



**Docket No. QO22030153, IN THE MATTER OF THE COMMUNITY SOLAR ENERGY PROGRAM
Comments of 174 Power Global NE, LLC.**

174 Power Global NE, LLC.'s responses are below in bold.

I. Program Design and Eligibility

1) The Solar Act of 2021 states that the new Successor Solar Incentive Program should aim to provide incentives for at least 150 MW of community solar facilities per year. How should the annual Permanent Program capacity limit account for potential project "scrub" (i.e., planned projects that do not reach commercial operation)?

To ensure that all planned capacity is developed for the community solar segment of the ADI program it is critical that unused capacity from one year be rolled over to the next. 174 Power Global recommends all unused capacity from a given year due to scrubbing, or non-use, be rolled over to the subsequent year as well as all funds associated with said capacity.

2) Should the Permanent Program capacity be divided into separate blocks, and if yes, how? (i.e., By EDC service territory? By project type or size)? Additionally, the Solar Act of 2021 requires the Board to consider "the economic and demographic characteristics of the area served by the facility, including whether it is located in an overburdened community[.]"¹ How should any blocks address this requirement?

174 Power Global supports allocating community solar capacity by EDC to ensure that there is equal access to the program, particularly for disadvantaged communities across the state.

3) Staff intends to recommend similar qualifications and ownership restrictions for solar developers participating in the Permanent Program as were implemented in the Pilot Program. Please comment.

174 Power Global found none of the qualification and ownership requirements of the pilot program objectionable. We also recommend maintaining the prohibition on utility ownership.

4) What land use restrictions and limitations, if any, should apply to the siting of community solar projects? While Section 6 of the Solar Act of 2021 does not establish siting standards for Community Solar projects, should the Board adopt comparable standards be extended to also apply to community solar facilities? What should those standards look like?

174 Power Global does not think section 6 of the solar act should be extended to apply to community solar facilities. We believe there are better ways to achieve the goal of siting community solar projects on prime sites in the built environment without creating more regulatory hurdles.

If the BPU chooses to move forward with a first come first serve model, we would support putting restrictions around what projects could access capacity. These requirements would include having projects with the required % LMI off-takers, located on preferred siting (rooftops and parking lots in the built environment, as well as brownfields).

5) The CEA states that the Permanent Program rules and regulations shall “establish standards, fees, and uniform procedures for solar energy projects to be connected to the distribution system of an electric public utility” (Section 5(f)(11)). What changes, if any, should be made to the existing community solar interconnection standards and processes?

174 Power Global supports SEIA-NJSEC's joint comments regarding a “pre-application” process to streamline community solar applications.

6) What measures should the Board implement to minimize negative impacts to the distribution system and maximize grid benefits?

174 Power Global supports SEIA and NJSEC’s comments with regards to establishing an interconnection working group to study this issue in greater detail. We also support the recommendation that the Board consider the (BATRIES) project.

II. Project Selection

7) How should projects be selected for participation in the Permanent Program? Please provide a detailed description and discussion of the advantages and disadvantages of your proposed method of selection, with an emphasis on establishing criteria that are transparent and easily verifiable.

174 Power Global supports using a first come-first serve model for the permanent community solar program that utilizes strong maturity requirements. 174 Power Global strongly supports the goal of cost savings to LMI communities and believes this should be at the core of requirements as well as siting projects on preferred locations including rooftops, parking lots, and brownfields.

Utilizing the above criteria would ensure that capacity is allocated to projects that 1) have site control of a 2) preferred site, 3) in which interconnection thresholds and costs are, to the extent possible, largely grounded in the results of the pre-application or interconnection study, with 4) developer and partners ability and project structure to service LMI and otherwise disadvantaged subscribers and communities.

While these maturity hurdles do not fully preclude the additional scrubbing needed to ensure the continued viability of projects as they move through further development towards completion, they will ensure greater initial project quality, and by stepping up the timing for ADI compliance, will encourage and result in efficiency by beginning the ongoing “scrubbing” process earlier, and minimizing delays in any needed re-allocation of capacity for both near-term and thus subsequent years.

8) Should the Board consider creating a waitlist for non-selected projects? If yes, why would a waitlist support the continued development of community solar projects without increasing program oversubscription? How should this waiting list be implemented to avoid a situation where all capacity is spoken for months or years ahead of a solicitation?

174 Power Global does not support a waitlist for non-selected projects. We prefer a rollover program where unused and scrubbed capacity is reallocated to subsequent years.

9) What minimum maturity requirements should projects be required to meet before applying to participate in the Permanent Program? To what extent should the Community Solar Energy Program maturity requirements be different from, or similar to, the requirements for projects to apply to the Administratively Determined Incentive (“ADI”) Program?

174 Power Global supports having strong maturity requirements to ensure projects that are awarded capacity, have the best chance to be completed on time and meet intended goals including serving LMI communities. In the case that the BPU moves forward with a first come first serve model we think the following should be used as minimum requirements for applications:

- **Site control**
- **Non-ministerial permits.**
- **A Permit Plan-set.**
- **Development security deposit of \$30 to \$60/kW-dc**
 - **The deposit shall be made once capacity is awarded and then returned when the project achieves Commercial Operation. The deposit should be forfeited if the project does not come online by the construction deadline, which may be extended by Board Order.**
- **Evidence of ability to support the financing of the project; which may include recent financial statements, a financial letter of good standing, or other acceptable documentation to be determined by the BPU.**
- **Subscription Plan, and if/as needed, a Subscriber Organization to administer subscriptions in instances where project owner and/or project developer is not also the Subscriber Organization**

10) Should the Board consider any changes to the coordination between community solar project awards and the process for registering for the ADI Program?

174 Power Global does not have comments on this question.

III. Low- and Moderate-Income Access

11) What policies and measures should the Board consider to ensure that the Permanent Program maintains a high level of low- to moderate-income (“LMI”) participation? How can the Board support community outreach and education?

174 Power Global supports a self-attestation model for LMI verification. Currently residents' ability to participate is limited to participation in certain programs or location in certain geographic areas. While we respect the desire to ensure that the intended beneficiaries receive the benefits of the program, we believe the pool of residents who could benefit from community solar is larger than that. Self-attestation lowers the barriers to entry meaning more residents will benefit. It also increases the stability of subscriber supply, which should lower acquisition costs allowing for more savings to be passed onto subscribers.

We support SEIA and NJSEC’s recommendation that the BPU should consider lowering the qualified census tracts for LMI verification to 50% of the households in the census tract that earn less than 55% of the median income.

12) Should the Board modify the Pilot Program's income verification standards (see the Pilot Program rules at N.J.A.C. 14:8-9.8)? If so, how?

We support a self-attestation model with reduced geographic requirements as noted above.

13) How should the Board consider "the economic and demographic characteristics of the area served by the facility, including whether it is located in an overburdened community, as that term is defined in section 2 of P.L.2020, c.92"?2

174 Power Global has no comments on this question.

IV. Community Solar Subscribers

14) What should the geographic limitations for community solar projects and subscribers be (i.e., How far from the project can subscribers to the project reside)? For context, the Pilot Program allowed projects to self-select the geographic limits of the project. Projects could choose between three options: municipality and adjacent municipalities, county and adjacent counties, and no limit (EDC-wide).

174 Power Global supports an EDC wide limit for project subscriptions for all projects. For similar reasons we support self-attestation we support expanded limits for project subscribers. Having a reliable base for subscribers is crucial to the program's success. Increasing geographic eligibility will decrease soft costs and in effect allow for greater savings to be passed onto subscribers.

15) The Pilot Program mandated that each community solar project must have a minimum of 10 subscribers, and a maximum of 250 subscribers per MW of installed capacity. Should either of these mandates be changed under the Permanent Program?

174 Power Global has no opinion on the 10-subscriber minimum. As regards the maximum subscriber cap, we would support eliminating the upward limit for subscribers completely or setting it at 1,000 per project. In the spirit of inclusivity, we think it is important to include subscribers who may have lower demand for electricity, thus necessitating in many cases a greater number of subscribers to ensure full allocation of a project's capacity. For a 5MW project 250 subscribers would result in each subscriber getting 20kW of capacity, whereas 1,000 would allow for each subscriber to get 5kW of capacity, which falls more in line with the energy offset needs associated with apartments, smaller residences, and aligns the program's goals of LMI and disadvantaged community participation. Again, 174 Power Global advises eliminating the 250-subscriber maximum.

16) Should the Board make any modifications to the consumer protection measures implemented under the Pilot Program?

174 Power Global thinks the current consumer protection measures are sufficient and does not recommend any modifications.

17) In November 2020, the Board proposed a rule amendment to the Community Solar Energy Pilot Program rules, which would have allowed certain projects owned and operated by public entities to automatically enroll subscribers without first seeking subscribers' affirmative consent to join the project. Subscribers would then have the option to "opt-out" of the project should they not wish to participate. How can the Board best support subscriber education and acquisition? Should the Board revisit its

automatic enrollment proposal, and if yes, how can automatic enrollment be implemented consistent with customer data privacy rights?

174 Power Global supports SEIA and NJSEC's Joint comments regarding starting a working group to explore this topic further.

V. Community Solar Bill Credits

18) If applicable, please discuss your experience with subscriber management and the allocation of community solar bill credits. What changes, if any, should be made to communications between community solar subscriber organizations and the EDCs, or to the allocation of bill credits by the EDCs?

174 Power Global Supports SEIA and NJSEC's comments on this question with regards to setting up a working group of relevant stakeholders to work through issues that arise and improve processes.

19) What modifications, if any, should the Board consider making to the value of the community solar bill credits?

174 Power Global supports SEIA and NJSEC's comments on this question.

20) In May 2021, following an opportunity for public comment, the EDCs submitted a report to the Board with options and recommendations regarding the implementation of consolidated billing for community solar. In summary, the EDCs recommend that, if the Board adopts consolidated billing for community solar projects, this billing process be handled by the EDCs. The EDCs further recommended that the method of reflecting subscription fees on a subscriber's EDC bill be determined by each EDC based on the format that best corresponds to their existing billing practices. The EDCs did not recommend that the Board allow non-EDC billing options. Do you agree with the EDCs' recommendations? If not, why? How do you recommend the Board address payment default by customers?

As noted in Question 17 and 18 above 174 Power Global supports the idea of a working group to address billing issues and improve processes between EDC's, Subscriber organizations and other relevant stakeholders. We believe that consolidated billing falls under that umbrella. While 174 Power Global recognizes the value of consolidated billing, we are nonetheless aware that its application does not necessarily extend to all circumstances – at least not uniformly.

Before fully endorsing a consolidated billing only approach, a greater understanding of the proposed EDC parameters and/or limitations of this process is needed; for example, consolidated billing in some markets to-date requires levelized subscriber discounts across all subscribers, regardless their status as LMI, non-LMI, and Anchor off taker. As subscriber energy discounts can vary according to subscriber type, consolidated billing in many cases can negatively impact both the project economics, as well as the spirit and intent of the project and the community served. Additionally, while there is in theory a direct subscriber benefit vis a vis consolidated billing via reduction of the invoicing otherwise needed, there nonetheless remains concern about overall customer experience, customer care, and ultimately retention.

Without a more detailed dialogue and understanding as the proposed working group would result in, we would thus at this time recommend consolidated billing as an optional billing program that can be selected on a project respective basis without impacting project acceptance into the program.

VI. Other

21. Please provide comments on any issues not specifically addressed in the questions above.

174 Power Global supports SEIA and NJSEC's comments for including dual-use projects as preferred siting under certain conditions to be developed during the dual use stakeholder process. We would also add that if dual use cannot be considered preferred siting, that the board sets aside a portion of capacity in the new community solar program for community solar projects sited on dual use agricultural sites.

We would also recommend that the board evaluate how energy storage can play a role in community solar projects. Battery storage creates flexibility in how electricity from these projects is put onto the grid giving EDCs more relief when demand is at its' highest. It can also limit the need for costly distribution upgrades by the EDCs. The demand response and grid benefits battery storage systems provide to the EDCs along with the ability to combat the duck curve of solar production we believe batteries would add value to these projects that is not currently accounted for. In addition to the increased value batteries would add to these projects further incentivizing battery storage will help New Jersey achieve its stated battery storage goals. We would recommend that the Board evaluate how projects can be additionally compensated for adding battery storage systems to a community solar project.

Thank you for taking the time to read our comments. 174 Power Global appreciates the work of Board Staff. These are complex and critical issues, and we recognize the position of the BPU, so we thank you in advance for what is sure to be a rigorous but necessary process.

Sincerely,

Daniel Murphy

**Manager of Utility and Regulatory Affairs
174 POWER GLOBAL NORTHEAST
9 E 37th Street, 12th Fl.
New York, NY 10016
E-mail: daniel.murphy@174powerglobal.com**

150 W State Street, Suite 5
Trenton, NJ 08608-1105

267-533-1671 – MS Teams
609-909-7033 – Trenton Office
609-393-0243 – Facsimile
cynthia.holland@exeloncorp.com

Mailing Address:
92DC42
500 N. Wakefield Drive
P.O. Box 6066
Newark, DE 19714-6066

atlanticcityelectric.com

May 6, 2022

VIA ELECTRONIC MAIL

carmen.diaz@bpu.nj.gov
board.secretary@bpu.nj.gov

Carmen D. Diaz
Acting Secretary of the Board
Board of Public Utilities
44 South Clinton Avenue, 1st Floor
P.O. Box 350
Trenton, New Jersey 08625-0350

RE: In the Matter of the Community Solar Energy Program
BPU Docket No. QO22030153

Dear Acting Secretary Diaz:

Please accept the within correspondence as the submission of Atlantic City Electric Company in response to the Board of Public Utilities request for comments, issued on April 11, 2022 in the above-referenced docket.

Pursuant to the Board's directive, these comments will be uploaded via the Post Comments button on the Board's Public Documents Search tool.

We thank the Board and all parties for the courtesies extended. Feel free to contact the undersigned with any questions.

Respectfully submitted,



Cynthia L.M. Holland
An Attorney at Law of the
State of New Jersey

Enclosure

COMMENTS OF ATLANTIC CITY ELECTRIC COMPANY

In the Matter of the Community Solar Energy Program

Docket No. QO22030153

Introductory Statement

The Atlantic City Electric Company (“ACE” or the “Company”) appreciates the opportunity to offer comments that respond to the questions presented by Staff of the Board of Public Utilities (“Board” or “BPU”) regarding the design of the Permanent Community Solar Energy Program (“Permanent Program”) in Docket No. QO22030153. ACE supports the development of a robust and effective Permanent Program in New Jersey that is designed to provide solar access to low- and moderate-income customers and other customers who are unable to install solar arrays on their premises. ACE notes that the New Jersey electric distribution companies (“EDCs”) will be a critical part of making the Permanent Program a success. To that end, ACE provides the following responses to Staff’s specific questions in the sections below.

In advancing a Permanent Program, ACE believes it is important that the Board approve a utility cost recovery mechanism for both the existing Pilot Program and the planned future program in the near-term to address the cost recovery concerns of the EDCs. On June 1, 2021, ACE filed a petition, with supporting testimony, proposing its specific cost recovery proposal for the Pilot Program consistent with the method recommended by Board Staff. In addition to cost recovery, the Company sought approval of a proposed tariff provision the Board has approved for other EDCs. ACE held public hearings and has seen no action on its petition in nearly a year since its filing. ACE recommends that the Board approve its cost recovery petition, along with the necessary tariff for the Pilot Program, in the near-term and establish a similar utility cost recovery method for the Permanent Program.

The establishment of a Permanent Program will increase the size and number of distributed energy resources (“DERs”) interconnecting to ACE’s electric distribution system. ACE continues to be an active participant in the Board’s established Grid Modernization proceeding and will continue to advocate for improvements in the existing DER interconnection process to support the interconnection of additional renewable DERs. These interconnection improvements are fundamental to supporting New Jersey’s energy and environmental policy goals.

The Company continues to rely on its prior statements in related dockets at the Board. For example, the Company submitted comments on the Solar Successor Program on May 27, 2021, in Docket No. QO20020184. At that time, Staff requested response on several points and Section VII, questions 39-41, related to the Permanent Program. The Company also maintains its shared position with the EDCs on supplier consolidated billing, which was submitted in Docket Nos. QO20080556 and QO18060646, on May 28, 2021.

ACE again appreciates the opportunity to offer the following responses to select questions on the Permanent Program.

Responses to Select Questions

ACE has reviewed Staff's request for comment and presents responses to the following selected questions, which are numbered as published in the Public Notice.

3) Staff intends to recommend similar qualifications and ownership restrictions for solar developers participating in the Permanent Program as were implemented in the Pilot Program. Please comment.

ACE Comments:

The community solar regulations for the Permanent Program should be revised to permit New Jersey electric distribution companies (electric public utilities) to develop, own, and/or operate community solar projects. Over time, this change will result in additional innovative community solar projects that are competitively developed, installed rapidly, and designed to meet underserved customers. ACE's recommendation is consistent with the Clean Energy Act, N.J.S.A. 48:3-87.11f, which states that "[t]he [B]oard 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." Restricting EDC participation in the Permanent Program would be contrary to law.

5) The CEA states that the Permanent Program rules and regulations shall "establish standards, fees, and uniform procedures for solar energy projects to be connected to the distribution system of an electric public utility" (Section 5(f)(11)). What changes, if any, should be made to the existing community solar interconnection standards and processes?

ACE Comments:

The interconnection of community solar projects is more complex than typical DERs due to their larger size. The additional complexity places an increasing burden on ACE's existing interconnection engineering and administrative teams. If the number of community solar project applications increase under the Permanent Program, the time required for interconnection review will increase and additional utility resources may be required.

In order to encourage community solar, and DER more broadly, ACE supports collaborating with the developer community to establish an interconnection fee structure that creates more certainty, reduces barriers to grid enhancements, and provides for a balanced and defined approach to cost recovery."

6) What measures should the Board implement to minimize negative impacts to the distribution system and maximize grid benefits?

ACE Comments:

Community solar installations should be encouraged to be sited at locations that are optimal for the electric distribution and transmission system and avoid, to the greatest extent possible, required distribution and/or transmission system upgrade expense. An allowed time period for project completion should be specified to avoid reserving unnecessary interconnection capacity on the

distribution system. Developers should be encouraged to consider the installation and use of energy storage to mitigate negative distribution system impacts, if possible.

8) Should the Board consider creating a waitlist for non-selected projects? If yes, why would a waitlist support the continued development of community solar projects without increasing program oversubscription? How should this waiting list be implemented to avoid a situation where all capacity is spoken for months or years ahead of a solicitation?

ACE Comments:

ACE recommends that a waitlist not be created for any non-selected projects. Creating a waitlist could require utility administration and engineering resources, and the reservation of distribution system capacity for projects that remain in development. To the extent possible, available resources should be dedicated to mature and shovel-ready projects.

III. Low- and Moderate-Income Access

11) What policies and measures should the Board consider to ensure that the Permanent Program maintains a high level of low- to moderate-income (“LMI”) participation? How can the Board support community outreach and education?

ACE Comments:

ACE recommends that a minimum targeted LMI participation level be established for each community solar project. The Board should maintain a list of community solar projects currently accepting LMI subscribers and other types of subscribers by EDC and post a frequently updated list on the BPU website. Community outreach and education for LMI customers about community solar could be accomplished through LMI community meetings that are sponsored by the BPU, non-profit organizations, local governments, EDCs, and community solar subscribing organizations.

IV. Community Solar Subscribers

14) What should the geographic limitations for community solar projects and subscribers be (i.e., How far from the project can subscribers to the project reside)? For context, the Pilot Program allowed projects to self-select the geographic limits of the project. Projects could choose between three options: municipality and adjacent municipalities, county and adjacent counties, and no limit (EDC-wide).

ACE Comments:

Community solar projects should be permitted to locate anywhere within each specific EDC service territory and recruit subscribers from the distribution customers in the EDC service territory where the project is located. In this way, community solar developers will have the greatest flexibility to select the optimal site (distribution interconnection feasibility and photovoltaic (“PV”) siting availability) while offering subscriptions to the greatest numbers of EDC distribution customers. The “community link” can be maintained by the community solar subscriber organizations through their communications materials. Note that ACE hosting capacity

restrictions will determine the size and quantity of projects that can be interconnected at a reasonable cost to its electric distribution system in the absence of system upgrades.

17) In November 2020, the Board proposed a rule amendment to the Community Solar Energy Pilot Program rules, which would have allowed certain projects owned and operated by public entities to automatically enroll subscribers without first seeking subscribers' affirmative consent to join the project. Subscribers would then have the option to "opt-out" of the project should they not wish to participate. How can the Board best support subscriber education and acquisition? Should the Board revisit its automatic enrollment proposal, and if yes, how can automatic enrollment be implemented consistent with customer data privacy rights?

ACE Comments:

Please refer to the joint EDC comments that were filed with the BPU in Docket No. QX20090594 on January 15, 2021. ACE maintains the position held by the joint EDCs. The filed comments, in particular the legal concerns about automatic enrollment without customer consent, are applicable to both the Pilot Program and the planned Permanent Program.

V. Community Solar Bill Credits

18) If applicable, please discuss your experience with subscriber management and the allocation of community solar bill credits. What changes, if any, should be made to communications between community solar subscriber organizations and the EDCs, or to the allocation of bill credits by the EDCs?

ACE Comments:

ACE's existing internet-based community solar subscription tool should be relied on for subscription management. ACE has updated its distribution billing system to automatically process community solar billing credits for customers who subscribe to community solar pilot projects. Significant revisions to ACE's subscription tool or to community solar billing for the Permanent Program could require IT changes that carry additional cost and require time to develop and deploy.

19) What modifications, if any, should the Board consider making to the value of the community solar bill credits?

ACE Comments:

ACE continues to recommend that both a subscriber's net excess credits and a project operator's remaining generation credits be compensated at the average wholesale hourly ACE Zonal Locational Marginal Price from prior periods. Valuation based on the wholesale market energy value will help to avoid retail cost subsidies that would be paid by other electric distribution customers.

ACE believes the provision for project operators to be able to bank excess credits and distribute them to subscribers is difficult to implement in practice, at scale and in an automated fashion. The system for subscription enrollments is separate from the billing system. Although this may be accommodated manually on a limited basis, ACE is concerned that this will be difficult to accomplish for the Permanent Program. This may lead to significant billing issues. Compensation for unsubscribed energy should be set at the average ACE Zonal LMP from the prior period.

To the extent possible, all other community solar billing credit calculations should be identical to those required for the Pilot Program to avoid costly EDC billing system modifications. Notably, no BPU approved pilot projects are currently operational in the ACE service territory.

20) In May 2021, following an opportunity for public comment, the EDCs submitted a report to the Board with options and recommendations regarding the implementation of consolidated billing for community solar. . . . Do you agree with the EDCs' recommendations? If not, why? How do you recommend the Board address payment default by customers?

ACE Comments:

The Company maintains its shared position with the EDCs on supplier consolidated billing, as stated in the report that was submitted in Docket Nos. QO20080556 and QO18060646, on May 28, 2021.

VI. Other

21) Please provide comments on any issues not specifically addressed in the questions above.

ACE Comments:

EDC Community Solar Program Cost Recovery: The BPU must determine the manner that EDC community solar costs are recovered for both the Permanent and Pilot community solar programs. On June 1, 2021, ACE submitted a petition to the BPU requesting the establishment of a community solar cost recovery mechanism that would recover ACE community solar billing credit costs and other community solar costs through the Company's Regional Greenhouse Gas Initiative Recovery Charge ("Rider RGGI"). The cost recovery method contained in ACE's petition should be approved by the Board and made applicable to both the permanent and pilot community solar programs.

EDC Community Solar Tariff: ACE proposed a community solar Pilot Program tariff as part of its June 1, 2021 petition. ACE recommends that the Board approve ACE's proposed Pilot Program tariff and, to the extent practicable, establish a similar tariff for the Permanent Program.

Rate Class Eligibility: ACE believes that the Permanent Program should exclude certain classes from eligibility. The Community Solar Energy Pilot Program was intended to increase access to solar energy for customers who have less access to solar energy through other existing programs. The commercial and industrial customers that participate in the Commercial and Industrial Energy Pricing ("CIEP") category are not the customer class for which this program was intended. CIEP customers have the ability and sophistication to access solar through other existing programs.

Additionally, the rate classes of Street and Private Lighting, Contributed Street Lighting, and Direct Distribution Connection should also be excluded. These classes are also not the intended target classes for community solar. The eligibility for the Permanent Program should be limited to the Residential and Small Commercial customer classes. However, if CIEP customers are not excluded from the Permanent Program, these customers should be priced at an average hourly rate based on PJM wholesale market prices for the ACE PJM Zone for pricing certainty and ease of administration.

Grandfathering of Pilot Program Regulations: Where possible, and with certain exceptions, such as utility ownership, regulations adopted for the Permanent Program should be similar to those established for the Pilot Program to avoid the difficulty of administering one set of regulations for the Pilot Program projects and a second set of regulations for the Permanent Program. ACE is concerned that it would be difficult, costly, and inefficient to implement two different sets of programs and processes.

Permanent Program Rulemaking: A rulemaking for the Permanent Program should be in place at least six months in advance of the start of the Permanent Program, to permit time for required utility administrative changes. If significant billing changes are required, additional time could be required.



Atlantic County Utilities Authority

P.O. Box 996 • Pleasantville, NJ 08232-0996

Street Address: 6700 Delilah Road, Egg Harbor Twp., NJ, 08234-5623

609.272.6950 • www.acua.com

May 6, 2022

**COMMENTS FROM THE ATLANTIC COUNTY UTILITIES AUTHORITY (ACUA)
IN THE MATTER OF THE PERMANENT COMMUNITY SOLAR ENERGY PROGRAM DESIGN
Docket No. QO22030153**

Dear Secretary Camacho-Welch:

Thank you for the opportunity to provide comments in response to the Board's April 11, 2022 Notice of Request for Comments on Docket No. QO22030153.

Please see ACUA's comments below:

Response to Question 17:

ACUA asserts that the Board should adopt an auto-enrollment Rule for Community Solar because without such a Rule, an LMI customer will be required to provide wet or electronic signature, an approach that requires a highly intensive (and expensive) marketing and sales effort. These requirements are unreasonably demanding of the customer. Requiring a wet signature or e-signature will stunt participation and be extremely detrimental and counter-productive to the Governor's goal to provide Community Solar benefits to LMI customers. It is also a cost that ratepayers can avoid by using a much more efficient method – the opt out method, with all of the appropriate and proven consumer protections, to enroll customers.

The Board's own "opt-out" rules contain significant provisions to protect customers' privacy and prevent slamming. This is evidenced by the fact that opt-out has worked successfully for over seven years through the Board's administration of its government energy aggregation (GEA) program. If these provisions have worked to protect the hundreds of thousands of customers that have participated in GEA, they can certainly likewise work for the much smaller population, the approximately 800 customers, that would participate in public entities' LMI Community Solar Project.

Response to Question 20:

It is urgent the Board take action on the establishment of a well-designed consolidated billing mechanism for Community Solar. ACUA agrees with the report

from New Jersey's utilities (EDCs) which recommended Utility Consolidated Billing (UCB), whereby EDCs provide customers with a single bill containing their normal charges in addition to their Community Solar savings. However, "the devil is in the details", i.e. the EDCs also offered two options for UCB, only one of which ACUA finds acceptable. The less favorable option is to utilize "Separate Line Item" billing: this mechanism would (1) allow EDCs to return the Subscriber to Dual Billing in the event of non-payment, which would be particularly harmful to LMI customers as they are more likely to be behind on payment; and (2) create a payment structure whereby the solar developer is "on the hook" for a subscribers' non-payment, which would decrease the security and financibility of LMI Community Solar Projects.

The far more favorable option provided by the EDCs' report is to utilize the Net Crediting methodology to Community Solar Consolidated Billing, whereby the EDC will pay the solar developer prior to billing the customer, resulting in customer payment risk – which is much higher in the case of LMI customers – to be the responsibility of the EDC, and not the solar developer. Firstly, this is not a new state of affairs for the EDCs: it is standard for a utility to absorb any customer payment risk when a customer is on the default energy service, so there is no reason the EDC could not be responsible for this in the Community Solar Program as well, especially considering the BPU's laudable goal to make this an LMI-focused program. Secondly, Net Crediting provides the solar developer with secure revenue from the utility, and increased security translates to higher savings for the customer and more incentive to invest in LMI Community Solar Projects. Therefore, ACUA strongly requests that BPU disallow the Separate Line Item billing mechanism, and instead establishes the other option, the Net Crediting methodology, for Community Solar Consolidated Billing.

Response to Question 21:

This comment is regarding the proposed automatic-enrollment rule. The proposed rule at N.J.A.C. 14:8.9.4 (k) and the proposed definition of "local government" or "local government entity" in N.J.A.C. 12:8 9.2 unduly limits participation in automatic enrollment project to municipalities only. It would be more appropriate and consistent to replace the term "local government entity" with "Governmental entity", which the existing Rule (N.J.A.C.14:8-9) defines under N.J.S.A. 48:3-51 as: any federal, state, municipal, local or other governmental department, commission, board, agency, court, authority or instrumentality having competent jurisdiction. This definition provides the same security as the proposed "local government" definition by way of the phrase "having competent jurisdiction"; this phrase ensures that the government entity has legal and practical responsibility to the Community Solar participants.

Furthermore, please clarify (whether via a rule edit or in a response to this comment) that a County Utilities Authority (in this case the Atlantic County Utilities Authority) may participate in the development and operation of such an automatic

enrollment program with the provision that the Program will include a municipal entity in the Program and enrollment process as its partner.

In the case of ACUA, ACUA will be including as its Project partner, the City of Pleasantville and its Housing Authority in the process. Both ACUA (as an Authority under the jurisdiction of the Atlantic County Board of Commissioners), and the City of Pleasantville are answerable to the public as the Commissioners and City Council are elected officials. This clarification will support the success of the BPU's community solar policy and allow for greater participation by LMI customers with municipal and county support and protection.

Thank you for your time and consideration.

Much appreciated,


Richard S. Dovey



2200 Atlantic Street, 6th Floor Stamford, CT 06902

New Jersey Board of Public Utilities

44 South Clinton Ave, 1st Floor
PO Box 350
Trenton, NJ 08625-0350

Dear Staff of the New Jersey Board of Public Utilities (“BPU” or “Board”),

Altus Power, Inc. is a publicly listed operating company that develops, funds, owns, and operates distributed generation solar and energy storage projects across the U.S. We appreciate the opportunity to provide comments to the Board as it continues to grow the Community Solar Energy Program in New Jersey.

Question 7.

The method of selection used in pilot years one and two has been fair and transparent. A first come-first serve approach has failed in many states where robotic applications, clogged utility IX queues, oversubscription by single developers, and long waitlists have hindered community solar development. Altus recommends continuing the New Jersey Board evaluation criteria with the following additional requirements.

A refundable bid deposit for each project could help reduce frivolous applications and allow the board to expedite review. This would be similar to other Board programs in offshore wind etc. This deposit could be **refunded if/when the project reaches PTO.**

Although community outreach was advantageous to ensuring the project was participating in the community, Altus would like to clarify to the board the amount of confusion this creates. Community based outreach criteria confused many residents by telling them a solar project was coming and asking them for signatures, but they were not obligated to actually pay for anything or sign up for anything yet. Further, the project and benefits being pitched to their organization and community may never materialize if the project is not selected, or will be there a full 2 years later.

Further to this point, criteria about the viability of the actual solar project could be more effective in the board’s goals of creating solar in the program in NJ. **For example in other states a Building Permit is required.**

Question 8.

Altus’ experience in other waitlists is that projects that sit on a waitlist become more likely to be “scrub” projects, and clog up the queue for future legitimate projects. A waitlist could also prevent future sites (i.e. future NJ warehouses that will be built solar ready but do not exist today) and companies from participating in NJ’s community solar program if they see hundreds of projects ahead of them in the queue with no certainty as to when their proposed project will be considered.

Altus would also recommend bi-annual (two times per year) application periods to allow for projects to apply when they are truly ready, discouraging applications that are premature from being faced to force an application early by the once per year deadline or have to wait another full year before the next



2200 Atlantic Street, 6th Floor Stamford, CT 06902

application period. **Bi-annual application and approval periods will reduce the number of applications that staff has to consider and will also reduce the time it takes to select the most worthy projects to recommend to the Board for approval. This will also allow projects to move from application to approval and continued development faster without an 8 month holding period as in the pilot program.**

Question 12.

Expanding the verification standards to ensure verification process is not the barrier to legitimate LMI participation should be emphasized. **To that end Altus supports additional methods of verification such as Medicaid and self-attestation.**

Thank you for your time and consideration.

Sincerely,

Matthew Marlow

Matthew Marlow

Altus Power

(203) 698-0090

www.altuspower.com



May 6, 2022

VIA E-FILING & E-MAIL

Carmen D. Diaz, Acting Secretary
New Jersey Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, New Jersey 08625-0350

Re: In the Matter of the Community Solar Energy Program
BPU Docket No. QO22030153

Dear Acting Secretary Diaz,

On behalf of our client, Ampion, PBC ("Ampion"), enclosed please find Ampion's comments on the design of the permanent Community Solar Energy Program filed in response to the BPU's Stakeholder Notice issued on April 11, 2022.

Please do not hesitate to contact me if you have any questions.

Very truly yours,



Murray E. Bevan

Enclosures



May 6, 2022

Comments Regarding Docket No. QO22030153: In the Matter of the Community Solar Energy Program - Chris Kallaher on behalf of Ampion, PBC

Ampion, PBC, is pleased to submit these comments in response to the Board's April 11, 2022, Request for Comments. Ampion is a community solar subscriber organization that is currently operating in New York, Massachusetts, Maine, Illinois, Maryland, Colorado, Minnesota, and other states that are in the process of implementing community solar and other distributed generation programs. We greatly appreciate the Board's efforts to build on the momentum of the New Jersey Community Solar Energy Pilot Program ("Pilot Program") to create a permanent community solar program. Our comments will focus on three topics referenced in the April 11, 2022, Request for Comments: Low and Moderate-Income (LMI) Access, an opt-out subscription model, and Utility Consolidated Billing (UCB).

Our comments focus on these three issues because they are strongly connected. This connection is created by a singular characteristic of the Pilot Program that will likely carry through to the permanent program. Given the scoring rubric of the Pilot Program, the projects awarded in the two years of the program required the highest percentage of LMI subscribers of any community solar program in the country (51 percent), coupled with the most restrictive requirements that we have encountered for qualifying LMI subscribers for participation in the program, while providing no realistically accessible financial premium for serving such a high percentage of LMI subscribers. In addition, many of the Pilot Program projects are further encumbered with geographical restrictions that are also absent for programs in other states.

