (g) requires that master-metered buildings pass benefits of the community solar subscription along to the tenants. While we agree this is an important provision for master-metered building subscriptions that meet the requirement for LMI Projects, this does not seem necessary for all master-metered buildings. In fact, there may be some situations where a building could meet LEED standards or other clean energy goals through community solar and would be willing to do so even at a premium price to tenants. We believe this provision should be specific to affordable housing building and master metered buildings serving low or moderate-income individuals.

Additionally, we agree with the BPU's desire to allow affordable housing providers to qualify as LMI community solar providers. However, we believe that the BPU must be more explicit

⁴ <https://ilsr.org/minnesotas-community-solar-program/>

regarding the benefits being passed on to residents, and how those benefits are documented. That said, BPU should also allow flexibility for the demonstration of benefits, because it is not always possible to pass community solar-related savings directly on to tenants. For example, in HUD subsidized properties, barriers including the split incentives of utility bill subsidies, where bill savings can be required to be returned to HUD, and rules of the policies including the rate reduction incentive⁵, direct pass-through benefit to can be very difficult to achieve. As such, there are cases where it may be more effective to benefit the entire housing authority through supportive services or increased solvency, for example.

One strategy the BPU may wish to consult for requiring demonstration of benefit pass-through could be the Solar on Multifamily Affordable Housing (SOMAH) program model in CA, which requires that tenants receive at least 51% of net metering credits of any SOMAH project.⁶ Similarly, the Massachusetts SMART (Solar Massachusetts Renewable Target)⁷ program has similar requirements for Low-income Facilities under the program⁸. The attached redlines reflect our suggested change to 14:8-9.6 (g).

14:8-9.7 Community Solar Bill Credits

- **Bill Credit Rate.** One of the most important elements of the community solar Pilot Program is the bill credit. It is the bill credit that most closely determines the customer's value proposition. The bill credits reduce the customer's utility bill and offset the costs of a subscription to the community solar program. The bill credit is also the representation of the value that a community solar project provides to the grid. By relying on net metering and allowing for volumetric *or* monetary crediting, the current language in Section 14:8-9.7 will result in credits varying widely across customers, even within the same utility service territory. A significant issue is that, for most commercial customers, only the volumetric (per kWh) supply and delivery components of retail rate are credited to the customer. This is opposed to a residential retail rate credit whereby all supply and delivery components are volumetric. The crediting method in the draft regulations provides for very different bill credit values across utilities and rate classes merely as a function of rate designs across rate classes (residential vs. non-residential) and across utilities. PSEG, for example, charges nearly all of its distribution charges for larger non-residential customers through a demand charge. The effect is that the retail rate per kWh credit for commercial projects in PSEG service territory is only a fraction of the residential retail rate; therefore behind-the-meter commercial solar projects to date depend heavily on the current SREC program to be viable. Barring near term intervention by the BPU to

⁵ <https://www.hud.gov/sites/documents/PIH2014-18.PDF>

⁶ CA Public Utilities Commission, Decision Adopting Implementation Framework for Assembly Bill 693 and Creating the Solar on Multifamily Affordable Housing Program, 17 (Dec. 14, 2017), at <http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M201/K125/201125355.pdf>.

⁷ <https://www.mass.gov/solar-massachusetts-renewable-target-smart>

⁸ http://masmartsolar.com/_/documents/Low%20Income%20Guideline%202004.26.18.pdf

create an interim SREC program, SRECs are unlikely to be available to this program due to the limited capacity remaining in the program. This is of concern for the overall viability of the Pilot Program, and particularly to the ability of commercial customers like affordable housing providers to participate.

The solution to ensure non-residential customer viability is simple. A number of studies have shown that residential retail rates are a fair proxy for the value of solar generation in the Northeast. Accordingly, the BPU should require a residential retail rate credit that avoids the impact of rate design (particularly demand charges) on a commercial customer's credit rate. A residential retail rate credit would also help to facilitate participation by schools, affordable housing properties and other institutional entities that may have high demand charges. These creditworthy entities are often instrumental to the viability of LMI project financing because they serve as a creditworthy "anchor" offtaker and minimize the perceived risk of serving low-income households. We refer to the comments of the Coalition for Community Solar Access comments of November 26, 2018 on this matter. Our redlines offer a simple revision on this point at 14:8-9.7(a). We support the language in 14:8-9.7(b) that provides that bill credits shall remain in effect for the life of the project.

- "Banked" Credits. We support the provisions in the proposed rules that allow for "banked" credits. At 14:8-9.7(h), the proposed rules provide, "Any generation delivered to the grid that has not been allocated to a subscriber may be "banked" by the project operator in a dedicated project EDC account for a period of up to 12 months." This provision will assist with obtaining financing for community solar projects, as banking credits helps to ensure a revenue stream even in the case of subscriber vacancies.
- Information Sharing: 14:8-9.7(l) directs the Board staff to work with the EDCs to develop a standardized process for sharing subscriber information between subscriber organizations and the EDCs. We believe that there are other stakeholders with years of experience with different methods of information exchange in other community solar markets that should be engaged in this conversation. Our edits to this section create a more inclusive process so that the final standards can take into consideration best practices and lessons learned from other states to create the correct protocols for the New Jersey program. Additionally, it is not clear what is meant by "subscriber information" in this subsection. We recommend that the language be clarified to state that the information include the subscriber's identity as well as any information necessary for posting bill credits onto the subscriber's EDC bill.
- Utility Consolidated Billing and Purchase of Receivables. It is critical for the success of the Pilot Program, and particularly the success of the LMI project set aside target that subscriber organizations be allowed to participate in utility consolidated billing and purchase of receivables for customers' subscription costs. We recommend revising 14:8-9.7(l) to include this

mechanism. Without the ability for customers – particularly LMI customers – to pay for their subscriptions via their utility bill (and, ideally, for the EDCs to purchase these receivables), it will be difficult for community solar providers to obtain financing for LMI projects without an additional incentive. Please see our suggested revisions to 14:8-9.7(1).

- Additional Incentives for LMI Projects and Projects Located in Environmental Justice Communities: As stated above, we are encouraged with BPU's aggressive 40% carve-out for LMI projects in the program. We also support siting community solar projects in environmental justice communities, as long as community input is solicited. However, we firmly believe that the State must create additional incentives and/or other mechanisms to ensure that LMI projects are financeable, create jobs in underserved communities, and provide savings to reduce LMI subscriber energy burdens.

As drafted, the language in 14:8-9.7(s) is insufficient to ensure that participating LMI subscribers will experience a level of savings that is likely needed to entice them to enroll. In a recent report GTM Research prepared for Vote Solar, the research team conducted a series of interviews to determine what LMI customers want and value. The results of the survey are clear - - potential LMI subscribers are most motivated by tangible economic savings and “often need higher relative discounts on their energy bills -- sometimes at least 20%-50%.”

We encourage the BPU to adopt targeted incentives to meet the policy goals of the Community Solar Gardens Act, particularly to support LMI project development, customer savings, job creation, and any other policy goals such as ownership by or siting in environmental justice communities. Incentives could either come from the state's interim SREC program in the form of adders or multipliers or an upfront incentive from the State's Clean Energy Program. Incentives should be differentiated between LMI affordable housing, and LMI residential customers, recognizing that LMI residential customers face the highest financial barriers to participation. Incentives should be structured to enable deep energy cost savings for LMI customers, allowing them to reduce their energy burden significantly. We suggest structuring incentives with a minimum 50% savings target, as included within incentive structures in other states, including Washington DC and California.

The State's RPS and SREC programs have been major drivers of solar development, but those measures have never targeted LMI customers, so that should be a central goal for any interim or successor SREC program. For example, under its SREC II program, Massachusetts developed “factors” for SRECs generated by arrays in different market sectors. Under this system, SRECs generated by arrays serving affordable housing are valued at 11-25% higher than projects in some other market categories.⁹ This resulted in MA developing 93 solar projects serving

⁹ See SRECTrade, Massachusetts, available at https://www.srectrade.com/srec_markets/massachusetts.

affordable housing, as of early 2018.¹⁰ However, this factor value will likely need be comparatively higher for New Jersey's program, because SREC II only required 25% of the project to be allocated to affordable housing buildings, not necessarily LMI customers, who face higher financing barriers. And while the Illinois Solar for All program has yet to roll out, the Illinois Power Agency has set REC prices at a premium that in some cases exceed 30% for low-income community solar projects versus non-LI projects.¹¹ Additionally, Rhode Island's Community Remote Distributed Generation (CRDG) program found that the additional customer acquisition, customer replacement, and customer management and billing costs associated with community solar facilities results in more than a 15% premium compared to non-CRDG projects. This premium does not reflect the additional costs of serving low-and-moderate income customers.¹²

We encourage the BPU and Board staff to engage in in-depth modeling with a group of LMI-focused community solar project developers to determine appropriate incentive levels. We are happy to participate in such a stakeholder process to ensure the successful operation of LMI projects.

We also encourage the BPU to explore additional programs, should they have the authority, such as a loan loss reserve or other credit enhancements to facilitate the financing of LMI projects, and workforce development programs.

14:8-9.8 Low- and Moderate-Income Provisions

We offer the following comments and changes to the Low- and Moderate-Income Provisions section:

- **LMI Eligibility Criteria:** Determining LMI Eligibility Criteria is important for the integrity of the program. Ensuring that only LMI subscribers are able to take advantage of the portion of the program that is set aside for their participation must be balanced with protection of sensitive information, low-level of intrusiveness into personal finances, and ease of implementation for LMI subscribers and subscriber organizations. We appreciate BPU specifically identifying programs that can serve as proof of participation for LMI subscribers, we however suggest that BPU add a level of flexibility to approve additional programs, services and organizations to qualify LMI customers through board order if it see fit in the future. We are concerned about the

¹⁰ Low-Income Solar Policy Guide, Community Solar, Massachusetts, available at <https://www.lowincomesolar.org/best-practices/massachusetts/>.

¹¹ Illinois Power Agency, Compliance Filing: Renewable Energy Credit Prices for the Adjustable Block Program and the Illinois Solar for All Program (June 4, 2018), available at <https://www2.illinois.gov/sites/ipa/Documents/2018ProcurementPlan/ComplianceFilingMemorandum.pdf>.

¹² Rhode Island Renewable Energy Growth Program: Research, Analysis, & Discussion in Support of First Draft 2019 Ceiling Price Recommendations (2018). Available online: <http://sos.ri.gov/documents/publicinfo/omdocs/minutes/6154/2018/65027.pdf>

alternative eligibility mechanism included in 14:8-9.8 (d) 2 ii, which uses three years of tax returns or proof of non-filing verification as the only other proof of eligibility mechanisms for LMI subscribers. We believe this approach suffers from the following issues.

- o First, for many families locating three years of tax returns or contacting the IRS for proof of non-filing status is a significant additional burden for LMI subscribers that is not necessary for non-LMI subscribers. This additional burden comes without any additional monetary benefit for LMI subscribers for their participation in the program.

- o Second, this is sensitive information that subscriber organizations in particular do not want to handle. Collecting, verifying, and archiving for any future compliance necessary places a significant burden on subscriber organizations that are trying to serve LMI subscribers.

We recommend that the BPU Staff work with stakeholders to develop a method of income verification that minimizes administrative burdens for community solar providers and for subscribers. We strongly recommend that Subscriber Organizations have the option of using a simple attestation that includes the income guidelines for the program in plain, understandable terms and LMI participants simply have to sign this attestation to declare that they meet them. If the BPU Staff or the BPU find it necessary, a simple process could be created, by which a random sample of these participants' incomes are verified by a third party. Alternatively, a third party low-income administrator could be contracted under the program to oversee income qualification, and ensure low-income consumer protection and co-benefits, as included in states like Oregon, Illinois and California. See our recommended language in 14:8-9.8 (d) 2 ii in our attached redlines.

14:8-9.10 Consumer Protection

We recommend that under 14:8-9.10 (b) 3. ii (2), BPU insert language to allow guaranteed savings for LMI subscribers. Program reporting should also track the number of LMI subscribers, including residential customers versus affordable housing tenants (or whether customers are directly or master-metered, which is an important metric for ensuring equitable access by housing type).

14:8-9.11 Reporting

The proposed regulations do not contain provisions to ensure that the requirement that 40 percent of the capacity in the Pilot Program be met by LMI projects. Additionally, we seek to ensure that the intent behind the stated LMI project capacity goal is met - beyond mere participation, we believe the LMI project target should incorporate other benefits such as bill savings, job training and creation, etc. Therefore, we recommend that the reporting requirements in the proposed regulations be broadened to ensure data collection on important measures that directly address the impact of community solar on LMI subscribers. We recommend that reports submitted to the

Board contain the following information, in addition to the information required in the proposed regulations:

- 1) The total number of LMI households served by community solar projects, and the percent of subscribers that are LMI subscribers.
- 2) The total capacity allocated to LMI subscribers (in addition to the capacity allocated to LMI projects).
- 3) The number of LMI subscribers by income ranges (eg, low-income, moderate-income, other), to the extent this does not create an onerous burden for subscribers, subscriber organizations, and EDCs.
- 4) The number of jobs created, job training opportunities at local schools and on the job, and number of new businesses started, broken out by municipality to the extent feasible.
- 5) Average savings (or energy burden reduction) per subscribing household, broken out by municipality to the extent feasible.

In addition, we also urge that the BPU include mechanisms of enforcement in their regulations to ensure goal attainment.

We also recommend that Board staff convene stakeholders to solicit feedback on how the Pilot Program is addressing these metrics, and any improvements to maximize the program's effectiveness for these measures. Please see our suggested language on this topic in 14:8-9.11(a) and (e) of our attached redlines.

Additionally, the proposed regulations are silent on how the Pilot Program transition to a permanent community solar program. As with other aspects of the Pilot Program, we recommend that an inclusive and transparent process be implemented for soliciting feedback and ideas, and ensure that underserved communities have the opportunity to provide meaningful input. See our recommended language regarding a process for soliciting input on the transition to a permanent program in 14:8-9.11(f) in our attached redlines.

Interconnection Considerations

The interconnection process is a critical step toward assessing the viability of individual community solar projects. During the utility's interconnection application review, the utility provides pertinent information to the community solar provider regarding the ability to interconnect at that specific location and information on system upgrades and associated costs. As our comments indicate in Section 14:8-9.3 Pilot Program Structure, we urge the BPU to include interconnection approval as part of the application requirements to help identify mature projects that are likely to move forward in the pilot program. Some interconnection studies can be lengthier than others depending on the level and complexity of review. In order to avoid any unintentional preferences, it is critical that interconnection applications are reviewed in the order

they are submitted. This will help avoid a scenario where a straightforward application submitted at a later date is completed before a lengthier application review, thus "skipping" the line and being able to apply earlier for capacity in the pilot program. Maintaining a "first in, first out" approach will result in an even playing field during the pilot program application process while community solar providers compete over limited capacity.

Conclusion

We appreciate the BPU's desire to create an effective community solar pilot program that achieves the public policy goals of the Clean Energy Act. We hope that the Board will adopt the recommendations included in these comments to support a successful community solar Pilot Program. We look forward to continued engagement with the Board on the Pilot Program is implemented.

Respectfully submitted by:

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Vote Solar
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About the Community Solar Equity Parties:

Vote Solar is a national, non-profit, non-partisan grassroots organization with a mission to make solar a mainstream energy source. We aim to foster economic opportunity and support a cleaner, healthier environment by bringing solar energy into the mainstream. Vote Solar is not a trade group and does not have corporate members. Since 2002, Vote Solar has worked in states all across the country to remove market barriers and implement key policies needed to bring solar to scale.

Environment New Jersey is a citizen-based environmental advocacy project of the non-profit Environment America. Environment New Jersey researches the challenges confronting our environment and educate the public about what's at stake. Through research reports, news conferences, interviews with reporters, op-ed pieces, letters to the editor and more, Environment New Jersey raises awareness of environmental issues and promote sensible solutions.

Earthjustice is the nation's original and largest nonprofit environmental law organization that leverages its expertise and commitment to fight for justice and advance the promise of a healthy world for all.

Formed over 15 years ago, **GRID Alternatives** is a national leader in making clean, affordable solar power and solar jobs accessible to low-income communities and communities of color. GRID's mission is to make renewable energy technology and job training accessible to underserved communities. GRID has completed over 10,600 commercial and residential solar projects for low-income families throughout the country, totaling over 44 megawatts. It has provided 37,700 job trainees and community members with hands-on training to build the skills and experience necessary to secure jobs in today's rapidly growing solar industry. GRID is also a leader in low-income solar policy and partners with utilities, state agencies and other stakeholders across the country to increase solar access and equity.

Solar United Neighbors of New Jersey envisions a clean, equitable energy system that directs control and benefits back to local communities, with solar on every roof and money in every pocket. NJ-SUN is a community of people building a new energy system. They help people go solar, join together, and fight for their energy rights. Partner organizations range from nonprofits to municipal governments, universities to community organizations, and individual "super volunteers" to houses of worship.