Let's compare this characteristic to the programs in two other states, New York and Massachusetts, each of which is pursuing a very aggressive program for distributed energy

resources development that relies heavily on the community solar model. In New York, which plans to build 10 GW of distributed solar by 2030, developers can access the Inclusive Community Solar Adder (“ICSA”) for projects that meet certain requirements. The minimum level of LMI subscribers to qualify is 20 percent “eligible residential subscribers,” which allows a project to receive an upfront payment of up to \$0.20/Wattdc for ICSA qualified subscribers. Moreover, New York has a robust range of options for identifying and acquiring the 20 percent eligible residential subscribers, including the use of geographically broad “Disadvantaged Community” areas within which a resident can qualify based on self-attestation to income eligibility. New York allows the remaining 80 percent of qualifying sites to be filled with an even wider range of LMI load that also qualifies for the ICSA, including master-metered load from certain affordable housing facilities.¹

Massachusetts offers an even more generous incentive for sites that enroll at least 50 percent LMI subscribers. Qualifying “Low Income Community Shared Solar Tariff Generation Units” receive an incentive that begins at \$0.060/kWh of production from the site that serves qualifying subscribers, stepping down in 80 MW blocks (which compose a total of 1280 MW) to \$0.03253/kWh. Identifying and acquiring LMI subscribers is also more straightforward in Massachusetts than it is in New Jersey. Massachusetts allows location-based qualification within areas in which the median household income is at or below 65 percent of the state median household income. Purely as a result of the demographic vagaries of Massachusetts compared to New Jersey, these “green zones” encompass a much larger percentage of the State’s population than the similar zones in New Jersey, especially in the Eversource East service territory. Outside of these zones, LMI subscriber acquisition is aided by the fact that potential subscribers who are

¹ Please see <https://www.nyserda.ny.gov/All-Programs/NY-Sun/Contractors/Resources-for-Contractors> for more information about the ICSA program.

on utility assistance programs, inclusion in which is prima facie evidence of qualification as LMI for community solar purposes, have a unique rate class, allowing subscriber organizations to “qualify” subscribers based on a utility bill rather than requiring detailed evidence of income that must be provided by potential subscribers themselves.

This is not to say that the New York and Massachusetts community solar programs are better than New Jersey’s in some absolute sense. Every program represents a tradeoff among competing interests that takes into account the characteristics and resources of the jurisdiction within which the program operates. But given strong evidence that the 51 percent LMI component of the Pilot Program, combined with the restrictive options for qualifying LMI subscribers, is already causing challenges to developers in New Jersey trying to fill sites in the Pilot Program, these differences should inform New Jersey’s decision-making process in designing its permanent program.

As an initial matter, New Jersey clearly must choose between maintaining its commitment to a high level of LMI participation in community solar and continuing the restrictive qualification requirements for LMI subscribers. There is simply no reason to believe that developers and subscriber organizations could fill the Pilot Program sites plus another 750 MW of capacity in the permanent program with 51 percent LMI subscribers using the current means of qualifying subscribers as LMI.

Fortunately, New Jersey has tools readily at hand that would allow it to retain its strong unequaled commitment to LMI participation in the permanent program while going a long way to ensuring that sites get built and filled in a timely and efficient manner. These tools include the following, in order of their importance to the success of the permanent program:

1. Implement a robust, municipality-based opt-out community solar program.

As noted in Question 17 of the Request for Comments, in a previous Order the Board proposed a rule amendment that “would have allowed certain projects owned and operated by public entities to automatically enroll subscribers without first seeking subscribers’ affirmative consent to join the project.” It is our understanding that no such projects have been proposed, which is not surprising given the challenges that would come with actual ownership and operation of projects by a public entity. Rather than attempting to modify this proposal, we strongly encourage the Board to adopt an opt-out program similar to that currently in use (and soon to be expanded) in New York, which allows a municipality to establish an opt-out program without owning or operating any generating assets. We will provide much greater detail on this program in our response to Question 17.

2. Implement utility consolidated billing using the net crediting model.

Question 20 seeks comments on the EDCs’ May 28, 2021, report and recommendations to the Board regarding the implementation of utility consolidated billing for community solar charges. Because the viability of a municipal opt-out program depends on the availability of utility consolidated billing, we strongly encourage the Board to adopt such a program. We believe the “net crediting” model, as implemented by Rockland Electric Company’s affiliated Orange and Rockland Utilities, Inc., is vastly superior in every meaningful way to the “separate line item” model, which closely mirrors the current method by which the EDCs bill and collect for the retail charges of third-party electricity and natural gas suppliers. Because of the fundamental differences in the two methods and in the nature of community solar bill credits versus third-party retail supply charges, the Board should only allow EDCs to implement the net crediting model of utility consolidated billing rather than a purchase-of-receivables-based model.

3. In the interim, while municipal opt-out and net crediting programs are being developed, the Board should allow developers and subscriber organizations to qualify LMI subscribers using a simple self-attestation form.

As discussed further in response to Question 12, while there may be other measures for enabling LMI subscriber qualification that the Board should consider and perhaps adopt, the most effective option would be to allow developers and subscriber organizations to qualify an LMI subscriber based on the subscriber's self-attestation that they meet the LMI criteria, without the need for other documentation.

With that introduction, Ampion is pleased to provide responses to the following questions set forth in the Board's Request for Comments:

III. Low-and-Moderate-Income Access

11. What policies and measures should the Board consider to ensure that the Permanent Program maintains a high level of low- to moderate-income ("LMI") participation? How can the Board support community outreach and education?

Please see summary comments above and responses to Questions 12, 14, 17, and 20 below.

12. Should the Board modify the Pilot Program's income verification standards (see the Pilot Program rules at N.J.A.C. 14:8-9.8)? If so, how?

Yes. It is clear that the current standards and methods for subscriber income verification are too restrictive. While Ampion believes strongly that a municipality-controlled opt-out program combined with the net crediting model of utility consolidated billing is the best path forward for efficiently enrolling a high level of LMI subscribers, we recognize that implementing these two programs will take time. In the interim, developers and subscriber organizations need a better method for qualifying LMI subscribers if the 51 percent LMI requirement is to remain viable. It would be possible to adjust the criteria for census tract-based qualification, which is currently set at 80 percent of households having less than 80 percent of the median statewide household income, to something that encompasses a larger number of census tracts. Given New Jersey's unique

demographic and geographical characteristics, as is the fourth smallest state by area, with the highest population density and variety of economically diverse communities in close proximity to each other, adjusting the census tract criteria would not be as effective as another measure: allowing residents to qualify as LMI based on execution of a self-attestation form without requiring additional, more onerous and intrusive means of income verification.

Self-attestation addresses the two main barriers to LMI qualification under the current method, which are logistical and emotional. Without readily available means of scale acquisition (such as the opt-out program discussed below), subscribers must be enrolled through some kind of one-to-one sales interaction. Direct sales of this kind are challenging but manageable in the context of non-LMI subscribers. Introducing the additional element of asking a potential subscriber for physical documentation of their income or other evidence of participation in a program that allows one to qualify as LMI for purposes of community solar makes the sales process an order of magnitude more challenging. The logistical difficulties aside, introducing this requirement into sales conversations has powerful emotional consequences. Few people are eager to discuss their financial circumstances, especially when they find themselves in a vulnerable position. Self-attestation provides a more discreet and respectful path to qualification.

Ampion believes the natural reticence people feel in discussing their financial situation would also be a check on fraud, which is the main concern one might have about self-attestation. Moreover, the consequences of misrepresentation in this context can be tightly controlled. Subscribers found not to qualify would be removed from the program, and developers and subscriber organizations could be required to post a bond that could be drawn upon to make the program whole for the financial impact of fraudulent qualifications.

As with every policy decision, finding the best method of LMI qualification involves the balancing of competing interests. In this case, concerns about the risk of fraud (the consequences of which, as noted, can be mitigated) should give way to continuing New Jersey's admirable goal of providing 51 percent of the benefits of its community solar program to LMI residents.

IV. Community Solar Subscribers

14. What should the geographic limitations for community solar projects and subscribers be (i.e., How far from the project can subscribers to the project reside)?

For context, the Pilot Program allowed projects to self-select the geographic limits of the project. Projects could choose between three options: municipality and adjacent municipalities, county and adjacent counties, and no limit (EDC-wide).

The policy justification for these limitations has never been clear. As noted above, New Jersey is already the fourth smallest state by area; it is less than one-third the size of National Grid's New York service territory. Moreover, it is divided among four investor-owned utilities and an array of municipal utility authorities, the boundaries of which further divide many municipalities, increasing the challenge of subscriber acquisition for sites that can only enroll subscribers in the same utility service territory. Developers and subscriber organizations should be allowed to assign to a site any subscriber in the same service territory as the site.

17. In November 2020, the Board proposed a rule amendment to the Community Solar Energy Pilot Program rules, which would have allowed certain projects owned and operated by public entities to automatically enroll subscribers without first seeking subscribers' affirmative consent to join the project. Subscribers would then have the option to "opt-out" of the project should they not wish to participate. How can the Board best support subscriber education and acquisition? Should the Board revisit its automatic enrollment proposal, and if yes, how can automatic enrollment be implemented consistent with customer data privacy rights?

As noted in our summary comments, Ampion sees an opt-out model as New Jersey's best opportunity to bring community solar to LMI residents efficiently and at scale, allowing New Jersey to meet its aggressive target for LMI participation. The program proposed in the November

2020 order, however, is not workable and should either be abandoned or retained only as an option for any municipality that wishes to pursue it. In its place, Ampion recommends that New Jersey adopt a program similar to what has been partially implemented in New York and which is on its way to broader adoption. The program is described in detail in the New York Public Service Commission’s March 15, 2018 “Order Approving Joule Assets’ Community Choice Aggregation Program with Modifications” and the New York Department of Public Service’s March 29, 2022 “Straw Proposal on Opt-Out Community Distributed Generation.”

New York’s opt-out program was built on the same foundation as its Community Choice Aggregation program, which allows municipalities to provide, through a third-party supplier, electricity and/or natural gas service on an opt-out basis, meaning that residents are automatically enrolled in the program unless they affirmatively choose not to participate.² With respect to its basic features and goals, the New York program is essentially identical to New Jersey’s Government Energy Aggregation program, which allows municipalities to buy electricity at scale through a third-party supplier on behalf of electricity consumers in the municipality.³

New York’s opt-out community distributed generation (“CDG”) program is a logical extension of its opt-out commodity purchasing program. It allows municipalities to add community solar to the services that are provided to residents, leveraging the buying power of the municipality as a whole to attract a robust group of potential sellers and to negotiate favorable terms. Municipal ownership of the solar assets is not required or even contemplated; there is no discernible advantage provided by municipal ownership of a solar site used for community solar

² See “Order Establishing a Community Distributed Generation Program and Making Other Findings,” New York Public Service Commission Case 15-E-0082 (July 17, 2015).

³ The Government Energy Aggregation program is codified at N.J.S.A. 48:3-92 - N.J.S.A. 48:3-95. The Board of Public Utilities’ rules for GEA programs can be found in N.J.A.C. 14:4-6, Government Energy Aggregation Programs.

and, to our knowledge, no municipality that is served by an investor-owned utility in New York has expressed any interest in owning and operating a solar facility for use in a municipality-based community solar program.⁴

In practice, an opt-out community solar program works much like the opt-out commodity programs already in place in New Jersey. A municipality chooses a program administrator, who is responsible for procuring supply for the program, educating residents about the program, running the opt-out process (which involves communicating with residents about the nature of the program, their ability to choose not to participate, and the means by which that choice can be exercised), and managing the ongoing allocation of bill credits to participants in the program and providing the billing interface with the utility. The providers of community solar supply would have a direct relationship with the municipality, giving the municipality additional control over the program.

New York successfully launched its opt-out CDG program last year in several towns in the National Grid service territory. Expansion of the program to more municipalities has been paused as the Public Service Commission considers changes to the program recommended by Department of Public Service Staff in its Straw Proposal. Some features of this proposal would make a program that is already a good one from the perspective of LMI participation into a potentially transformative one, and these features should be adopted by the Board in approving an equivalent program in New Jersey. These features are:

- Municipal opt-out programs would have to prioritize LMI residents. This is the most important feature that the Board should adopt in an opt-out program. In circumstances in

⁴ Municipalities with full-fledged municipal utilities may be a different story; these comments are limited to the conditions that will obtain within the service territories of New Jersey's investor-owned utilities. We have seen interest on the part of municipalities in tying a municipal opt-out program to solar sites that are either within the municipalities borders or in close proximity, but this interest does not involve actual municipal ownership of the site.

which there is insufficient CDG capacity to place all residents on a solar site at the same time, the New York Straw Proposal would require that LMI residents be placed first. Ampion strongly supports this feature. Municipal opt-out programs have an inherent advantage over some traditional forms of subscriber acquisition in that they enroll LMI subscribers in proportion to the percentage of LMI residents in a municipality. Implementing a municipal opt-out program that prioritizes LMI residents would allow New Jersey to move rapidly to equalize LMI participation while also giving developers and subscriber organizations an effective means of meeting the 51 percent LMI subscriber requirement that will likely remain a feature of the permanent program. This would especially be the case if municipalities choose to implement an opt-out program that applies only to LMI residents, which Ampion believes would be very attractive to both municipalities and developers.

The following example shows why this would be the case. A typical residential customer in New Jersey uses about 8,000 kWhs of electricity annually. Based on data compiled by the New Jersey Department of Environmental Protection, a solar site in New Jersey can expect a capacity factor of about 15 percent.⁵ This means that a 5 MW site would require about 400 LMI subscribers to meet the 51 percent requirement.⁶ Assuming a fairly conservative 10 percent opt-out rate, this means that any single municipality with more than about 450 LMI households could fill the entire 51 percent requirement for a 5 MW solar project. Larger municipalities could fill the LMI requirement for multiple sites, and even municipalities with much smaller numbers of LMI households could combine

⁵ See [New Jersey Department of Environmental Protection Solar Siting Analysis Update](#)

⁶ $5\text{MW} \times 1000 \text{ kW/MW} \times 8760 \text{ h/yr} \times 0.15 \text{ cf} \times 0.51 \text{ LMI} \times 1/8000 \text{ kWh/yr/subscriber} = 419 \text{ subscribers}$

their LMI load to allow one or more projects to meet their LMI requirement. An LMI-focused opt-out program would be a very powerful tool in helping New Jersey maintain its commitment to LMI participation in the permanent program.

- An opt-out program would be allowed either in conjunction with an electricity commodity program or on a stand-alone basis, which would allow communities that are not interested in procurement of competitive electricity supply to provide the benefits of community solar to their residents. Community solar offers municipalities guaranteed savings for their residents; bill credits are sold at a discount to their value when applied on a subscriber's utility bill. New Jersey requires that electricity aggregation programs provide savings, but there may be times when market conditions do not allow savings to be offered. Regardless of one's view of retail electricity competition (and Ampion, in general, strongly supports giving electricity customers competitive options), a municipality could reasonably choose to pursue community solar while foregoing competitive commodity supply.
- The program would require minimum guaranteed savings of 10 percent for LMI participants (that is, bill credits would be sold at no more than 90 percent of the value of those credits when applied to the subscriber's utility bill).
- The program would be implemented only in conjunction with the net crediting model of utility consolidated billing (which is discussed further below).

While implementing an opt-out community solar program as part of the permanent program might be somewhat streamlined by New Jersey municipalities' experience with government energy aggregation, program development would still take time, especially given that a utility consolidated billing program would be a prerequisite for the opt-out program's successful implementation. This is why Ampion recommends that the Board not wait to pursue the

development of an opt-out program. The rules allowing an opt-out program should be an immediate feature of the permanent program, allowing the technical groundwork for the program to be established while the EDCs are in the process of developing and implementing a consolidated billing program based on New York's net crediting model.⁷

V. Community Solar Bill Credits

20. In May 2021, following an opportunity for public comment, the EDCs submitted a report to the Board with options and recommendations regarding the implementation of consolidated billing for community solar. In summary, the EDCs recommend that, if the Board adopts consolidated billing for community solar projects, this billing process be handled by the EDCs. The EDCs further recommended that the method of reflecting subscription fees on a subscriber's EDC bill be determined by each EDC based on the format that best corresponds to their existing billing practices. The EDCs did not recommend that the Board allow non-EDC billing options. Do you agree with the EDCs' recommendations? If not, why? How do you recommend the Board address payment default by customers?

In April 2021, Ampion filed comments (which are attached) in response to the Board's request for comments on consolidated billing for community solar. We will not repeat here the arguments in favor of utility consolidated billing for community solar, as we believe the benefits of such a program are manifest, especially where LMI participation is among the State's highest policy priorities. Ampion was pleased that the EDCs' report and recommendations were largely consistent with our April 2021 comments, with one notable exception. The EDCs' recommendation is summarized as follows:

The proposed UCB process consists of two possible methods of incorporating the Subscriber Organization's Fee in the EDCs' bill and/or billing calculation. The two methods are: (1) a Net Crediting Methodology (i.e., the Subscription Fee is netted from the Applied Credit resulting in a net credit amount reflected on the EDC bill); or (2) a Separate Line Item on the invoice for the Subscriber's fee ("Fee"). **Each EDC would select the method to implement so that the community solar consolidated billing process can align with the EDC's consolidated billing processes used with TPSs and/or used in**

⁷ Regarding the question of how an opt-out program with automatic enrollment can be implemented "consistent with customer data privacy rights," Ampion believes this issue has already been substantially addressed in the context of the Board's rules for Government Energy Aggregation programs, which make use of the same method of automatic enrollment. There may be some nuances between the data privacy implications of an opt-out community solar program compared to an opt-out electricity supply program, but we are not aware of any material differences at this time.

other jurisdictions, thereby minimizing implementation timelines and required systems costs.⁸

Ampion disagrees with the bolded portion of the above summary, which would allow an EDC to choose the “Separate Line Item” method over the “Net Crediting” method, as is currently being used in New York, including by Rockland Electric’s New York affiliate. The net crediting model is vastly superior to the separate line-item model when taking into account the nature of community solar credits and the relative complexities and burdens of implementing each model.

It is true that the New Jersey EDCs currently offer utility consolidated billing with purchase of receivables (“POR”) for third-party electricity and natural gas suppliers. But community solar credits are very different from third party supply charges and thus warrant different treatment. Bill credits reflect an obligation owed by the State in compensation for the value of renewable generation placed on the distribution grid. The value of that obligation is conveyed to solar project owners in the form of credits that appear on subscribers’ utility bills and for which, in the absence of utility consolidated billing, the project owner or subscriber organization must bill the subscriber at the agreed upon discount.

Net crediting is an elegant solution to the challenges created by this system, especially where mass market and potentially credit-challenged subscribers are involved, as is the case in New Jersey with its 51 percent LMI requirement. Net crediting takes the amount “owed” to the project owner and distributes it between the subscriber and the project owner based on the agreed upon discount. So, for credits in a given month sold at a ten percent discount to a subscriber, the subscriber will receive 10 percent of the total value of the allocated credits (the “net credit” value), with the project owner receiving the other 90 percent (minus the utility’s administrative fee).

⁸ EDCs’ May 28, 2021, Consolidated Billing Report for the Billing of Community Solar Subscriber Fees, at 27 (emphasis added).

The net crediting model creates no “receivable” that the utility must purchase from the project owner. It does not increase the overall amount of the subscriber’s bill. To the contrary, it reduces the subscriber’s bill by an amount equal to the “net credit” value (which is the discount rate times the value of the bill credits allocated in that month). Other things being equal, this reduction in the total bill amount will have a positive impact on utility collections. Moreover, a subscriber’s non-payment has no impact on the community solar billing arrangement because all of the charges on the bill are utility charges. Again, if anything, the bill reduction caused by the net community solar credit makes it easier for the subscriber to bring their utility account current. Finally, in terms of recovery for the bill credits themselves, the utility is made whole through the same mechanism, regardless of which model is used.

The “separate line item” model subverts all of these advantages, to the detriment of every participant in the process. The subscriber has a much larger bill amount to pay, increasing the likelihood of non-payment. The utility must collect a larger amount, increasing its bad debt exposure and creating an additional burden on customer service personnel who must answer what would likely be many inquiries from customers asking why their bills are suddenly nearly double what they had been. The project owner is in a worse position, as they must now compensate the utility for bad debt expense related to community solar credit receivables which, for mass market customers, would likely be a higher amount than the administrative fee for a net crediting program. The relationship created between the utility and the project owner in the “separate line item” model is also fundamentally disadvantageous to the project owner, as it takes a relationship in which the utility is the conduit for the conveyance of something of value that is owed to the project owner and turns it into some kind of service that the utility is providing to the project owner at a cost. Finally, the Board would be in a worse position as they would have to devise rules to deal with the

consequences of non-payment, replaying the debates over recourse versus non-recourse POR that attended utility consolidated billing of TPS charges.

It may be tempting, as seems to be implied by the language of the EDCs' report, to believe that because the EDCs already have a POR-based program in place for TPS charges that there would be advantages to using the same method for community solar bill credits. Any possible advantages would be ephemeral and would be quickly overwhelmed by the complexity and operational disadvantages discussed above, including the need to establish billing services relationships with project owners similar to those required for TPSs using POR. It is also worth noting that every single New York investor-owned electric utility, including Rockland Electric's affiliate, Orange and Rockland Utilities, Inc., had an established utility consolidated billing with POR program for third party retail supplier charges when the New York Public Service Commission ordered that they implement only the net crediting model. In fact, it was the joint utilities who recommended the net crediting model to the Commission over the POR model already in use for third party suppliers.⁹ The Board should follow this example and direct the New Jersey EDCs to implement a net crediting program - and only a net crediting program - as a key feature of the permanent community solar program.

Thank you for the opportunity to provide comments on these important questions.

Respectfully submitted this 6th day of May 2022.

/s/ Chris Kallaher

VP, Law and Regulatory
Ampion, PBC
31 St. James Ave., Suite 355
Boston, MA, 02116
(617) 462-6297
ckallaher@ampion.net

⁹ See Order Regarding Consolidated Billing for Community Distributed Generation, Case No. 19-M-0463 (December 12, 2019), at 3.



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

April 9, 2021

Comments Regarding Docket No. QO18060646: New Jersey Community Solar Energy Pilot Program - Chris Kallaher on behalf of Ampion, PBC

Dear Secretary Camacho-Welch:

Ampion, PBC is pleased to submit these comments in response to the Board's March 11, 2021 Request for Comments and Stakeholder Meeting Notice. Ampion is a community solar subscriber organization that is currently operating in New York, Massachusetts, Maine, Maryland, and other states that are in the process of implementing community solar and other distributed generation programs. We greatly appreciate the Board's efforts to enable community solar in New Jersey and see consolidated billing as an important accelerant for that goal. The detailed questions put out for comment are helpful in that regard; though we may not have answers to every question at this time, they are the right questions to be asking.

Responses to Stakeholder Questions

Question 1: In New Jersey, customers who purchase their electricity supply from a Third Party Supplier (TPS) are typically billed by their EDC. Known as Utility Consolidated Billing, the customer receives a single bill that includes supply charges and related taxes from its TPS and delivery charges and related taxes and charges from its utility. Occasionally, in NJ and in other jurisdictions, dual billing is employed where a customer receives a bill from the customer's utility company that includes only the utility's charges and a separate bill from the customer's TPS that includes only the TPS charges. In other jurisdictions, the TPS sends the utility bill to the customer, which contains all of the utility's relevant charges. This billing methodology is sometimes called TPS Consolidated Billing.

What lessons can be drawn from consolidated billing for TPS customers with respect to its potential application to community solar? What are the advantages or disadvantages of Utility Consolidated Billing, TPS Consolidated Billing and dual billing as they apply to community solar?

Response:

Consolidated billing for TPS customers offers only limited lessons with respect to its application to community solar. The reason for this is the fundamental difference between the service being provided by the utility to TPSs in the former and that provided to community solar sponsors and subscribers in the latter. TPSs use the utilities distribution system to deliver commodity electricity to end-use customers. Those delivery services are charged to the end-use customers at tariffed rates and the responsibility for paying both the delivery and commodity charges remains with the end-use customer.

Community solar, on the other hand, involves the creation of bill credits through the production of electricity by a participating solar facility, which bill credits represent an obligation of the utility to the subscribers to whom the bill credits have been allocated. The application of those credits to a subscriber's bill thus reflects a financial obligation of the utility. No such financial obligation underpins the relationship between a utility and a TPS to which the utility provides consolidated billing services; absent the agreement to bill, collect and remit on the TPS's behalf, the utility owes the TPS nothing.

This distinction will be important to keep in mind as this docket proceeds. As discussed further below, the net crediting approach adopted by New York captures this distinction well, and Ampion encourages the Board to adopt that approach as soon as possible so that any confusion between that approach and "consolidated billing with purchase of receivables," which is the service provided to TPSs, can be avoided.

Distilled to its essence, the difference between these approaches can be described as follows. Consider a transaction involving \$10 worth of bill credits owed by Utility to Solar Company. Solar Company has sold the right to those bill credits to Customer for \$9. Under net crediting, rather than giving the full \$10 of credits to Customer, Utility allocates the net amount that Customer will realize from the transaction - \$1 - to Customer and remits the remaining amount of the value of the credits - \$9 - to Solar Company, minus a processing fee. This arrangement discharges Utility's obligation to Solar Company for the \$10 worth of credits while obviating the need for Solar Company to bill and collect the \$9 from Customer.

In contrast, let's say a TPS customer uses \$10 worth of power provided by the TPS. The TPS customer owes the TPS \$10, period; the utility owes neither the TPS nor the customer anything. In exchange for a fee (usually in the form of a fixed billing fee plus a percentage of the TPS's receivables), the utility bills the customer for the \$10, collects that amount, and remits it to the TPS, net of the fee.

Applying this distinction to the three approaches in the question results in the following. Utility consolidated billing, especially in its net crediting form, is superior to either dual

billing or TPS consolidated billing from the perspective of the solar provider because it achieves the same appropriate allocation of the rights to bill credits as dual billing while eliminating the need for the solar provider to bill and collect directly from the customers to whom the bill credits have been allocated.

There are notable secondary benefits to this approach as well, especially in the area of credit. In subscriber organization dual billing, the subscriber receives the benefit of the credits directly from the utility on his or her bill. If the customer doesn't pay the solar provider for the credits, the provider has few remedies other than traditional means of collection. This means that solar providers must carefully screen potential subscribers for their ability to pay and also collect and verify a payment method, limiting the overall pool of possible subscribers and tilting the playing field away from low- and moderate-income subscribers.

The net crediting approach to utility consolidated billing provides benefits to the utility as well by greatly expanding the number of its customers who subscribe to community solar projects. The credits these subscribers become eligible for lowers their utility bill, making it more likely that they will pay their delivery and commodity charges in full.¹

For these reasons, utility consolidated billing is, in general, superior to dual billing for both community solar providers and subscribers.

In contrast, TPS consolidated billing, in some circumstances, may offer some advantages over dual billing but offers no advantages over utility consolidated billing except in the scenario where the TPS has already committed to TPS consolidated billing for both its own commodity charges and the utility's delivery charges and the TPS wishes to offer its own community solar option as well. However, while Ampion sees the advantages of TPS consolidated billing from the TPS perspective, we see the implementation of a net crediting approach to utility consolidated billing, which every community solar could take advantage of, as a much higher priority than TPS consolidated billing, at least in the context of the community solar discussion. If the goal is to accelerate the development of community solar resources in New Jersey, the Board should make utility consolidated billing a high priority, even if there are valid, even compelling, policy justifications for implementing TSP consolidated billing at some point.

Question 2: Do you recommend implementation of some form of consolidated billing for community solar projects? If so, do you recommend Utility Consolidated Billing, or third party provision of consolidated billing for community solar subscriber fees (Subscriber Organization Consolidated Billing)? Please consider this question from the perspective of billing

¹ The positive impact community solar has on the utility comes into play in a much larger way in the discussion, below, regarding the consequences, if any, of subscriber non-payment of the utility bill.

implementation and administration, community solar project financing, and subscriber (customer) protection.

Response:

As discussed above, Ampion strongly supports the development of consolidated billing for community solar, and all of the factors cited favor utility consolidated billing (UCB) more so than subscriber organization consolidated billing (SOCB). This is especially the case if the Board adopts the net crediting approach adopted by the New York Public Service Commission.

- Billing implementation and administration are more straightforward with UCB compared to SOCB. As noted above, the utility already has the obligation to reflect bill credits on a subscriber's bill, and the net crediting approach adds only one extra element to the transaction, namely the recognition that the subscriber is paying the subscriber organization for the credit. Under SOCB, however, as we understand that term to be used, the utility's charges would need to be presented and collected by the subscriber organization. This would require a great deal of operational and financial heavy lifting compared to net crediting.
- As noted above, UCB, especially in its net crediting form, greatly expands the pool of potential subscribers for a project, which would have a strongly positive impact on a project's ability to attract financing.
- Where the utility retains the billing relationship, consumer protection is more straightforward as well as a result of the highly regulated nature of utility billing and collections operations.

Question 3: Please describe in detail how your proposed method of consolidated billing would work and the benefits you believe would be achieved by the use of consolidated billing for community solar. If you are or represent a community solar developer or subscriber organization, please speak specifically to your experience. Please address all related issues, including the following:

- Would the bill be sent by the utility (Utility Consolidated Billing) or the subscriber organization (Subscriber Organization Consolidated Billing)?
- How would your proposal address customer nonpayment of bills, partial payment of bills, and late payment of bills? In cases of partial payment of bills, which portion of the bill should the payment be allocated towards?
- Should customers be dropped from consolidated billing for late payments?
- Discuss any purchase of receivables issues.
- Discuss any issues relating to consumer credit.
- Should there be a fee using consolidated billing and, if yes, what should it be?
- Discuss any consumer protection implications of utilizing consolidated billing for community solar, including data privacy and data protection.

- How would customer specific data be exchanged? Alternatively, please address why you and/or your organization prefer dual billing.

Response:

New York is the first state to implement UCB for community solar and, as discussed above, Ampion strongly supports the net crediting approach adopted by the New York Commission. Because New York is in the midst of implementing net crediting, it is difficult at this point to draw firm conclusions with respect to some aspects of the process, though the advantages of net crediting versus dual billing are clear, as discussed in detail above. That being said, the process in New York to date and Ampion's experience elsewhere allows us to make the following observations on the issues listed above.

- Ampion prefers UCB over SOCB.
- Under net crediting, there is no "allocation" of customer payments. The customer is not paying the utility for his or her credits. To the contrary, the net credits reduce the customer's overall bill, making it more likely that the customer will pay the bill in full. The only charges the customer is paying for are the electricity commodity charges (whether from the utility or a TPS) and the utility's delivery charges.
- A customer should not be dropped to dual billing for nonpayment, as is currently the case for utility consolidated billing, with purchase of receivables, for TPS charges. As noted above, the customer is not paying the utility directly for community solar bill credits and none of the charges that appear on the customer's bill are for community solar bill credits. When a utility customer who is also a community solar subscriber doesn't pay, he or she would be subject to the same remedies that are available today to the utility with respect to customers who are not community solar subscribers. Dropping the community solar customer to dual billing does nothing to improve the utility's cash flow but it would severely reduce the advantages of net crediting in the area of improving the ability of solar projects to obtain financing, as the residual credit risk would, once again, require subscriber organizations to apply a rigorous credit screen to the pool of potential subscribers.
- As described in the New York Commission's order on consolidated billing for community solar, with net crediting the utility does not purchase the community solar provider's receivables. The utility satisfies its obligation to provide bill credits that are created by the production from a solar facility by allocating a portion of the value of those credits to the end-use customer (in an amount equal to the full value of the credits minus what the subscriber agreed to pay the solar provider for them) and the remainder to the solar provider, minus a fee. In this

scenario there is no purchase of receivables as there is in the current system of UCB for TPS charges.

- New York-style net crediting eliminates any issues related to consumer credit. As noted above, the customer's community solar subscription reduces his or her overall payment obligation to the utility and, thus, should have either no impact or a positive impact on the customer's credit profile vis a vis the utility.
- Because the implementation of net crediting in New York is still underway, the question of whether the utility should charge a fee for it and, if so, what the basis of the fee would be is an open one for now. It may be the case that the utility will incur programming expenses for building out the functionality required to do net crediting, but it is not at all clear that providing net crediting exposes the utility to the kind of credit risk that justifies the application of a discount similar to that applied to TPS receivables in the POR program. This question deserves further discussion in the context of subsequent stakeholder meetings.
- Protecting customer data and maintaining data privacy is a top priority for Ampion and others in the community solar value chain. One advantage of UCB, especially in its net crediting incarnation, is that it retains the data protections currently embedded in the utility systems with respect to customer billing and collections. Moreover, the additional information that might need to be exchanged between the utility and the community solar provider (e.g., the discount that is applied to the value of the credits allocated to the subscriber in calculating the amount to be remitted to the community solar provider) can be exchanged in a manner that protects both the privacy of the data and the integrity of the utility's system, as has been the case with data exchange between utilities and ESCOs in New York that make use of UCB with purchase of receivables.
- The optimal method for data exchange should remain open subject to further discussions among stakeholders. EDI would likely be sufficient but other alternatives may prove to be superior.

Question 4: If you are or represent a community solar developer or subscriber organization, please describe in detail the terms of the agreement between the subscriber and the subscriber organization. In particular, please explain the following:

- What are the fees and contract terms for subscribers?
- Are the fees and contract terms consistent among all subscribers? Does it differ by customer class?
- Do subscriber organizations intend to offer guaranteed savings to the subscriber?
- Do subscriber fees vary each month?

Response:

Ampion generally considers its form of subscriber agreement to be proprietary and would prefer not to publish the entire agreement in a public forum. That concern notwithstanding, we are happy to provide the following overview of the terms included in a typical subscriber agreement.

- Regarding fees and contract terms, our typical agreement calls for credits to be sold to the subscriber at 90 percent of the value of the credits. Standard contract terms include the following:
 - High-level description of the state's community shared solar program and the nature of the bill credits that are the subject of the agreement;
 - Amount of and process for allocation of bill credits;
 - Payment for bill credits;
 - Dispute resolution;
 - Term and termination provisions;
 - Events of default;
 - Assignment;
 - Force majeure;
 - Limitation of damages; and
 - Notice provisions
- Fees and terms are usually, but not always, the same among subscribers, and can vary by rate class.
- Ampion cannot speak for other subscriber organizations, but our value proposition to subscribers is that the credits they acquire through us will be worth more than the subscriber pays, thus guaranteeing savings on a net basis after the subscriber pays for the credits and they are applied to the subscriber's utility bill.
- The unit price of the credits is fixed by the subscriber agreement (TRUE?) but the amount the customer pays each month will vary based on the amount of electricity produced by the renewable facility from which the subscriber has been allocated a percentage of the credits produced.

Question 5: Do any subscriber organizations currently use consolidated billing for community solar subscriber fees in other jurisdictions? If so, please identify the jurisdictions and explain the design of the billing framework, being sure to address the issues identified in Question 2 and 3 above.

Response:

As noted above, New York is in the process of implementing utility consolidated billing in the form of net crediting. All of the relevant design features of that approach to utility consolidated billing can be found in the relevant documents in that docket, which is New York PSC Case No. 19-M-0463. The New York Commission's

December 19, 2019 Order Regarding Consolidated Billing for Community Distributed Generation and the various utility net crediting manuals filed in compliance with that Order are particularly instructive.

Question 6: Are subscriber organizations paying an administrative fee to EDCs for the use of consolidated billing of subscriber fees in other jurisdictions? If so, how is it structured? If not, how does the EDC recover those costs? Please provide your recommended method of cost recovery.

Response:

The New York net crediting program anticipates the payment of a “Utility Administrative Fee,” which is defined in Niagara Mohawk’s net crediting manual as “the amount of the monthly value of the CDG Project’s Value Stack Credits that the Company will retain, as approved by the Commission. The current Utility Administrative Fee is 1.0%.”