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PUBLIC UTILITIES

BOARD OF PUBLIC UTILITIES

COMMUNITY SOLAR ENERGY PILOT PROGRAM

Community Solar Energy Pilot Program Rules

Proposed New Rules: N.J.A.C. 14:8-9

Authorized By: New Jersey Board of Public Utilities, Joseph L. Fiordaliso, President, Mary-Anna Holden, Dianne Solomon, Upendra Chivukula, and Robert M. Gordon, Commissioners.

Authority: N.J.S.A. 48:2-13.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

BPU Docket Number: QO18060646.

Proposal Number: PRN 2018-090.

Two **public hearings** will be held on the proposed new rules on the following date at the following location and times:

Thursday, November 8, 2018

1:00 P.M. and at 5:30 P.M.

Florio Forum

Edward J. Blumstein School of Planning and Policy

Rutgers University

33 Livingston Ave.

New Brunswick, NJ 08901

<http://bloustein.rutgers.edu/>

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Comments may be submitted through November 30, 2018, by e-mail in **Microsoft Word format**, or in a format that can be easily converted to Word, to: rule.comments@bpu.nj.gov or on paper to:

Aida Camacho-Welch, Secretary

New Jersey Board of Public Utilities

ATTN: BPU Docket Number: QO18060646

44 S. Clinton Ave., 3rd Floor, Suite 314

PO Box 350

Trenton, NJ 08625-0350

The agency proposal is as follows:

Summary

The Board of Public Utilities (Board) is proposing new rules establishing a Community Solar Energy Pilot Program (Pilot Program), by proposing N.J.A.C. 14:8-9. These proposed rules are designed to bring the Board's rules into compliance with P.L. 2018, c. 17 (the Clean Energy Act).

At N.J.A.C. 14:8-9, the proposed rules establish a three-year Community Solar Energy Pilot Program to enable electric utility customers to participate in a solar energy project that may be remotely located from their properties but is within their electric public utility service territory. Participating customers (known as subscribers) will receive a credit on their utility bills for their participation in a community solar project. Thus, a community solar project will enable access to solar energy to electric utility customers who have previously been unable to participate in solar energy due to a variety of barriers. A full-scale Community Solar Energy

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Program will be developed no later than 36 months after the effective date of the rules establishing the Community Solar Energy Pilot Program, drawing upon the experiences and lessons learned from the Pilot Program.

In developing the proposed rules for the Community Solar Energy Pilot Program, the Board has examined and drawn from the experiences of existing community solar programs in other states, while crafting a program that reflects the goals and circumstances specific to New Jersey. Thus, where appropriate, the proposed rules draw upon industry standards and precedent, within the framework of a New Jersey-specific program.

As the Board has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar, pursuant to N.J.A.C. 1:30-3.3(a)5.

The following is a summary of the substantive provisions to the proposed rules:

N.J.A.C. 14:8-9.1 establishes the purpose and scope of N.J.A.C. 14:8-9.

N.J.A.C. 14:8-9.2 sets the applicable definitions for N.J.A.C. 14:8-9.

N.J.A.C. 14:8-9.3 lays out the structure for the Community Solar Energy Pilot Program.

It limits the Pilot Program to three years (known as “Program Year 1,” “Program Year 2,” and “Program Year 3”) beginning on January 1, 2019. It establishes the structure for approval of projects to participate in the Pilot Program, via an annual competitive application process. It entitles electric distribution companies (EDCs) to full cost recovery incurred in implementation, compliance, and administration of the Pilot Program.

N.J.A.C. 14:8-9.4 sets forth the annual capacity limit for community solar projects approved for participation in the Pilot Program at 75 megawatts (MW) for Program Year 1, and at least 75 MW per program year for Program Years 2 and 3. The annual capacity limit will be divided among each EDC based on their average respective percentages of in-State retail electric

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sales. At least 40 percent of total annual capacity shall be allocated to low- and moderate-income (LMI) projects, with an additional 10 percent of total annual capacity able to be set aside by the Board for low-income community solar projects. The maximum size for individual community solar projects is set at five MW.

N.J.A.C. 14:8-9.5 sets forth siting restrictions on community solar projects. Additionally, the distance between the project and its subscribers may be anywhere within the EDC service territory in which the project is located, unless indicated otherwise in the project's application approved by the Board.

N.J.A.C. 14:8-9.6 sets forth subscription requirements for community solar projects, including a 10-subscriber minimum per project and 250-subscriber maximum per one MW installed capacity, and limits to the size of individual subscriptions.

N.J.A.C. 14:8-9.7 sets forth the value of the community solar bill credit at retail rate net metering, inclusive of supply and delivery charges. The bill credit may not be applied to fixed, non-by-passable charges and shall remain in effect for the life of the project. This section also establishes standards for the administration of the bill credit, by creating an annualized period for each subscriber, setting the conditions for carrying over credits, and determining a process for compensation for excess or unallocated credits. Subscribers must have an active EDC account within the EDC service territory of the community solar project to which they are subscribed and agree to the installation of a remote read smart meter upon EDC request. Additionally, this section directs Board staff to work with the EDCs to develop a process by which community solar subscriber organizations and EDCs shall exchange information pertaining to project subscribers and subscriptions and mandates the use of said process by subscriber organizations. The EDCs shall administer the billing process and may sync up the monthly billing periods of

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subscribers and projects. Community solar projects are eligible to apply, via a one-time election prior to the delivery of any energy from the facility, for SRECs or Class I RECs. The Board may create one or more additional incentive(s) for specific types of community solar projects.

N.J.A.C. 14:8-9.8 creates provisions of access for low- and moderate-income customers, by defining a low- and moderate-income subscriber, defining a low- and moderate-income community solar project, and setting eligibility standards for LMI subscribers.

N.J.A.C. 14:8-9.9 identifies codes and standards applicable to community solar projects, including, but not limited to, interconnection requirements, licensing, and Federal and State securities regulations. Community solar projects shall be considered as connected to the distribution system. Each community solar project is required to telemeter production data to the EDC on a monthly basis, and the EDCs are responsible for measuring the metered production of energy by community solar projects. Additionally, this section directs the EDCs to make available, and update in a commercially reasonable fashion, capacity hosting maps within 90 days of the beginning of Program Year 1.

N.J.A.C. 14:8-9.10 creates consumer protection standards for community solar subscribers and establishes a registration process for community solar subscriber organizations.

N.J.A.C. 14:8-9.11 establishes the reporting standards for EDCs and community solar developers, owners, operators, and subscriber organizations.

Social Impact

The proposed new rules will have a positive social impact for New Jersey, by creating an opportunity for access to solar energy to consumers who have previously been excluded. New Jerseyans who are unable to place solar on their own property, including, but not limited to,

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because they are renters, have a shaded or unsuitable roof, or are unable to afford the upfront capital costs, will now be able to purchase or subscribe to a share of solar generation, and receive the associated bill credit. Community solar creates the opportunity for new clean energy generation assets that will directly benefit communities in New Jersey.

Additionally, the Community Solar Energy Pilot Program is designed to specifically provide the opportunity for inclusion of LMI households. A significant proportion (at least 40 percent of the overall program capacity) of the Pilot Program will be reserved for LMI projects, with particular attention paid to ensuring that benefits are passed along to the LMI participants.

Finally, the Board is proposing rules to establish a three-year pilot program, as set forth in the Clean Energy Act. Projects will be selected via a competitive scoring process, with different criteria given different weights. This will enable the Board to test different types of projects, with the aim of implementing best practices and lessons learned when the Pilot Program is converted into a full-scale Community Solar Energy Program.

Economic Impact

The proposed new rules will provide the opportunity for the development of a new market for solar generation. In conformance with the Clean Energy Act, the proposed rules establish a value of the credit on each subscriber's bill. This value, set at retail rate net metering minus fixed, non-by-passable charges, has been selected based on reasonable and prudent estimates of the cost of community solar project development. Additionally, the proposed credit and annual capacity set forth in this subchapter are within the scope of the existing solar Renewable Portfolio Standard (RPS). The majority of those costs and impacts have already been accounted for in previous rulemaking proceedings. The Community Solar Energy Pilot Program

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may be subject to changes to existing solar compensation mechanisms (including, but not limited to, Solar Renewable Energy Certificates (SRECs) and the RPS) as they may be modified. Finally, the three-year pilot program will generate actual market information and data that will be used to inform the development of the full-scale Community Solar Energy Program, including an evaluation of the value of the bill credit.

Federal Standards Statement

Executive Order No. 27 (1994) and N.J.S.A. 52:14B-1 et seq., require State agencies that adopt, readopt, or amend State rules exceeding any Federal standards or requirements to include in the rulemaking document a Federal standards analysis. The Community Solar Energy Pilot Program rules have no Federal analogue and are not promulgated under the authority of, or in order to implement, comply with, or participate in any program established under Federal law or under a State statute that incorporates or refers to Federal law, Federal standards, or Federal requirements. Accordingly, Executive Order No. 27 (1994) and N.J.S.A. 52:14B-1 et seq., do not require a Federal standards analysis for the proposed amendments.

Jobs Impact

The proposed new rules are designed to operate within, and expand, the solar market in New Jersey, by enabling access to solar energy for customers unable to benefit from traditional solar. The proposed new rules are designed to operate within the existing solar RPS, and, thus, contribute to the associated impacts on jobs in the development, construction, and operation of solar facilities, and in the sales and management of community solar subscriptions.

Agriculture Industry Impact

The proposed new rules establish standards for the preservation of farmland in New Jersey. Specifically, the proposed new rules prohibit the siting of community solar projects on land designated as preserved farmland. The proposed new rules do not place an outright prohibition on siting of community solar projects on any and all farmland in New Jersey, with the intention of encouraging applications for projects that make creative use of marginal or low-value lands.

Regulatory Flexibility Statement

The proposed new rules will not impose any recordkeeping, reporting, or other compliance requirements on small businesses. A small business, as defined in the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., is a business that has fewer than 100 full-time employees. With regard to utilities and businesses that qualify as small businesses under the Act, this new subchapter establishes a voluntary program and, as such, will not impose any requirements on any utility that chooses not to participate in the program.

Housing Affordability Impact Analysis

The proposed new rules are unlikely to have any impact on the affordability of housing in New Jersey, nor is it anticipated that they will have any impact on the average cost of housing. The proposed new rules address only renewable energy programs and do not directly affect housing prices or the housing market.

Smart Growth Development Impact Analysis

The proposed new rules will have no impact on smart growth development in New Jersey. There is an extreme unlikelihood that the rules would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plans in New Jersey; the scope of the rules is limited to establishing a Community Solar Energy Pilot Program.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

The Board has evaluated the proposed new rules and determined that they will not have an impact on pretrial, detention, sentencing, probation, or parole policies concerning adults and juveniles in the State. Accordingly, no further analysis is required.

Full text of the proposed new rules follows:

SUBCHAPTER 9. COMMUNITY SOLAR ENERGY PILOT PROGRAM RULES

14:8-9.1 Purpose and scope

This subchapter sets forth the rules for the establishment of a Community Solar Energy Pilot Program, in accordance with N.J.S.A. 48:3-87.11.

14:8-9.2 Definitions

For the purposes of this subchapter, the following words and terms shall have the following meanings, unless the context clearly indicates otherwise.

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“Advertising” shall have the same meaning as set forth in N.J.A.C. 14:4-1.2.

“Affordable housing,” shall have the same meaning as “affordable,” as set forth in N.J.A.C. 5:80-~~26~~4.2.

“Affordable housing provider” refers to any person or entity that owns, operates, or manages affordable housing units. Affordable housing providers may qualify as LMI participants in an LMI community solar pilot project, under the condition that they demonstrate in their application to the Board that they are passing along specific, identifiable, and quantifiable long-term benefits to their tenants/residents (see N.J.A.C. 14:8-9.8(a)).

“Annual net energy” means the total amount of energy produced by the community solar facility on an annual basis, measured at the EDCs’ meter.

“Annualized period” means a period of 12 consecutive monthly billing periods.

“Avoided cost of wholesale power,” shall have the same meaning as set forth in N.J.A.C. 14:8-4.2.

“Basic generation service” or “BGS” shall have the same meaning as set forth in N.J.A.C. 14:4-1.2.

“Bill credit” refers to the credit placed on community solar subscribers’ utility bills by their EDC, calculated according to the bill credit value as established in this subchapter.

“Board” or “BPU” shall have the same meaning as set forth in N.J.A.C. 14:3-1.1.

“Capacity” shall mean the nameplate capacity, measured as the sum of the nameplate capacities in ~~DC-AC~~ rating of all individual photovoltaic panels physically interconnected to make up a community solar facility.

“Clean Energy Act” shall mean P.L. 2018, c.17, signed into law on May 23, 2018.

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“Co-location” is defined as having two or more independent community solar facilities providing subscriptions to two separate and distinct subscriber groups that are sited on the same parcel or contiguous parcels.

“Community solar developer” or “developer” means an entity that is duly authorized to do business in the State of New Jersey and constructs or contracts for the construction of a community solar facility within the State of New Jersey.

“Community Solar Energy Pilot Program” or “Pilot Program” refers to the program being established in this subchapter.

“Community Solar Energy Program” refers to the full-scale community solar program for which the Board shall adopt rules no later than (36 months after the effective date of rules and regulations establishing the Pilot Program).

“Community solar facility” refers to the physical equipment, including, but not limited to, panels, inverters, racking, and balance of systems, which constitutes a solar facility used for community solar, with a nameplate capacity in ~~DC-AC~~ rating not to exceed five MW.

“Community solar operator” means the entity ~~in charge of~~ responsible for the day-to-day oversight, safety, and control of the community solar project. The community solar operator may or may not have an ownership stake in the community solar project.

“Community solar owner” means the entity that legally and financially controls the community solar project. The “community solar owner” can be distinguished from the “community solar site owner.”

“Community solar pilot project,” “community solar project,” or “project” refers to a community solar project approved by the Board for participation in the Pilot Program, including, but not limited to, the community solar facility, project participants, and subscribers.

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“Community solar site owner” or “site owner” means the entity that legally and financially owns the real property on which the community solar facility exists.

“Community solar subscriber organization” or “subscriber organization” means the entity, duly registered with the Board that works to acquire original subscribers for the community solar project and/or acquires replacement subscribers over the lifetime of the community solar project and/or manages subscriptions for a community solar project. The community solar subscriber organization may or may not be, in whole, in part, or not at all, organized by the community solar developer, community solar owner, or community solar operator.

“Community solar subscriber” or “subscriber” refers to any person or entity who participates in a community solar project by means of the purchase or payment for a portion of the capacity and/or energy produced by a community solar facility. One electric meter denotes one subscriber.

“Community solar subscription” or “subscription” refers to an agreement to participate in a community solar project, by which the subscriber receives a bill credit for a share-portion for-of the community solar capacity and/or energy produced by a community solar facility. A subscription may be measured as capacity in kW and/or energy in kWh, ownership of a panel or panels in a community solar facility, ownership of a share-portion of a community solar project, or a fixed and/or variable monthly payment to the project operator.

“Customer information,” shall have the same meaning as set forth in N.J.A.C. 14:4-1.2.

“Days” means calendar days, unless otherwise specified.

“DEP” means the New Jersey Department of Environmental Protection.

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“Electric distribution company” or “EDC” shall have the same meaning as an “electric public utility” provided in N.J.S.A. 48:3-51.

“Electric distribution system,” shall have the same meaning as set forth in N.J.A.C. 14:5-1.2.

“Electronic Data Interchange” or “EDI” refers to the direct computer-to-computer exchange and processing of standard business forms from one business application to another, as defined and administered by the Board’s Division of Energy.

“Entity” is defined as a natural person or persons or a legal person or persons.

“Existing solar project,” for the purposes of the Community Solar Energy Pilot Program, refers to a solar project having begun operation and/or been approved by the Board for connection to the distribution system prior to January 1, 2019.

“Farmland,” shall have the same meaning as set forth in N.J.A.C. 14:8-1.2.

~~“Good utility practice” shall have the same meaning as set forth in N.J.A.C. 14:8-5.1.~~

“Government entity,” shall have the same meaning as set forth in N.J.S.A. 48:3-51.

“Green Acres preserved open space” means land classified as either “funded parkland” or “unfunded parkland” under N.J.A.C. 7:36, or land purchased by the State with “Green Acres funding” (as defined at N.J.A.C. 7:36).

“Green Button” is the energy industry-led effort initiated by the U.S. Department of Energy to provide utility customers with easy and secure access to their energy usage information in a standardized, consumer-friendly, and computer-friendly format.

“Historic annual usage” means the average amount of electricity supplied by an electric power supplier or basic generation service provider to the customer over the most recent 12-month period.

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~~“Historic fill,” shall have the same meaning as set forth in N.J.S.A. 48:3-51.~~

“HUD” means the United States Department of Housing and Urban Development.