Question 7: Should consolidated billing of community solar subscriber fees only be available to projects that provide a guaranteed monthly savings to subscribers? If not, would the provider of consolidated billing be expected to charge subscribers for their community solar participation resulting in an amount due greater than the amount due for electric service? Should this result be permitted for low- to moderate-income (LMI) customers?

Response:

The application of utility consolidated billing to community solar providers that do not ensure that customers pay less for their credits than the value of those credits on their utility bill (thus providing guaranteed savings) would create a variety of complications best avoided at this point in the development of the market. Thus, the New York Commission required guaranteed savings in its Order addressing consolidated billing for community solar:

As compared to the more traditional consolidated billing used for ESCOs, where the ESCO identifies a charge for the utility to put on the customer’s bill and the utility collects that charge on behalf of the ESCO, the net crediting model avoids putting the utility in the position of collecting a higher charge than it would have applied to the customer by guaranteeing savings to the customer. Therefore, it can be assumed that any partial payment or nonpayment would have happened even in the absence of the customer’s CDG membership and there is no risk that the amount of uncollectibles or the utility’s exposure will increase.²

² New York Public Service Commission Case. No. 19-M-0463, December 19, 2019 Order Regarding Consolidated Billing for Community Distributed Generation, at 13 (footnote omitted).

Question 8: Please provide comments on the following framework for utility consolidated billing of subscriber fees, which is currently being implemented in New York:

- a. Utility consolidated billing of subscriber fees is optional for community solar projects. If a project chooses utility consolidated billing of subscriber fees, all subscribers enrolled in that project are billed via utility consolidated billing (with the exception of one anchor subscriber per project).
- b. In order to participate in utility consolidated billing, all subscribers enrolled in the project must receive a percentage of their original community solar credit on their bills each month. Currently, this minimum percentage is five percent (5%) in New York.
- c. The subscriber fee is a percentage of the subscriber's original community solar credit each month. The dollar amount of the subscriber fee varies each month based upon the underlying community solar credit.
 - o Example: The subscriber fee is 90% of a customer's community solar credit. On the monthly bill, the customer receives 10% of their credit. The remaining 90% of the credit is remitted by the EDC to the subscriber organization less the administrative fee retained by the EDC.
- d. At least 60 days prior to operating under a consolidated billing framework, the community solar project owner must provide the EDC with the percentage of the subscriber community solar credits that is available to be applied to the subscribers' bills.
- e. The same percentage must be applied to all subscribers for the same project (with the exception of an anchor subscriber, if applicable, that will receive its entire community solar credit on its utility bill and is billed by the community solar project owner for subscription fees). The percentage can change no more frequently than every six (6) months.
- f. Subscriber organizations must agree to use the EDC's communication tool for sharing subscriber percentage information.
- g. The EDC retains a portion of the subscriber fee to compensate for their implementation and administrative costs associated with utility consolidated billing. This results in the Subscriber Fee percentage in item "c" above being reduced.
- h. The EDC receives timely recovery of subscriber credits through a surcharge or similar mechanism.

Response:

As noted above in response to Questions 1, 2, and 3, Ampion strongly supports the net crediting model adopted by the New York Commission, which is described above. Regarding (e), above, we do believe that subscriber organizations should be given the flexibility to have different percentages for different subscribers. There is no clear benefit at this point in the development of the community solar industry to this constraint.

Question 9: If you disagree with any portion of the framework in Question 8, please describe in detail the framework you would support (or refer to your response to Question 3, as relevant). Include specific examples from other jurisdictions, if possible.

Response:

Please see responses to Question 1, 2, 3, and 8, above. In addition, we note that there is a concern with the manner in which the New York utilities propose to apply bill credits when using net crediting. This concern, and a proposed solution for it, is described in detail in a petition filed with the New York Commission by the Coalition for Community Solar Access on December 9, 2020.³ That matter is pending before the Commission. This is an issue that we believe should continue to be addressed in the context of ongoing stakeholder meetings, during which any further developments on the subject in New York can be taken into account.

Question 10: In the case of Utility Consolidated Billing, if you are a community solar subscription organization, should you opt to participate in Utility Consolidated Billing would you maintain backup billing procedures to bill customers who fail to pay the EDC for their community solar subscription? What other options would you suggest to address the risk of non-payment by customers?

Response:

As noted by the New York Commission, when the net crediting approach is adopted the risk of non-payment of the utility's charges is not increased. If anything, that risk is decreased. Thus, under net crediting there is no scenario in which a customer "fails to pay the EDC for their community solar subscription." The customer's community solar subscription reduces the total amount the customer owes to the utility. The only charges the customer pays are the commodity charges owned to the utility or a third-party supplier and the utility's own delivery charges. For those reasons, community solar subscription organizations need not maintain "backup billing procedures to bill customers who fail to pay the EDC for their community solar subscription." While some community solar subscription organizations might retain such a billing capability, requiring them to do so would reduce the overall positive effect of adopting utility consolidated billing (at least in the form of net crediting), with no corresponding benefit.

Question 11: What are the potential challenges to implement consolidated billing for community solar? How can these challenges be addressed?

³ Petition of the Coalition for Community Solar Access Regarding Net Crediting Billing, Case 19-M-0463, filed December 9, 2020.

Response:

The challenges to implementing consolidated billing for community solar are those that are endemic to any such change to a complex system that attempts to balance the interests of multiple stakeholders while doing so at a reasonable cost to those who will pay for such changes. Ampion is confident, however, that implementing consolidated billing for community solar can be achieved much more quickly and efficiently than the implementation of consolidated billing for TPS commodity charges many years ago because of the tremendous amount of experience the utilities and other stakeholders have gained through the presence of that system over the years. Moreover, the ongoing implementation of net crediting in New York provides an excellent template for such an effort in New Jersey. This is especially the case given that one New Jersey utility, Rockland Electric, is a subsidiary of a New York utility, Orange and Rockland, that is in the process of implementing net crediting.

Question 12: If Utility Consolidated Billing were available, how would subscriber billing inquiries be handled? Would subscriber inquiries regarding subscriber fees and/or community solar credits be handled by the subscribing entity or the developer, or would the utility be required to take on that role?

Response:

Customer care is an issue that requires further consideration and stakeholder input. Ampion's view at this time, which is not definitive, is that requiring community solar subscription organizations to continue to answer questions that relate to the customer's solar subscription would benefit the most parties, including the utility, which would otherwise have to train its customer care representatives with respect to the community solar programs of every subscription organization making use of utility consolidated billing. Fully enabling subscription organizations to serve this function will require the sharing of certain customer-level information with them, which would be appropriate in any event given the need of subscription organizations to maintain clear sight into how credits are being allocated among subscribers and whether any of their subscribers are falling in arrears to the utility to an extent that could result in termination, which would affect the subscriber's ability to fulfill the terms of its subscriber agreement.

Question 13: If Utility Consolidated Billing were available, how would subscriber billing information be provided to the utility?

Response:

As noted above, the optimal method of information exchange between community solar subscription organizations and the utility should be the subject of further discussion among stakeholders.

Thank you for the opportunity to provide comments on these important questions.

Respectfully submitted this 9th day of April, 2021.

/s/ Chris Kallaher

VP, Law and Regulatory
Ampion, PBC
31 St. James Ave., Suite 355
Boston, MA, 02116
(617) 462-6297
ckallaher@ampion.net



CASE 14-M-0224 – Proceeding on Motion of the Commission to Enable Community Choice Aggregation Programs.

CASE 15-E-0082 – Proceeding on Motion of the Commission as to the Policies, Requirements and Conditions For Implementing a Community Net Metering Program.

CASE 19-M-0463 – In the Matter of Consolidated Billing for Distributed Energy Resources.

DEPARTMENT OF PUBLIC SERVICE STAFF
STRAW PROPOSAL ON OPT-OUT COMMUNITY DISTRIBUTED GENERATION

Dated March 29, 2022

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Introduction

Community Choice Aggregation (CCA) is a strategy that allows participating local governments to procure energy supply service and distributed energy resources (DER) for eligible energy customers in the community. It is a municipal model for procuring energy that replaces the utility as the default supplier of electricity and/or natural gas for virtually all homes and small businesses within a jurisdiction. A well-designed CCA program can create benefits for participating communities and their residents, while supporting New York State's clean energy policies and the Public Service Commission's (Commission) efforts to build a cleaner, smarter, and more distributed electric system through the Reforming the Energy Vision (REV) initiative.¹ Access to CCA programs offers residential and small non-residential customers, generally described as "mass market customers," an opportunity to receive benefits that have not been readily available to them in the past, including more affordable or cleaner energy choices through an opt-out enrollment process.

CCA programs have the potential to create opportunities for local, community, and individual engagement on topics related to energy needs, such as innovative energy programs, products, and services that promote and advance local and statewide clean energy goals. Under a CCA program, each municipality intending to implement a CCA program must exercise its Municipal Home Rule Law authority by enacting a local law, after holding a public hearing on notice, giving itself the requisite legal authority to act as an aggregator and broker for the sale of energy and other services to residents via an opt-out enrollment process. CCA Administrators then work with the municipality to procure energy supply services and, for the purpose of this straw proposal, distributed energy resources (DER) for eligible customers within their community.² CCA Administrators coordinate and manage the CCA program and are responsible

¹ Case 14-M-0101, Reforming the Energy Vision, Order Instituting Proceeding (issued April 25, 2014).

² The term "CCA Administrator" refers to either the municipality acting on its own behalf or a third party acting on behalf of the municipality.

to conduct outreach and education within the community to ensure that customers are aware and informed of their CCA choices.

Ensuring that the CCA programs are implemented with the proper consumer education and protections in place is imperative to the success of these programs. To that end, the Commission issued its CCA Framework Order which authorized the establishment of CCA programs by municipalities statewide and instituted the process and CCA Rules for developing and implementing a CCA program.³ The CCA Rules define requirements for, among other things, customer eligibility, low-income customer participation, customer outreach and education, and the provision of data.⁴ In the CCA Framework Order the Commission recognized that this was a starting point for the development of the State's CCA program and that there may be a need for modifications, or expansion, of the initial requirements based upon program monitoring and lessons learned.

To date, CCA programs – through the bargaining power that energy load aggregation provides - have been able to offer participants more attractive energy supply terms compared to what an individual customer could obtain. The opportunity to integrate a statewide Community Distributed Generation (CDG) program on an opt-out basis under the CCA model will allow customers to participate in a product that offers guaranteed savings from a clean energy resource. CDG was adopted by the Commission in July 2015 to offer customers the benefits of distributed generation (DG) who were otherwise encountering obstacles to participating in DG.⁵ CDG is installed at an offsite location, such as a solar farm project, and shares the CDG benefits through a subscriber membership. The CDG subscriber model allows renters, homeowners, low-income residents, and businesses to have access to the benefits of CDG. CDG projects must have

³ Case 14-M-0224, Proceeding on Motion of the Commission to Enable Community Choice Aggregation Programs, Order Authorizing Framework for Community Choice Aggregation Opt-Out Program (issued April 21, 2016) (CCA Framework Order).

⁴ CCA Framework Order, Appendix D: CCA Rules Summary.

⁵ Case 15-E-0082, Proceeding on Motion of the Commission as to the Policies, Requirements and Conditions for Implementing a Community Net Metering Program, Order Establishing a Community Distributed Generation Program and Making Other Findings (issued July 17, 2015).

at least 10 subscribers (excluding projects sited on master metered multifamily buildings with at least 10 residential units). Each subscriber must be allocated at least 1,000 kWh per year (not to exceed their historic average annual consumption) and no more than 40% of the generation may serve large demand-metered (25 kW or greater) subscribers.

On April 14, 2021, Staff filed its CCA Whitepaper which recognized the growth and success of CCA programs across the State and identified valuable opportunities for CCA program improvements.⁶ As part of the CCA Whitepaper, Staff sought comments on whether the Commission should explore the development of a standalone opt-out CDG program that would not be integrated with a CCA supply product and input on the development of an opt-out CDG program, the necessary rules for such a program, and its association or disassociation with the traditional CCA program model. In response to that request, Staff received many comments in support of such a program with numerous comments identifying several areas that would require more detailed investigation before recommendations could be made.

To build on the current success of CCA programs in New York State and in recognition of the areas identified in the stakeholder comments submitted on the CCA Whitepaper, in November 2021, the Commission issued its Order Identifying Further Procedural Steps Regarding the Development of Opt-Out Community Distributed Generation in which it directed the Department of Public Service Staff (Staff) to file, within 120 days of the effective date of the CDG Procedural Order, proposed opt-out CDG program operation, oversight, and enforcement rules, with the Secretary for future Commission consideration.⁷ In the CDG Procedural Order, the Commission concluded that, once the proper rules are in place, an opt-out CDG program would provide low-income and mass-market customers energy savings on their bills and help spur the development of CDG projects across the State, all while motivating participating communities to

⁶ Case 14-M-0224, Department of Public Service Staff Whitepaper on Community Choice Aggregation Programs (filed April 14, 2021) (CCA Whitepaper).

⁷ Case 14-M-0224, Order Identifying Further Procedural Steps Regarding the Development of Opt-Out Community Distributed Generation (issued November 22, 2021) (CDG Procedural Order).

make cleaner energy choices that will, in turn, bring the State closer to reaching its clean energy targets.

Over the past several months, Staff - along with staff from the New York State Energy Research and Development Authority (NYSERDA) - conducted a stakeholder collaborative process with the objective of identifying program areas or issues that require consideration prior to the development of an opt-out CDG program. The collaborative was also relied upon to solicit recommendations to resolve the issues identified in the CDG Procedural Order – including additional issues recognized during the collaborative process – and to propose opt-out CDG specific program rules and recommendations within this straw proposal. The Commission believed that by identifying the solutions necessary to resolve the issues described, such as, but not limited to, data and billing technical issues, program implementation advantages and disadvantages, and necessary limitations and/or requirements unique to such a program, the Commission would be able to establish an opt-out CDG program that will benefit New Yorkers by creating further opportunities for clean energy projects - leading to a more sustainable future.

The collaborative process included two webinars held during the month of February, along with a process for informal stakeholder review and feedback.⁸ The webinars discussed proposed program recommendations and included an explanation or reasoning for those recommendations. The first webinar was held on February 2, 2022 and included over 160 participants. The following recommendations were discussed during that webinar: permitting municipalities to offer opt-out CDG solely or combined with a CCA supply product offering; enrolling all Assisted Program Participants (APP) customers first before additional opt-out CDG customer are enrolled; utilizing the CDG net-crediting model or the credit pooling mechanism (if available) for customer billing; setting a minimal level of savings for APP and non-APP customers; creating clear guidance for what can be charged by Administrators as their fee; limiting opt-out CDG capacity to ensure CDG subscriptions are available for all CDG models; aligning an opt-out

⁸ The webinars were recorded and uploaded to NYSERDA's YouTube channel. The February 2, 2022 webinar can be found at <https://youtu.be/R5W6mnstyVg> and the February 16, 2022 can be found at <https://youtu.be/MLIHlwRN9MI>.

CDG program with the Expanded Solar for All (E-SFA) program; establishing outreach and education requirements that comply with the CCA framework requirements, as well as specific requirements for opt-out CDG; requiring each utility to test and confirm that their information technology (IT) systems can produce the data and consolidated billing necessary for the program; and requiring Municipal Implementation Plans to be filed by the Administrator with specific CCA program product information.

The second webinar was held on February 16, 2022 and included over 115 participants with the following recommendations discussed: proposals regarding which mass-market customers should be included in an opt-out CDG program; proposals for optionality in participation for the E-SFA participants; using the net-crediting model to collect and distribute Administrator fees at the time the CDG credits are reimbursed by the utility; proposals regarding the roles of the Administrator with questions on whether a municipality could have more than one Administrator, allowing asset owners to be Administrators, and what the necessary terms and discloser should be; recognizing that an opt-out CDG could not begin until the community's utility's automated net-crediting billing processes are fully tested and implementation is properly in place; listing of data necessary for such a program; proposals regarding the treatment of opt-in CDG customers; and proposals on the CDG specific information to be shared with customers.

Collectively, the webinar's participants included a mix of utilities, current and prospective CCA Administrators (Administrators), CDG developers, CDG customer acquisition companies, research organizations, non-profit associations, NYS Department of State, Massachusetts Department of Energy, municipal officials, private citizens, NYSERDA, and Staff. An extensive question and answer session arose during both webinars with Staff receiving 11 written comments from nine different stakeholders during the weeks that followed the conclusion of the webinars. Staff received stakeholder feedback on how the program should be structured, what the CCA Administrator's roles should be, the transparency of Administrator Fees including cost to implement the program, the State's utility's inability to properly bill for CDG, CDG access availability for all CDG models, CDG net-crediting, and NYSERDA incentive programs for an opt-out CDG project. The recommendations discussed within this straw proposal reflect

consideration of the input and feedback from those stakeholders who were actively involved in the collaborative process.

This straw proposal offers numerous recommendations for topics within each of the following four categories: Opt-Out CDG Program Structure, Opt-Out CDG Program Rules, Data Access and CDG Billing and Crediting, and Opt-Out CDG Compliance and Enforcement.

Section 1 - Opt-Out CDG Program Structure

Staff recommends that the opt-out CDG program Administrator and product offering follow the foundational requirements established in the CCA Framework Order.⁹ Although the CCA Framework Order was structured around a CCA supply offering, the Commission – at that time - understood that CCAs could potentially evolve and that the foundational program structure of a municipal-wide opt-out program could be applied to additional opt-out product offerings. Those foundational requirements include the need for a municipality to pass a local law under their home rule law enabling opt-out enrollment - that local law should clearly identify each product that will be included in the opt-out CCA program, in this case, CDG. The CCA Framework Order required an Administrator to file with the Secretary to the Commission for consideration and approval an Implementation Plan describing the CCA program in detail, including a description of the program's goals and its plans for value-added services.¹⁰ Additionally, and possibly more prominently, an Administrator was required to develop and execute a robust outreach and education (O&E) plan specific to a given municipality that would include public outreach meetings, clear and concise opt-out letters, and additional customer communication and materials. The CCA Framework Order also addressed the need for aggregated, customer specific and customer usage data to be compiled and transferred safely from the utility to a CCA Administrator by requiring the execution of a data security agreement (DSA). Lastly, the CCA Framework Order established the need for program reporting. This straw

⁹ Case 14-M-0224, Order Authorizing Framework for Community Choice Aggregation Opt-Out Program (issued April 21, 2016) (CCA Framework Order).

¹⁰ Commission approved Administrator Implementation Plans are typically referred to as Master Implementation Plans, or MIPs, in practice.

proposal will address both the foundational requirements of the CCA framework as applied to an opt-out CDG program as well as the specific program rules for the establishment of an opt-out CDG program.

Staff recommends that the opt-out CDG product be permitted to be offered as a standalone product offering for municipalities who choose to solely offer CDG, or as an additional product offering to CCA supply. When CDG and supply are offered together, Staff clarifies that the savings from a CDG subscription cannot be applied towards the supply rate to offset the cost of supply under a product that guarantees savings compared to what the customer would pay as a full-service customer of the distribution utility. In other words, the savings arising out of a guaranteed savings product must be realized by the customer irrespective of any CDG credits that would provide additional savings to that customer. By allowing municipalities to participate exclusively in a CDG opt-out program, customer awareness towards energy needs and choices will continue to grow - like the engagement and participation growth of the current CCA supply program - resulting in more energy conscious New Yorkers. Likewise, by letting municipalities participate solely in a CDG opt-out program, more CDG projects will be financed, developed, and interconnected to New York's distributed energy grid which will increase the production of clean energy and help the State meet its ambitious Climate Leadership and Community Protection Act (CLCPA) goals.¹¹ This will also allow communities who are either not able to implement a CCA supply program due to the lack of a robust retail access market – such as those communities on Long Island, are not able to obtain a valuable supply contract, or have no desire to procure a supply contract to still implement a beneficial community-based program under the CCA model.

¹¹ See, Chapter 106 of the Laws of 2019 (codified, in part, in Public Service Law (PSL) §66-p). The CLCPA, which became effective on January 1, 2020, codified and expanded several statewide clean energy and climate goals, including that New York develop 6 GW of distributed solar projects by 2025, and that 70 percent of New York's electricity come from renewable energy sources, such as wind and solar, by 2030. Recognizing that the inclusion of low-to-moderate income (LMI) customers and disadvantaged and environmental justice communities in New York State's clean energy programs is crucial both to the programs' success and to their fairness, the CLCPA also added section 75-0117 to the Environmental Conservation Law (ECL), which includes a requirement that disadvantaged communities receive at least thirty-five percent of the benefits of clean energy programs.

Lastly, CDG offers customers savings on their energy bills and with the availability of Net-Crediting billing for DER – such as CDG – customers will be able to easily take advantage of the benefits and savings CDG offers.

Staff understands that a CCA program that includes multiple product offerings, such as CDG in addition to the supply product, will allow for greater energy options and consumer choices. However, in most instances, these two product offerings are implemented under differing timelines, necessitating additional requirements regarding outreach and education. Product differences exist such as - customer eligibility, life of product offering, the need for product specific marketing and communication, as well as the roll-out or timing of the two unique products and when they show up on a customer's bill. With that, Staff recommends that specific requirements be established for program implementations when a municipality chooses both CCA supply and CDG membership offerings. Those requirements are discussed below in Section 2, Opt-Out CDG Program Rules. If a given municipality is aiming to offer their constituents both supply and CDG on an opt-out basis, Staff recommends that a municipality, who has not already adopted a CCA local law, adopts one local law that allows for an opt-out CCA program and specifically lists each opt-out product offering the municipality may choose to offer as part of its CCA program. This would, then, allow a municipality to offer any - or all - of the Commission approved product offerings under the State's CCA model that it has specified in its local law. If the municipality has already passed a local law for another opt-out product, such as supply for its current CCA program, it will be up to the municipality to determine how best to adopt any additional opt-out CCA product offerings.

To enable an opt-out CDG program with the investor-owned utilities, Staff recommends that existing utility CDG tariffs be revised, or preferably, a municipal opt-out CCA tariff be created, to include provisions related to the facilitation of a community based opt-out CCA program, including both supply and CDG, and the specifics regarding the necessary data and the ability to provide the data without individual customer consent. The Joint Utilities should work with Staff on the development of a draft municipal opt-out CCA tariff; the tariffs would then be filed shortly after the Commission's decision on the adoption an opt-out CDG program. Comments were

received in support of the recommendation that an opt-out CDG program should fall under the CCA model with many of those comments supporting the recommendation of allowing for a standalone CDG product offering.

Section 2 - Opt-Out CDG Programs Rule

Specific programs rules for an opt-out CDG program are required to ensure that the program, in its implementation and roll out, appropriately protects the State's energy customers - not just customers participating in opt-out CDG – by informing and educating them on the CDG offering and allowing for non-participating CCA municipalities to promote and participate in additional CDG models. Program rules will allow for the proper program oversight and management at a State level and create clear guidance for municipalities and CCA Administrators. The following section will discuss recommendations that deal with customer eligibility and order of subscription memberships, CDG crediting and savings, Administrator fees and roles, CDG capacity limitations, alignment with the State's E-SFA program, subscribing opt-in CDG customers, and specific opt-out CDG O&E requirements.

Eligible Customers

The opt-out eligible service classes identified within Appendix C of the CCA Framework Order would also apply to an opt-out CDG program. However, Staff recommends that the following mass-market customer types, who would be excluded from the eligible list for a CCA supply program according to the current CCA Rules, be eligible for participation in an opt-out CDG program. The CCA Framework Order specifically prohibited CCA supply program enrollment of the below customer types because there wasn't a comparable product offering, enrolling them would interfere with a choice the customer has already made, or, in the instance of APP customers, serving ESCOs were unable to meet the necessary requirements to receive approval for a guaranteed savings supply product as required by the Commission. These customer type exclusions are specific to ESCO supply products and should not be applied to eligibility rules for a CDG product offering. Thus, Staff recommends that the following customers, who are ineligible to be opt-out enrolled in CCA supply, be eligible for opt-out enrollment in CDG:

- Time-of-use or time varying rate customers;
- Assistance Program Participant (APP) customers;
- Customers with energy service company (ESCO) blocks on their utility accounts; and
- Customers who are being served by an ESCO.

CCA supply program rules are unique to the supply product and with the inclusion of these additional customers in an opt-out enrollment program, CDG will be available to those customers to which the CDG program was established to reach – customers otherwise encountering obstacles to participating in DG. With that, the following customers will continue to be ineligible to receive CDG memberships on an opt-out basis.

- Customers with net meter on-site projects;
- Customers who are already participating in CDG;
- Customers with less than 1000 kWh of annual usage;
- Customers allocated by the utility to a CDG project with a near term commercial operation date;¹² and
- DER blocked customers.¹³

As discussed in the CCA Framework Order, CCA Administrators will be permitted to request newly eligible customer lists from the utility monthly.

Comments were received in support of the recommendations related to eligible customer classes and the availability of an eligible customer list for an opt-out CDG program offering under the CCA model.

¹² This recommendation will assist the utility with prioritizing a customer's opt-in CDG choice.

¹³ The Uniform Business Practices for Distributed Energy Resource Suppliers states that "Upon request by a customer, a distribution utility or DSP shall block access by DER suppliers to information about the customer." 2C:B4 (p. 8).

Order of CDG Subscription Memberships

Staff recommends that APP customers be prioritized for enrollment and first subscribed within a municipality's opt-out CDG program. Staff also recommends, if practical, that all APP customers be subscribed at the same time to ensure equality across the customer base. For those municipalities who are unable to subscribe all of their APP customers concurrently - due to locational CDG capacity constraints and/or magnitude of APP customer count - an Administrator should plan for and procure enough CDG capacity contracts to serve all APPs within a certain timeframe. In part, all municipal APPs should be served within 12 months, starting from the time the first phase of APP customers begin receiving CDG credits on their utility bills. This recommendation is in recognition of the need to include low-income customers, specifically those in disadvantaged and environmental justice communities, into New York State's clean energy programs and to fulfill the CLCPA statutory requirement. If all APP customers cannot be subscribed simultaneously, Staff seeks stakeholder feedback on how those customers' subscription enrollments are selected throughout the APP membership timeline.

If an APP customer becomes a non-APP customer during the life of the CCA program, they should continue to receive their CDG credits and not be dropped or unsubscribed due to their change in APP status. By doing so, the administrative burden of drops and enrollments related to changes in APP status will be eliminated for both the utilities and the CCA Administrator. A municipality will be permitted to subscribe non-APP residents into an opt-out CDG program only after all APP residents in the municipality have first been subscribed or have opted-out of the community's program. Regardless of APP status, customers who drop out of the program will be removed from the next monthly CDG Allocation form submitted for the project, which shall be submitted no more than 45 days after the opt-out notification is received by the Administrator.

While APP customers have the ability to participate in opt-in CDG projects, there has been a low subscription rate to date. This had led to the customers who could benefit most from CDG participation, not receiving the guaranteed savings a CDG subscription provides. Enabling CCA programs to opt-out enroll APP customers into a CDG project, and prioritizing their enrollment, will create an efficient and effective path for those guaranteed savings to first reach the customers who need them the most. Comments received were in support of subscribing APP

customers first within an opt-out CDG program offering under the CCA model. With that, the practicality – in certain instances – with subscribing all APP customers concurrently was brought up and for that reason, Staff recommends that the Administrator should plan for and procure enough CDG capacity contracts to serve all APPs within a certain timeframe.

CDG Crediting and Minimal Level of Savings

New York's Net-Crediting model allows for a subscriber's membership fee to be incorporated on their utility bill with their CDG credits. Meaning, CDG members of projects enrolled in Net-Crediting are no longer receiving two bills - a utility bill with their CDG credits and a separate subscription fee bill from their CDG Host or Sponsor. Under Net-Crediting, the utility keeps 1% of credits generated each month for billing administrative purposes, a minimum of 5% of credits go to the customers, and the remaining value is paid to CDG owners by the utility. This model guarantees savings for customers participating in CDG.

Using the Net-Crediting rate savings methodology, Staff recommends that the 5% minimum discount for non-APP customers be maintained, and a minimum discount of 10% be established for APP customers. Due to the current Net-Crediting requirements that all customers on a project be assigned the same savings rate,¹⁴ this recommendation could present a challenge for Administrators wanting to serve non-APP and APP customers on the same CDG project. On balance, Staff believes that this challenge is manageable given that the volume of customers in most CCAs will in any event require multiple CDG projects to serve, and that the recommended minimum 10% discount for APP customers can be implemented from the start of the program. However, while understanding the single savings rate requirement was established to ease the transition to Net-Crediting and to reduce administrative complexity, Staff recognizes that there is now a need for increased flexibility for savings levels to allow projects to serve more than one

¹⁴ 19-M-0463, In the Matter of Consolidated Billing for Distributed Energy Resources.

savings rate and customer type. Therefore, Staff recommends that the requirement for a single savings rate per project be modified to allow for multiple savings rates.¹⁵

During the stakeholder collaborative process, alternative or complementary options for minimum savings requirements for APP customers were presented in the public webinars (for example, minimum annual savings of \$60). Informal stakeholder comments convincingly argued that a requirement based on monetary savings, versus a percentage discount, would be impractical to implement within the Net-Crediting model. To clearly communicate to municipalities and customers what expected monetary savings will be, Administrators should use the Value Stack calculator to estimate monetary savings for APP and non-APP customers. Those expected monetary savings should be included within the Municipal Implementation Plans, discussed below, and recorded in program reporting.

Informal comments were received in support of maintaining the 5% minimum discount for non-APP customers and supported offering a higher minimum for APP customers. Comments were received suggesting that no further minimum discount requirements be adopted by the Commission due to potential changes in the market and in the event a rule needs to be made, it should define the requirement as being equal to market and allow Staff to determine what market is during the approval process. These commenters suggested that while they support the 10% discount for APP customers currently, there may not be sufficient incentives going forward to allow that level of discount. While Staff understands that there may be changes in the market, and available incentives, the APP customer discount should not be solely determined by these factors. Opt-out programs create efficiencies and the potential for cost savings that could, if necessary, compensate for these potential market changes. By setting a minimum savings of 10% for APP participants, the Commission would be ensuring that these customers are all receiving the same savings rate thereby removing the potential for certain communities to receive more or less than another.

¹⁵ This recommendation is also being discussed as part of a broader package of recommendations for CDG process improvements within the CDG Billing & Crediting Working Group.

Credit Pooling Mechanism

In January 2022, the Commission approved, with modifications, the proposal jointly submitted by NYSERDA and Niagara Mohawk Power Corporation d/b/a National Grid (National Grid) to implement the E-SFA program.¹⁶ Within the E-SFA Order, the Commission approved a “credit pooling” mechanism that allows National Grid, for the E-SFA program, to bank and pool the credits generated by a portfolio of CDG projects selected via a NYSERDA competitive procurement and distribute these credits evenly to low-income electric service customers participating in the Energy Affordability Program the following year.

During the stakeholder collaborative process, Staff received informal comments from some stakeholders that the credit pooling mechanism designed for the E-SFA program should be adapted to serve opt-out CDG programs managed by CCAs. Staff included this concept in the first public webinar and requested additional informal comments on the topic. Informal comments were subsequently received from multiple stakeholders, who predominantly recommended that, while the credit pooling concept had E-SFA merit, the initial implementation of opt-out CDG programs by CCAs be conducted using the established Net-Crediting mechanism. Staff also sought feedback on the topic from the utilities, who advised that designing and implementing a credit pooling mechanism for CCAs may require significant time and expense.

Therefore, Staff recommends that the Net-Crediting model should be used for an opt-out CDG program at this time and if the credit pooling mechanism is implemented statewide, the CCA should have the option to choose whichever crediting model will be most beneficial for the program and its participants. The venue for future stakeholder discussions regarding the credit pooling concept will be within the CDG Billing & Crediting Working Group.

Administrator Fees

In the CCA Framework Order, the Commission allowed for CCA Administrators to collect funds, through the supply charge, to pay for the administrative costs associated with running the CCA program. With CCA customers receiving a single bill from the utility, any CCA customer

¹⁶ Case 19-E-0735, Order Approving Expanded Solar for All Program with Modifications (issued January 20, 2022) (Expanded Solar for All Order).

payments to the CCA Administrator would need to be negotiated as part of the contract and built into the per kWh/Therm rates. In the CCA supply model, this would mean the payments to the CCA Administrator for CCA administrative purposes would need to be processed and remitted by the ESCO serving the CCA program. When a CCA program is offering an opt-out CDG product, the existing Commission defined rules for Administrator Fees would not be applicable as there is no ESCO or supply product offering to build the fee into or to perform the necessary collection and remittance roles.

In recognition of the differences between a supply product and a CDG product offering, Staff recommends clear and specific guidelines for the process by which Administrator fees are proposed, collected, and reported to ensure transparency and competitive, cost-effective selection of Administrators and CDG projects. During the stakeholder collaborative process, Staff presented a draft process for Administrator fee collection that had two main elements: 1) Administrator fees should be paid by the CDG project owner(s), with Administrators barred from collecting other fees from municipalities or customers; and 2) that fees should be exclusively collected on an ongoing basis during the operation of the program, building on the Net-Crediting payment process.

In informal comments, stakeholders predominantly supported the first element of this concept, but almost uniformly opposed the second element. Stakeholders argued that Administrators will incur significant upfront costs for procurement, outreach, education, and other activities prior to customers receiving credits from operational projects. Stakeholders further argued that the Administrator role is analogous to - and inclusive of - the responsibilities held by a customer acquisition/management company in opt-in CDG, and that these companies typically require the bulk of their total payment upfront, or upon the initial operation of the CDG project. Some stakeholders provided broad estimates of the proportion of costs that would be incurred upfront versus over the life of the program, which mostly fell at an approximately even split.

Staff therefore recommends that:

- CCA Administrator fees for opt-out CDG be paid exclusively by the CDG project owner(s) serving the CCA. Administrators, and their subcontractors or partners, should be barred from collecting fees or any other payment from municipalities, customers, or other parties for the purpose of administering an opt-out CDG program.
- CCA Administrators may collect fees on either an upfront (prior to project operation) basis, and ongoing (monthly, annually, or some other period) basis, or some combination thereof.
- Fees can be calculated on % basis, a per Watt/per kWh basis, a per customer basis, or on some other reasonable basis.
- CCA Administrators must clearly present their proposed fee structure in proposals to municipalities, and in Municipal Implementation Plans. This must include the method by which fees will be calculated (e.g., % basis, per Watt basis) for upfront and/or ongoing fees, and an estimate of the monetary (\$) equivalent of those fees, made using the Value Stack Calculator if fees will be calculated on a % basis. For example, if a CCA Administrator estimates that they will procure 50 direct current megawatts (MWdc) of CDG for a CCA and proposes to charge fees of \$.02/Watt DC upfront and \$.001/Watt DC annually, they must indicate that upfront fees will total an estimated \$1,000,000 and ongoing fees will be an estimated \$50,000 per year.
- CCA Administrators must clearly present the intended milestone for payment of upfront fees, such as at contract signing by CDG owner(s) or upon allocation of customers to CDG projects. All procurement and contracting documents between parties must hold harmless municipalities in the event of nonperformance by either party to ensure that municipalities are not liable for the recovery of any upfront fees.
- Administrator reporting must include fees collected during that period and cumulatively.

For the purpose of the 10 GW Roadmap,¹⁷ Staff and NYSERDA estimated that typical opt-in CDG customer acquisition and management costs totaled the equivalent of \$0.108/Watt DC.

¹⁷ See Case 21-E-0629, In the Matter of the Advancement of Distributed Solar, New York's 10 GW Distributed Solar Roadmap: Policy Options for Continued Growth in Distributed Solar (filed December 17, 2021) (Solar Roadmap).

The bulk of these costs were assumed to come from upfront customer acquisition, with a smaller portion for ongoing customer management and replacement over the life of the project. While the customer acquisition component of opt-in CDG project development is in certain ways analogous to the outreach and education requirements for a CCA undertaking opt-out CDG, there are important differences. Opt-in CDG customer marketing and acquisition activity result in a relatively low “conversion rate” (customers reached by CDG marketing that ultimately choose to subscribe to a project). In contrast, the equivalent for opt-out (proportion of eligible customers remaining after the opt-out period concludes) will almost certainly be many times greater. Likewise, ongoing customer management and acquisition costs are also likely to be significantly lower for opt-out CDG.

These important differences will result in lower overall costs compared to opt-in CDG, and thus lower fees being required for the CCA Administrator compared to the equivalent customer acquisition and management roles in the opt-in model. This dynamic is fundamental to the opt-out model and provides much of its appeal from a market and policy perspective. While Staff believes fees should be permitted on an upfront and reoccurring basis, there are efficiencies to an opt-out CDG program and these fees should be commensurate with the efficiencies achieved through the opt-out process.

Administrator Roles

An Administrator will play a central role with the feasibility, facilitation, and implementation of their participating municipality’s CCA program. After an Administrator enters a contract with a municipality, and similar to their role in procuring an acceptable supply contract on behalf of that given municipality, they will also be responsible for procuring CDG, via a competitive request for proposals (RFP) process and procurement. The municipality will continue to be the entity that contracts with the CCA product, in this case - the CDG developer. These contractual agreements between the municipality, the CCA Administrator, and the entity offering the product (i.e., ESCOs for supply or CDG developer for CDG) can transpire numerous ways and Staff does not feel the need to be overly prescriptive with the relationships of these agreements. With that, there are necessary terms that must be included within the agreements

to ensure the continued protection of participating municipalities and customers within the program.

Staff has received many comments on both the pros and cons of allowing a CDG asset owner to become a CCA Administrator.¹⁸ Some argue that conflicts of interest exist and believe an asset owner could represent their self-interest rather than the interest of the community. Others believe that with the proper disclosures and transparency of affiliation, it should be the municipality's decision on which Administrator they choose to work with and that by allowing asset owners to become authorized Administrators, they would be responsible to comply with the same required Administrator CCA Rules. Additionally, by allowing asset owners to become Administrators, the number of Administrators a municipality could contract with will increase and potentially result in a more competitive CCA market.

For those reasons, Staff recommends that a CDG asset owner be permitted to become a CCA Administrator and, further recommends that disclosures of affiliation must be acknowledged by the municipality during the time of the initial Administrator and municipal agreement. Disclosures of affiliation should also be contained within the municipal RFP processes to protect sensitive information, as well as the CDG contract procurement agreements. Staff is looking for feedback on additional measures that could address potential conflicts of interest.

Terms should be included within these opt-out CDG agreements that clearly address what will happen with the program if the Administrator leaves the CCA market, if the municipality decides to take over the Administrator role itself, or if the municipality wants to terminate its contract with the Administrator or discontinue its CCA program. Due to the longer life of a CDG program, especially when compared to the length of a supply product contract, these terms should provide optionality for how a municipality can proceed with the program, if it chooses to do so.

¹⁸ Several parties submitted comments on this topic during the CCA Whitepaper's comment period.

The role of the CCA Administrator does not end after product procurement. Administrators are responsible for conducting continuous customer outreach and education efforts; enrolling eligible customers; offering interminable customer management and support; allocating and churning CDG participants, ensuring the minimal level of opt-out CDG program savings are met; as well as meeting the Commission's requirements for necessary program operation, compliance, and reporting. With that, a question arose during the February 2 webinar that has instigated further debate: can a municipality have more than one CCA Administrator?

Staff perceives the many possible benefits a community could obtain from allowing a municipality to have multiple Administrators. The municipality would be able to offer additional products in a competitive manner to better meet their community's CCA objectives, in turn, creating additional customer choices while allowing for further opportunities for new program offerings and structures. A municipality already contracted with a CCA Administrator for supply would have the ability to offer opt-out CDG either through their existing CCA Administrator or through another CCA Administrator, thereby ensuring municipalities are able to offer their constituents the best option available to them. Though, a municipality with multiple Administrators could cause customer confusion connecting which Administrator is offering which product, as well as misunderstanding regarding the vital Administrator roles recently discussed. As CCAs were created to give municipalities more control of their energy needs and choices on a local level, Staff recommends that the option for a municipality to contract with multiple Administrators remains in the hands of the municipality, and it should be the municipalities' responsibly to ensure that customer awareness and Administrator alignment is properly in place.

Administrators should encourage municipalities to run a robust and competitive CDG bid process. To inform and assist municipalities to better understand their procedure of CDG procurement, NYSERDA should create a guiding CDG bidding procurement document which would include information to assist municipalities through the process, guaranteeing they are

aware of their bargaining powers and options. This document would be available in NYSERDA's CCA toolkit.¹⁹

Staff recommends that the Administrators submit copies of the municipality's CDG RFPs and CDG Agreements within the Municipal Implementation Plan. By allowing for a competitive and transparent municipal bidding process, Staff and NYSERDA will be able to better understand how the program works and how the value of such a program is placed back into the community and its participating CDG members. CCA Administrators are unable to provide payment to municipalities who choose to participate in their CCA program outside of a clean energy or community benefit fund which may only be funded by the CCA Administrator fees collected for that municipality. This will promote transparency of municipal participation and ensure a fair CCA Administrator selection process for all current and prospective CCA Administrators.

Limiting Opt-Out CDG Capacity

Staff recommends the establishment of rules to ensure that CDG is available to all customers, including those that choose to sign up for CDG, and not just those customers that live within a municipality where a CCA opt-out program is in place. With the focus on ensuring that there will be enough CDG capacity available for all CDG models, stakeholders discussed ways to preserve CDG incentives, including whether the allocation of the NY-Sun Community Adder and/or the Inclusive Community Solar Added (ICSA) for opt-out CDG programs should be limited.

Informal comments were received supporting both sides – limiting the incentives for opt-out and keeping the same incentives for both opt-in and opt-out. Some commenters support keeping the same incentives for which they would otherwise qualify, but that either the total capacity or the total amount of incentive funding for that block be capped.

Several stakeholders expressed specific concerns, shared by Staff, about the impact of an opt-out CDG program in utility territories that either have limited potential for CDG development, or potentially do not have sufficient pipeline capacity to support both opt-in and opt-out CDG

¹⁹ <https://www.nyseda.ny.gov/All-Programs/Clean-Energy-Communities/How-It-Works/Toolkits/Community-Choice-Aggregation>.

models. The Consolidated Edison Company of New York, Inc. (Con Edison) territory has the most limited potential for CDG development relative to population size due to the limited number of available sites for large CDG projects in dense, urban communities. Most of Con Edison's service territory's residents, and an even greater proportion of disadvantaged community residents, live in New York City, which is not currently enabled to establish CCAs. This dynamic presents a real possibility that an opt-out CDG CCA program serving customers outside of New York City but still in the Con Edison territory could, while potentially still benefitting some low-income residents in the Con Edison territory, inadvertently restrict access to opt-in CDG for New York City residents and specifically impact the availability of such a program for the disadvantaged community residents that could most benefit from a CDG subscription and the savings it guarantees. Staff also received comments from stakeholders concerned about the possibility that customers - who live in non-CCA communities – would be unable to participate in an opt-in CDG program. Some stakeholders argued that without capacity caps or blocks being put in place, for each utility territory, available CDG capacity would be contracted to serve CCA opt-out programs thereby greatly restricting capacity for non-CCA customers who wanted to subscribe to a CDG project. This could potentially lead to community inequality driven by the inability for all New Yorkers to have equal access to a program that guarantees savings.

With these concerns, Staff is requesting further stakeholder feedback on whether a cap, block, carve-out, or some other mechanism be put in place to ensure all New Yorkers have access to CDG, either through an opt-in or opt-out model. Customers living in utility territories with limited potential for CDG development, or with insufficient pipeline capacity, should not be jeopardized by opt-out CDG programs operating within their utility service territory. Specifics on these CDG access controls - whether they be statewide or by utility service territory, based on a percentage of installed capacity, or further – will help the Commission realize the impacts an opt-out program will have on a customer's ability to join opt-in CDG programs.

[Alignment with the Expanded Solar for All Program](#)

Staff recommends the alignment with the E-SFA program for those National Grid municipalities that choose to implement an opt-out CDG program. Municipalities in National Grid's service territory can now leverage and take advantage of the E-SFA program. There are a

few options that allow for leveraging, or synergizing, the two separate programs. One option is to keep APP customers in the E-SFA program, which would allow the municipality to serve a greater number of non-APP residents with their opt-out CDG program.

The second option is to provide a deeper savings alternative to the E-SFA savings through the CCA opt-out CDG program. In this case, National Grid would switch the customers over without gaps in credits. Staff recommends a practical method for CCAs to exercise this option if they so choose. As part of the Municipal Implementation Plan, the CCA should indicate whether they intend to take this approach and, if so, use the Value Stack calculator to demonstrate that the proposed program for APP customers will result in greater estimated savings than \$60 annually for APP customers provided under E-SFA, using the average electric usage of the community's APP customers as a reference point for the calculation. The Municipal Implementation Plan should also indicate how monthly savings would compare for an average APP customer, taking into account the seasonal variation in solar production and credit value under Net-Crediting.

A third option - layering the E- SFA program with opt-out CDG (i.e., allowing dual participation in the E-SFA program and opt-out CDG) - was discussed during the collaborative and, in turn, was greatly supported by numerous stakeholders. Recently the dual participation option was included in a petition seeking limited rehearing or reconsideration of the Commission's Order authorizing the E-SFA program.²⁰ Specifically, the CCSA Petition requests rehearing or reconsideration of the Commission's determination that customers participating in the E-SFA program will not be permitted to simultaneously participate in another CDG project, or to simultaneously enroll in a remote crediting or remote net metered project. The CCSA Petition states that dual participation in E-SFA and CDG would enhance both programs toward the CLCPA's goals and that, because the E-SFA does not actually assign a customer to a CDG project, simultaneous participation would not result in a customer subscribing to more than one

²⁰ Case 19-E-0735, Coalition for Community Solar Access's Request for Rehearing (filed February 2, 2022) (CCSA Petition).

CDG project. The CCSA Petition notes that, if allowed, dual participation would allow APP customers to receive both the flat \$5 monthly credit as well as monthly savings from a standard CDG subscription. This could encourage CDG Sponsors - or in this case, CCA Administrators - to enroll APP customers into an opt-out CDG program within National Grid's communities by creating an equitable opportunity to provide APPs additional CDG savings. With that, and if permitted, we must ensure that dual participation does not cause issues with over-crediting customers more than what their bill requires. Municipalities and their CCA Administrators will need to ensure that the opt-out CDG program will be designed and implemented consistent with Commission decisions regarding alignment with the E-SFA program, which will be addressed in the E-SFA proceeding, Case 19-E-0735.

Subscribing Opt-In CDG Customers

An opt-out CDG program can obstruct enrollment and cause confusion for those customers who have already opted into a CDG project - yet are still on their individually elected CDG developer's membership waiting list and, consequently, their opt-in choice is unknown or has not yet been validated by the utility. To recognize those customers' opt-in choices, a process for how to treat subscribing customers must be developed. In this situation, Staff recommends prioritizing those customers' opt-in choice and allowing customers who appear on another CDG project's allocation form to be removed from the CCA opt-out program and subscribed to their individually elected opt-in project without requiring the customer to opt-out of their CCA's opt-out CDG program. Utilities should develop a procedure to prioritize the customer's opt-in choice by categorizing each CDG participant as either opt-out or opt-in and, uninterruptedly, transferring that customer to their opt-in CDG project when the project goes live. The CCA Administrator should be notified by the utility monthly on which customers were moved out of the opt-out program and into an opt-in project.

One potential procedure would be for utilities to add an "opt-out program" column to their CDG allocation forms, which would then be used by the CDG project owner(s) to indicate that the customer allocation is part of an opt-out CCA program. When a current CDG customer appears on an allocation form from a new opt-in project, the utility could then cross reference the customer's existing allocation. If the existing allocation is not indicated as opt-out, the new

allocation will be rejected, per the current process. But if the existing allocation is indicated as opt-out, the new opt-in allocation will be accepted and the customer's next monthly opt-out allocation rejected - if the customer has not yet been removed by the CCA Administrator and CDG project owner. Staff requests feedback from the utilities on the practicality of this concept, as well as alternative ideas for implementing this recommendation.

This recommendation is intended to ensure the customers' choice is being recognized and to prevent an opt-in customer from breaching their subscriber agreement contract with their individually elected CDG provider - which could lead to membership unpredictability and customer confusion. If a utility has validated an opt-in customer and is, therefore, aware that a customer is allocated to an opt-in project, but that customer's CDG project has not reached its commercial operation date, the utility should treat the customer as a current CDG member and not include them on the list of eligible customers when CCA Administrators request the list from utilities. Comments were received strongly supporting prioritizing a customer's opt-in CDG choice with recognition that the utilities will need to come up with a process to do so.

Opt-Out CDG Specific Outreach and Education

A municipality's CCA outreach and education (O&E) plan is one of the most substantial components of an opt-out program as it must ensure that all eligible customers are aware of their municipality's CCA program and that they are mindful of their choices for their CCA to be deemed successful. Ensuring opt-out eligible customers are properly educated on the CCA program and informed of their right to opt-out of participating, is an absolute must. Customers need to clearly understand their municipality's program offering(s) and the implications of their energy decisions. For that reason, Staff recommends that the opt-out CDG O&E complies with the CCA Framework requirements. Those requirements require an Administrator to provide multiple forms of outreach information and education to potential CCA members over no less than a two-month period and then provide at least one opt-out notification, on municipal letterhead, that sets an opt-out period of at least 30 days.²¹ With that, there are specific opt-out

²¹ These CCA Rules were discussed within Staff's CCA Whitepaper and may be subject to change in future CCA orders.

CDG O&E requirements that need to be established to guarantee that customers who also have a supply product are not confused by another product offering or misguided by the timing of the offerings, as well as requirements specific to opt-out CDG, including O&E for a phased-in CDG program.

Outreach and Education

Staff recommends that Administrators only be permitted to conduct a combined CCA supply and opt-out CDG O&E period if those products are offered within six months of each other. To increase customer awareness, there should be publicly held O&E meetings providing education on both products, with those meetings clearly discussing the differences between the product offerings. To simplify, if a municipality is offering both CCA supply and opt-out CDG, and each of the two products will be on a customer's bill within six months from the end date of the O&E period, there should be one additional publicly held meeting conducted, in addition to the number of meetings required for O&E to offer CCA supply, before the combined opt-out letter is mailed. If a municipality is offering both CCA supply and opt-out CDG, but both product offerings will not be offered within six months from the end date of the O&E period, the municipality shall conduct a full O&E period for each product offering. In the case when a municipality is solely offering CDG and the opt-out CDG is phased-in with CDG memberships for a certain customer class beginning six months after the initial O&E period, the Administrator should conduct an O&E period for each CDG phase that involves at least one publicly held meeting, which should target the customer class of that phase, and an opt-out letter specific to the CDG offering. When a municipality has multiple Administrators who will be performing O&E during overlapping periods, the O&E plans for each product should be reviewed by the municipality. Verification of the municipality's review should be included in the Administrator's filed Municipal Implementation Plan.

The O&E should provide clear communication to potential customers about CDG subscriptions. This would include education about how CDG generally works, how savings are calculated, seasonality of project generation, how credits appear on the bill, enrollment timelines, and how to opt out. Administrators should be required to communicate on an annual

basis with their CDG customers and share information on their programs' performance and benefits, as well as information on how to contact their Administrator with questions or issues.

Opt-out Letters

Like the CCA supply opt-out letters, customers should receive a letter that plainly describes the opt-out CDG offering, its savings, and how someone can opt-out. The opt-out letter should be provided in the customers primary language, if known. Staff recommends that APP customers receive an opt-out CDG letter that includes additional information on the impact a CDG subscription would have on their status as an APP. In most instances, Staff expects that this communication would confirm for the customers that participation in a CDG program will not negatively impact this APP status. Generally, these letters must be simple to understand, explain the CDG program clearly and explicitly communicate the program's benefits.

When a municipality has chosen the same Administrator for its supply and CDG products and their eligible customers will be initially offered supply and, in time, will be eligible to receive an opt-out CDG membership, the initial supply opt-out letter may only include general information regarding the opt-out CDG program. As previously explained, if each of the two products are on a customer's bill within six months from the end date of the O&E period, a combined opt-out letter should be allowed. However, if CDG credits are not on a customer's bill within that six-month block, the supply opt-out letter should exclusively focus on informing the customer of their supply opt-out options. While understanding the importance of making sure customers are aware of their options and potential upcoming savings, these recommendations are aimed at preventing customer confusion and promoting transparency as to when a customer may be eligible to participate in CDG. This should be the same case for municipalities who offer CDG prior to supply. Comments were received in support of the additional opt-out CDG product O&E requirements.

Section 3 - Data Access and CDG Crediting and Billing

Data Access

The CCA Framework Order established rules to ensure that customer data and IT systems be sufficiently protected before the utilities can share the data necessary for facilitation of a CCA

program. The CCA Framework Order required the development and implementation of a CCA DSA for parties to agree to before data would be released by the utility to the CCA Administrator. The CCA DSA includes cybersecurity and privacy controls that address the risk to both the utility IT systems and customer privacy. In its Cybersecurity Order, the Commission adopted minimum cybersecurity and privacy protections necessary for access to customer data and with that, an Energy Service Entities DSA (ESE DSA) was established.²² As discussed within Staff's CCA Whitepaper, when the CCA DSA was originally put into place, there was not an existing document that could be used for CCA data needs. To ensure consistent treatment of parties and ensure the correct protections are in place, Staff recommended that the CCA DSA be replaced with the requirements established in the Cybersecurity Order and, therefore, replace the CCA DSA with the ESE DSA. With the data for opt-out CDG falling outside of what was defined in the CCA DSA and the ESE DSA not allowing for opt-out enrollment, the Administrators and some utilities have been using the ESE DSA with an addendum that allows for the data necessary to facilitate an opt-out CDG program, while concurrently using the CCA DSA for their opt-out supply program. Understanding that the Data Access Framework's Data Ready Certification process will replace all existing data sharing agreements in the future, Staff recommends the continued use of the ESE DSA with an addendum specific to the data needs for CCA, including opt-out CDG and opt-out supply until that time.²³

Regarding the data required to implement an opt-out CDG program, Staff recommends that each utility test and confirms that their IT systems can produce the data necessary for the program, including historic usage for all eligible CDG customers, prior to opt-out CDG program implementation.

²² Case 18-M-0376, et al., Proceeding on Motion off the Commission Regarding Cyber Security Protocols and Protections in the Energy Market Place, Order Establishing Minimum Cybersecurity and Privacy Protections and Making Other Findings (issued October 17, 2019) (Cybersecurity Order).

²³ Case 20-M-0082, Proceeding on Motion of the Commission Regarding Strategic Use of Energy Related Data, Order Adopting a Data Access Framework and Establishing Further Process (issued April 15, 2021).

Utilities should be permitted to share with a CCA Administrator information and data related to their APP customers, including identification of APP status and historical usage data. This program would be a guaranteed cost savings program targeting APP customers first and with the execution of a DSA between the utilities and the CCA Administrator, Administrators will be authorized to implement an opt-out program that offers cost saving benefits to APP customers.

When integrating an opt-out CDG program, Staff recommends excluding customers from the aggregated data and customer specific contact information if they have an active onsite or remote net metering account, are already participating in CDG, are customers with less than 1000 kWh annual consumption, are currently allocated by the utility to a CDG project with a near term commercial operation date or have a DER block on their account. Staff recommends including customers who are on a time-of use or time varying rate, have an ESCO block on their account, or are being served by an ESCO.

Aggregated Data

Data should be compiled by municipality and include:

1. the number of eligible customers by service class, with a subset for the number of eligible APP customers.
2. the aggregated energy for electricity by month for the past 12 months, by service class with a subset load for APP customers.

Customer Contact Information

This data should consist of the customer of record's name, mailing address, service address, proxy ID number,²⁴ meter read/cycle information, primary language, if available, and any customer-specific alternate billing name or address.

Detailed Customer Data

This data consists of account number, point of delivery (PoD ID) if available, and 12 months of historical usage data for all program participants. Consistent with the data transfer timelines established in the CCA Framework Order, utilities should transfer the aggregated data

²⁴ Proxy ID number for a given customer should remain with that customer for the life of the CCA program. This will ensure that the Administrator's customer's records remain accurate and consistent throughout the program's numerous data request.

within twenty days of a request from the municipality or the CCA Administrator and the customer specific data to the municipality or CCA Administrator within five days of a request. Detailed Customer Data necessary to the municipality or CCA Administrator for opt-out CDG should be transferred within five days of a request.

CDG Billing and Crediting

The ability for customers to receive understandable, timely, and accurate billing is imperative for all types of customer energy choices and, in support of this, consumer protection requirements have been created for utility billing practices throughout numerous proceedings. With the use of an opt-out CCA enrollment process, it is necessary to ensure a sufficient level of customer protections are in place, in addition to those existing outside of the CCA model. To reduce the potential for additional customer confusion through opt-out enrollment, it has been imperative that CCA participants receive a consolidated bill that includes their CDG and/or ESCO supply charges in addition to their utility charges. When the Commission considered Joule Assets' petition to offer opt-out CDG as part of its CCA program, the potential for customer confusion from a CDG dual billing model was evaluated. It was determined by the Commission that the addition of an opt-out CDG product to the CCA program would not work until CCA participants could receive a single bill to include all their energy related choices. In the Commission's Consolidated Billing Order, the Commission adopted a Net-Crediting model for consolidated billing and, with that, opt-out CDG could potentially move forward from a consolidated billing perspective.

Over the past several years, the CDG Billing & Crediting Working Group has worked with the utilities on their progress to automate their Net-Crediting billing processes. The last filed update on their progression was submitted within the Commission's Consolidated Billing

Proceeding's October 2020 Billing Update Reports.²⁵ These reports included the following dates:

- National Grid's Value Stack crediting for Value Stack CDG projects and CDG Net-Crediting Program for Value Stack projects to be completed in September 2021.
- NYSEG/RGE anticipate automation to be completed by end of 2021.
- Consolidated Edison is making its best effort to begin the Net-Crediting Program in June 2021.
- O&R anticipate that automation of the Net-Crediting methodology for CDG Value Stack projects will be complete in June 2021.
- Central Hudson estimates it will be able to commence automated billing of Net-Crediting in September 2021.

As the dates included in each of the utility's Billing Update Reports are now long past due, Staff recently reached out to the utilities on their advancement and as of February 2022, the following timelines were reported for when each utility will complete their Net-Crediting automation for value stack projects:

- National Grid intends to automate Value Stack Net-Crediting calculation and subscriber allocation by summer of 2022, and host reporting by December 2022.
- NYSEG/RGE intend to have Net-Crediting implemented by the end of 2022. They intend to take a staggered approach with phasing of all Value Stack projects to automation expected to be complete by Summer 2023.
- Consolidated Edison expected to have Net-Crediting implemented by end of February 2022.
- O&R reports that its Net-Crediting is currently automated, with 11 projects participating in Net-Crediting.

²⁵ Case 19-M-0463, In the Matter of Consolidated Billing for Distributed Energy Resources, National Grid Billing Upgrade Report, New York State Electric and Gas Corporation (NYSEG)-Rochester Gas and Electric Corporation (RGE) CDG Net-Crediting Billing Upgrade Report, Con Edison Billing Upgrade Report, Orange and Rockland Utilities, Inc. (O&R) Billing Upgrade Report, and Central Hudson Gas and Electric Corporation (Central Hudson) Billing Upgrade Report (all filed October 1, 2020).

- Central Hudson is currently beginning the testing phase for Value Stack Net-Crediting, with full automation for Value Stack Net-Crediting expected to be complete by the 2nd half of 2022.

Staff initially recommended that an opt-out CDG program should not begin until the community's utility properly implemented automated Net-Crediting billing processes as customers, including APP customers, need to be fully protected and ensured that they will be billed in an accurate and timely manner. Agreeing that customers need protections from receiving inaccurate bills, many stakeholders commented and cautioned against waiting for the utilities to automate their Net-Crediting billing processes as they have lost trust in the utilities to complete their automation efforts and/or accurately bill for CDG credits.

Understanding that the utilities' automation implementation delays can significantly interrupt the CDG market from offering a seamless Net-Crediting billing option, additional billing incidences have been reported to Staff over the past several months that have, similarly, impacted both the CCA and CDG market. For that reason, and in recognition of the comments received on this topic, Staff is recommending that the Commission establish quarterly utility CDG billing and crediting performance reports, utility performance metrics and consumer protection measures related to all CDG crediting & billing, including Net-Crediting billing.

Recently, Staff was notified that several of the State's investor-owned utilities have, or currently are, experiencing numerous ongoing billing issues that have left tens of thousands of New Yorkers confused about their energy costs and their energy choices. Instances have occurred, and are still occurring, where customers have not been billed for several months and later received multiple bills within a short period, or a single very high bill due to not being billed for any of their usage for that extended period. There have also been many reports of CDG members not receiving appropriate credits on their bills, when those bills do finally arrive.

Although some of these occurrences have happened at a broader utility level and others are tied to issues unrelated to CDG crediting and billing – including Net-Crediting – a significant number of customers, including current CCA and opt-in CDG customers, along with the CCA and CDG market participants have been impacted by the utilities' inability to properly bill customers

in a timely fashion and/or delays in automating their Value Stack crediting. It's important to note that these billing deficiencies have also impacted the CDG project's ability to bill and collect payments from the utilities and/or customers for the generation that has been produced by these CDG projects throughout these timeframes. This has led to DER provider capital issues and, in some instances, the potential for default on their contractual obligations to their customers and project funding sources.

These issues, which originate with the utilities, are greatly impacting CCA and CDG markets and action should be taken by the Commission to ensure regulatory action is taken against the utilities to prevent them from inadvertently pushing these market participants out of New York, as well as unnecessarily increasing future customer acquisition costs by undermining consumer confidence in CDG billing and crediting. With that, and with the recommendations discussed within this straw proposal, Staff seeks to ensure that all CDG customers, including CCA customers, are properly protected from the financial impacts these billing issues are causing customers, even more so for APP customers who will be the first to be enrolled in an opt-out CDG program. Resolution of these utility billing issues will ensure that when New York mass-market customers, including APP customers, are subscribed to a CDG project as part of their municipality's opt-out CCA program, they will be sufficiently protected against the severe billing issues currently experienced at the utilities.

Utility CDG Billing and Crediting Performance Metrics

To ensure customers are fully protected and informed when these billing issues materialize, to improve the market's visibility with the utility's transition to an automated Net-Crediting billing process, and to provide a means to provide an incentive for more acceptable utility performance in this area, Staff is recommending that the Commission establish quarterly utility CDG billing and crediting performance reports, utility performance metrics and consumer protection measures related to all CDG crediting & billing, including Net-Crediting billing.

Staff recommends requiring each utility to report their quarterly CDG billing and crediting performance for accuracy measures. These reports should be publicly available – to ensure market transparency – and include performances on all CDG crediting and billing with a subset for Net-Crediting accuracy. Reports should include, at a minimum, their percentage of customer

base – including the number of customers – with CDG crediting and billing issues. Reports should also include where each utility is with their implementation and functionality of their automated Net-Crediting billing processes.

In conjunction, Staff recommends that the Commission adopts Negative Revenue Adjustment (NRA) mechanisms to be tied directly to the utilities' CDG crediting and billing performances. Utilities should be held accountable for their performance and, therefore, Staff recommends that NRAs be assessed if it is determined that minimum acceptable standards for accurate billing performance are not being met. To ensure accuracy and consistency of the reporting, an audit process will need to be put in place. This reporting and audit could be structured like the current reporting and audit functions that determine NRAs. Staff is requesting further stakeholder feedback on what the specific performance metrics of such a mechanism should be and what the minimum acceptable standards for accurate billing should be set at.

Staff also recommends that each utility clearly and proactively communicate with customers – using Staff approved written communications – information that includes resolution timeframes, utility phone numbers and contact information, the ability for a customer to enroll in payment plan agreements, and disconnection holds placed on customer accounts. Utilities should work with the CDG host to make sure that allocations are being performed and calculated appropriately so that customers are not overallocated portions of a project thereby raising subscription fees unnecessarily. Utilities should take public responsibility for their billing and crediting mistakes; should train their customer service staff to place blame appropriately on the utility and not, inappropriately, on CDG hosts or State policy in general; and should be held accountable when such erroneous communications are provided to customers or the public at large.

Section 4 - Opt-out CDG Program Compliance and Enforcement

Staff recommends that any opt-out CDG program follow the Administrator and compliance filing paradigm and requirements that were established in the CCA Framework Order and are anticipated to be addressed in the forthcoming CCA foundation requirements and supply program order. CCA Rules require the Administrator to file an Implementation Plan describing

their program and its goals, plans for value-added services that are included in their RFP, a public outreach plan, and drafts of written communication with its residents, including opt-out letters. As discussed within the April 2021 CCA Whitepaper and to promote the standardization of program structures, the development of a uniform filing structure will reduce the need for duplicate filings. Consistent filing processes between the CCA supply program and the CCA opt-out CDG program will ensure that Staff properly manages the oversight of the two programs, including but not limited to, specific Municipal Implementation Plan compliance filings and necessary reporting. Similar to the requirements for CDG developers, Administrators facilitating an opt-out CDG program should register with the Department and comply with the UBP-DERS prior to partnering with municipalities and subscribing CDG members.

The development of an enforcement mechanism will ensure that all CCA market participants act fairly and conduct business in a way that will protect the CCA market and, in turn, create a more positive, robust CCA program for the State as a whole. For the CCA market to grow and continue to offer communities the many benefits a CCA program might offer, CCA Administrators must act in good faith when it comes to marketing and program administration. Like the Administrator and compliance filing requirements, Staff recommends that the proposed enforcement mechanism discussed within the CCA Whitepaper, if adopted by the Commission for the CCA supply program, be applied to the opt-out CDG program.

Municipal Implementation Plans

Authorized Administrators will be required to file Municipal Implementation Plans for Staff review and verification. The Municipal Implementation Plan should be specific to the opt-

out CCA program product offering - in this case, opt-out CDG - and, in addition to the existing foundational requirements²⁶ for a CCA, include the following information.²⁷

- Copies of CDG RFPs;
- Copies of CDG Agreements;
- CDG Specific information to include:
 - Magnitude of participating CDG projects including all CDG projects' size, location, utility service territory, and estimated number of participating members for each project;
 - Confirmation that all APP customers will be served first and phasing or prioritizing of subscription enrollments by service classes (APP, SC1 residential, SC2 small business, etc.);
 - Proposed timing of subscriptions and percentage of eligible customers subscribed at the initial subscription phase and future subscription phases;
 - Administrator fees collected, including Community Benefit Fund contributions, if collected; and
 - Net-Crediting rate savings for CDG subscribers.
- Outreach and Education Package;
 - If the municipality has more than one Administrator performing O&E during overlapping periods, proof of verification that the municipal reviewed the O&E plans for each product are required.
 - Demonstrate outreach and education has been performed consistent with the existing outreach and education requirements for a CCA program.

²⁶ The foundational requirements include, amongst additional items, a copy of the municipality's CCA enabling local law, Administrator information, and specifics on Outreach and Education.

²⁷ The timing for when in the program an Administrator will be required to file a Municipal Implementation Plan is under Commission consideration in response to the comments received on the CCA Whitepaper. The reporting of CDG specific information (i.e, actual data compared to estimated or projected data) will be dictated by the timing of the Municipal Implementation Plan filing.

- Demographic information of municipality, including percentages of ESL customers; and
- Final draft of opt-out letter and Frequently Asked Questions (FAQs).

Reporting

CCA program reporting is necessary to ensure program transparency and oversight. The CCA Framework Order requires an Administrator to file annual reports with the Secretary to be filed by March 31 of each year and cover the previous year.²⁸ As recommended in the CCA Whitepaper, Staff endorsed the expansion and modification of the existing annual reporting requirements to include standardized and detailed reporting requirements, categories, clear guidelines, and the incorporation of additional reporting requirements established after the CCA Framework Order. Staff also recommends the development and implementation of a reporting mechanism that would allow for quarterly opt-out CDG reporting.

The following items should be reported quarterly and specific to each municipality's opt-out CDG program:

- Details on participating CDG projects including all CDG projects' size, location, utility service territory, and number of participating members for each project;
- Description of phased-in memberships, including number of members by service class;
- Net-credited rate savings for CDG subscribers;
- Administrator fees, including Community Benefit Fund contributions, collected during the reported period and cumulatively;
- Number of customers who opted out in response to the initial opt-out letter;
- Number of customers who cancelled during the year; and

²⁸ Annual reports include, at a minimum: number of customers served; number of customers cancelling during the year; number of complaints received by the CCA liaison; commodity prices paid; value-added services provided during the year (e.g. installation of DER or other clean energy services); and administrative costs collected. The first report shall also include the number of customers who opted out in response to the initial opt-out letter or letters.

- Number of complaints received by the Administrator, type of complaint received, and how the complaint was resolved.

With the requirement of quarterly reporting, the Commission – along with CDG market participants – will be able to accurately measure the program in a transparent fashion to ensure that the intended policy goals of the program are met.

Conclusion

As the State continues to transform its power system into one that is cleaner by integrating more DERs into the electric grid, CCA opt-out CDG programs provide a unique chance to both further clean energy goals through local economic development as well as provide guaranteed CDG savings on energy bills for those New Yorkers who need them most. Opt-out CDG encourages municipal governments – and their constituents – to take control of their energy future through locally driven CDG participation. In addition to the CCAs role of educating communities about their energy needs and energy choices, a program like this could prompt the acceleration and development of CDG projects and assist the State in meeting its clean energy goals and CLCPA targets.

Staff is confident that a robust opt-out CDG program will encourage a multitude of new Administrators to join the CCA market, including public and non-profit organizations, leading to an increase in market competition which could spur innovation by means of the CCA model. Through the stakeholder collaborative process conducted over the past several months, and with the assistance of NYSERDA, Staff has identified proposed opt-out CDG program recommendations that could shape potential program rules and requirements going forward. If adopted, opt-out CDG could serve as a powerful tool for local communities, as well as the State as a whole. CCA programs presently have an opportunity to provide benefits for local, community, and individual engagement, and with the opportunity to add, or offer, an opt-out CDG component with sufficient program structure, New York will continue to be a leader in the clean energy movement.