“In-State retail electric sales” means the electricity sold by third party suppliers or BGS providers directly to end-use consumers within EDC service territories in the State of New Jersey.

“Interconnection agreement” means an agreement between a generator and an EDC, which governs the connection of the generator facility to the electric distribution system, as well as the ongoing operation of the generator facility after it is connected to the system. An interconnection agreement shall follow the standard form agreement developed by the Board and available from each EDC.

“kW” means kilowatts, a unit of power representing 1,000 watts. A kW equals 1/1000 of a MW.

“kWh” means kilowatt-hours, a unit of energy representing 1,000 watt-hours. A kWh equals 1/1000 of a MWh.

“Low-income household” means a household with adjusted gross income ~~at or below 200 percent of the Federal poverty level~~ less than 80 percent of the area median income, as determined by HUD income limits.

“Moderate-income household” means a household with a total gross annual household income in excess of ~~50-80~~ percent, but less than ~~120-80~~ percent of the area median income, as determined by annual HUD income limits.

“Multi-family buildings” or “multiple dwellings” are defined as having three or more independent resident housing units, as per N.J.S.A. 55:13A-3(k) and the 2015 New Jersey International Building Code definition for Residential Group R-2.

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“MW” means megawatts, a unit of power representing 1,000,000 watts. A MW equals 1,000 kW.

“Nameplate capacity” means the maximum rated output of an electric power generator under specific conditions designated by the manufacturer and usually indicated on a nameplate physically attached to the power production equipment.

“Open space” refers to land designated as “open” or a synonymous term in a municipal or county master plan or easement.

“Preserved farmland” means land from which a permanent development easement was conveyed and a deed of easement was recorded with the county clerk’s office pursuant to N.J.S.A. 4:1C-11 et seq., land subject to a farmland preservation program agreement recorded with the county clerk’s office pursuant to N.J.S.A. 4:1C-24, land from which development potential has been transferred pursuant to N.J.S.A. 40:55D-113 et seq. or 40:55D-137 et seq., or land conveyed or dedicated by agricultural restriction pursuant to N.J.S.A. 40:55D-39.1.

“Program year” or “PY” means the 12-month period from the official launch of the Community Solar Energy Pilot Program on January 1, 2019. Each of the three program years for the Pilot Program shall be numbered PY1, PY2, and PY3, respectively.

“Regulated entity” shall have the same meaning as set forth in N.J.A.C. 14:3-1.1.

“Regulated service” shall have the same meaning as set forth in N.J.A.C. 14:3-1.1.

“Renewable Portfolio Standard” or “RPS” means the program established by N.J.A.C. 14:8-2.1.

“Residential customer” shall have the same meaning as set forth in N.J.A.C. 14:3-1.1.

~~“Sanitary landfill” shall have the same meaning as set forth in N.J.A.C. 7:26-1.4.~~

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“Service area” means the entire geographic area over which a gas or electric light, heat, or power company has a privilege or franchise granted by the State or by any political subdivision of the State, in accordance with the provisions of N.J.S.A. 48:2-13 and 14.

“Societal benefits charge” shall have the same meaning as set forth in N.J.S.A. 48:3-51.

“Solar panel” shall have the same meaning as set forth in P.L. 2018, c. 17.

“Solar power” shall have the same meaning as set forth in P.L. 2018, c. 17.

“Solar renewable energy certificate” or “SREC” shall have the same meaning as set forth in N.J.S.A. 48:3-51.

“Telemarketing sales call” shall have the same meaning as set forth in N.J.A.C. 14:4-7.2.

“Unallocated/reallocated capacity” is defined as program capacity that is either not allocated to a community solar project approved within a given program year, or which was allocated to a community solar project approved within a given program year that has been deemed by the Board or Board staff, in its sole reasonable discretion, as no longer able to be completed.

“Unsolicited advertisement” shall have the same meaning as set forth in N.J.A.C. 14:4-7.2.

14:8-9.3 Pilot Program structure

(a) The Pilot Program shall run for a period of no more than 36 months, divided into Program Year 1 (PY1), Program Year 2 (PY2), and Program Year 3 (PY3). Program Year 1 shall begin January 1, 2019 and last for the full calendar year, until December 31, 2019.

(b) No later than (36 months after the effective date of this subchapter), the Board shall adopt rules to convert the Pilot Program to a Community Solar Energy Program.

(c) For each of the three program years, Board staff shall initiate an annual application process pursuant to the Clean Energy Act as follows:

1. Board staff shall solicit stakeholder feedback into the development of the application, utilizing a formal, transparent process. This process shall include in-person meetings with groups that may not have the ability to participate in a formal solicitation requesting feedback on the application, such as groups representing underserved communities.

2. In developing the application, Board staff shall consider the level of complexity associated with the application to ensure it doesn't unintentionally limit participation by non-traditional community solar providers, such as local non-profits, community-based organizations, and others.

3. Board staff shall present to the Board for approval the application for participation in the Pilot Program and the criteria for evaluation of said applications.

4. Board staff shall open applications for the Pilot Program for a length of time to be enacted at the official approval of the application.

5. Following the close of the application period, Board staff will evaluate and score projects based on criteria identified in the application. Only applications that are substantively complete by the close of the application period will be considered for participation in the Pilot Program for that program year.

6. Board staff will not accept applications for EDCs to develop, own, or operate community solar projects beyond the billing and other responsibilities set forth in this subchapter.

7. Projects will be presented to the Board for approval for participation in the Pilot Program beginning with the highest-scored project, and until the allocated program capacity for that year is filled.

8. Board staff may reject applications that are substantively incomplete at the close of

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the application period, that are not in compliance with this subchapter, or that do not meet a minimum standard for selection, as set forth in the application. The Board reserves the right to request additional or modified information to complete an application.

7.9. Approved projects are expected to begin construction within ~~six~~-12 months of their approval by the Board. Board staff may approve one or more two-month extensions if substantial progress is shown towards beginning construction within the initial ~~six~~-12 month-period, as determined upon review by Board staff based on the specific circumstances of the project.

8.10. Approved projects are expected to become fully operational (up to and including having subscribers receive bill credits for their subscription to the project) within ~~12~~-18 months of their approval by the Board. Board staff may approve one ~~or more~~ six-month extensions if substantial progress is demonstrated towards becoming fully operational within the initial ~~12~~-18-month period, as determined upon review by Board staff based on the specific circumstances of the project.

9.11. Board staff may initiate more than one application period per Program Year.

10.12. ~~The~~ Subject to subparagraph 14 of this subsection, the application periods for PY2 and PY3 may be opened as early as 90 days prior to the end of the previous program year.

13. In the approval process, if there are more applications than program capacity the Board staff may determine that it is appropriate to limit the number of projects approved for a single developer in a program year, in order to promote a diverse pool of developers.

11.14. ~~Prior to opening an application period for PY2 and PY3, Board staff shall convene a transparent and inclusive stakeholder process to consider transitioning from an application process to another type of project selection process.~~

(d) Electric distribution companies shall, subject to review and approval by the Board, be entitled to full cost recovery for any incremental costs incurred in implementation, compliance, and administration of the Pilot Program. EDCs may not set a separate fee or surcharge for

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community solar projects unless explicitly authorized to do so by the Board.

(e) The Board shall publish information pertaining to the New Jersey Community Solar Energy Pilot Program on its website including, but not limited to:

1. Application requirements and forms and evaluation criteria.
2. The list of approved community solar projects, including names, locations, and sizes.
3. The total capacity of approved projects for each program year.
4. Contact information for community solar projects currently seeking subscribers.

14:8-9.4 Pilot Program capacity limits

(a) The annual capacity limit for all community solar projects approved for participation in the Pilot Program during PY1 shall not exceed 75 MW, defined as the sum of the nameplate capacity in ~~DC~~AC rating of all PV panels in projects approved for participation.

(b) No later than 30 days prior to the start of PY2 and PY3, the Board shall set by Board Order an annual capacity limit for community solar projects approved for participation in the Pilot Program during PY2 and PY3. The annual capacity limit for PY2 and PY3 shall be at least 75 MW per program year, defined as the sum of the nameplate capacity in ~~DC~~AC rating of all PV panels in projects approved for participation.

(c) Unallocated capacity at the end of a program year may be reallocated to subsequent program years.