May 6, 2022
Request for Comments
In the Matter of the Community Solar Energy Program
Docket No. QO22030153

New Jersey Board of Public Utilities

Comments of Arcadia on Community Solar Permanent Program

Arcadia appreciates the opportunity to provide comments to the Board of Public Utilities (the “Board”) as part of the community solar permanent program rulemaking process. New Jersey is poised to be a national leader in community solar. The state’s emphasis on continuous improvement and incorporating stakeholder feedback throughout this process is highly commendable. This process coupled with the Board’s commitment to robust standards will ensure a sustainable community solar permanent program available to all interested New Jersey households.

Below is an overview of Arcadia’s extensive experience working in the renewable energy sector across the United States. This is followed by responses to the Board’s questions that are most important to Arcadia, notably numbers 7, 11, 12, 14, 17, and 18.

Background

Arcadia is building the software necessary for everyone in New Jersey to realize the full benefits of clean energy. Today, customers face a bewildering assortment of energy technologies – ranging from energy efficiency and renewable energy offerings to battery storage and electric vehicles – all of which have unique capabilities, costs, and user experiences. Arcadia’s software makes it possible for energy technology providers to delight their customers and move clean energy forward by enabling simple user experiences that will save people money. The first industry served with Arcadia’s software is community solar, where Arcadia manages subscribers across more than 700 MW nationwide - making it the largest manager of residential community solar subscribers in the United States.

Recommendations

II. Project Selection

#7 How should projects be selected for participation in the Permanent Program? Please provide a detailed description and discussion of the advantages and disadvantages of your proposed method of selection, with an emphasis on establishing criteria that are transparent and easily verifiable.

The permanent program should transition to an Open Tariff Enrollment setup under the Administratively Determined Incentive Program. Such a

process can be done in a way that meets all of the Board's objectives, including robust LMI participation. The open tariff enrollment approach has the added benefit of reducing administrative burden from that of the original solicitation process. This will lead to more regulatory certainty and ultimately, more community solar projects coming online and serving more customers faster. In fact, the nation's leading community solar programs, including those in New York, Massachusetts, Maryland, and Maine, all use this type of process. It would be reasonable for the Board to consider a transition period to implement this important change.

III. Low- and Moderate-Income Access

#11 What policies and measures should the Board consider to ensure that the Permanent Program maintains a high level of low- to moderate-income ("LMI") participation? How can the Board support community outreach and education?

The Board should continue the existing low and moderate income (LMI) requirements in the permanent program. To be sure, this requirement is only tenable with additional enhancements to LMI verification methods and processes. In addition to the proposal below, additional suggestions are laid out in Arcadia's answer to question #12.

Requiring geographic proximity is a barrier for low income customers.

Low income customers, or the 51% of projects serving low income customers, should not be required to follow strict county or municipal adjacency requirements. U.S. Census Bureau data demonstrates that New Jersey's LMI populations tend to be concentrated in urban areas, including Newark, Paterson, and Camden.¹ A limited number of projects will actually be located in the same or adjacent counties and municipalities as these populations. The end result will be significant LMI populations that will have little to no access to the program.

To prevent that, Arcadia suggests that any LMI household in New Jersey be able to subscribe to any project within the same electric distribution company territory, without any preference given to those in the same or adjacent counties/municipalities, so as to not under-incentivize some LMI households based on their location and lack of proximity to an ample supply of projects.

Additional action is needed to support community outreach and education.

It is important to recognize that when many households first learn about community solar – a product that allows them to support local solar power and

¹ United States Census Bureau. QuickFacts: Camden city, New Jersey; Paterson city, New Jersey; Newark city, New Jersey; New Jersey
<https://www.census.gov/quickfacts/fact/table/camdencitynewjersey.patersoncitynewjersey.newarkcitynewjersey.NJ/PST045221>

receive bill savings – they are skeptical. And many think the offering sounds too good to be true.

Helping dispel the notion that a legitimate community solar offering is too good to be true would significantly improve customer interest in the program. In particular, government-produced material, including literature, online videos, and emails endorsing the program will increase customer trust and confidence. Above other options, Arcadia strongly recommends a brief, one-minute video address by Governor Phil Murphy or Board President Joseph Fiordaliso to be posted on the Board's website, and which can be shared with new community solar subscribers, welcoming them to the program.

#12 Should the Board modify the Pilot Program's income verification standards (see the Pilot Program rules at N.J.A.C. 14:8-9.8)? If so, how?

LMI verification enhancements are needed to achieve the Board's robust LMI participation goals. Arcadia understands and agrees with the Board's desire to maintain robust LMI participation in the community solar program. Naturally, having more ways to verify someone as LMI increases the number of ways these important customers can verify their income status and increases the probability that they can properly enroll and participate. Simply put, the more LMI verification methods available, the better. Conversely, onerous LMI verification methods discourage qualifying customers from participating and add unnecessary burden to subscriber organizations. Notably, self-attestation should be allowed. In addition, the Board should expand geoelegibility methods to include designated LMI Census Tracts and Census Tracts with substantial populations of overburdened communities, and all government income-based assistance programs should auto-qualify customers as LMI.

Customers should be able to self-attest that their annual income is at or below the LMI threshold as noted in the program regulations with a single click or signature. Self-attestation is the single most important LMI Verification method that will increase LMI enrollment. From our experience, customers are exceptionally honest about their income. Allowing customers to review the HUD income threshold of 80 percent of the median income, and checking a box to indicate their income is above or below that threshold, is a simple way for customers to attest to their income, without the need to find and share additional documentation.

Geoelegibility should be expanded to include overburdened communities. Auto-qualifying customers based on their Census area is the least burdensome method of LMI verification available. Because customers in these areas do not need to take any additional action or find further documentation to qualify, this is simply the easiest way for LMI customers to be verified. As the Board has an

interest in removing barriers to program participation for LMI customers, we strongly suggest an expansion of the auto-qualifying Census areas through two means: 1) Include overburdened communities as defined by the Board's Office of Clean Energy Equity; and 2) Expand to designated Census Tracts.

New York allows for the auto-qualification of customers in priority Census Tracts that are low- and moderate- income or are considered to have a substantial disadvantaged community population.² The "Disadvantaged Communities" designation goes beyond income to identify geographic regions including, "those that bear the burdens of negative public health effects, environmental pollution, impacts of climate change, and possess certain socioeconomic criteria, or comprise high-concentrations of low- and moderate- income households."³ Specifically, New York's main community solar program, the Community Distributed Generation program, is planning to use the state's formal disadvantaged communities definition to target the benefits of clean energy investments once finalized early next year. In the interim, they currently accept an expansive interim definition of "disadvantaged communities" to include New York Opportunity Zone Census Tracts, which are defined as, "An Opportunity Zone is a low-income census tract with an individual poverty rate of at least 20 percent and median family income no greater than 80 percent of the area median."⁴

All federal and state income based assistance programs should-auto qualify customers as LMI. Participation in any income-based assistance programs with a maximum income threshold at or below 80 percent of the median income, as determined by annual HUD income limits, should qualify a customer as LMI, without the need for the Board to list the specific program.

For example, Medicaid participation should qualify a customer as LMI in the community solar program. Medicaid is a widely-used, jointly funded state and federal health care program for eligible individuals with limited financial means - and often disabilities, dependents, and other notable health circumstances. In New Jersey, qualifying Medicaid recipients must have annual incomes at or below 138% of the Federal Poverty Level (FPL) which is set at \$18,756 annual income for a qualifying individual in 2022, and 205% of the FPL for pregnant women, which is \$27,859 annual income for a qualifying individual. As of March 2022, New Jersey has 1,151,405 adult residents over the age of 20 enrolled in the NJ FamilyCare Plan. As such, Medicaid recipients, which represent roughly ~17% of total New Jersey adult residents over the age of 20, inherently

² New York State Energy Research and Development Authority. Disadvantaged Communities. <https://www.nyserda.ny.gov/ny/disadvantaged-communities>.

³ New York State Department of Environmental Conservation. Disadvantaged Communities Criteria <https://climate.ny.gov/DAC-Criteria>.

⁴ Empire State Development. Opportunity Zone Program: Building Investment in Under-Served Communities <https://esd.ny.gov/opportunity-zones>.

encompass some of the most impoverished members of the New Jersey (and American) populace.

In addition, the Board accepts participation in the [Lifeline Utility Assistance Program](#) (LUAP) as LMI verification and notably anyone in NJ may qualify for LUAP by being on Medicaid. This facilitates subscribing interested eligible LMI customers. From the rules:

14:8-9.8(i) Proof of participation in one or more of the following: LIHEAP, Universal Service Fund, Comfort Partners, **Lifeline Utility Assistance Program**, Payment Assistance for Gas and Electric, Section 8 Housing Choice Voucher Program, Supplemental Nutrition Assistance Program, the Lifeline program administered by the Universal Service Administrative Company, or other low- or moderate-income local, State, or Federal programs, as may be added to this list by the Board by Board Order;

Pay stubs should be an accepted document for verifying LMI status.

Customers participating in a low income program can not always readily point to their program award letter or other proof. Indeed, not all low income customers who qualify for low income assistance programs actually participate in them. For these very customers, and particularly those not in an geo-eligible Census Block Group, there is currently no other way for them to verify their LMI status. However, pay stubs are abundant and most customers are able to locate these documents. Therefore, customers should be able to present a pay stub as proof that their income is within the accepted LMI range. This is important when other methods may not be available, and is effectively a last chance to ensure these customers can be qualified to participate when they cannot otherwise provide verification. While pay stubs should be accepted, they are in no way a substitute or tradeoff for any other method, particularly self-attestation and expanded geoelegibility. Indeed, not every low income customer is gainfully employed and receiving pay stubs.

IV. Community Solar Subscribers

#14 What should the geographic limitations for community solar projects and subscribers be (i.e., How far from the project can subscribers to the project reside)? For context, the Pilot Program allowed projects to self-select the geographic limits of the project. Projects could choose between three options: municipality and adjacent municipalities, county and adjacent counties, and no limit (EDC-wide).

Customers care about supporting local clean energy and bill savings, not project proximity.

Arcadia understands the Board's desire to have customers sited close to their project. When Arcadia first entered the community solar business, we assumed

customers had this same desire. However, thanks to our extensive experience in the market across multiple states, we have learned that customers are less interested in having close proximity to a project than they are in supporting local clean energy and receiving monthly bill savings. These attributes – supporting local clean energy and receiving savings - are what matter most to customers, and we strongly recommend that this community solar program optimize around those key attributes. In addition, geographic proximity requirements have proven to be unduly burdensome and limit program access to in-city LMI populations.

If the Board will not entertain removing geographic restrictions for all customers, such restrictions should only apply to the 49% of the project that is not served by LMI customers, and the 51% LMI portion of projects should not be restricted by geographic proximity. Arcadia provided more information on this in the answer to question #11.

#17 In November 2020, the Board proposed a rule amendment to the Community Solar Energy Pilot Program rules, which would have allowed certain projects owned and operated by public entities to automatically enroll subscribers without first seeking subscribers' affirmative consent to join the project. Subscribers would then have the option to "opt-out" of the project should they not wish to participate. How can the Board best support subscriber education and acquisition? Should the Board revisit its automatic enrollment proposal, and if yes, how can automatic enrollment be implemented consistent with customer data privacy rights?

The Board should not revisit automatic enrollment. Customer choice is paramount to community solar. Indeed, it is customer action that puts the *community* in "community solar". If, in the future the Board decided to examine such a program more closely, we suggest that a thorough study be conducted to ensure any auto enrollment program: 1) Does not upend the existing program; 2) Utilities meet consistent interconnection and billing and crediting standards; 3) Can be implemented consistent with customer data privacy rights; 4) Such a program helps all New Jersey residents and not just those in a certain municipality or enrolled in a certain utility rate assistance program.

V. Community Solar Bill Credits

#18 If applicable, please discuss your experience with subscriber management and the allocation of community solar bill credits. What changes, if any, should be made to communications between community solar subscriber organizations and the EDCs, or to the allocation of bill credits by the EDCs?

Utility billing and crediting practices are capable of making or breaking a community solar program. Customers rely on the credits of their subscription. When community solar credits are delayed, inaccurate, misplaced, or otherwise erroneously applied to customer bills, customers lose faith in the program. This

erosion of customer trust is a threat to one of the state's important clean energy programs.

Billing and crediting is difficult work, and Arcadia believes utilities do their best to do this well. Based on our experience working on community solar with 22 utilities across nine community solar markets, we have established this list of utility billing and crediting best practices, which is echoed in the Coalition for Community Solar Access's comments. In our experience, utilities only meet these standards if regulations require them to do so. Ensuring utilities meet reliable billing and crediting standards is integral to program success. Related, projects need to be able to update subscriber allocation lists frequently to ensure they can fully serve their customers and allot them the proper amount of project capacity.

Utility billing and crediting best practices

- Utilities create and maintain submission portals and automate subscriber allocation list processes for projects.
- Subscriber allocation list processes allow bulk uploads of customer data including at least 1,000 subscriber accounts per batch.
- Community solar credits are applied to customer bills on a monthly, consistent, and uninterrupted basis.
- Community solar credits are always applied against the full amount due on the Subscriber's monthly electricity bill.
- Unused bill credits applied to the host account rollover for a minimum of two years and unused credits applied to subscriber bills rollover indefinitely.
- Utilities treat missing and erroneous bill credits as rollover credits.
- Customers are able to keep their subscriptions when they move to an address within the same utility service territory, without taking any additional action beyond what is required to start their electricity service at their new service address.
- Within 90 days of detecting a billing or crediting problem affecting more than 100 customers, the utilities provide a report to the Board, which is also made publicly available. This report includes: number of customers affected, dollar amount of credits affected, estimated time to rectify affected customers, plan for rectifying customers, changes to prevent similar errors from happening again.
- The Board facilitates a billing and crediting working group meeting with each of the EDCs and members of the community solar industry on a monthly basis to work through common billing and crediting errors. The New York Department of Public Service and the New York State Energy Research and Development Authority jointly run a model working group dubbed the *Community Distributed Generation Billing and Crediting Working Group*, which has resolved a significant number of billing and crediting issues without the need to formally escalate to the

Commissioner level as is necessary in states without such a robust working group.

Prioritizing customer billing and crediting issues is becoming more common in other programs. At the beginning of the year, the Maryland Public Service Commission updated their community solar program rules to include a number of the important updates listed above. For reference, the updated regulations are included in the appendix.

Conclusion

We appreciate the opportunity to provide these comments and look forward to our continued work with the Board. Please contact James Feinstein at James.Feinstein@arcadia.com or 202 999 8916 if you would like to discuss these matters further.

Sincerely,



James Feinstein
Senior Policy Manager
Arcadia

APPENDIX - Maryland's recently updated community solar billing and crediting regulations

20.62.02.04 Subscription Credits.

A. Subscriber List.

(1) List Composition.

- (a) A subscriber organization shall provide the electric company with electronic data indicating the proportion of a community solar energy generating system's output that shall be applied to each subscriber's bill.
- (b) An electric company may develop an alternative format for processing subscriber lists.

(2) Update Frequency.

- (a) A subscriber organization may at any time provide an updated subscriber list to an electric company.
- (b) A subscriber organization shall provide an updated subscriber list via the designated electronic portal maintained by the electric company under §H of this regulation or any other format accepted by the electric company.
- (c) An electric company shall use the most recent subscriber list provided by a subscriber organization, subject to submission deadlines incorporated by tariff and accepted by the Commission.

- (3) An electric company shall apply credits using the most recently updated subscriber list provided by the subscriber organization.

B. An electric company shall determine the amount of kilowatt hours to be credited to each subscriber by multiplying the subscriber's most recent generation proportion from §A of this regulation by the metered output of the community solar energy generating system.

C. Application of Subscription Credits.

- (1) Unless otherwise directed by the Commission, an electric company may choose to apply the appropriate kilowatt-hour credit from §B of this regulation to each subscriber's bill as either a reduction in metered kilowatt-hour use or a dollar credit to the subscriber's billed amount.
- (2) An electric company shall choose the same method for all subscribers in a project.

D. If the electric company chooses to apply the credit from §C of this regulation as a dollar amount, the electric company shall apply a credit no less than the value to the subscriber of the credit had it been applied to the subscriber's bill as a reduction in metered kilowatt hours.

E. An electric company shall retain a record of a pilot project's kilowatt hours applied to each subscriber's account for a period of 7 years.

F. Subscription credits shall carry over to the next month's bill until the earlier date on which:

- (1) The subscriber's account is closed; or
- (2) The subscriber's last meter reading prior to the month of April.

G. Subscriber credits that are not carried over under §F of this regulation shall be handled as excess generation.

H. Electronic Portal.

(1) An electric company shall establish and maintain an electronic portal that allows a subscriber organization to provide subscriber lists to the electric company for crediting as required by this regulation.

(2) An electric company that has established an electronic portal prior to the effective date of this regulation shall maintain an electronic portal with the capability that is specified in §H(3) of this regulation for the period of time specified in COMAR 20.62.02.10B for each CSEGS in the program.

(3) An electric company shall allow a subscriber organization to input data electronically in batches of up to 1,000 subscriber accounts per CSEGS, including the ability to add new subscribers, remove subscribers, and edit the allocations of existing subscribers.

(4) Electric companies that do not currently have the capabilities in §H(3) of this regulation as of the effective date of this regulation shall implement these requirements no later than 12 months from the effective date of this regulation.

I. Electric Company Credit Allocation Reporting.

(1) An electric company shall provide a subscriber organization with a report detailing each subscriber's credit allocation.

(2) An electric company shall provide the report described in §I(1) of this regulation no later than the last day of each calendar month following the month of the CSEGS meter reading by the electric company.⁵

⁵ Maryland Division of State Documents, Code of Maryland Regulations, 20.62.02: <http://www.dsd.state.md.us/COMAR/SearchTitle.aspx?scope=20>



May 6, 2022

Carmen D. Diaz
Acting Secretary of the Board
Board of Public Utilities
44 South Clinton Ave., 1st Floor
Trenton, NJ 08625-0350

**RE: Docket No. QO22030153 – IN THE MATTER OF THE COMMUNITY SOLAR ENERGY PROGRAM –
Request for Comments**

Dear Acting Secretary Diaz,

Thank you for the opportunity to respond to the Board's request for information regarding the design of the community solar permanent program. We are thrilled to see that staff opened this stakeholder proceeding with a thoughtful breadth of considerations about how to best deploy clean electricity and provide energy savings to the residents of New Jersey. BlueWave looks forward to continued collaboration with the Board and other stakeholders that will ensure a cost effective, transparent, and administratively efficient community solar program for the Garden State.

BlueWave's vision is to protect our planet by transforming access to renewable energy. As a pioneering solar developer based in Boston, Massachusetts, BlueWave has developed and built more than 150 MW of solar projects to date. As built, these projects collectively generate enough solar energy to avoid more than 144,000 metric tons of carbon emissions annually. A certified B Corp, BlueWave has received national recognition for its work to protect the planet, and continues to innovate through community solar, energy storage, agrivoltaics, and floating solar technologies.

BlueWave, as a leadership member of the Coalition for Community Solar Access (CCSA), submits these comments in support of the positions put forth by CCSA. In particular, we emphasize CCSA's recommendations for transitioning to a first come, first serve, open tariff permanent program with strong project maturity requirements. The below comments elaborate on considerations related to dual-use, or agrivoltaic, solar projects and their role in the community solar permanent program. We look forward to submitting more detailed comments about the dual-use pilot program when that docket is opened.

We understand that topics specific to the design and qualification of dual-use projects will be addressed in a separate proceeding; however, it is imperative to plan seamless coordination between all of New Jersey's solar programs. Doing so will maximize every ratepayer dollar while directing development towards the Board's preferred policy outcomes of enhancing agricultural viability and connecting low-income ratepayers with community solar savings. Above all, we urge the Board to minimize administrative barriers between programs that would otherwise prevent maturation of this critical and statutorily mandated market segment.

Dual-use projects should be eligible to participate in the community solar permanent program, and dual-use should be considered preferred siting under the community solar permanent program.

Dual-use community solar projects are an ideal solution to the climate crisis facing New Jersey and the world. A farmer hosting a dual-use array receives long-term lease payments and agricultural

BLUEWAVE

investments that guarantee the longevity, diversification, and expansion of their operations. They are able to implement regenerative agricultural practices, improving the carbon sequestration of the soils under the array. By becoming a subscriber to the same community solar project, the farmer can join their neighbors, local businesses, nearby municipalities, public schools, and nonprofits in realizing savings on their electric bill. Even city-dwellers who are looking for a connection to their local farm stand or a way to support rural economic development can engage with the dual-use community solar farm and receive savings while helping to advance New Jersey's clean energy goals.

To facilitate this win-win-win outcome, qualified dual-use projects that have met design standards and research requirements as determined under the dual-use program rules should be able to apply for the community solar permanent program in order to serve community solar and low-income offtakers. We encourage the Board to allow a single project to meet multiple policy goals and thus receive multiple categories of incentives. While we understand that it is imperative these programs remain under the cost cap, BlueWave reiterates that each respective incentive for the dual-use and community solar programs covers the marginal cost of complying with each program's separate rules and requirements.

For example, a community solar project's incentive is meant to account for incremental customer acquisition and management costs, which are particularly expensive when identifying and qualifying low-income customers. On the other hand, a dual-use incentive can be used to cover incremental costs related to farm asset management, a direct pass-through to fund agricultural infrastructure and operations, additional materials and construction costs, and ongoing operations, maintenance, and insurance protecting the panels, plants, and people existing on-site simultaneously. We also expect that the incentive level for the dual-use pilot program will account for its relative novelty in the New Jersey market. As financiers better understand the costs and risks of deploying agrivoltaics in New Jersey, and as the market matures, costs will decline and the BPU can appropriately revisit incentive levels for the permanent dual-use program.

In order to avoid double-counting capacity allocations and maintain ratepayer savings, dual-use projects that are awarded community solar incentives should only take capacity from the dual-use pilot program. This structure between the two parallel programs makes sense administratively and when accounting for New Jersey's budget restrictions under the cost cap. In addition, classifying dual-use projects as preferred sites would further integrate the two programs while ensuring fair participation across market segments.

In the first come, first served community solar permanent program anticipated by CCSA, only preferred sites would be eligible to apply. Dual-use projects adhering to rigorous siting, construction, and agricultural standards not only fit the mold of preferred sites, but also reflect a marked difference from greenfield-mounted solar deemed unfit for qualification under the community solar pilot program. Designating dual-use as a preferred site and allowing these projects to apply under the community solar permanent program would facilitate the Board's policy goal of directing development to the least invasive sites with the most environmental co-benefits.

BlueWave greatly appreciates the Board's efforts thus far to make New Jersey a leader in the clean energy transition. We are excited to continue working with staff and other stakeholders through all of the proceedings related to the solar successor program, community solar, grid modernization, and dual-use. We understand the Board is extremely busy with these many topics and much more; please do not

BLUEWAVE

hesitate to reach out to us with any questions or to request more information. Thank you for your consideration and for your leadership.

Sincerely,

Kaitlin Hollinger
Policy Manager
BlueWave

From: [Channell Wilkins](#)
To: [Secretary, BPUBoard \[BPU\]](#)
Cc: [Lieutenant Governor, Sheila Oliver \[DCA\]](#)
Subject: [EXTERNAL] Re: Community Solar Program comments
Date: Friday, May 13, 2022 12:36:37 PM

I would like to request a meeting about implementation of community solar. Who at BPU would you suggest ?

As previously noted, Ocean Inc. fully supports the Community solar program, however, in order to be proactive and have the program meet it's goals quickly, we have suggestions and comments derived from our interaction with LIHEAP/USF clients and Solar companies wishing to participate. I did not feel these type of comments were relevant for the permanent programming policy, "The road to hell is paved with good intentions" so when implementation concerns are not vetted programs well-meaning stumble along rather than quickly meet their intended objectives.

One of our top concerns is that the new solar providers or their agents are registered vendors for the LIHEAP and USF programs. We have already seen hesitancy from clients that despite the desire to go green, they are uncomfortable that we cannot assure them that the solar programs will be an eligible LIHEAP/USF vendors. To entice them with clean energy options with savings but possibly eliminate their LIHEAP/USF payment is counterproductive to the overall goals of the Solar program and getting client registered. The savings from solar need to be supplemental to the program eligibility in order for LMI clients to fully see the benefits of solar.

As we reduce the carbon footprint and create environmental changes these programs will still be needed as a bridge for low-income households. These programs are historically underutilized and the introduction of solar could be a means to attract more individuals to both programs. LIHEAP/USF could serve as a post verification tool for Solar subscribers who qualify under the 50% usage threshold and provide additional outreach options for both programs.

Additionally, we would like to see the same level of cooperation and access granted by current utility agencies be part of the onboarding for solar companies or their agents (access to accounts online and liaisons to troubleshoot concerns et al).

We recognize DCA as the LIHEAP provider needs to be involved as well. Hopefully by addressing potential barriers early we can model an effective and robust implementation and speed up the use of clean energy.

I look forward to the opportunity to discuss implementation.

Channell Wilkins
Chief Executive Officer
Ocean Community Economic Action Now, Inc.
40 Washington Street
Toms River, NJ 08754-1029
Telephone: 732-244-5333 x 1107
Fax: 732-8180973
Website: www.oceaninc.org

From: Lieutenant Governor, Sheila Oliver [DCA] <Sheila.Oliver@dca.nj.gov>
Sent: Thursday, April 28, 2022 1:32 PM
To: Channell Wilkins <cwilkins@oceaninc.org>
Subject: Re: Community Solar Program comments

Nice.....

Sent via the Samsung Galaxy S10e, an AT&T 5G Evolution capable smartphone
Get [Outlook for Android](#)

From: Channell Wilkins <cwilkins@oceaninc.org>
Sent: Thursday, April 28, 2022 12:58:44 PM
To: Secretary, BPUBoard [BPU] <Board.Secretary@bpu.nj.gov>
Cc: Beth Hudson <bhudson@oceaninc.org>; Lieutenant Governor, Sheila Oliver [DCA] <Sheila.Oliver@dca.nj.gov>
Subject: [EXTERNAL] Community Solar Program comments

April 28, 2022

Reference: Community Solar Program rules

To Secretary Board of Public Utilities,

I am writing on behalf of the O.C.E.A.N Inc. to support the Community Solar Energy Program and its transition to a permanent Program. Clean energy should be made easily available to low-income households who need the savings most.

As the Community Action Agency for low to moderate income residents throughout communities in our service area, O.C.E.A.N., Inc.'s mission is the delivery of quality, comprehensive services that improve the quality of life of individuals and families and assist them in moving toward self-sufficiency. Ocean Inc. is also the Low-Income Home Energy Assistance Program grantee (LIHEAP) for Ocean and Atlantic Counties.

Community solar has already brought lower utility costs, cleaner air, and workforce development to marginalized communities. This is a great support for our LIHEAP clients and helps us expand the services to households. We want to ensure those benefits continue and recommend the following as part of the stakeholder feedback:

1. **The BPU should continue to award community solar projects through a competitive scoring process.** My organization expects to see an extraordinary level of support (financial and otherwise) from solar companies as a direct result of those companies' competing for my organization's partnership in order to score points on their project applications. Having a LIHEAP agency partnership with prequalified households should enhance an applicants scores. This will allow my organization's constituents to be direct beneficiaries of discounts and other perks from solar companies wanting to win over customers. Changing to a first-come-first-served project-selection process would eliminate these substantial benefits of the competitive process.
2. **The BPU should award more community solar projects.** Community solar projects provide real, tangible benefits to my organization and my organization's constituents, many of whom cannot benefit from traditional residential solar (e.g., because they do not own their homes and/or live in buildings without suitable rooftops). Community solar is the best – and, in many cases, only -- way for my community members to get the savings and other benefits of green energy. We need more community solar.
3. **The BPU should reduce barriers to low-income and moderate-income (LMI) subscribers.** Households that have "low income" or "moderate income" should be able to qualify as LMI customers for community solar without needing to jump through invasive hoops (e.g., proving that they are on food stamps). Those that have proof of eligibility for enrollment in publicly funded low-income programs should be categorically eligible, asking for more deters residents from wanting to sign up for the community solar program. Many of whom are older and easily frustrated by increased bureaucracy and then fail to complete eligibility.

Thank you for considering these comments. We look forward to continuing to promote clean energy equity in our community.

Sincerely,

Channell Wilkins

Chief Executive Officer

Ocean Community Economic Action Now, Inc.

40 Washington Street

Toms River, NJ 08754-1029

Telephone: 732-244-5333 x 1107

Fax: 732-8180973

Website: www.oceaninc.org



**REQUEST FOR COMMENTS IN THE MATTER OF
THE COMMUNITY SOLAR ENERGY PROGRAM**

[Docket No. QO22030153](#)

The Coalition for Community Solar Access and our members thank the New Jersey Board of Public Utilities (the Board) and staff for initiating the stakeholder process to create a Community Solar Permanent Program (the Permanent Program) and we are honored to submit comments and responses to the Board's questions concerning the Request for Information [Docket No. QO22030153](#).

Community solar is the key to ensuring equity and fairness of New Jersey's energy policies across all income levels and geographic regions of the state. A recent study by the U.S. The Department of Energy suggests solar energy has the potential to power 40% of the nation's electricity by 2035. Most importantly, the same report [calls for 5 million households](#)¹ to receive the benefits of community solar, further strengthening the need for the Garden State to build a robust, competitive, and cost-effective community solar permanent program. This is a 700% increase in community solar generation over the next 3 years and New Jersey is poised to be a model market for the nation.

The Community Solar Energy Pilot Program (Pilot) was designed as a competitive application process and the evaluation criteria was meant to further the state's policy objectives for community solar development. The Board received 664 applications in the Pilot totaling 1,500 MWdc of solar projects for 228 MWdc of available capacity. There were 150 projects selected, representing approximately 35 companies, townships, or EDC affiliates. Of the projects selected, approximately 60% are owned by 4 community solar companies with the remaining 31 selected developers holding far less than 1% of the market share each. The number of applications are positive indicators for the interest in the program and the excitement of the industry to provide economic benefits and guaranteed savings to the Garden State. However, the quality of applications coupled with the administrative burden of evaluating each application individually caused significant delays in the approval process and subsequent program roll out. It is the goal of CCSA to work hand-in-hand with the Board, stakeholders, and key decision makers to establish a community solar permanent program that eases the administrative burden of the Pilot, encourages innovation to ensure costs remain low for consumers, provides guaranteed savings for Low-to-Moderate Income and Overburdened Communities, sites solar on preferred sites, and fosters competition.

CCSA strongly recommends moving to a first come- first serve, open tariff permanent program with strong project maturity requirements designed to ensure project viability and achievement of the key priorities for the NJ Community Solar Program. Based on our experience in the pilot, CCSA recommends the following changes to the permanent program.

- **Move to an Open Tariff Enrollment under the Administratively Determined Incentive Program.** CCSA has a long-held policy in favor of an [open enrollment](#) program with significant

¹ Department of Energy 2025 Community Solar Goals
<https://www.energy.gov/articles/doe-sets-2025-community-solar-target-power-5-million-homes>



prerequisites for entry as a best practice for community solar program structures². In our experience with more than 20 U.S. markets, this structure will ease administrative burdens for the Board, provide regulatory certainty and oversight, encourage cost efficiencies, and promote vigorous economic development. The uncertainty associated with the current application and [scorecard](#) processes has significantly increased project costs and risks. A regular and predictable program cadence is the key to promoting innovation while keeping costs low.

- **Maintain Low-to-Moderate Income requirements for each project.** CCSA recommends the Board maintain the current requirements for all projects to subscribe to a minimum of 51% LMI customers to be selected in the program. CCSA firmly believes changes to the LMI verification process will be required to ensure the policy goal of providing cost savings to vulnerable populations are actualized. (See additional LMI Comments below.)
 - **Add Self-Attestation as a Method to Verify LMI Status.** Self-attestation is respectful of consumer privacy and should be an acceptable method to verify LMI status, allowing all NJ residents who meet the required income levels to participate. This verification is critical to achieving New Jersey's aggressive commitment to serve low-to-moderate income consumers and ensuring the Garden State achieves the highest goals in the nation for this customer base.
 - **Require a bond** for any Community Solar Organization who performs subscriber acquisition under self attestation verification methods. A developer shall pay a bond per megawatt or scales with the number of subscribers serving and that bond should be held by the Board. This is a practice currently included in the [Maryland Community Solar Pilot Program](#) that has been effective in driving desired performance by the community solar industry in that state³.
 - **Add additional Income Qualifying Programs.** In general, CCSA recommends that the Board include as an accepted verification method participation in any state, federal or local program that relies on income standards equivalent to the Community Solar Program (i.e. under 80% of area median income).
 - **Support automatic verification for Overburdened Communities.** [Overburdened Communities](#) are defined as any census block group, in which: at least 35 percent of the households qualify as low-income households; at least 40 percent of the residents identify as minority or as members of a State recognized tribal community; or, at least 40 percent of the households have limited English proficiency⁴. CCSA recommends incorporating the overburdened communities census tracts into the verification process.
 - **Use the NJBPU's Solar Siting Map for LMI Verification.** Under the current rules, qualified

² The Coalition for Community Solar Access Policy Matrix

<http://www.communitysolaraccess.org/wp-content/uploads/2019/04/2019CommunitySolarPolicyMatrix-2.pdf>

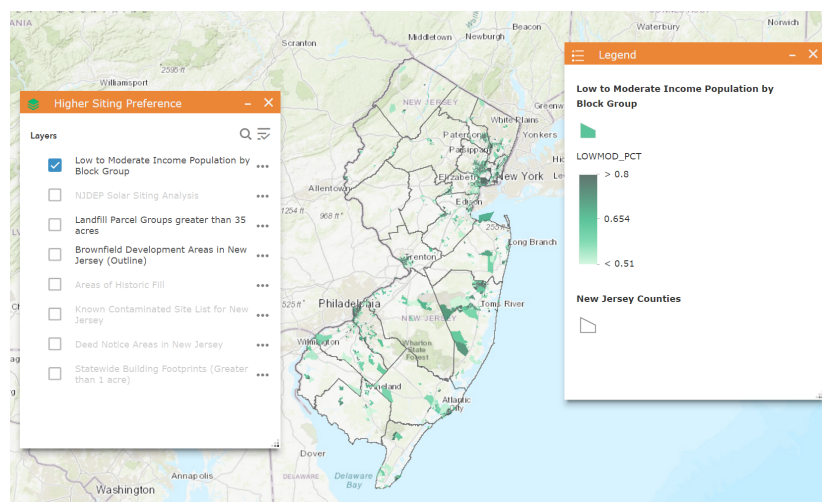
³ Maryland Public Service Commission Subscriber Organization Bonding Requirements

<https://www.psc.state.md.us/electricity/wp-content/uploads/sites/2/SO-Application-4-27-17-clean.pdf>

⁴ NJ P.L. 2020, CHAPTER 92 <https://www.nj.gov/dep/ej/docs/ej-law.pdf>



census tracts for LMI verification are limited to those in which 80% of the households in the census block tract earn less than 80% of the area median income, significantly limiting the number of qualified census tracts and thereby the number of customers who can be verified with this method. Currently, the Commission's solar siting map shows LMI verification at 55% and 80%. The below map reveals the limited universe of this customer base using the 55% threshold. The permanent program rules should allow for 55%, in accordance with the siting map to ensure all income qualified residents have the opportunity to subscribe. CCSA also recommends adopting the updated definition for overburdened communities from the Office of Energy Equity of the NJBPU, and for residence in an overburdened community be included as a verification method for LMI participation.



- **Require project maturity measurements in the application process** to keep costs low, drive policy goals in Governor Murphy's [Energy Master Plan \(EMP\)](#)⁵, and ensure the best projects are brought forward. CCSA recommends the following items be added to the application process in lieu of the Board's [Community Solar Scorecard](#)⁶. The use of these project maturity requirements are designed to drive the goals of the [EMP](#) and the policy objectives for the Permanent Program. CCSA's recommendations are tailored to Community Solar, provide certainty and transparent market signals for the industry, and align with the [current maturity requirements](#) for the Administratively Determined Incentive (ADI) Program adopted by the Board⁷. These requirements are suggested specifically within the context of an open tariff program only, and CCSA does not believe some of these requirements would be applicable or viable within a competitive application process, as used in the pilot program.

⁵ NJ Energy Master Plan

http://d31hzhk6di2h5.cloudfront.net/20200127/84/84/03/b2/2293766d081ff4a3cd8e60aa/NJBPU_EMP.pdf

⁶ NJBPU Community Solar Pilot Program Scorecard

https://njcleanenergy.com/files/file/CommunitySolar/FY21/8C%20Community%20Solar%20Energy%20Pilot%20Program%20Year%202%20Application%20Form%202020-10-01_fillable%20PDF%20application%20form.pdf

⁷ NJBPU ADI Program Project Maturity Requirements

<https://njcleanenergy.com/files/file/TI%20Program/FY22/8A%20ORDER%20Successor%20Solar%20Incentive.pdf>



- ***Economic and Technical Project Maturity Requirements***

- **Site Control**. CCSA supports projects developed on preferred sites including Rooftops, Brownfields, Landfills, Dual-Use Projects, Parking Canopies, etc. A project should be required to show an executed lease to establish site control.
- **Non-ministerial permits** for local jurisdictions (e.g., conditional use permits).
- **Interconnection viability**. Interconnection will remain one of the most significant development risks in New Jersey's permanent program. Projects should establish, through an interconnection cost study, that they can be economically interconnected before they apply for program capacity. Unfortunately, New Jersey's EDCs are not currently in a position to provide this information to all the applicants wishing to participate in community solar. As New Jersey's interconnection processes are refined, the Board should transition to require a system impact or similar study that provides the costs of interconnection from the Electric Distribution Companies (EDCs). The Board should require the EDCs to perform and the developer to have a completed interconnection cost study to provide an indication the project is viable. A cost study in conjunction with meaningful development deposits provides strong assurance that a project is viable and the project developer is serious and well-prepared to bring the project forward. CCSA recognizes a potential need for additional provisions or project maturity requirements for the beginning of the permanent program while the EDCs make these administrative updates to provide an interconnection cost study for each facility.

For the long term success of the above proposed model, the Board will need to direct the Utilities to revise their interconnection standards to include the acceptance of interconnection [pre-applications per the International Renewable Energy Council Standards in 2022](#)⁸ and move to accepting full interconnection cost study applications as soon as possible. CCSA's recommendations are consistent with the legislative requirements introduced in Senator Smith's [S431](#) legislation⁹.

CCSA recognizes the need for prompt actions by the EDCs to adapt their interconnection procedures to ensure the health and viability of this program, in both the short and long term, and regardless of program structure. We and our members are eager to work with the Board, the EDCs, and all interested stakeholders to assist the EDCs in building their capabilities for the

⁸ IREC Interconnection Standards 2019

<https://irecusa.org/blog/regulatory-engagement/2019-edition-released-irecs-model-interconnection-procedures/>

⁹ Senator Smith's NJ S431 2022-2023 Session <https://www.njleg.state.nj.us/bill-search/2022/S431>



interconnection requirements for this program. **Recognizing the need to address these issues in the most cost-effective manner possible, CCSA members are open to working with all parties to find creative solutions to achieve improved interconnection outcomes. .**

- **Maintain the Community Solar Organization Registration** approved by the Board that provides background information on the Organization.
 - **A project construction plan** outlining how the project will achieve commercial operation within program timelines and provide specific information regarding local government approvals.
 - **Development security deposit** of \$40 to \$80/kWdc. The deposit shall be made once capacity is awarded and then returned when the project achieves Commercial Operation. The deposit should be forfeited if the project does not come online by the construction deadline. Development security is an effective tool to ensure project viability by filtering speculative projects and projects with poor financial viability. For the first year of the program, when interconnection costs remain unknown, the deposit should be refundable post receiving a full interconnection cost study.
 - **A financing commitment letter** from a party with adequate, demonstrated financial resources to finance the project. Demonstration of financial strength can be shown via audited financial statements, or by other means acceptable to the Board.
 - **Evidence of an EPC agreement** or partnership.
- ***Non-Economic Project Maturity Requirements***
- **Documentation of Community Support** as currently required in the New Jersey 'Scorecard.
 - **Subscription Plan** and Subscriber Acquisition Experience.
 - **Subscriber Contract Template**. The [New York Community Solar Program](#)¹⁰ has this requirement and is a community solar equivalent to the [Administratively Determined Incentive Program \(ADI\) project maturity requirement](#)¹¹ of a demonstrated contract between the developer and the end customer.
 - **Low-and-Moderate-Income Plan**. This is a [requirement in Virginia](#), where there

¹⁰ NYSEDA Community Solar

<https://www.nyserda.ny.gov/All-Programs/NY-Sun/Contractors/Resources-for-Contractors/Community-Solar>

¹¹ NJBPU ADI Program Project Maturity Requirements

<https://njcleanenergy.com/files/file/TI%20Program/FY22/8A%20ORDER%20Successor%20Solar%20Incentive.pdf>



is a 30% Low-Income requirement for each project¹².

- **Proven Track Record.** Community solar organizations and/ or partners should have demonstrated experience in community solar development and a track record of working with LMI/ Overburdened Communities.
- **Developer fees for program administration and consolidated billing administration** for the Board and (if needed) the Electrical Distribution Companies (EDCs). In coordination of the review of the ADI incentive program, the Board should evaluate the effectiveness and necessity of these fees.
 - **Administration Fee for the Board** shall be collected from developers at the time of application to the program. A fee could be set near \$1,000/ MW to be paid when projects are accepted to the program.
 - **EDC Fee for Consolidated Billing-** Optional Net Crediting should be applied and paid for by community solar organizations or subscriber acquisition companies. Best practices in other states (NY, VA, and PA) is 1% of the bill credit by remitting the 1% from the payment to the community solar organization.
- **Optimize Distribution System and Maximize Grid Benefits.** The following recommendations for the Board's consideration are largely drawn from CCSA's recently released white paper, [*Integrating Distributed Solar and Storage: The keystones of a Modern Grid*](#). This white paper provides a comprehensive set of recommendations to policymakers, regulators, utilities, and other stakeholders on the steps that need to be taken to improve the process by which distributed energy resources (particularly solar and storage) are integrated into the distribution system¹³. (See additional Grid Modernization Comments below.)
 - **Substation Hosting Capacity.** Both the feeder and substation transformer must have available capacity for a project to interconnect successfully and therefore commercially useful capacity maps should provide information about both feeder available capacity and substation transformer available capacity. Additionally, line loading data (minimum and peak), existing distributed generation capacity, and reserved distributed generation capacity are equally important to assessing interconnection viability.
 - **Remove Artificial Barriers to Distribution Voltage Circuitry.** There is no recognition of circuitry greater than 13kV on any EDC's hosting capacity maps. Distribution voltage circuitry is not limited to 13kV and below and because community solar projects are

¹² VA SCC Shared Solar

<https://scc.virginia.gov/getattachment/e1c99ed7-7341-480b-adac-85c161fc8963/Initial-Low-Income-Subscription-Plan.pdf>

¹³ The Coalition for Community Solar Access Interconnection Whitepaper

https://www.communitysolaraccess.org/wp-content/uploads/2022/02/CCSA_BRO-White-Paper_20220214-1.pdf



required by rule to interconnect to the respective EDC's distribution system, the hosting capacity maps provided by the EDC should be reflective of said EDC's distribution system in its entirety, not just 13kV and 4kV circuitry.

- **Substation Transformer Data.** The CCSA respectfully requests the Board require all the EDCs to include substation transformer data on their hosting capacity maps, as well as distribution lines of all voltage ranges.
- **Update Hosting Capacity Maps Regularly.** Furthermore, the CCSA respectfully requests the Board of Public Utilities to require all the EDCs to update their hosting capacity maps every month.
- **Establish Interconnection Technical and Policy Working Groups.** The Board should consider organizing and executing an interconnection workgroup that includes related agencies, utilities, community solar and solar industry members, and stakeholders. An Interconnection Working Group is an extremely effective method of maintaining regulatory flexibility and driving consensus on technical matters. Many states have implemented technical and/or policy interconnection working groups. Such groups establish a forum for the exchange of ideas and information between utilities, industry, and other stakeholders and are often facilitated by policymakers or regulatory staff. They can allow for interconnection processes to evolve without the need for formal regulatory or tariff revisions but can also identify when more major changes are required and bring recommendations to a regulatory body. Importantly, an interconnection working group will foster better relationships between utilities and technical and policy experts to find common ground on issues as they emerge.
- **Develop community solar facilities on preferred sites** such as rooftops, brownfields, landfills, and parking canopies. The permanent program should also support innovative technologies and adopt best practices for previously developed and working lands that will incorporate agrivoltaics and other dual-use practices defined by New Jersey statute. (See Dual-Use Comments Below.)

There are several benefits associated with moving to an Open Enrollment program with strong project maturity requirements. To prevent regular delays experienced in the Pilot, moving to an open enrollment will ease the cumbersome process of scoring individual applications, decrease the administration of the program, and reduce costs to taxpayers. Private capital investments should be leveraged to pay for administration of the program with the utilities and the Board. Additional critical program changes should include:

Establish a system to recoup unused capacity from a given program year. Project failure is an unfortunate reality of development and ensuring all megawatts allocated in the community solar program are subscribed is critical to make positive impacts on climate change and lower the energy burdens of consumers. Developing a roll over mechanism from year to year or a waitlist will ensure no



megawatts are lost and the goals for community solar are actualized. (See additional comments below.)

Dual Use Community Solar- Agrivoltaics (dual-use solar) is aligned with the mission of community solar and provides additional community benefits beyond clean energy and savings.

CCSA recommends developing the Dual-Use Pilot Program in a manner consistent with the establishment of the Community Solar Permanent Program, ensuring both programs can work together seamlessly.

Consolidated Billing. CCSA is supportive of implementing utility consolidated billing (UCB) as an option for Community Solar Subscriber Organizations. Specifically, we are supportive of implementing the option for net crediting to enhance participation and decrease market risks.

Billing and Crediting Best Practices: NJ EDCs should adopt industry best practices for subscriber allocation submissions and processing and for the application of bill credits including:

- **Submission Portals.** Utilities should create and maintain submission portals and automate subscriber allocation list processes for projects.
- **Bulk Uploads** of customer data including at least 1,000 subscriber accounts per batch. Community solar credits must be applied to customer bills on a monthly, consistent, and uninterrupted basis.
- **Credits** will be applied against the full amount due on the Subscriber's monthly electricity bill¹⁴.
- **Rollover Credits** of unused bill credits for 2+ years on host account and indefinitely on subscriber account. Utilities shall treat missing/erroneous bill credits as rollover credits.
- **Bill Credit Applications.** Community solar credits should always be applied to the monthly amount due. This is essential for budget billing customers.
- **Subscription portability.** Customers should be able to keep their subscriptions when they move to an address within the same utility service territory.
- **Accountability.** Utilities shall provide a report to the Board for all billing and crediting errors affecting 100+ subscribers, within 90 days of detecting the problem. The information included in this report should include: number of customers affected, dollar amount of credits affected, estimated time to rectify affected customers, method for rectifying customers, changes to prevent similar error from happening again.

¹⁴ Maryland Division of State Documents, Code of Maryland Regulations,: 20.62.02:
<http://www.dsd.state.md.us/COMAR/SearchTitle.aspx?scope=20>



While utility consolidated billing has many benefits and the automated processes should limit errors, experience in other states has shown that errors are likely a feature of any new program. As a result, there should be an orderly process in place to quickly correct any error within 30 days of their identification and if errors continue to occur or are unable to be resolved, there should be a formal path to raise those issues with the Board to assist in resolution.

Allow for banking of unsubscribed credits as [NYSERDA](#) has implemented in the Community Solar Program in New York. CCSA recommends changing the “annualized on COD” to “credits are generated”¹⁵.

Billing and Crediting Workgroup. One lesson learned from other states, such as New York, is that it is useful to have an open forum to raise and work through implementation issues around the billing process. As a result, the Board should consider forming a Billing and Crediting Working group, made up of representatives from the utility, Subscriber Organizations, and Commission Staff, to tackle these issues on an ongoing basis.

CCSA strongly recommends the Board ensure all capacity is allocated in light of the current programmatic delays and enable Community Solar to fully participate in the ADI Program as determined by the [Solar Act of 2021](#). Currently, Community Solar is the only industry prevented from participating in the SuSI program in Energy Year 2022 (EY2022) and CCSA recommends the following to address the lagging capacity allocation for the first year of the permanent program¹⁶.

Capacity Allocation. Most importantly, the [Solar Act of 2021](#)¹⁷ provided concrete capacity allocations for each segment participating in the SuSI program and further divided the capacity allocations by market segments participating in the [Competitive Solicitation Incentive \(CSI\) Program](#)¹⁸ and the [Administratively Determined Incentive \(ADI\) Program](#)¹⁹. The Community Solar Program falls under the ADI Program and is currently the only market segment not permitted to participate and will not have the capacity block distributed in EY2022, see below. CCSA strongly encourages the Board to allocate 300 MW of capacity for the first year of the permanent program to ensure no capacity is lost during the development of the new rules. CCSA recommends the Board release EY2022 (150 MW) and EY2023 (minimum of 150 MW) for program opening in the fall.

¹⁵ NYSERDA Net Crediting

<https://www.nysERDA.ny.gov/All-Programs/ny-sun/contractors/resources-for-contractors/community-solar>

¹⁶ NJ Senator Smith’s S2605 2020-2021 Session <https://www.njleg.state.nj.us/bill-search/2020/S2605>

¹⁷ NJ Senator Smith’s S2605 2020-2021 Session <https://www.njleg.state.nj.us/bill-search/2020/S2605>

¹⁸ NJBPU Competitive Solicitation Incentive Program

<https://njcleanenergy.com/renewable-energy/programs/susi-program/csi-program>

¹⁹ NJBPU Administratively Determined Incentive Program

<https://njcleanenergy.com/renewable-energy/programs/susi-program/adi-program>



ADI Capacity Blocks for EY22

Market Segment	Capacity Block (kW dc)	Capacity Subscribed (kW dc)	Capacity Available (kW dc)
1. Net-Metered Residential (All Sizes)	150,000	102,426	47,574
2. Net-Metered Non-Residential (All Installation Types)	150,000	2,490	147,510
3. Community Solar LMI and Non-LMI	150,000	Not currently open to new registrations	
4. Interim Subsection (t)	75,000	0	75,000

*as of April 19, 2022, available at: <https://njadi.programprocessing.com/>

- The ADI Program Energy Year 2023 Capacity Blocks will be set by the Board prior to the start of the Energy Year (June 1, 2022).



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In summary, CCSA recommends moving the permanent program to an open enrollment with robust project maturity requirements designed to drive public policy and ensure cost effective project development. Taking lessons learned from the pilot and making the suggested substantive changes will ensure the goals of the [Energy Master Plan](#) are actualized and capacity will not be lost to failed projects²⁰. These changes will also increase participation in overburdened and low-to-moderate income communities and maximize private capital investments driving New Jersey's clean energy program.

CCSA feels it is necessary to ensure all capacity is released in a consistent and timely manner. Regulatory certainty is a key element to ensure market viability and prevents boom and bust cycles. Front loading the capacity for the first year of the permanent program will catch the program up to match the legislative intent of the [Solar Act of 2021](#)²¹ and provide a relief valve for the pent up demand for the program demonstrated in the pilot²².

The creation of a robust and competitive, third-party permanent program will ensure greater access to solar energy for all New Jerseyans, lower energy burdens for those who need it most, and put the Garden State on track to being the leader for community solar generation in the Nation. CCSA looks forward to working with the Board, staff, stakeholders and key decision makers in the creation of the Community Solar Permanent Program. Please do not hesitate to reach out with any questions or concerns.

Sincerely,

Leslie Elder, Mid-Atlantic Director
Coalition for Community Solar Access
leslie@communitysolaraccess.org

²⁰ NJ Energy Master Plan

http://d31hzhk6di2h5.cloudfront.net/20200127/84/84/03/b2/2293766d081ff4a3cd8e60aa/NJBPU_EMP.pdf

²¹ NJ Senator Smith's S2605 2020-2021 Session <https://www.njleg.state.nj.us/bill-search/2020/S2605>

²² NJ Senator Smith's S2605 2020-2021 Session <https://www.njleg.state.nj.us/bill-search/2020/S2605>



The Coalition for Community Solar Access responses to questions included in the Request for Information are below.

1) The Solar Act of 2021 states that the new Successor Solar Incentive Program should aim to provide incentives for at least 150 MW of community solar facilities per year. How should the annual Permanent Program capacity limit account for potential project “scrub” (i.e., planned projects that do not reach commercial operation)?

Capacity Allocation. Most importantly, the [Solar Act of 2021](#) provided concrete capacity allocations for each segment participating in the SuSI program and further divided the capacity allocations by market segments participating in the Competitive Solicitation Incentive (CSI) Program and the Administratively Determined Incentive (ADI) Program. The Community Solar Program falls under the ADI Program and is currently the only market segment not permitted to participate and will not have the capacity block distributed in EY2022. CCSA strongly encourages the Commission to allocate 300 MW of capacity for the first year of the permanent program to ensure no capacity is lost during the development of the new rules. CCSA recommends the Board release EY2022 (150 MW) and EY2023 (minimum of 150 MW) for program opening in the fall.

Rollover Capacity to address project failure or program scrubbing. Project development risk is revealed through discoveries during site preparation, interconnection cost, supply chain concerns, and ever changing U.S. trade policy. Ensuring all megawatts allocated in the community solar program are subscribed is critical to make positive impacts on climate change and lower the energy burdens of consumers. Developing a roll-over mechanism from year to year or a waitlist will ensure no program capacity will be lost to project attrition.. A well-executed roll-over plan would take any MWs lost to project attrition and add that capacity to the next program year. CCSA strongly recommends that all megawatts be allocated and subscribed in the pilot program by retroactively applying this same requirement to the pilot.

CCSA recommends that the Board roll over capacity in terms of dollars of headroom under the cost caps, as opposed to on a purely MW basis. This would ensure the Board’s adherence to the cost caps remains constant, while maximizing the amount of MWs available under the program with the same budget. Within any given year, any project that drops out should have its budget (MW X incentive value) credited to the following energy year. This should apply to reallocated pilot program capacity and to permanent program capacity.

2) Should the Permanent Program capacity be divided into separate blocks, and if yes, how? (i.e., By EDC service territory? By project type or size)? Additionally, the Solar Act of 2021 requires the Board to consider “the economic and demographic characteristics of the area served by the facility, including whether it is located in an overburdened community[.]”¹ How should any blocks address this requirement?



CCSA recommends against dividing capacity into additional blocks beyond utility territory. Currently, the Community Solar Pilot Program divides the annual available capacity by utility territory. This is a practice CCSA supports and hopes the Board continues. However, CCSA strongly recommends against further dividing capacity allocation into further subcategories. In other states, CCSA has found this method creates unnecessary complexity in queue management and greater administrative burdens on both the Board and the EDCs. The numerous divisions of capacity often leads to fractions of capacity being available for such projects that must downsize to claim a limited amount of available capacity. Maryland's Community Solar Pilot Program is a first-come-first-serve program with blocks and a waitlist. The annual capacity is proportionally divided by utility territory and then into subcategory blocks: LMI Category: which requires projects to serve at least 30% LMI; SBO Category: for projects on preferred siting, or that are under 500 KW or that serve 51% LMI; and Open Category: an unrestricted block for other projects. If the program was not first come first serve and have a waitlist, this block feature would lead to additional complications for all parties involved (PSC, EDCs, and SOs.). Lastly, it has not shown to be an effective tool to drive policy priorities of the program and often leaves stranded fractions of capacity. Instead, CCSA recommends making the top policy priorities a requirement for application rather than using blocks as an incentive to drive policy objectives.

3) Staff intends to recommend similar qualifications and ownership restrictions for solar developers participating in the Permanent Program as were implemented in the Pilot Program. Please comment. 1 N.J.S.A. 48:3-116(c)(3).

CCSA supports a Competitive Third Party Program and is Opposed to Utility or Municipal Ownership.

The goal of community solar is to deploy clean energy and provide bill savings to subscribers, but more broadly, community solar provides a direct connection between a subscriber and clean energy generation. This connection is key to the Board's ultimate goal of engaging every New Jersey resident in the fight against climate change. Creating a robust third party market will allow for the greatest innovation and cost efficiencies for New Jersey Consumers. Utilities should be prevented from long term ownership and operation of community solar facilities in the permanent program. Under the deregulation statute for New Jersey, Utilities are prevented from owning energy generation facilities and were prevented from owning facilities in the Pilot. Third party ownership should continue in the permanent program.

CCSA does not support the requirement for a government entity to retain lifetime ownership of a community solar project. In our experience, local governments often do not have an interest in operating solar projects nor are they the most economically efficient owners of a project, from a tax perspective. CCSA recommends that the Board allow the option for community solar developers to partner with government entities to implement this program feature, not require the municipal entity to retain ownership of the project.

4) What land use restrictions and limitations, if any, should apply to the siting of community solar projects? While Section 6 of the Solar Act of 2021 does not establish siting standards for Community Solar projects, should the Board adopt comparable standards be extended to also apply to community solar facilities? What should those standards look like?

Develop community solar facilities on preferred sites such as rooftops, brownfields, landfills, and



parking canopies. The permanent program should also support innovative technologies and adopt best practices for previously developed and working lands development that will incorporate agrivoltaics and other dual-use practices defined by New Jersey statute.

Dual Use Community Solar- Agrivoltaics (dual-use solar) is aligned with the mission of community solar, it supports the community in providing additional benefits beyond clean energy and savings. The Board has the opportunity to begin to bring agrivoltaics into the Permanent Program structure as defined by statute. CCSA strongly recommends community solar facilities be allowed to participate in the dual-use pilot program and as a critical component for evaluation of the pilot's fitness. Community solar facilities, after meeting rigorous agricultural qualifications defined by the dual-use docket, should be allowed to apply for capacity under the dual-use program and be eligible for fixed incentive levels, including those awarded to facilities serving LMI communities. CCSA believes this provides an opportunity to achieve multiple policy objectives at one time, ensuring additional solar can be provided to low-and-moderate income subscribers not currently being served by the solar programs. This program is uniquely situated to connect all regions of the state together through energy and crop production. Rural communities can harvest both crops and the sun to provide to both rural and urban communities who can benefit from locally sourced energy and locally grown food. This is a rare opportunity to bridge the policy and social disconnection between these two populations. Allowing Community Solar facilities to register capacity in the Dual-Use Pilot Program allocation will ensure these connections occur. Farmers can host and farm a dual-use crop plan, provide clean and renewable energy to their surrounding neighbors and urban community members, and participate as a subscriber in the facility to offset their own electricity burdens. The Dual Use- Community Solar combined facilities should be farm and community focused. Ensuring that family farms are able to continue to support the regional food systems while generating clean energy is a doubly impactful rural economic and social development opportunity. This opportunity allows everyone to actively participate in the [Clean Energy Master Plan](#) and make personal contributions to curb climate change.

CCSA recommends developing the Dual-Use Pilot Program in a manner consistent with the establishment of the Community Solar Permanent Program, ensuring both programs can work together seamlessly after the pilot phase has been evaluated and made permanent.

5) The CEA states that the Permanent Program rules and regulations shall “establish standards, fees, and uniform procedures for solar energy projects to be connected to the distribution system of an electric public utility” (Section 5(f)(11)). What changes, if any, should be made to the existing community solar interconnection standards and processes?

Generally, Community Solar will benefit from the outcomes of the Grid Modernization [Docket QO21010085](#) and holistic interconnection reform. Below are specific recommendations unique to community solar. These recommendations echo our recommendations for Grid Modernization and our comments in [Docket QO21010085](#).

Access to Pre-Application Reports and Improvements to the EDC Hosting Capacity Maps. The Codes and Standards section of the Community Solar Energy Pilot Program Rules (14:8-9.9 of 51 N.J.R. 265) states “The EDCs shall make available and update, in a commercially reasonable fashion, capacity hosting



maps, within 90 days of the beginning of PY1.” While the four EDCs of New Jersey did publish hosting capacity maps within 90 days of the beginning of Program Year 1, only Atlantic City Electric’s map shows both i) feeder available capacity and ii) substation transformer available capacity. The other three EDCs – PSE&G, JCP&L, and Rockland Electric Company – provided hosting capacity maps that do not provide substation transformer available capacity.

- **Interconnection Applications.** CCSA respectfully requests the Board of Public Utilities to require all the EDCs to offer preliminary interconnection applications, a service that is generally available from other utilities across the country. A commercially reasonable pre-application report would include, available substation capacity and feeder voltage for the proposed point of common coupling, critical information to help developers screen sites for interconnection feasibility such as line loading data (minimum and peak), existing DG capacity, and reserved or queued DG capacity. Although this entails a little more upfront work for the EDCs, a “pre-app” saves time for all parties—the EDCs, the applicant, and the Board of Public Utilities—by quickly eliminating non-viable interconnection requests. After the first year of the permanent program, CCSA also recommends requiring a full interconnection cost study to be performed and completed prior to being eligible to apply for the program.
- **Substation Hosting Capacity.** Both the feeder and substation transformer must have available capacity for a project to interconnect successfully and therefore commercially useful capacity maps should provide information about both feeder available capacity and substation transformer available capacity. Additionally, line loading data (minimum and peak), existing distributed generation capacity, and reserved distributed generation capacity are equally important to assessing interconnection viability.
- **Remove Artificial Barriers to Distribution Voltage Circuitry.** There is no recognition of circuitry greater than 13kV on any EDC’s hosting capacity maps. Distribution voltage circuitry is not limited to 13kV and below and because community solar projects are required by rule to interconnect to the respective EDC’s distribution system, the hosting capacity maps provided by the EDC should be reflective of said EDC’s distribution system in its entirety, not just 13kV and 4kV circuitry.
- **Substation Transformer Data.** The CCSA respectfully requests the Board require all the EDCs to include substation transformer data on their hosting capacity maps, as well as distribution lines of all voltage ranges.
- **Update Hosting Capacity Maps Regularly.** Furthermore, the CCSA respectfully requests the Board of Public Utilities to require all the EDCs to update their hosting capacity maps every month.



CCSA recognizes the need for prompt actions by the EDCs to adapt their interconnection procedures to ensure the health and viability of this program, in both the short and long term, and regardless of program structure. We and our members are eager to work with the Board, the EDCs, and all interested stakeholders to assist the EDCs in building their capabilities for the interconnection requirements for this program. **Recognizing the need to address these issues in the most cost-effective manner possible, CCSA members are open to working with all parties to find creative solutions to achieve improved interconnection outcomes.**

6) What measures should the Board implement to minimize negative impacts to the distribution system and maximize grid benefits?

Optimize Distribution System and Maximize Grid Benefits. The following recommendations for the Board's consideration are largely drawn from CCSA's recently released white paper, [*Integrating Distributed Solar and Storage: The keystones of a Modern Grid*](#). This white paper provides a comprehensive set of recommendations to policymakers, regulators, utilities, and other stakeholders on the steps that need to be taken to improve the process by which distributed energy resources (particularly solar and storage) are integrated into the distribution system. The full report is provided as an attachment to these comments.

Reforms to Current Interconnection Rules and Processes. Presentations made by parties in this docket to date have resulted in the recommendation of a number of reforms that could be made to New Jersey's existing interconnection rules. CCSA would recommend the Board consider including the following recommendations in its report:

- **Establish a Statewide Interconnection Application.** The establishment of a statewide online interconnection application will create the opportunity for significant improvements in the efficiency and transparency of the application and review process. Among other things, an online portal allows for applicants to track the status of multiple applications, easily avoid and correct common errors, implement the use of electronic signatures, incorporate electronic payments, and allows utilities and other parties to easily generate reports. CCSA recommends that the electric utilities be required to jointly procure the services of a third-party that will design and implement a single statewide application portal. There can still be separate pathways for each utility that include unique requirements, but there are still significant benefits of having a single statewide platform. This has been successfully accomplished in other states, particularly with statewide incentive programs.
- **Adopt Enhanced Utility Reporting Requirements.** The utilities are currently required to track the number, capacity, and type of generators that are interconnected in biannual reports submitted to the Board. While this is useful information to have, it does not necessarily track utility performance with respect to adherence to timelines. Accordingly, additional metrics should be added to these report that track the average number of days it takes for Level 1, Level 2, and Level 3 applications to move through each stage of the application review process. This information will be useful in tracking the performance of the utilities in meeting timelines set forth in state law and could be used by the Board to adopt further reforms in the future and/or



take action in the event that one or more utilities are underperforming. This recommendation could stand on its own, but also fits neatly with the creation of a statewide online interconnection application platform, which should allow for this data to be easily tracked.

- **Enforce Interconnection Timelines.** With the establishment of new tracking metrics comes the ability to create incentives and/or disincentives with respect to utility performance in meeting interconnection timelines. While establishing timeline enforcement metrics, incentives, and disincentives will likely require additional stakeholder process and input, it is a valuable exercise to undertake as it will ensure that utilities are accountable to the timelines established by the Board and will increase the likelihood that they are properly staffed to help the state meet its goals under its [Energy Master Plan](#).
- **Permit Flexible Interconnection Agreements.** SEIA's January 28, 2022, presentation to the Board outlined a flexible interconnection process under which a generator voluntarily agrees to curtail its output under certain grid conditions. This can be an effective tool in deploying higher quantities of distributed generation and storage and deferring or avoiding major system upgrades and their associated costs. As such, CCSA recommends that the Board pursue the possibility of allowing this type of project interconnection in its revised rules.
- **Establish Interconnection Ombudsperson Role to Mediate Disputes.** An effective tool that has been employed by other states is to designate a member of the Board staff as an interconnection ombudsperson, which can facilitate the efficient and fair resolution of disputes between parties and through which more informal guidance can be provided to stakeholders. Establishing such a position within the Board would create a single point of contact through which customers can obtain information and seek advice on the proper steps to take to resolve issues and can also fulfill a role of mediating disputes between parties (e.g., utilities and interconnecting customers), helping to avoid formal complaints being filed with the Board for adjudication. An ombudsperson can also monitor interconnection trends and recommend actions that the Board may take to resolve policy and technical issues that are arising.
- **Establish Interconnection Technical and Policy Working Groups.**

Integrated Distribution Planning. Goal 5.1 of New Jersey's 2019 [Energy Master Plan](#) calls for planning and implementing distribution system upgrades to accommodate electrification and expansion of DERs. More specifically, Goal 5.1.1 calls for the Board to "require utilities establish Integrated Distribution Plans to expand and enhance the location and amount of distributed energy resources and electric vehicle charging on the electric distribution system." Although this is a separate exercise than reforming the state's interconnection rules and processes, the two are inextricably linked. This is because proactively planning the distribution system to accommodate DER growth and electrification will correspondingly result in more predictable interconnection costs and timelines. It will also allow for signals to be sent to interconnecting customers with respect to where they should be siting new facilities. Accordingly, to ensure that the interconnection process operates as efficiently as possible, it is critical for the Board to commence a stakeholder process to define how these Integrated Distribution Plans will be developed and implemented as soon as practicable.

Grid Modernization Technology Deployment. One final area that was touched upon in some comments



and materials provided by parties in this proceeding is the value certain grid modernization technology deployments can provide in facilitating the interconnection and integration of distributed generation. Directing utilities to invest in technologies and software such as distribution management systems (DMS), supervisory control and data acquisition (SCADA) systems, voltage and volt-ampere reactive optimization (VVO), and distributed energy management systems (DERMS) will all provide tremendous benefits with respect to integrating distributed generation. These tools provide utilities with critical information on how their grid is operating and specifically how DERs connected to the grid are performing and impacting that grid. This information can then be used by utilities and other stakeholders to inform system planning processes, the review of interconnection applications, and to improve hosting capacity maps (which can and should be updated more frequently than they currently are and should contain more detailed information). CCSA strongly recommends that utilities be directed to make investments in these areas if they are not already doing so.

7) How should projects be selected for participation in the Permanent Program? Please provide a detailed description and discussion of the advantages and disadvantages of your proposed method of selection, with an emphasis on establishing criteria that are transparent and easily verifiable.

Move to an Open Tariff Enrollment under the Administratively Determined Incentive Program. CCSA has a long-held policy in favor of an [open enrollment](#) program with significant prerequisites for entry as a best practice for community solar program structures. In our experience with more than 20 U.S. markets, this structure will ease administrative burdens for the Board, provide regulatory certainty and oversight, cost efficiencies, and promote vigorous economic development. The uncertainty associated with the current application and scorecard processes has significantly increased project costs and risks. A regular and predictable program cadence is the key to promoting innovation while keeping costs low.

There are several benefits associated with moving to an Open Enrollment program with strong project maturity requirements. To prevent regular delays experienced in the Pilot, moving to an open enrollment will ease the cumbersome process of scoring individual applications, decrease the administration of the program, and reduce costs to taxpayers. Private capital investments should be leveraged to pay for administration of the program with the utilities and the Board. For the long term success of the above proposed model, the Board will need to direct the Utilities to revise their interconnection standards to include the acceptance of interconnection [pre-applications per the International Renewable Energy Council Standards in 2022](#) and move to accepting full interconnection study applications prior to program application in 2023. CCSA's recommendation follows the legislative requirements introduced in Senator Smith's [S2606](#) legislation.

The Board shall also direct the utilities to include clear and enforceable timelines for interconnection review in tariff form. This allows for greater visibility into the project economics and ultimately viability of a project to meet commercial operation. Furthermore, the Board should consider organizing and executing an interconnection workgroup that includes related agencies, utilities, community solar and solar industry members, and stakeholders. An Interconnection Working Group is an extremely effective method of maintaining regulatory flexibility and driving consensus on technical matters that has been implemented by many states has been the creation of standing technical and/or policy interconnection



working groups. Such groups establish a forum for the exchange of ideas and information between utilities, industry, and other stakeholders and are often facilitated by policymakers or regulatory staff. They can allow for interconnection processes to evolve without the need for formal regulatory or tariff revisions but can also identify when more major changes such as these are required and bring recommendations to a regulatory body. Importantly, an interconnection working group will foster better relationships between utilities and technical and policy experts to find common ground on issues as they emerge.

8) Should the Board consider creating a waitlist for non-selected projects? If yes, why would a waitlist support the continued development of community solar projects without increasing program oversubscription? How should this waiting list be implemented to avoid a situation where all capacity is spoken for months or years ahead of a solicitation?