(d) The annual capacity limit will be divided among each EDC area based on their average respective percentages of in-State retail electric sales. The anticipated PY1 breakdown is as follows:

1. Atlantic City Electric	12.8%
2. Jersey Central Power & Light	27.5%
3. Public Service Electric & Gas	57.2%
4. Rockland Electric Co.	2.5%

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(e) At least 40 percent of the annual capacity limit in each EDC service territory shall be allocated to LMI projects in PY 1. To the extent possible, Board staff shall ensure that LMI participation in community solar pilot projects aligns with the state’s population, such that approximately ten percent of pilot program capacity serves low-income households and approximately 24 percent of pilot program capacity serves LMI households. Prior to PY2, Board Staff shall determine any adjustments needed to ensure LMI projects are serving LMI households proportionally across the state, according to concentration of LMI households.

(f) In the application process approved by the Board, the Board may set aside up to an additional 10 percent of the annual capacity limit, in order to test new models for low-income community solar projects including, but not limited to, ownership of community solar assets by low-income subscribers. The application and criteria for these low-income projects shall be developed by the Board.

(g) The capacity limit for individual community solar pilot projects is set at a maximum of five MWs per project, measured as the sum of the nameplate capacity in ~~DC~~AC rating of all PV panels comprising the community solar facility.

(h) Each project shall be equipped with at least one utility grade meter.

(i) Existing solar projects may not apply to requalify as a community solar project.

~~(j)(a) Co-location of solar facilities shall be permitted, subject to specific review and permission by the Board through the application process.~~

14:8-9.5 Project siting requirements

(a) Community solar projects may have subscribers anywhere in the EDC service territory in which they are located, unless they have indicated otherwise in their application to participate in the Pilot Program. Projects that have elected, in their application, to place a geographic restriction on the subscribers to the project must maintain that restriction for the lifetime of the Pilot Project. The Board may consider waiving this restriction during the project’s operational period upon special request.

(b) For the purposes of this section, the location of a subscriber and/or a community solar project

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is identified by the location of its physical utility meter.

(c) The following siting restrictions shall apply to community solar projects:

1. Community solar projects shall not be allowed on preserved farmland.

2. Community solar projects shall only be allowed on land designated as Green Acres preserved open space, or on land owned by the New Jersey Department of Environmental Protection, by special approval of the DEP.

(d) Co-location of solar facilities shall be permitted, subject to specific review and permission by the Board through the application process.

14:8-9.6 Subscription requirements

(a) All subscription requirements pertaining to the Pilot Program shall apply to both the original subscription and to all subsequent subscriptions enacted throughout the lifetime of a project, unless expressly determined otherwise by rule or Board Order.

(b) The minimum number of participating subscribers for each community solar project shall be set at 10 subscribers.

(c) ~~The maximum number of participating subscribers for each community solar project shall be set at 250 subscribers per one MW installed capacity (prorated to project capacity)~~minimum subscription size shall be 1 kW.

(d) Multi-family buildings with a community solar project sited on their property are exempt from the 10-subscriber minimum, so long as they demonstrate in their application that the project is intended to provide specific, identifiable, and quantifiable benefits to the households residing in said buildings.

(e) All rate classes are eligible for participation in a community solar project. ~~In PY2 and PY3, the Board may set a minimum percentage requirement for~~At least 50 percent of the capacity of a community solar project shall be subscribed by customers with subscriptions of 25 kW or less

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~~residential subscribers.~~

(f) The following subscription requirements shall apply:

1. Community solar pilot project subscriptions shall be sized to not exceed 100 percent of the subscriber's historic annual usage, calculated over the past 12 months, available at the time of the application. In cases where a 12-month history is not available, the community solar subscriber organization shall estimate, in a commercially reasonable manner, a subscriber's ~~load~~ usage based on available history.

2. No single subscriber shall subscribe to more than 40 percent of a community solar project's total annual net energy.

3. Subscriptions are portable, provided that the subscriber remains within the original EDC service territory and the same geographic limitations (if any) as the community solar pilot project to which they are subscribed. Appropriate notice of the change in residence and/or location must be provided to the EDC, no later than 30 days after the effective date of the change in residence and/or location. In cases of relocation, subscribers are entitled to one revision per move to their subscription size to account for a change in average consumption.

4. Subscriptions may be sold or transferred back to the project owner by subscribers. Subscribers may not sell or transfer a subscription to another party other than the project owner.

~~5. A subscriber may not participate in more than one community solar project. It is the responsibility of the subscriber organization to verify that their subscribers are not already subscribed to another community solar project.~~

(g) In cases of master-metered buildings, the account holder of the master meter shall be allowed to subscribe to community solar subscriptions on behalf of his or her tenants. In the case of affordable housing or buildings serving low-income and moderate income households, ~~the~~ account holder of the master meter will be required to demonstrate, in his or her application to the Board and with a signed affidavit, that specific, identifiable, sufficient, and quantifiable

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benefits of the community solar subscription are being passed through to the tenants. The Board and Board staff shall, however, allow flexibility regarding demonstration of benefit pass-through, especially to account for rules and regulations relating to affordable housing programs.

Nothing in this subsection prohibits the account holder of the master meter from signing a separate subscription for the separately metered building common areas.

14:8-9.7 Community solar bill credits

(a) ~~The value of the bill credit shall be set at retail rate net metering, inclusive of supply and delivery charges.~~ The value of the bill credit shall be set at the retail rate net metering rate, inclusive of supply and delivery charges, for the utilities' default residential rate schedule

(b) The calculation of the value of the bill credit shall remain in conformance with retail rate net metering, as determined in (a) above and shall remain in effect for the life of the project.

(c) The credit may not be applied to fixed, non-by-passable charges.

(d) An annualized period shall be established for each subscriber.

1. The annualized period shall begin on the day a subscriber first earns a community solar bill credit based on the delivery of energy.

2. The annualized period shall continue for a period of 12 months, until the subscription ends, or until the subscriber's EDC account is closed, whichever occurs earlier.

(e) Credits shall carry over from monthly billing period to monthly billing period, with the balance of credits accumulating until the earlier of:

1. The end of the annualized period;
2. The closure of the subscriber's EDC account; or
3. The end of the subscriber's community solar subscription.

(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

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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, wire transfer, or check.

(g) If a subscriber receives net excess credits for each of the three previous consecutive years, the subscriber organization must resize the subscriber's subscription size to ensure it does not exceed 100 percent of historic annual usage, calculated over the past 12 months available, at the time of the reassessment.

(h) Any generation delivered to the grid that has not been allocated to a subscriber may be "banked" by the project operator in a dedicated project EDC account for a period of up to 12 months. The banked credits may be distributed by the project operator to any new or existing subscriber during that 12-month period, in conformance with subscription requirements set forth in N.J.A.C. 14:8-9.6. At the end of the upto 12-month period, any remaining generation credits shall be compensated at the EDC's or BGS provider's avoided cost of wholesale power, calculated at the nearest node to the point of delivery of the community solar project.

(i) Subscribers must have an active EDC account within the EDC service territory of the community solar project to which they are subscribed.

(j) Subscribers must agree to a remote read smart meter upon EDC request, purchased and installed at EDC cost.

(k) EDCs must make appropriate data available through Green Button, subject to appropriate privacy protections. If Green Button capabilities are not available or are insufficient, the EDCs will work with Board staff to determine data sharing mechanisms and requirements between the EDCs and developers.

(l) Board staff shall work with the EDCs [and interested stakeholders](#) to develop a standardized process for sharing ~~subscriber~~ information between subscriber organizations and the EDCs in a

way that minimizes errors and administrative costs.

~~1.—~~1. As part of this process, the EDCs, in consultation with interested stakeholders, shall present to Board staff a process by which subscriber organizations can submit the lists of subscribers. This process shall include:

- ~~i.~~ i. A list of all appropriate subscriber information that must be transmitted to the EDC, including identifying information;
- ~~i.~~ ii. The standardized form for submission of subscriber information; and
- ~~ii.~~ iii. The method of submission.

~~2.—~~2. The EDCs, in consultation with interested stakeholders, shall present to Board staff a process by which a subscriber organization can utilize Utility Consolidated Billing and Purchase of Receivables for community solar subscription fees. †

~~3.1.—~~ The standardized form for submission of subscriber information; and

~~4.1.—~~ The method of submission.

~~(†)(m)~~ (m) Subscriber organizations shall send, to the relevant EDC via the method determined in (l) above, a list of subscribers to the project with all appropriate subscriber information, no later than 60 days prior to the first monthly billing period for the community solar project. Additionally, subscriber organizations shall send an updated list to the EDC once per month, following the method determined in (l) above.