Establish a system to recoup unused capacity from a given program year. Project failure is an unfortunate reality of development and ensuring all megawatts allocated in the community solar program are subscribed is critical to make positive impacts on climate change and provide essential to lower the energy burdens of consumers. Developing a roll over mechanism from year to year or a waitlist will ensure no megawatts will be lost and the goals for community solar are actualized. A roll-over plan would take any MWs awarded to failed projects and add that capacity to the next program year. If a waitlist mechanism is preferred, it is CCSA's recommendation that the waitlist be maintained for the program year only (i.e., the waitlist would be reset at the end of each energy year). CCSA strongly recommends that all megawatts be allocated and subscribed in the pilot program by retroactively applying this same requirement to the pilot.

9) What minimum maturity requirements should projects be required to meet before applying to participate in the Permanent Program? To what extent should the Community Solar Energy Program maturity requirements be different from, or similar to, the requirements for projects to apply to the Administratively Determined Incentive ("ADI") Program?

Require project maturity measurements in the application process to keep costs low, drive policy goals in the [EMP](#), and ensure the best projects are brought forward. CCSA recommends the following items be added to the application process in lieu of the Commission's [Community Solar Scorecard](#). The use of these project maturity requirements are designed to drive the goals of the [EMP](#) and the policy objectives for the Permanent Program. CCSA's recommendations are tailored to Community Solar and align with the [current maturity requirements](#) for the Administratively Determined Incentive (ADI) Program adopted by the Board. These requirements are suggested specifically within the context of an open tariff program only, and CCSA does not believe many of these requirements would be applicable or viable within a competitive application process, as used in the pilot program.

- ***Economic and Technical Project Maturity Requirements***
 - **Site Control**. CCSA supports projects developed on preferred sites including Rooftops, Brownfields, etc. should be a basic requirement for program participation.



- **Non-ministerial permits** for local jurisdictions (e.g., conditional use permits).
- **Interconnection viability.** Interconnection will remain one of the most significant development risks in New Jersey's permanent program. Projects should establish, through an interconnection study, that they can be economically interconnected before they apply for program capacity. Unfortunately, New Jersey's EDCs are not currently in a position to provide this information to all the applicants wishing to participate in community solar. As New Jersey's interconnection processes are refined, the Board should transition to require a system impact or similar study that provides the costs of interconnection from the Electric Distribution Companies (EDCs). The Board should require the EDCs to perform and the developer to have a completed interconnection cost study to provide an indication the project is viable. A cost study in conjunction with meaningful development deposits provides strong assurance that a project is viable and the project developer is serious and well-prepared to bring the project forward. CCSA recognizes a potential need for additional provisions or project maturity requirements for the beginning of the permanent program while the EDCs make these administrative updates to study each facility.

For the long term success of the above proposed model, the Board will need to direct the Utilities to revise their interconnection standards to include the acceptance of interconnection [pre-applications per the International Renewable Energy Council Standards in 2022](#) and move to accepting full interconnection study applications prior to program application in 2023. CCSA's recommendation follows the legislative requirements introduced in Senator Smith's [S2606](#) legislation.

The Board shall also direct the utilities to include clear and enforceable timelines for interconnection review in tariff form. This allows for greater visibility into the project economics and ultimately viability of a project to meet commercial operation. Furthermore, the Board should consider organizing and executing an interconnection workgroup that includes related agencies, utilities, community solar and solar industry members, and stakeholders. An Interconnection Working Group is an extremely effective method of maintaining regulatory flexibility and driving consensus on technical matters that has been implemented by many states has been the creation of standing technical and/or policy interconnection working groups. Such groups establish a forum for the exchange of ideas and information between utilities, industry, and other stakeholders and are often facilitated by policymakers or regulatory staff. They can allow for interconnection processes to evolve without the need for formal regulatory or tariff revisions but can also identify when more major changes such as these are required and bring recommendations to a regulatory body. Importantly, an interconnection working group will foster better relationships between utilities and technical and policy experts to find common ground on issues as they emerge.

- **Community Solar Organization Registration** approved by the Board.
- **A project construction plan.**



- **Development security deposit** of \$40 to \$80/kWdc. The deposit shall be made once capacity is awarded and then returned when the project achieves Commercial Operation. The deposit should be forfeited if the project does not come online by the construction deadline, which may be extended by Board Order.
- **A financing commitment letter** from a party with adequate, demonstrated financial resources to finance the project. Demonstration of financial strength can be shown via audited financial statements, or by other means acceptable to the Board.
- **Evidence of an EPC agreement** or partnership.
- ***Non-Economic Project Maturity Requirements***
 - **Documentation of Community Support** as currently required in the New Jersey Scorecard.
 - **Subscription Plan** and Subscriber Coordinator Experience.
 - **Subscriber Contract Template**. The [New York Community Solar Program](#) has this requirement and is a community solar equivalent to the [Administratively Determined Incentive Program \(ADI\) project maturity requirement](#) of a demonstrated contract between the developer and the end customer.
 - **Low-and-Moderate-Income Plan**. This is a [requirement in Virginia](#), where there is a 30% Low-Income requirement for each project.
 - **Proven Track Record**. Community solar organizations and/ or partners should have demonstrated experience in community solar and a track record of working with LMI/ Overburdened Communities.
- **Developer fees for the administration of the program and interconnection process** for the Electrical Distribution Companies (EDCs). In coordination of the review of the ADI incentive program, the Board should evaluate the effectiveness and necessity of this fee.

CCSA believes these project maturity requirements go above and beyond what is currently applicable to other solar segments participating in the ADI Program.

10) Should the Board consider any changes to the coordination between community solar project awards and the process for registering for the ADI Program?

Automatic enrollment into the Administratively Determined Incentive Program. CCSA believes that a community solar project should automatically be enrolled in the ADI Program once the project has cleared the Board's selection process and completed all of the project maturity requirements, listed above, for the program.



11) What policies and measures should the Board consider to ensure that the Permanent Program maintains a high level of low- to moderate-income ("LMI") participation? How can the Board support community outreach and education?

Maintain Low-to-Moderate Income requirements for each project. CCSA recommends the Board maintain the current requirements for all projects to subscribe to a minimum of 51% LMI customers to be selected in the program. However, changes to the LMI verification process will be needed to ensure the policy goal of providing cost savings to vulnerable populations are actualized. CCSA firmly believes the following adaptations to the LMI-verification process for the permanent program are required.

Board sponsored Consumer Education Campaigns. CCSA supports an educational campaign backed by the Board that includes digital and direct communication with potential subscribers and subscribers. [Advertising campaigns](#) previously executed by the Board promoting NJ SMART would enhance the trust in the program for NJ Consumers. CCSA also supports direct communication from the Administration showing support for the program and participation. One way this can be achieved is by making the community solar website, managed by the Board, more consumer friendly.

12) Should the Board modify the Pilot Program's income verification standards (see the Pilot Program rules at N.J.A.C. 14:8-9.8)? If so, how?

- **Add Self-Attestation as a Method to Verify LMI Status.** Enrolling low-and-moderate-income residents is a key policy goal for New Jersey and barriers of entry should be manageable and inclusive to ensure all residents who qualify can participate. The current verification rules limit the eligibility of LMI customers to only those who participate in certain programs or live in certain geographic areas. Self-attestation is respectful of consumer privacy and should be an acceptable method to verify LMI status, allowing all NJ residents who meet the required income levels to participate. CCSA strongly feels the below recommendations should be added in addition to self attestation rather than in supplement to.
- **Require a bond** for any Community Solar Organization who performs subscriber acquisition under self attestation verification methods. A developer shall pay a bond per megawatt or scales with the number of subscribers serving and that bond should be held by the Board. This is a practice currently included in the [Maryland Community Solar Pilot Program](#) that has been effective in driving desired performance by the community solar industry in that state²³.
- **Add additional Income Qualifying Programs.** In general, CCSA recommends that the Board include as an accepted verification method participation in any state, federal or local program that relies on income standards equivalent to the Community Solar Program (i.e. under 80% of area median income). Specifically, CCSA recommends that the Board add the following programs, which meet this standard, to the list of accepted programs:
 - Medicaid

²³ Maryland Public Service Commission Subscriber Organization Bonding Requirements
<https://www.psc.state.md.us/electricity/wp-content/uploads/sites/2/SO-Application-4-27-17-clean.pdf>



- Supplemental Security Income - Social Security (SSI)
 - Supplemental Security Disability Insurance - Social Security (SSDI)
 - Special Supplemental Nutrition Program for Women, Infants, and Children (WIC)
 - Temporary Assistance for Needy Families Assistance (TANF)
-
- **Remove proximity requirements for LMI subscribers** and all proximity requirements for facilities except for the legislative requirement for subscribers to participate in a facility located in the same utility service territory in which they reside.
 - **Allow community organizations and nonprofits to qualify as LMI subscribers**
 - **Allow Pay Stub Qualification as a backup to the above suggested verification methods.** Pay stubs are the most prevalent document households have that can readily verify income, as they do for equity loans. It is not expected that any community solar entity will use pay stubs as the first method of income verification, but when a customer does not have other forms of verification available, pay stubs are a viable backup option to ensure that low income customers can still be verified and participate. Pay stubs should be accepted, but are in no way a substitute or tradeoff for anything else, particularly self-attestation. Indeed, not every low income customer is gainfully employed and receiving pay stubs.

13) How should the Board consider “the economic and demographic characteristics of the area served by the facility, including whether it is located in an overburdened community, as that term is defined in section 2 of P.L.2020, c.92”? 2 N.J.S.A. 48:3-116(c)(3).

Support automatic enrollment for Overburdened Communities. According to the [2018 Environmental Justice Law](#), [Overburdened Communities](#) are defined as any census block group, in which: at least 35 percent of the households qualify as low-income households; at least 40 percent of the residents identify as minority or as members of a State recognized tribal community; or, at least 40 percent of the households have limited English proficiency. CCSA recommends incorporating the overburdened communities census tracts into the verification process and maximizing current [New Jersey Department of Environmental Protection \(NJDEP\) managed GIS tools](#) to allow for easy verification for the Board, the EDCs, and Community Solar Organizations. Currently, the NJDEP hosts an [interactive map](#) for Environmental Justice and Overburdened Communities. CCSA recommends incorporating this tool to allow for automatic verification for these communities.

Use the NJBPU’s Solar Siting Map for LMI Verification. Under the current rules, qualified census tracts for LMI verification are limited to those in which 80% of the households in the census tract earn less than 80% of the area median income, significantly limiting the number of qualified census tracts and thereby the number of customers who can be verified with this method. Currently, the Board’s solar siting map sets LMI verification at 55% and the permanent program rules should match the tools available. CCSA also recommends adopting the updated definition for overburdened communities from the Office of Energy Equity of the NJBPU, and for residence in an overburdened community be included as a verification method for LMI participation.



14) What should the geographic limitations for community solar projects and subscribers be (i.e., How far from the project can subscribers to the project reside)? For context, the Pilot Program allowed projects to self-select the geographic limits of the project. Projects could choose between three options: municipality and adjacent municipalities, county and adjacent counties, and no limit (EDC-wide).

CCSA strongly suggests the removal of all geographic limitations beyond EDC-wide. As noted in a petition filed by a CCSA member company and by other CCSA members informally, the geographic limitations have created undo barriers of entry for subscribers, especially those in low-to-moderate income and overburdened communities.

15) The Pilot Program mandated that each community solar project must have a minimum of 10 subscribers, and a maximum of 250 subscribers per MW of installed capacity. Should either of these mandates be changed under the Permanent Program?

CCSA recommends the maximum subscriber limit of 250 subscribers be removed. Best practices from other community solar markets often require a minimum of 50% of a facility's generating capacity be subscribed by small accounts. Having a maximum subscription is punitive in achieving the goals of providing cost savings to New Jersey families, small businesses, and consumers.

16) Should the Board make any modifications to the consumer protection measures implemented under the Pilot Program?

CCSA strongly supports the current consumer protection measures in place and would encourage the board to place additional protections under a self attestation model, as discussed above.

17) In November 2020, the Board proposed a rule amendment to the Community Solar Energy Pilot Program rules, which would have allowed certain projects owned and operated by public entities to automatically enroll subscribers without first seeking subscribers' affirmative consent to join the project. Subscribers would then have the option to "opt-out" of the project should they not wish to participate. How can the Board best support subscriber education and acquisition? Should the Board revisit its automatic enrollment proposal, and if yes, how can automatic enrollment be implemented consistent with customer data privacy rights?

Community Solar Municipal Opt-Out Program. In CCSA's view, the goal of community solar programs generally, and certainly in New Jersey, is to empower customers who may otherwise be unable to participate in the clean energy economy and the green revolution. CCSA believes that an "opt-out" approach in conjunction with municipalities could lead to benefits for some otherwise hard-to-reach LMI subscribers, but it also raises questions regarding the engagement of consumers who are enrolled without their knowledge or consent and whether the aims of this program are being fully realized in such an approach.



In addition, CCSA does not believe that opt-out is a full solution to LMI participation, as opt-out approaches often only rely on utility-provided data and in some instances Census block group data to identify low income customers. Yet not all low income customers live in low income eligible areas and not every low income customer eligible for LIHEAP or other utility rate assistance program actually enrolls in those programs. Therefore an opt-in approach which can verify LMI status through a more robust array of methods, should remain a focus of the permanent program.

If the Board continues the municipal opt-out program in the permanent program, consolidated billing will be required to ensure customers who participate only receive one bill. This will decrease customer confusion and mistrust of a program they did not actively choose to participate in.

The benefits of community solar participation go beyond immediate economic factors to the overall customer experience. Community solar provides an opportunity to inform and empower subscribers and municipalities about their energy usage and allow all to play an active role in combating climate change. Particularly for overburdened and low-income communities, community solar provides an avenue into clean energy that may not otherwise be available. If the majority of subscribers are not aware of their participation in community solar, or have only a limited connection to it, the Board should question whether all of the objectives and possibilities of the Community Solar program are being achieved.

18) If applicable, please discuss your experience with subscriber management and the allocation of community solar bill credits. What changes, if any, should be made to communications between community solar subscriber organizations and the EDCs, or to the allocation of bill credits by the EDCs?

Consolidated Billing. CCSA is supportive of NJ EDCs adopting industry best practices for subscriber allocation submissions and processing and for the application of bill credits including:

- **Submission Portals.** Utilities should create and maintain submission portals and automate subscriber allocation list processes for projects.
- **Bulk Uploads** of customer data including at least 1,000 subscriber accounts per batch. Community solar credits must be applied to customer bills on a monthly, consistent, and uninterrupted basis.
- **Credits** will be applied against the full amount due on the Subscriber's monthly electricity bill²⁴.
- **Rollover Credits** of unused bill credits for 2+ years on host account and indefinitely on subscriber account. Utilities shall treat missing/erroneous bill credits as rollover credits.

²⁴ Maryland Division of State Documents, Code of Maryland Regulations,: 20.62.02:
<http://www.dsd.state.md.us/COMAR/SearchTitle.aspx?scope=20>



- **Bill Credit Applications.** Community solar credits should always be applied to the monthly amount due. This is essential for budget billing customers.
- **Subscription portability.** Customers should be able to keep their subscriptions when they move to an address within the same utility service territory.
- **Accountability.** Utilities shall provide a report to the Board for all billing and crediting errors affecting 100+ subscribers, within 90 days of detecting the problem. The information included in this report will include: number of customers affected, dollar amount of credits affected, estimated time to rectify affected customers, method for rectifying customers, changes to prevent similar error from happening again.

For example, earlier this year the Maryland Public Service Commission updated their [community solar program regulations](#) to include a number of industry best practices²⁵:

- **Subscriber List Management.** A Community Solar Organization provides the EDC with the community solar output for each subscriber's bill and in turn, the EDCs process the subscriber lists.
- **Electronic Subscriber List Portal.** The EDCs are required to maintain an electronic portal that allows a community solar organization to submit electronic batches of subscriber accounts and edit existing accounts in real time.
- **Electric Company Credit Allocation Reporting.** The EDCs provide community solar organizations with an updated list of subscriber's bill credit allocation no later than the last day of every month following the month of the meter reading.

Allow for banking of unsubscribed credits as NYSEDA has implemented in the Community Solar Program in New York. CCSA recommends changing the "annualized on COD" to "credits are generated"²⁶.

Billing and Crediting Workgroup. While utility consolidated billing has many benefits and guidelines and automated processes should limit errors, experience in other states has shown that errors are likely a feature of any program. As a result, there should be an orderly process in place to quickly correct any error within 30 days of their identification and if errors continue to occur or are unable to be resolved, there should be a formal path to raise those issues with the Board to assist in resolution. One lesson learned from other states, such as New York, is that it is useful to have an open forum to raise and work through implementation issues around the billing process. As a result, the Board should consider

²⁵ MD CSEGS Rules <https://regulations.justia.com/states/maryland/title-20/subtitle-62/>

²⁶ NYSEDA Net Crediting
<https://www.nyserda.ny.gov/All-Programs/ny-sun/contractors/resources-for-contractors/community-solar>



forming a Billing and Crediting Working group, made up of representatives from the utility, Subscriber Organizations, and Board Staff, to tackle these issues on an ongoing basis.

19) What modifications, if any, should the Board consider making to the value of the community solar bill credits?

Re-visit the Master Metered Bill Credit to include demand and non-bypassable charges to the bill credit calculator to make community solar a more attractive proposition for these types of customers. Affordable housing is the big loser here.

20) In May 2021, following an opportunity for public comment, the EDCs submitted a report to the Board with options and recommendations regarding the implementation of consolidated billing for community solar. In summary, the EDCs recommend that, if the Board adopts consolidated billing for community solar projects, this billing process be handled by the EDCs. The EDCs further recommended that the method of reflecting subscription fees on a subscriber's EDC bill be determined by each EDC based on the format that best corresponds to their existing billing practices. The EDCs did not recommend that the Board allow non-EDC billing options. Do you agree with the EDCs' recommendations? If not, why? How do you recommend the Board address payment default by customers?

CCSA is supportive of implementing utility consolidated billing (UCB) as an option for Community Solar Subscriber Organizations. Specifically, we are supportive of implementing the option for net crediting for community solar to enhance participation and decrease market risks. If implemented properly with a reasonable fee structure and in a transparent, easy-to-understand customer interface, net crediting can provide direct benefits to New Jersey community solar customers—including low- to moderate-income (“LMI”) subscribers---and help New Jersey achieve its clean energy and equity goals by enabling greater access to community solar development at lower cost.

Across the nation, billing systems have been frequently cited as an impediment to increasing participation in community solar programs. An option for net crediting consolidated billing would remove billing and collection barriers to community solar, particularly for LMI subscribers. Under net crediting, the utility would manage the allocation of credits to customers and developers and remove the need for billing and collection between the Subscriber Organization and the subscriber. Net crediting is structured so that the utility will allocate a net credit to the subscriber and the remaining credit to the Subscriber Organization, minus a utility administration fee. Net crediting shifts the risk of nonpayment from the subscribers to the utility, while the utility receives the benefit of lower exposure to customer payments. The customer experience is dramatically simplified, enabling the Subscriber Organization to serve more households without the need to collect sensitive payment information. Under a net crediting program, the subscriber only receives a credit on their bill without having to worry about additional fees.

The New York Net Crediting Model



In an order on December 12, 2019, the New York Public Service Commission (PSC) adopted a mandate for the implementation of utility consolidated billing (UCB) throughout the state by January 1, 2021. UCB is a voluntary program available for all community solar projects, including those already interconnected and/or operating, if the community solar organization chooses to enroll their project. Enrollment is on a per-project basis.

New York's utility consolidated billing policy goals include:

- Reduce project costs
- Increase participant benefits
- Promote clarity and simplicity for customers
- Meet clean energy goals

Under the mechanism of net crediting, rather than receiving two bills from the community solar organization and the utility, respectively, community solar subscribers can instead receive a Community Solar Savings Rate on their utility bill. The utility allocates a monetary payment, known as the Sponsor Payment, to community solar organizations, reflecting the remaining Value Stack credit of the project.

For projects enrolled in UCB, customers are no longer required to pay two bills, and will only ever receive net credits on their utility bill. This mechanism *guarantees* savings for customers every month, achieving a major policy goal of the PSC. In addition, risk is shifted from the community solar organization to the utility, as utilities are mandated to allocate the Sponsor Payment regardless of customers paying their monthly utility bills. This risk reduction allows a wider range of options for enrollment in community solar projects, as community solar organizations must no longer consider the revenue risk of customers' actions on payment. It is important to note, the New York Public Utilities Commission recently stated "there is no greater risk for non-payment when a customer is receiving a discount." CCSA strongly feels that creating a consolidated billing system with the above considerations will mitigate risks for both the EDCs and the community solar organizations and most importantly improve the customer experience for those who participate in the program. Furthermore, the PSC approved a mechanism of cost recovery, similar to that used for recovering costs associated with RTO participation, to ensure that costs associated with UCB implementation are paid by community solar organization and will not affect non-participating ratepayers across the state.

CCSA is supportive of the swift implementation of community solar consolidated billing, provided an ongoing working group is established to further address challenges that arise during implementation and ongoing operation. Namely, CCSA encourages Staff to charge the stakeholder group with determining the mechanism of consolidated billing. All stakeholders will benefit from a clear and enforceable timeline for establishing an ongoing stakeholder group and implementing consolidated billing for community solar in New Jersey. CCSA looks forward to working with all stakeholders and key decision makers in the creation of an optional net crediting mechanism for customers in the Garden State. Please do not hesitate to reach out with any questions or concerns.

21) Please provide comments on any issues not specifically addressed in the questions above

CCSA has no additional feedback or comments at this time.

Association of NJ Environmental Commissions (ANJEC) ▪ Bethel-Hosanna AME Church
Community Action Service Center, dba Rise ▪ Delran Township Green Team ▪ Evesham Green Team ▪ Greener
JC Iglesia El Remanente de Dios ▪ Jewish Community Center of Middlesex County ▪ Montclair Climate Action
Morris Habitat for Humanity, Inc. ▪ Native American Advancement Corporation
New Jersey League of Conservation Voters ▪ New Jersey Policy Perspective
New Jersey Sustainable Business Council ▪ Newark Science and Sustainability Inc. ▪ NewBridge Services
NJ Conservation Foundation ▪ St. George & St. Shenouda Coptic Church ▪ St. Luke's Episcopal Church
The Supportive Housing Association of NJ ▪ Triple C Housing Inc. ▪ United Community Corporation
United Methodist Church of Bound Brook

**Re: Request for Comments in the Matter of the Community Solar Energy Program
Docket No. QO22030153**

May 6, 2022

Dear Secretary Diaz,

The Community Solar Energy Pilot Program has made New Jersey a nationwide leader in the fight against climate change and in bringing clean energy to low-income and moderate-income households. However, the continued success of New Jersey Community Solar could be jeopardized by changes that would limit its long-term effectiveness.

As stakeholders in New Jersey Community Solar and in the state's clean energy future, we believe the three major components outlined below are essential to the Program's continued success. Not only do these recommendations move our clean energy goals forward, they also lead to job training and workforce development, which are critical for New Jersey's economic development and clean energy economy.

1. To ensure that community solar projects maximize the benefits to New Jersey communities, the BPU should continue to award projects through a competitive scoring process.¹

The BPU's process of selecting community solar projects through a competitive scoring rubric incentivizes solar companies to compete for partnerships and collaboration with nonprofit organizations and community groups in ways that creatively maximize the benefits for New Jersey residents (particularly LMI households). To date, New Jersey communities have been direct beneficiaries of discounts and other perks from solar companies wanting to win over customers and to score points in this competitive application process. Switching instead to a "first-come-first-served process" would reduce or eliminate the incentive for companies to maximize benefits and to creatively collaborate with our communities.

¹ Response to Question #7 in BPU's Public Notice dated April 11, 2022.

Relatedly, New Jersey's residents can only benefit from community solar projects that are ultimately built, turned on, and subscribed, so awarding feasible projects and rejecting infeasible projects is key to the Program's continued success. The BPU's competitive selection process enables deliberate selection of feasible projects and rejection of infeasible projects. Shifting instead to a "first-come-first-served" selection process would ultimately lead to fewer operational projects and, thus, fewer benefits for our communities.

2. To reduce barriers to clean energy for LMI households, the state should allow people to qualify as "LMI" by self-attesting to their qualifying income levels.²

Households that have "low income" or "moderate income" should be able to qualify as LMI customers for community solar without needing to jump through invasive hoops (e.g., proving that they are on food stamps). If someone swears in writing that he or she qualifies as having low income or moderate income, that should be enough. Asking for more deters residents from wanting to sign up for the community solar program. And we have no reason to believe that households in our communities will lie about their income levels to qualify for slightly higher electricity savings.

To address the potential – however slight – of fraud, energy companies that benefit from community solar should be made to bear that risk (e.g., by posting security deposits to be drawn in the event of fraud), rather than requiring LMI residents to bear that burden.

New Jersey is leading the country – by a long shot – in effectively requiring community solar projects to sell at least 51% of their electricity to LMI customers. Such an ambitious and important LMI requirement must be combined with a realistic method for verifying LMI status.

3. To support New Jersey's clean energy goals and to position it as a national leader, the Board should award at least 300 megawatts of community solar capacity for the next application round.³

Our global climate crisis – and our clean energy economy – demand urgent and sweeping action. The state has an admirable and ambitious goal to reach 100% clean energy by 2050, and community solar projects are the most immediate, realistic way to connect large-scale solar to our electric grid.

The good news is, based on the 410 applications for more than 800 megawatts in project capacity that the Board received in year two of the Pilot Program, solar developers are clearly prepared to do their part in propelling New Jersey toward its clean energy mandate. The concerning news is that our community solar program is a year behind schedule. To get the program back on track, the BPU should award 300 megawatts (instead of 150 megawatts) of projects from the next application round. This would require no additional budget or resources from the BPU and would double the cost efficiency of the BPU's review process.

² Response to Questions #11 and #12 in BPU's Public Notice dated April 11, 2022.

³ Response to Question #1 in BPU's Public Notice dated April 11, 2022.

The U.S. government and our neighbor states are rapidly forging ahead on community solar. In March, New York Governor Kathy Hochul announced that the state has installed more than one gigawatt of community solar projects. In October, the U.S. Department of Energy set a new target for community solar to power the equivalent of five million households by 2025 and to create \$1 billion in energy bill savings.

In the fight against climate change, the stakes are high, but the benefits are monumental, and we want to capture those benefits in New Jersey.

By ensuring quality projects and incentivizing maximum community benefits through a competitive application process, reducing barriers for LMI residents, and growing New Jersey's community solar program to meet demand, we can leave a legacy of equitable clean energy infrastructure that serves the Garden State for generations.

Together, with the recommendations above, we look forward to accomplishing this with you.

Yours in clean energy,

Jennifer Coffey, Executive Director, ANJEC

Richard F. Norris II, Rev., Bethel-Hosanna AME Church

Leslie Koppel, Executive Director, Community Action Service Center dba Rise

Debra Hammond, Delran Township Green Team chair, Delran Township Green Team

Ila Vassallo, Founder, Evesham Green Team

Erin Hill, Greener JC Board Member, Greener JC

Harold Vargas, Iglesia El Remanente de Dios

Adam Glinn, Chief Executive Officer, Jewish Community Center of Middlesex County

David Korfhage, President, Montclair Climate Action

Blair Schleicher Wilson, CEO, Morris Habitat for Humanity, Inc.

Tyrese Gould Jacinto, President and CEO, Native American Advancement Corporation

Ed Potosnak, Executive Director, New Jersey League of Conservation Voters

Jon Shure, Interim President, New Jersey Policy Perspective

Richard Lawton, Executive Director, New Jersey Sustainable Business Council

Tobias Fox, Managing Director, Newark Science and Sustainability Inc

Michelle Borden, CEO, NewBridge Services

Tom Gilbert, Co-Executive Director, NJ Conservation Foundation

George Bebawy, Finance Manager, St. George & St. Shenouda Coptic Church

Pam Smith, Business Operations Manager, St. Luke's Episcopal Church

Diane Riley, Executive Director, The Supportive Housing Association of NJ

Meyer J Pincelli, Development Specialist, Triple C Housing Inc.

Craig Mainor, Executive Director, United Community Corporation

James McKeever, Church Secretary, United Methodist Church of Bound Brook



May 6, 2022

Via Board's External Access Portal only

New Jersey Board of Public Utilities

c/o Board Secretary Aida Camacho

44 South Clinton Ave, 9th Floor

PO 350

Trenton, NJ 0825-0350

Board.secretary@bpu.nj.gov

Re: Comments Regarding Docket No Q022030153 - IN THE MATTER OF THE COMMUNITY SOLAR ENERGY PROGRAM

Dear Secretary Aida Camacho and Commissioners,

CS Energy is pleased to submit the following comments on the permanent Community Solar Energy Program ("Permanent Program"). We have greatly appreciated having the opportunity to actively participate in the Community Solar Pilot Program and found success in the program as a project developer and EPC services provider.

Headquartered in Edison, NJ, CS Energy is the industry-leading engineering, procurement, and construction (EPC) energy firm that designs and builds optimized projects in solar, energy storage, and emerging energy industries. We have been a long-standing participant in the NJ markets since 2007 and have installed many flagship projects in the State including the largest single interconnection project under Subsection (r), multiple subsection (t) projects, along with an operational PY1 Community Solar Project, the Linden Hawk Community Solar Project. CS Energy has successfully designed and installed over 1.35 GW of solar projects across the United States, including nearly 300 MW's in NJ. Additionally, we have 216MW of experience nationwide developing, permitting, and constructing solar projects situated on landfills and other contaminated lands, 108MW of which have been NJ projects. Many of our comments draw on our extensive experience in the landfill markets. We are proud to be a part of the fight against climate change and of NJ's transition to a cleaner future.

A primary goal of the Solar Act of 2021 (the "Act") is to encourage solar development on contaminated lands and landfills, and we are writing today to ensure that specific considerations are made by the NJBPU in development of the Permanent Program to facilitate development of projects on

Building a Cleaner Future

contaminated lands and landfills. We believe that if these specific considerations are not made with respect to these types of sites then the State will see virtually no community solar projects constructed on contaminated sites and landfills. It is therefore imperative that staff carefully consider this issue to ensure these important projects have a path forward.

CS Energy is a participating member of the New Jersey Solar Energy Coalition (“NJSEC”) and SEIA and has collaborated with these organizations in development of their comments. We are supportive of the joint comments submitted by these organizations, but our experiences and resulting opinions are in some cases different than that of the trade organization’s consolidated comments. Therefore, we are submitting separate comments to highlight our recommendations given our unique experience in community solar projects on contaminated lands and landfills.

I. COMMENTS ON PROGRAM DESIGN AND ELIGIBILITY

- I.1 The Solar Act of 2021 states that the new Successor Solar Incentive Program should aim to provide incentives for at least 150 MW of community solar facilities per year. How should the annual Permanent Program capacity limit account for potential project “scrub” (i.e., planned projects that do not reach commercial operation)?*

CS Energy agrees with the comments submitted by NJSEC and SEIA, which suggest a roll over mechanism for scrubbed capacity, but would also strongly recommend that preferred projects that have experienced legitimate delays be granted extensions in a straightforward process.

This is especially true for the contaminated site or landfill segment. These projects are inherently more complex than other preferred project types and there are unique factors that could extend a prudent development timeline for this segment. Despite best efforts by developers, projects in this segment can often have extended timelines due to complex state, local and federal permitting requirements, and extensive environmental studies with seasonal constraints.

- I.2 Should the Permanent Program capacity be divided into separate blocks, and if yes, how? (i.e., By EDC service territory? By project type or size)? Additionally, the Solar Act of 2021 requires the Board to consider “the economic and demographic characteristics of the area served by the facility, including whether it is located in an overburdened community.” How should any blocks address this requirement?*

CS Energy agrees with NJSEC and SEIA’s recommendation to split blocks by EDC, but we strongly recommend that the Board establish a separate allocation for community solar sited on contaminated sites or landfills.

Many of the projects awarded in PY1 and PY2 of the Community Solar PILOT went to rooftop community solar applications. We are supportive of the success that the rooftop sector has brought towards New Jersey's solar goals. However, contaminated lands and landfills are a priority for the Act and should also be a focus of the Permanent Program. Environmental Justice is a key tenet of the Community Solar program and contaminated sites and landfills, or large brownfields, have historically been located amongst industrial districts with disenfranchised LMI residential communities only blocks away, if not closer. This is a result of decades of poor environmental planning and practices in our densely populated state. Transforming these sites into clean energy is an important step towards providing Environmental Justice to these communities.

To accomplish this, the Board must acknowledge that community solar projects on contaminated lands and landfills are at a competitive disadvantage to rooftop projects, due to the complex permitting challenges and longer construction timeframes. Separate allocations for contaminated sites and landfills would allow these projects to compete head-to-head against projects with similar constraints as seen in Maryland's community solar PILOT or on a more equal economic footing as seen in Massachusetts SMART program.

Additionally in our extensive work throughout NJ we find that contaminated sites and landfills are often less than fifty acres in size. Sites this small are ideal for the 5MW size restriction associated with community solar project but are likely to have a difficult time being competitive in the CSI program due to economies of scale benefits that accrue to larger projects and extra construction costs associated with ballasted systems. If the State is looking to encourage redevelopment of these properties to "ensure that the environmental and public health benefits of solar electric power generation facilities on contaminated sites or landfills are recognized", as outlined in the Act, it's imperative that there is space allocated to them in the permanent community solar program.

In conclusion, we support a community solar program that supports a diverse set of high-quality projects that meet New Jersey's policy objectives. Rooftop solar is an important component of those objectives, however, we strongly recommend that the BPU establish separate allocations for projects sited on contaminated sites and landfills so that the State can fully realize the environmental justice benefits of solar energy development on these properties.

- 1.3 Staff intends to recommend similar qualifications and ownership restrictions for solar developers participating in the Permanent Program as were implemented in the Pilot Program. Please comment.*

CS Energy agrees with NJSEC and SEIA's recommendation.

- 1.4 What land use restrictions and limitations, if any, should apply to the siting of community solar projects? While Section 6 of the Solar Act of 2021 does not establish siting standards for Community Solar projects, should the Board adopt comparable standards be extended to also apply to community solar facilities? What should those standards look?*

CS Energy agrees with NJSEC and SEIA's recommendation. We strongly prefer and a point scoring system for project awards that would likely effectively take into consideration many of the issues balanced by the CSI program Siting Straw Proposal. As discussed in our prior remarks, contaminated lands and landfills are often well positioned to benefit LMI subscribers and communities and often right sized for participation in community solar.

If the Board proceeds a first-come, first-served model similar as described in the original New Jersey Solar Successor Program Straw Proposal Option 2, it is even more important that the BPU establishes a separate allocation for projects sited on contaminated lands and landfills as we described in Section I.1 above.

Further we believe that dual use on agricultural lands could present strong and viable community solar projects that could incorporate many of the practices outlined in construction standards on agricultural resource soils from the CSI program. We could see the marketing of community solar subscriptions for dual use projects as of significant interest to many ratepayers. However, dual use community projects should be granted an allocation that is incremental to the 150MW annual community solar goal, so that projects can be fully inclusive of the forthcoming recommendations and guidelines developed by BPU staff for the Dual Use program. Dual use community solar projects should be granted an incremental incentive to accommodate the increased costs associated with these projects.

- 1.5 The CEA states that the Permanent Program rules and regulations shall "establish standards fees, and uniform procedures for solar energy projects to be connected to the distribution system of an electric public utility" (Section 5(f)(11)). What changes, if any, should be made to the existing community solar interconnection standards and processes?*

CS Energy agrees with NJSEC and SEIA's recommendation.