~~(†)(n)~~ (n) The billing process shall be administered by the EDCs, who shall apply the community solar bill credit to subscribers' utility bills in proportion to each subscriber's share-portion of the community solar project as indicated on the most recent list received from the subscriber organization. Each EDC may decide whether to apply the bill credit as a dollar credit and/or a kWh credit on subscribers' utility bills, so long as the following conditions are met:

1. The method of application of the bill credit (whether as a dollar credit and/or a kWh credit) shall be the same for all community solar projects in the EDC service territory; and
2. The community solar bill credit shall be specifically identified as the community solar bill credit in a separate line on the subscribers' utility bills.

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(h)(o) The EDCs may sync up the monthly billing period of subscribers and projects, by modifying, with due notice given, the monthly billing period for subscribers upon their first month of participation in the community solar project.

(h)(p) The Board may modify standards to ensure cost effectiveness for community solar subscriber organizations, billing accuracy, and information sharing.

(h)(q) Community solar projects shall be eligible to apply, via a one-time election prior to the delivery of any energy from the facility, for SRECs or Class I RECs, as applicable, or to any subsequent revision to the solar compensation mechanisms as determined by the Board pursuant to the Clean Energy Act.

(h)(r) The project owner retains full ownership and rights to any renewable energy credits associated with the community solar project's renewable energy generation, unless otherwise determined by contract.

(h)(s) ~~The Board staff shall recommend to the Board may decide to create~~ one or more additional incentive(s) paid and/or credited to community solar developers for specific types of community solar projects, including, but not limited to, community solar projects located in environmental justice communities and/or LMI projects. Proposals for additional incentives may include SREC adders, factors, or multipliers, an upfront incentive from the Clean Energy Program, other types of incentives, or a combination of measures. Incentives should be differentiated between LMI affordable housing and LMI residential customers, and be structured with a goal of enabling 50 percent energy cost savings for low-income customers. Board staff shall consider making a proposal to provide financing support for LMI projects and workforce development support. In developing proposals for additional incentives, Board staff shall consult with interested stakeholders, particularly LMI project developers.

(h)(t) Nothing in this section prohibits the inclusion of storage in a community solar project, in accordance with all applicable Federal, State, and local laws, rules, and regulations, and in furtherance of the goals set forth in the Clean Energy Act.

14:8-9.8 Low- and moderate-income provisions

(a) A low- and moderate-income subscriber for the purposes of this subchapter is as follows:

1. A low-income residential household or a moderate-income residential household as determined by annual adjusted HUD income limits.

2. Affordable housing providers may also qualify as an LMI subscriber for the purposes of a community solar project. In order to do so, they must:

i. Demonstrate in their application to the Board and sign an affidavit that they are passing along specific, substantial, identifiable, and quantifiable long-term benefits to their residents/tenants; and

ii. Sign and submit to the Board, an affidavit indicating that they will pass along said specific, substantial, identifiable, and quantifiable long-term benefits to their residents/tenants.

(b) An LMI community solar pilot project is defined as a community solar pilot project in which a minimum 51 percent of project capacity is subscribed by LMI subscribers.

(c) An LMI community solar project may not accept participation by a non-LMI subscriber if doing so would cause LMI participation in the project to fall below 51 percent of project capacity.

(d) The following LMI eligibility criteria shall be applied:

1. If the community solar pilot project is sited on government-owned property, and is serving LMI subscribers living on that property, the government site owner may provide a sworn statement that those community solar pilot project subscribers are considered LMI for the purposes of the Pilot Program.

2. In all other cases, subscribers must be individually qualified as LMI for the purposes of the Pilot Program. The subscriber organization for each project shall receive and review proof of

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LMI eligibility for each LMI subscriber. Any of the following may be accepted by a subscriber organization as proof of LMI status for individual subscribers:

i. Proof of participation in one or more of the following: LIHEAP, Universal Service Fund, Comfort Partners, and/or Lifeline Utility Assistance Program; ~~or~~

ii. An attestation form developed by BPU Staff with stakeholder input, which includes the income guidelines for the Pilot Program in plain, understandable terms. LMI participants must sign this attestation to declare they meet the eligibility criteria. BPU Staff may create a process for verifying LMI subscribers' incomes by random samplings verified by a third party; or

iii. A verification supplied by a third-party low-income administrator.

~~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.~~

3. Qualification of a household as low-income or moderate-income is required only once per subscription, at the time of execution of the subscription agreement or contract.

4. A community solar subscriber whose subscription has, for any reason, ended must re-submit a new application along with LMI qualifying criteria if applicable.

14:8-9.9 Codes and standards

(a) Community solar pilot projects shall comply with all current and future applicable interconnection requirements applicable to each EDC, as set forth in N.J.A.C. 14:8-5 and shall be processed by the EDCs following normal interconnection procedures.

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- (b) Community solar projects must conform to all codes, standards, and licensing requirements that were applicable when the project was constructed.
- (c) Community solar projects shall be considered as connected to the distribution system.
- (d) Each community solar project shall telemeter its production data to the EDC on a monthly basis in accordance with EDC EDI procedures.
- (e) The EDCs shall be responsible for measuring the metered production of energy by community solar pilot projects, and for verifying that the community solar pilot projects are producing an amount of energy that is greater than or equal to the amount of energy that is being credited to subscribers' bills.
- (f) The EDCs shall make available and update, in a commercially reasonable fashion, capacity hosting maps, within 90 days of the beginning of PY1.
- (g) A community solar project shall not subscribe more than 100 percent of the project's nameplate capacity in ~~DC~~AC rating.
- (h) Community solar developers and owners are responsible for complying with all applicable Federal and State securities laws, rules, and regulations.

14:8-9.10 Consumer protection

- (a) Board staff, [in consultation with interested stakeholders](#), shall develop a standard registration form for subscriber organizations. Subscriber organizations shall be required to complete and submit this form at least 30 days prior to first doing community solar business operations in New Jersey. Failure to comply may result in a temporary or permanent prohibition from conducting business related to community solar in New Jersey. Subscriber organizations must submit the form only once, unless there is material change to the content of the registration form, at which time a new registration form must be submitted.
- (b) Community solar subscriber organizations must comply with all applicable laws, rules, and

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regulations governing advertising, marketing, and fair business practices. Additionally, the following consumer protection measures shall apply to all subscriber organizations, and any agent, contractor, subcontractor, or affiliated person.

1. As to subscriptions, as follows:

i. A community solar subscriber may not be subscribed without their affirmative written consent, either via wet or electronic signature.

ii. If a subscriber organization uses electronic methods to sign up, renew, or switch subscribers, the subscriber organization shall comply with the Uniform Electronic Transaction Act, N.J.S.A. 12A:12-1 through 26.

iii. A subscriber organization may not add a new charge without first obtaining affirmative written consent via wet or electronic signature from the subscriber, whether it be for a new service, existing service, or service option;

2. As to marketing, advertising, and solicitations, as follows:

i. Subscriber organizations may market and advertise community solar project(s). Under no circumstances can subscriber organizations, or any agent, contractor, subcontractor, or affiliated person knowingly make false or misleading marketing claims or suggestions, engage in marketing or advertising practices that are unfair, misleading, or deceptive, or in any way violate consumer protection laws and/or rules implemented or enforced by the New Jersey Division of Consumer Affairs.

ii. Subscriber organizations or any agent, contractor, subcontractor, or affiliated person must clearly identify themselves by the name of the subscriber organization, as registered with the Board. They may not falsely represent themselves as another party, including an EDC or a New Jersey government entity, such as the “New Jersey Board of Public Utilities” or the “New Jersey Clean Energy Program.”

iii. Subscriber organizations may not use high-pressure sales tactics, including,

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but not limited to, excessive number of communications, whether in-person, by phone, e-mail, mail, and/or other forms of communications.

iv. Subscriber organizations shall comply with all FTC telemarketing rules, including, but not limited to, the restriction on telemarketing between the hours of 9:00 P.M. and 8:00 A.M., Eastern Standard Time.

v. Subscriber organizations must include in all advertisements, marketing, or sales materials, a toll-free or local telephone number and/or a link to a website through which customers can obtain further information regarding their product and/or services.

vi. Subscriber organizations are prohibited from contacting a potential subscriber by telephone for the purpose of making an unsolicited advertisement, if the subscriber organization does not have an existing business relationship with the potential subscriber and the potential subscriber's telephone number appears on the no telemarketing call list established and maintained by the Division of Consumer Affairs, pursuant to N.J.S.A. 56:8-127 or any successor statute, or the national do-not-call registry as maintained by the Federal Trade Commission. Any violation of this provision shall be forwarded to the Division of Consumer Affairs for further investigation.

vii. Subscriber organizations shall not contact, market to, or engage potential subscribers prior to registration with the Board under (a) above;

3. As to contracts, as follows:

i. Contracts must contain a plain-language description of the subscription agreement, including the type of agreement, date of enactment of the contract, duration of the contract, payment and pricing calculations, a good-faith written estimate of the savings a subscriber will earn per year (if applicable) and its disclosed assumptions, a clear description of the billing arrangements, and a complete list of any other fees, including, but not limited to, any applicable transfer and/or cancellation fees, due date for payment, late payment fees and the

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number of days after which a late payment fee may be applied, and any interest charges. The contract must also contain the specific conditions under which such penalties and/or fees can be imposed.

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ii. Prices, whether in a quote or a contract, must include disclaimers that:

(1) Utility rates and projected savings are subject to change; and

(2) Except as provided in (3), ~~t~~The Board does not regulate the price of community solar subscriptions, nor does it guarantee projected savings.

~~(2)~~(3) For LMI projects, LMI subscribers are guaranteed to save money versus what they would pay for their electric bills without community solar.

iii. Under no circumstances shall the contract contain a statement or provision by which a subscriber waives any rights they have under New Jersey or Federal consumer protection laws, rules, and/or regulations. The contract also may not include provisions (sometimes referred to as “material change notices”) that permit the subscriber organization to change material terms of the contract without the subscriber’s affirmative consent, unless the change is required by operation of law. “Material terms of a contract” include, but are not limited to, terms regarding the price, deliverability, or time period of the contract.

iv. The use of robo-signing is prohibited: contracts must be signed either by a wet signature or by requiring signer to take an affirmative action (at least a click) at each location in the document where the signatures and/or initials appear; if the signature is electronic, the software used must provide a digital certificate of the number of times each signature and set of initials was applied to the document.

v. Subscribers will have a seven-calendar-day rescission period, during which they may cancel their contract with no penalty. This rescission period must be clearly communicated to subscribers in the original signed contract.

vi. Contracts must include a toll-free or local telephone number and/or e-mail address through which subscribers can request information, address complaints, and cancel or renew their subscription consistent with the terms of their contract.

vii. Subscribers must receive, via electronic means and/or mail, a copy of the signed applicable contract and disclosure statement, no later than two calendar days after signing the contract and disclosure statement;

4. As to disclosure statements, as follows:

i. Board staff will design, [in consultation with interested stakeholders](#) and [the Board will](#) approve a specific disclosure statement that subscriber organizations must present to each community solar subscriber at the same time as their subscription contract. Each subscriber must sign an acknowledgement that they have received and read the disclosure statement.

ii. Disclosure statements are 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.

iii. Disclosure statements must be made available to a subscriber in Spanish, upon request of the subscriber;

5. As to non-discrimination, as follows:

i. Subscriber organizations may not discriminate against any customer on the basis of race, origin, gender, religion, sexual orientation, age, or engage in any other discriminatory practice.

ii. Subscriber organizations must apply uniform income, security deposit, and credit standards when deciding whether to offer a subscription to customers within a given customer class (low-income, moderate-income, or other). The subscriber organization may, however, apply separate sets of uniform standards for the purpose of promoting participation by low- and moderate-income residential customers.

iii. While a subscriber organization may market services on a geographic basis, they may not refuse to provide service to a customer based on the economic character of a geographic area or the collective credit reputation of the area;

6. As to inquiry and remediation, as follows:

i. Community solar developers, operators, owners, and/or subscriber organizations shall use good faith efforts to respond to and resolve all complaints promptly.

ii. The Board may revoke a subscriber organization's registration, as set forth under (a) above, resulting in a temporary or permanent prohibition from conducting business related to community solar in New Jersey, if said subscriber organization has been found by the Board to have engaged in fraud, deception, misrepresentation, false promise or pretense, repeated acts of negligence, submissions of incorrect or incomplete data, significantly deficient service, sales, or commercial practices that are unethical, misleading, or illegal, or having been engaged in and/or having been convicted of any crime or offensive action involving moral turpitude or relating adversely to the entity's or person's business.

iii. Community solar developers, operators, owners, and subscriber organizations are subject to formal pleadings and petitions procedures, as set out in N.J.A.C. 14:1-4 and 5.

7. As to document retention, as follows:

i. Signed contracts and disclosure forms, and the signed approval of any changes made to the original contract, must be kept by the subscriber organization for a minimum six years following the expiration of said contract, and be made available to the Board and Board staff upon request.

ii. Proof of eligibility for LMI subscribers must be collected by the subscriber organization and be kept by the subscriber organization for a minimum of six years following the

expiration of the contract with said subscriber and be made available to the Board and Board staff upon request.

14:8-9.11 Reporting

(a) EDCs are required to submit monthly electronic reports to the Board on community solar pilot project interconnections and energy production, within 30 days of the end of the calendar month being reported upon. The content of the reports shall include, but not be limited to:

1. A list of community solar projects that submitted an interconnection application, including name, location, whether the projects were LMI projects, and proposed capacity;

2. A list of community solar facilities interconnected over the previous month, including name, location, whether the facilities were LMI facilities, and capacity;

3. The estimated kilowatt hours supplied to the distribution system by community solar facilities over the previous month, and a description of the estimation methodology used;

4. The total number of community solar subscribers by rate-class, including LMI household subscribers and affordable housing subscribers and their tenants, and estimated total community solar bill credits distributed to community solar subscribers, over the previous month;

5. The percentage of subscribers that are LMI subscribers;

6. Average savings or energy burden reduction of LMI subscribers and other subscribers, broken out by municipality to the extent feasible;

7. The total community solar capacity allocated to LMI subscribers, and the total capacity allocated to LMI projects;

8. To the extent not found to be burdensome to subscribers, subscriber organizations, and EDCs, the number of LMI subscribers by income ranges;

49. The number of jobs created by community solar projects, job training opportunities,

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and number of new businesses started as a result of the Pilot Program, by municipality to the extent feasible.

5.10. The estimated “excess” kilowatt hours, that is, estimated kilowatt hours produced by a community solar facility that were not allocated to a community solar subscriber; and

6.11. The cumulative totals since the beginning of the Pilot Program. This shall include the total number of community solar interconnection applications received, total number of community solar facilities interconnected, total capacity of community solar facilities interconnected, estimated total kilowatt hours supplied to the distribution system by community solar facilities, estimated total community solar bill credits distributed to community solar subscribers by rate class, estimated total community solar bill credits distributed to LMI community solar projects by rate class, ~~and~~ estimated total number of community solar subscribers by rate class, total number of LMI households served, the percentage of subscribers who are LMI subscribers, total capacity allocated to LMI subscribers, total capacity allocated to LMI projects, total number of LMI subscribers by income range, total number of jobs, job training opportunities, and business started, and total average savings or energy burden reduction per subscriber, broken out by municipality to the extent feasible.

(b) The Board must be notified, in writing, of any change to the project developer, owner, or operator in case of sale, transfer, contract modification, or other material change to the parties initially listed in the community solar application. Specifically:

1. Within 30 days of a material change in control of the owner, such new “beneficial owners” are required to notify the Board of their individual and/or corporate names, tax ID, address, contact phone, and percent of ownership of the project.

2. Within 30 days of a material change in the community solar project operator, such new project operator is required to notify the Board of their individual and/or corporate names, tax ID, address, and contact phone.

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3. The Board shall be kept apprised of all major project developments and milestones via written notification (e-mail or letter).

(c) Each EDC shall retain a record of the community solar project generation that was applied to each subscriber's bills for a period of six years.

(d) Each community solar subscriber organization, and any successor, shall retain a record of all subscriber contracts, disclosure forms, LMI proof of eligibility, and generation allocation lists for a period of at least six years from the date of their expiration. Each of these documents must be made available without delay upon request from the Board or Board staff.

(e) Board staff shall review EDC reports and monitor metrics relating to LMI projects, LMI subscribers, capacity allocated to LMI subscribers and LMI projects, LMI subscriber income levels, job creation, job training opportunities, and new business started, and average household savings, as outlined under subsection (a) of this section. Board staff shall convene an inclusive and transparent stakeholder process to solicit feedback on how the Pilot Program is addressing these measures, and to solicit recommendations for maximizing the Pilot Program's effectiveness. The process shall include in-person meetings with groups that may not have the ability to participate in a formal solicitation, such as groups representing underserved communities.

(d)(f) Board staff shall convene interested stakeholders to gather input on how to transition the pilot program to a permanent community solar program utilizing a transparent and inclusive process. This process shall include in-person meetings with groups that may not have the ability to participate in a formal solicitation requesting feedback on the transition to a permanent program, such as groups representing underserved communities.