- 1.6 What measures should the Board implement to minimize negative impacts to the distribution system and maximize grid benefits?*

CS Energy agrees with NJSEC and SEIA's recommendation.

II. PROJECT SELECTION

II.7 How should projects be selected for participation in the Permanent Program? Please provide a detailed description and discussion of the advantages and disadvantages of your proposed method of selection, with an emphasis on establishing criteria that are transparent and easily verifiable.

In contrast to NJSEC, SEIA, and CCSA's suggestion, CS Energy strongly supports a solicitation-based structure for the program is the best way for the BPU to both ensure that projects meeting the priorities of the Act are selected and advanced through the Permanent Program, and to ensure that some measure of project viability can be assessed by the BPU to limit project attrition and speculative development.

The main challenge faced by the successful Pilot Program was the level of interest and subsequent burden of review placed on BPU staff. Streamlining the review process by further standardizing project assessment and reducing application requirements is necessary to ensure certainty for the development community. We recommend that BPU develop an online webform that clearly links submissions by developers to the BPU's Community Solar Scorecard. A simpler process for aggregating scores and comparing projects would help BPU more quickly process applications. Our understanding is that the Pilot Program required extensive review of written proposals and application forms for BPU to arrive at its conclusions to support awards. We also recommend that the BPU requires applicants to make a meaningful application deposit to ensure that any projects that apply are being proposed by companies with sufficient capital required to see the projects through to completion. This has the dual benefit of ensuring only legitimate projects apply and reducing attrition rates for those projects that are ultimately awarded.

II.8 Should the Board consider creating a waitlist for non-selected projects? If yes, why would a waitlist support the continued development of community solar projects without increasing program oversubscription? How should this waiting list be implemented to avoid a situation where all capacity is spoken for months or years ahead of a solicitation?

CS Energy agrees with NJSEC and SEIA's recommendation.

II.9 What minimum maturity requirements should projects be required to meet before applying to participate in the Permanent Program? To what extent should the Community Solar Energy Program maturity requirements be different from, or similar to, the requirements for projects to apply to the Administratively Determined Incentive ("ADI") Program?

CS Energy supports objectively clear project maturity standards. Reiterating our stance on the importance of contaminated lands and landfills and the importance of those projects to the interests outlined in the Act, projects on these lands should not be subject to the same maturity requirements and not be subject to the same construction COD deadlines as other projects in the program. These projects are often characterized by lengthy and costly studies, complex engineering design efforts, and extensive engagement with various federal, state, and local regulators. It is critical for projects on contaminated lands and landfills to be able to secure the certainty represented by a community solar award for the development community to move these projects forward. To be clear we do not believe that non-ministerial permits should be a maturity requirement for projects on contaminated lands or landfills.

As an alternative to these maturity requirements, we believe that a feasibility study produced by a qualified engineer that characterizes the site's condition, confirms its suitability for solar, and describes the projected permitting and construction process for site is a more reasonable bar to set for such projects. This simple step would improve the quality of applications and would provide the BPU with greater certainty of success for awarded projects sited on contaminated lands or landfills while at the same time providing developers with the certainty required to justify the significant incremental time and cost investment in developing these complex but important sites. The reality is that contaminated lands and landfills are much more expensive and time-consuming development endeavors when compared to a rooftop solar array, and, while both project types are equally important, they need to be evaluated differently.

If the Board does not adopt such application standards for landfill / contaminated site, they must at minimum be willing provide extended COD deadlines for such projects to the extent they are delayed due to the complexities that are inherent to these types of projects.

If the Board proceeds with a first-come, first-served model similar as described in the original New Jersey Solar Successor Program Straw Proposal Option 2, it is even more important that the BPU establishes a separate allocation for projects sited on contaminated lands and landfills as we described in Section I.1 above.

II.10 Should the Board consider any changes to the coordination between community solar project awards and the process for registering for the ADI Program?

CS Energy does not have any suggested changes at this time.

III. COMMENTS ON LOW AND MODERATE INCOME ACCESS

III.11 What policies and measures should the Board consider to ensure that the Permanent Program maintains a high level of low- to moderate-income (“LMI”) participation? How can the Board support community outreach and education?

CS Energy agrees with NJSEC and SEIA’s recommendation.

III.12 Should the Board modify the Pilot Program’s income verification standards (see the Pilot Program rules at N.J.A.C. 14:8-9.8

CS Energy agrees with NJSEC and SEIA’s recommendation.

III.13 How should the Board consider “the economic and demographic characteristics of the area served by the facility, including whether it is located in an overburdened community, as that term is defined in section 2 of P.L.2020, c.92”?

CS Energy agrees with NJSEC and SEIA’s recommendation.

IV. COMMENTS ON COMMUNITY SOLAR SUBSCRIBERS

IV.14 What should the geographic limitations for community solar projects and subscribers be (i.e., How far from the project can subscribers to the project reside)? For context, the Pilot Program allowed projects to self-select the geographic limits of the project. Projects could choose between three options: municipality and adjacent municipalities, county and adjacent counties, and no limit (EDC-wide).

CS Energy agrees with NJSEC and SEIA’s recommendation.

IV.15 The Pilot Program mandated that each community solar project must have a minimum of 10 subscribers, and a maximum of 250 subscribers per MW of installed capacity. Should either of these mandates be changed under the Permanent Program?

CS Energy agrees with NJSEC and SEIA’s recommendation.

IV.16 Should the Board make any modifications to the consumer protection measures implemented under the Pilot Program?

CS Energy does not have any suggested changes at this time.

IV.17 *In November 2020, the Board proposed a rule amendment to the Community Solar Energy Pilot Program rules, which would have allowed certain projects owned and operated by public entities to automatically enroll subscribers without first seeking subscribers' affirmative consent to join the project. Subscribers would then have the option to "opt-out" of the project should they not wish to participate. How can the Board best support subscriber education and acquisition? Should the Board revisit its automatic enrollment proposal, and if yes, how can automatic enrollment be implemented consistent with customer data privacy rights?*

CS Energy agrees with NJSEC and SEIA's recommendation.

V. COMMENTS ON COMMUNITY SOLAR BILL CREDITS

V.18 *If applicable, please discuss your experience with subscriber management and the allocation of community solar bill credits. What changes, if any, should be made to communications between community solar subscriber organizations and the EDCs, or to the allocation of bill credits by the EDCs?*

CS Energy agrees with NJSEC and SEIA's recommendation.

V.19 *What modifications, if any, should the Board consider making to the value of the community solar bill credits?*

CS Energy does not have any suggested changes at this time.

V.20 *In May 2021, following an opportunity for public comment, the EDCs submitted a report to the Board with options and recommendations regarding the implementation of consolidated billing for community solar. In summary, the EDCs recommend that, if the Board adopts consolidated billing for community solar projects, this billing process be handled by the EDCs. The EDCs further recommended that the method of reflecting subscription fees on a subscriber's EDC bill be determined by each EDC based on the format that best corresponds to their existing billing practices. The EDCs did not recommend that the Board allow non-EDC billing options. Do you agree with the EDCs' recommendations? If not, why? How do you recommend the Board address payment default by customers?*

CS Energy agrees with NJSEC and SEIA's recommendation.

VI. OTHER COMMENTS

VI.21 Please provide comments on any issues not specifically addressed in the questions above.

CS Energy has no further comments and agrees with NJSEC and SEIA's recommendation.

Conclusion

As a leading solar developer and EPC of landfill and community solar projects in New Jersey we are highly knowledgeable and informed of the challenges associated with these project types. Contaminated lands and landfills present a unique opportunity to deliver environmental justice to the communities in which they are located by remediating and redeveloping otherwise blighted properties into productive renewable energy facilities that can have a meaningful financial impact to the surrounding community. However, the complicated design and permitting process associated with such projects make them more expensive and require more time to successfully develop and construct when compared to other types of projects. To achieve the added environmental benefit of landfill and contaminated community solar sites, the Board must consider these challenges and allow for a separate allocation and unique requirements for such projects. The Subsection (t) projects were a huge success in deploying landfill solar in the State as was the Community Solar Pilot Program. The permanent Community Solar Program is an incredible opportunity to build on those programs' successes and even more directly impact the communities in which these landfills and contaminated sites are located.

We look forward to learning more about the permanent Community Solar program as staff releases additional proposals around the program's wider design and would welcome the opportunity to engage further on the comments we have brought forward as part of this submission.

Sincerely,

A handwritten signature in black ink, appearing to read 'MTripoli', with a long horizontal stroke extending to the right.

Matt Tripoli

Director, Project Development

CS Energy

mtripoli@csenergy.com

732-860-4660



**REQUEST FOR COMMENTS IN THE MATTER OF
THE COMMUNITY SOLAR ENERGY PROGRAM**

[Docket No. QO22030153](#)

Dimension Renewable Energy (“Dimension”) thanks the New Jersey Board of Public Utilities (“BPU” or “the Board”) and staff for the opportunity to submit these comments regarding the design of the permanent Community Solar Energy Program (“Permanent Program” or “the Program”). In these comments, Dimension responds to question #7 on how projects should be selected for participation in the Permanent Program and suggests that the Pilot Year 2 solicitation scorecard be used one more time and only for the first year of the Permanent Program before transitioning to a first-come, first-served model.

Dimension is actively developing community solar projects which we were awarded in the second year of the Community Solar Pilot Program (“Pilot Program”). We are also participating in the BPU’s grid modernization efforts, and actively involved in the design of New Jersey’s Permanent Program. In addition to our work in New Jersey, Dimension is participating in the development of several others state community solar programs, including Virginia, Maine, New Mexico, California, Wisconsin, Ohio, and Pennsylvania. Our comments are informed by our actual experience in New Jersey and other states. Dimension is an active member of the Coalition for Community Solar Access (“CCSA”). We strongly support the long-term vision CCSA has developed through briefing papers on this topic and CCSA’s response to this request for comments.

The Permanent Program will be burdened by the success of the Pilot Program. In addition to creating meaningful savings and community development benefits, the Board’s thoughtful design attracted hundreds of projects to serve low- and moderate income (“LMI”) families. Only 106 of the 412 project applications were accepted into the second year of the Pilot Program, leaving as many as 300 projects waiting for an opportunity to participate the Permanent Program. Over the 15 months since the 412 aspiring projects submitted their applications, many more new projects have secured sites and are poised to participate. This overhang of projects validates the BPU’s Pilot Program design and indicates that tens of thousands of New Jersey LMI families stand to benefit from the Permanent Program. However, the project overhang clearly signals that the Permanent Program selection process will be stress tested the moment the Program opens.

Dimension supports CCSA’s vision for a permanent program based on an open tariff that allows well-developed, mature projects to post development security and apply for Permanent Program capacity on a first-come, first-served basis. This approach, combined with a requirement for interconnection studies and meaningful development security on deposit, will ensure that projects are de-risked and will bring their promised benefits to LMI families promptly—without putting an unwieldy administrative burden on the Board and Board staff.

Dimension respectfully notes that it is approaching two years since the last Pilot Program solicitation was issued in the Fall of 2020. The projects chosen through that process will soon begin serving New Jersey’s LMI families, but there will be a long hiatus before the next block of projects will be chosen and the next wave of LMI families served. Adding to the delay is the time required for the Board and electric distribution companies (“EDCs”) to identify and implement the changes needed in EDC interconnection procedures to manage the wave of project developers waiting since February of 2021.



Rather than delay the Permanent Program and the benefits it will bring to LMI families, Dimension suggests that the BPU simply repeat the successful solicitation that was initiated in the Fall of 2020, with one important change. To reduce the administrative burden on BPU staff and to avoid delays in processing applications, applicants should be charged a fee of \$1,000 per MW of project capacity and the fees used to pay for a third-party administrator to review and score the applications on behalf of the BPU.

As described in CCSA's thoughtful comments, solicitations won't be necessary or desirable once the EDCs and the BPU have reformed the interconnection application process. However, program delay in the interim is a disservice to the thousands of New Jersey families who could be subscribers on community solar projects chosen in 2022 and brought to commercial operation as early as 2023.

One more solicitation in 2022, using the scorecard already developed by BPU staff and approved by the Board, will ensure the Board's policy goals for the Program are met and benefits flow to New Jersey's LMI families sooner, rather than later. Requiring applicants to pay for a third-party administrator through a modest fee will reduce the work and administrative burden borne by BPU's staff and ensure that projects are selected quickly so that LMI families can benefit from energy savings and economic development in their communities.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "J Henri".

Joseph Henri
Senior Vice President of Policy
Dimension Renewable Energy

From: [Graham, Karriemah \[BPU\]](#)
To: [Graham, Karriemah \[BPU\]](#)
Subject: FW: Community Solar Permanent Program Request for Comments
Date: Monday, April 18, 2022 3:37:18 PM

From: Eric Santaiti <eric.santaiti@clearesult.com>
Sent: Friday, April 15, 2022 10:33 AM
To: communitysolar@njcleanenergy.com
Subject: [EXTERNAL] FW: Community Solar Permanent Program Request for Comments

I. Program Design & Eligibility

- 1) Perhaps those projects that have a 95% probability that they will be ready to operate within 3 months of the end of the period should be included.
- 2) Perhaps it matters most that the benefits of the installations are made available to and dedicated to those in overburdened communities, where electricity bills are a higher portion of their total living costs on average.
- 3) No comment.
- 4) Perhaps tree-cutting to make way for the installations should be prohibited.
- 5) No comment.
- 6) Perhaps it would be ideal if the installations were sited nearby existing electricity stations in order to minimize loss of energy during transference into the grid.

II. Project Selection

- 7) Perhaps preference should be given to those proposals that minimize impact to the environment, e.g. low landfill creation, low embodied carbon, planting of shrubs beneath the solar panels to encourage local biodiversity (in turn, plants below the panels keep the air cooler and thus increase the efficiency of the panels), certifications of the company such as one like B-Corp. Also, perhaps preference should be given to those which are woman- or minority-owned in the state.
- 8) No comment.
- 9) No comment.
- 10) No comment.

III. Low- and Middle-Income Access

- 11) Perhaps there should be capacity dedicated to those communities, and communication about it be distributed via the electric bills. Assuming there is a discount for signing up, then perhaps the most overburdened residents be enrolled automatically after a grace period. Perhaps it should be coupled with programs that improve the energy efficiency of their homes.
- 12) No comment.

13) No comment.

IV. Community Solar Subscribers

14) Perhaps proximity does not matter.

15) No comment.

16) No comment.

17) See comments in III. 11) above.

V. Community Solar Bill Credits

18) No comment.

19) No comment.

20) No comment.

VI. Other

21) No further comments.

Eric S.
Morris Plains, NJ

From: New Jersey's Clean Energy Program <webmaster@njcleanenergy.ccsend.com> **On Behalf Of**
New Jersey's Clean Energy Program
Sent: Monday, April 11, 2022 9:15 PM
To: Eric Santaiti <eric.santaiti@clearesult.com>
Subject: Community Solar Permanent Program Request for Comments

EXTERNAL email. Please exercise caution. This e-mail is from a sender outside of CLEAResult. Do not click any links or open any attachments from unknown senders or unexpected email. *****



Community Solar Permanent Program Request for Comments



[View as Webpage](#)

Staff of the New Jersey Board of Public Utilities (“NJBP” or “Board”) invites all interested parties and members of the public to provide written responses to questions regarding the design of the permanent Community Solar Energy Program (“Permanent Program”). Following receipt and consideration of these written comments, Staff will draft a Straw Proposal and solicit further stakeholder feedback on the Straw Proposal via public stakeholder meetings and an opportunity to provide written comments.

The deadline for comments in this matter is 5:00 p.m. on Friday, May 6, 2022.

More information is provided in the [Request for Comments](#).

Thank you for your interest in NJBP.



New Jersey's Clean Energy Program

866-NJSMART | Info@NJCleanEnergy.com



New Jersey's Clean Energy Program | 44 South Clinton Ave, PO Box 350, Trenton, NJ 08625

[Unsubscribe eric.santaiti@clearesult.com](mailto:eric.santaiti@clearesult.com)

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Ecogy Energy
315 Flatbush Ave. #393
Brooklyn, NY 11217

May 6, 2022

VIA ELECTRONIC FILING

Secretary of the Board
44 South Clinton Ave, 1st Floor
PO Box 350
Trenton, NJ 08625-0350

RE: Response to Request for Comments In the Matter of the Community Solar Energy Program
("Permanent Program") – Docket No. QO22030153

Dear Staff of the New Jersey Board of Public Utilities ("BPU" or "Board"),

Ecogy Energy, based in Brooklyn, NY, and founded in 2010, is an experienced developer, financier, and owner-operator of distributed generation projects across the U.S. and Caribbean. Ecogy's focus and niche is on the <1 MW arena, particularly on systems sited on rooftops, parking lots, and brownfields. Ecogy believes that with sound planning, proper development and fair incentives for these types of projects, the state, its residents, and the clean energy industry as a whole will ultimately be more successful. Ecogy firmly believes that by focusing on projects constructed in and on the built environment, the development community can preserve precious and limited natural resources while directing the benefits of local solar to small businesses, property owners, nonprofits, low-income individuals, and other organizations that need them most.

We look forward to the opportunity to engage with the Board and provide comments on the guidelines to be released in the straw proposal for the permanent community solar program. We kindly urge you to consider our suggestions below.

I. Program Design and Eligibility

1) The permanent program should record the date and time of a project based on who applied, utilizing a waitlist for projects that didn't get into the first 150 MW in the order that qualified projects came in. This backlog of qualified projects should be publicly visible. Additionally, projects may drop out of the program, in which case that capacity should be reallocated to a future project. While using timestamps to implement a waitlist of projects, the focus should be on ranking; projects that scored the most points should be re-entered into the program if capacity

becomes available. If two projects have the same amount of points, the project that was submitted first should be selected.

2) The permanent program capacity should be divided into separate blocks. The blocks should be divided by EDC service territory and then by project type and size, similar to other state markets such as Massachusetts's SMART program and New York's Value of Distributed Energy Resources. There should be a minimum allocation for projects with systems between 250 and 500 kW in size. There should also be designated allocations for rooftop and canopy projects; canopy projects should receive a minimum percentage of at least 10% of applications for each EDC block. There have not been any canopy projects approved in the past, so this designated allocation would help diversify the community solar system portfolio. Additionally, 5% of the program capacity should be allocated to landfill projects.

There should be a 25% maximum of the total program MW capacity allocated for one single developer to prevent monopolization of the program awards and to encourage diversification in the solar workforce in the state. The BPU should also consider requiring 20% of projects to be in disadvantaged communities or assign 20% extra points to projects with preferred criteria which would need to be quantitatively defined in the program guidelines.

3) Ecogy supports the continuation of similar qualifications and ownership restrictions for developers in the Permanent Program as were implemented in the Pilot Program.

4) Community solar projects should favor siting on the built environment to limit harm to the natural ecosystems in New Jersey. One example of devastating environmental effects due to solar installations can be seen in Rhode Island; More than one thousand acres of forested land in Rhode Island have been cleared for solar development between 2018 and 2021.¹ Should the BPU not set clearly defined and rigorous land-use restrictions, valuable forested land or other crucial habitats could be destroyed. The BPU should continue to encourage agri-voltaic and floating solar systems as options for innovative and alternative siting opportunities and should consider potentially allocating a small percentage of the total capacity to these types of projects.

There should be standards for siting community solar projects. Many of the community solar projects in the history of New Jersey's program have been sited on industrial roofs. While this has been a common siting location in the past, Ecogy believes there should be a focus going forward on affordable housing complexes and smaller rooftops. The siting standards should be established with concern to try and avoid the clear-cutting of trees for systems like ground mounts. Landfills should continue to be considered suitable sites for solar systems, and the BPU should potentially define a minimum and maximum allocation of the total capacity to these types

¹ Solar fields are contributing to deforestation in Rhode Island. Advocates want to change how the state incentivizes development. <https://thepublicradio.org/article/solar-development-forest-loss>

of projects; the siting standards should focus on utilizing space that will provide the greatest benefit to the community and populations in the greatest need while resulting in the least amount of environmental harm. The BPU should grant more canopy projects in parking lot areas as they are perfect siting locations for solar while taking advantage of existing impervious surfaces.

5) Developers should be able to apply for interconnection before the permanent program guidelines are released. There should also be an expedited review process for smaller projects, as was done in Rhode Island with projects at 200 kW AC and below. New York also implemented an expedited review process for 500 kW sized projects which only have to conduct a supplemental review instead of a full impact study. Any acceleration of the review process allows for projects that are smaller in size to get through the interconnection process with greater speed and efficiency. By accelerating the timeline, the BPU can reduce the cost burden on smaller projects that don't have the same economies of scale as larger projects, ultimately eliminating any unfair advantages based on system size. Also, the interconnection consent form should improve its interface in order to be more accessible for the developer to use.

The hosting capacity map should be more accurate and should undergo regular review for updates. For instance, the Atlantic City Electric hosting capacity and restriction maps are not updated and show different values than ones provided by the utility when Ecogy approached them directly. Being that this is a requirement for the Pilot 2 Program, the hosting capacity map should contain reliable data.

6) In order to minimize negative impacts on the distribution system and to maximize benefits to the grid, the BPU should seek out and select projects that help the local circuit and substation. Additional considerations should include the hosting capacity of a project, as described in our block suggestion and project criteria above, as well as siting projects close to load.

A relevant example of a system put in place to minimize negative impacts and maximize benefits for the grid is the New York Value of Distributed Energy Resources ("VDER") otherwise known as the Value Stack². The Value Stack in New York compensates projects based on the time and location of electricity production to the grid in the form of bill credits. The Value Stack is determined by the distributed energy resources' energy value, capacity value, environmental value, demand reduction value, and locational system relief value.

II. Project Selection

² The Value Stack. New York PUC.

<https://www.nyserda.ny.gov/All-Programs/ny-sun/contractors/value-of-distributed-energy-resources>

7) Projects should be selected using a 100 point scale based on the following criteria: system size, system type, the discounts offered to end customers, level of community engagement, and additional benefits such as the inclusion of an electric vehicle charging station, battery storage, and an energy monitoring system. Preferred criteria for system types include those installed on brownfields, on rooftops, and for affordable housing units or complexes. Additional criteria for consideration should be the developer's experience in other community solar programs, the developer's experience in owning and operating solar systems, and project certainty and maturity. The level of community involvement and project maturity should be given higher importance in the scoring system because these types of projects will likely provide benefits sooner and with greater certainty to the targeted LMI and disadvantaged communities who need community solar most.

Projects should also be examined for the alignment and compatibility of developer strategy and community solar program parameters. For example, how carefully has the developer assessed their proposed projects with consideration to who their client is and what kind of system will be installed? There should be evidence of a clear understanding of the community solar guidelines within the developer project strategy.

Establishing clear and rigorous criteria for participation in the permanent community solar program in New Jersey is critical to the program's success. Should the BPU choose to allow for open enrollment of the permanent community solar program, unviable and undesirable projects will be allocated capacity, like what happened in Rhode Island's community solar program with no criteria for participation.

8) Yes, there should be a waitlist. Developers spend a significant amount of resources in order to qualify for the Community Solar Program and its minimum requirements; therefore it would be beneficial to provide a mechanism that allows for a potential continuation of such projects. Projects on the waitlist should be vetted for maturity by asking the developer to provide updates about the progress of their project. For example, there could be a waitlist stipulation that a developer needs to provide proof of interconnection after a certain amount of months of being on the waitlist. Similar conditions can apply to waitlisted projects for performance guarantee deposits and proof of submission for permitting approval; essentially, a project milestone timeline should be submitted to the BPU while projects are on the waitlist. If a project does not meet the stipulated deadlines for project maturity, the BPU may remove them from the waitlist.

This way, and similarly to the methods used in New York's community solar program, the BPU can remove immature or otherwise unviable projects from the pipeline, and the program's total capacity would then not be spoken for months or years in advance.

9) The following project maturity milestones should be required before a project may apply for participation in the permanent program:

- Executed option or lease agreement (cannot be nonbinding)
- Proof of submission of application for an interconnection agreement
- Proof of available hosting capacity
- Bid deposit
- NJ PE Structural approval for roof systems if applicable
- Defined project milestone timeline

10) Coordination is necessary between the two programs. The BPU should release awards for community solar projects in the permanent program a number of months—could be 3 months, for example—before registration opens for the ADI program. This would allow developers the necessary 3 months (or a different amount of time determined by the BPU) to prepare to apply for the ADI program.

III. Low- and Moderate-Income Access

11) The BPU should require 51% of the 150 MW allocation to go toward LMI projects and give an incentive to build projects for LMI communities. Within the 51% of the 150 MW allocated for LMI projects, the projects themselves should consist of 51% LMI and 49% open ratepayers in order for the project to qualify as LMI.

The Board should facilitate relationships with affordable housing entities and make it easier for an affordable housing entity to qualify as LMI via a master meter arrangement. Instead of requiring individual subscribers in an affordable housing complex to opt into community solar, the BPU should allow the entire complex to subscribe to community solar as a single entity.

The best thing the BPU can do to create trust and camaraderie between the Board and LMI communities is to act swiftly in making fair guidelines and the eventual application for this program publicly available. Lack of action and delays on the Board's behalf will only contribute to distrust in the permanent community solar program.

The BPU should compile a list of affordable housing communities and local organizations to engage with and reach out to, and projects that prove early-stage engagement with the community should continue to receive more points.

12) The BPU should aim to require the most minimal standards possible so as to not create barriers to entry for the LMI folks who need community solar benefits the most. We suggest that the BPU lowers the minimum requirements by giving the subscriber organization the possibility

to verify LMI status via electricity bills on an individual's account rather than doing it through a credit score check which is not consumer friendly.

13) The BPU should consider the percentage of an area's median income as a threshold for qualifying as LMI, as it does now with the definitions of low income (a household with adjusted gross income at or below 200 percent of the Federal poverty level) and middle income (a household with a total gross annual household income in excess of 200 percent of the Federal Poverty Level, but less than 80 percent of the median income, as determined by annual HUD income limits). The BPU should also consider the energy burden of a community—if more than 6% of a household's annual income is going toward the cost of energy, that should be considered a highly energy burdened household.³

IV. Community Solar Subscribers

14) There shouldn't be any restrictions on the distance between projects and subscribers. The BPU should maintain the Pilot Program's guidelines for each project self selecting their own geographic limits within the EDC territory, including the option for having no limit and subscribing EDC-wide.

15) For commercial subscribers, there should be a limit (at minimum) of 2 subscribers, and a maximum of 50% of the total capacity of the project may be assigned to an anchor. New York and Massachusetts both have commercial limits on their community solar programs, so instituting this limit in New Jersey has relevant context and precedent. Maintaining the 10 subscriber minimum and 250 as max is sufficient—we agree with these limits.

16) The consumer should be guaranteed a discount, and there should be no termination fees as well as a consumer-friendly contract.

17) Consumer education is of the utmost importance with automatic enrollment. We support the opt-out policy, and we believe that it is the consumers' right to take advantage of discounted electricity. Requiring subscribers to opt into this program limits the capacity of community solar energy allocated to deserving households in need; instead, subscribing all residents of a housing facility or complex and allowing individuals to opt-out at their discretion will allow for a far greater amount of solar energy to be utilized. Additionally, the automatic enrollment and the opt-out system will enable developers to avoid the costly upfront costs of resubscribing LMI residents in a new location due to churn⁴.

³ Drehobl, Ariel, Lauren Ross, and Roxana Ayala. "[How High Are Household Energy Burdens](#)." An Assessment of National and Metropolitan Energy Burdens across the US (2020).

⁴Phinney, Robin. "Exploring Residential Mobility among Low-Income Families." *Social Service Review*, vol. 87, no. 4, 2013, pp. 780–815. JSTOR, www.jstor.org/stable/10.1086/673963. Accessed 9 Apr. 2021.

The BPU should allocate funding as part of their community outreach budget to educate consumers on their rights and ability to opt-out and on the benefits they receive by being subscribed to community solar.

V. Community Solar Bill Credits

18) There needs to be a specific strategy outlined and known to employees within the EDC to ensure that administrative tasks are up to date and credits are applied to subscriber's accounts. Administrative backlog with the allocation of bill credits fosters distrust within subscribers and developers, and it neglects the duty of sufficient public service. Establishing a rigid administrative system to stay on top of bill credits will help New Jersey's EDCs avoid the situation ConEdison⁵ New York currently finds itself in, with an enormous backlog of community solar bill credits to distribute as well as errors in the distribution of credits.

A clear solution to help with administrative efficiency is to implement consolidated billing and focus resources on making consolidated billing successful sooner rather than later. Should administrative functioning and subscriber management be ignored or pushed off until too late into the permanent program's development, the EDCs run the risk of dealing with justifiably frustrated customers, taking away from the overall success of the permanent community solar program.

19) The BPU should model the value of the community solar bill credits to the current rate that each EDC is charging, including the all-in rate. The total bill amount should be divided—including taxes and other line items not previously included in the community solar bill credit calculation—by the total kilowatt hour amount. The rate should increase as much as utilities increase their rates.

The EDC should apply an annual escalator on the community solar bill credits that would stay the same for the duration of the project.

20) We support consolidated billing for community solar. However, in other markets where consolidated billing was only allowed to be implemented by the EDC, there have been delays and errors delivered by the EDC. For example, in New York, ConEdison has an extensive backlog of community solar bill credits yet to be distributed. To ensure that the BPU sets rigorous quality standards, and to avoid harm to the renewable energy transition by creating frustration in customers if there are delays or administrative problems, we recommend that consolidated billing be open to everyone. Providing the opportunity for competition for the

⁵ Maldonado, Samantha. "[Dark Days for Solar Energy Customers Hoping for Con Ed Discounts.](#)" THE CITY. THE CITY, March 17, 2022.

utility will make their service better. Leaving no alternative for the implementation of consolidated billing allows for a lack of focus and urgency within the EDC.

Additionally, there would be a significant push to the market if there is any backstop from the utility. By allowing consolidated billing to be handled outside of the EDC, there is a reduction in default risk and a decrease in the rate of return for project financiers.

VI. Other

21) No further comment.

We thank you for your consideration of these comments and appreciate you supporting the New Jersey clean energy industry.

Warmest regards,

/s/

Brock Gibian
Director of Development
Ecogy Energy
www.ecogyenergy.com
718-304-045



Request for Comments in the Matter of the Community Solar Energy Program

Responses from G&S Solar

5/6/22

I. Program Design and Eligibility

1) The Solar Act of 2021 states that the new Successor Solar Incentive Program should aim to provide incentives for at least 150 MW of community solar facilities per year. How should the annual Permanent Program capacity limit account for potential project “scrub” (i.e., planned projects that do not reach commercial operation)?

To account for about half of the unused PY3 capacity, we proposed increasing the Permanent Program capacity to 225 MW for Year 1.

To account for the capacity lost by planned projects that do not reach commercial operation, thus causing the SuSI Program to fall short of its goal, there should be a process in place to make up for that deficit. If a project drops out of the block for whatever reason, that capacity should be added into the block of the following year.

To decrease the likelihood of selected projects dropping out, the Program should require an annual payment deposit to lock the project into the block and remain there, to be refunded upon project completion, as well proof of a signed site lease or option agreement between the developer and property owner. By raising the standards for entering the queue, this should increase the likelihood that the projects selected are ones that will reach completion.

2) Should the Permanent Program capacity be divided into separate blocks, and if yes, how? (i.e., By EDC service territory? By project type or size)? Additionally, the Solar Act of 2021 requires the Board to consider “the economic and demographic characteristics of the area served by the facility, including whether it is located in an overburdened community[.]”¹ How should any blocks address this requirement?

We propose dividing the Program capacity into two blocks: LMI (150 MW) and non-LMI (75 MW) projects. In this case, the LMI block should be exclusively LMI projects and the non-LMI should include any project regardless of LMI status. This would help ensure an established minimum target of LMI projects being built.

We support an EDC-wide geographic limit for subscribers, in which case the project’s location would be irrelevant, since a subscriber can be anywhere in the utility territory. This issue should be addressed by offering a higher priority for LMI projects, which is how it’s set up now.

3) Staff intends to recommend similar qualifications and ownership restrictions for solar developers participating in the Permanent Program as were implemented in the Pilot Program. Please comment.

No comment.

4) What land use restrictions and limitations, if any, should apply to the siting of community solar projects?

While Section 6 of the Solar Act of 2021 does not establish siting standards for Community Solar projects, should the Board adopt comparable standards be extended to also apply to community solar facilities? What should those standards look like?

These standards should be extended to Community Solar. In the context of land use, community solar has the same effect on the land as grid-supply or net metering.

5) The CEA states that the Permanent Program rules and regulations shall “establish standards, fees, and uniform procedures for solar energy projects to be connected to the distribution system of an electric public utility” (Section 5(f)(11)). What changes, if any, should be made to the existing community solar interconnection standards and processes?

There needs to be standards across the board. Right now each utility comes around with a different response.

G&S applied for 3 projects last year to Atlantic City Electric, all over 50 kW. The circuit was restricted to 50 kW, and the only option we were given was to lower our size to below 50 kW or be denied. In the event that a proposed community solar project exceeds the capacity available on the circuit, the utility should provide an option for the applicant to pay for any necessary grid upgrades.

6) What measures should the Board implement to minimize negative impacts to the distribution system and maximize grid benefits?

Invest in upgrading the distribution system.

II. Project Selection

7) How should projects be selected for participation in the Permanent Program? Please provide a detailed description and discussion of the advantages and disadvantages of your proposed method of selection, with an emphasis on establishing criteria that are transparent and easily verifiable.

In addition to the scoring criteria used in the pilot programs, we recommend a few others:

- Higher preference for applicants with a proven track record
 - Experience building community solar (MW)
 - Experience building in NJ (MW)
- Higher preference for applicants that can prove adequate financial resources
- Application requirements
 - To decrease the likelihood of selected projects dropping out, the Program should require:
 - 1) an annual payment deposit to lock the project into the block and remain there, to be refunded upon project completion,
 - 2) proof of a signed site lease or option agreement between the developer and property owner, and
 - 3) an approved interconnection application.

Raising the standards for entering the queue should increase the likelihood that the projects selected are ones that will reach completion.

8) Should the Board consider creating a waitlist for non-selected projects? If yes, why would a waitlist support the continued development of community solar projects without increasing program oversubscription? How should this waiting list be implemented to avoid a situation where all capacity is spoken for months or years ahead of a solicitation?

No waitlist. If community solar eligibility is determined by a selection process based on scoring criteria, we don't believe that a project that did not score high enough in one year should be first in line for the next. But for every project that was selected for community solar but then drops out or is removed, the capacity of that project should be added to the total capacity of the next phase.

9) What minimum maturity requirements should projects be required to meet before applying to participate in the Permanent Program? To what extent should the Community Solar Energy Program maturity requirements be different from, or similar to, the requirements for projects to apply to the Administratively Determined Incentive (“ADI”) Program?

Applicants should be required to provide a signed site lease agreement or option agreement between the developer and property owner, as well as an annual, refundable payment deposit to lock yourself into the block and maintain your position in the queue. Because it's a competitive selection-based program, the standards for the Permanent Program should be more strict than those of the ADI Program.

10) Should the Board consider any changes to the coordination between community solar project awards and the process for registering for the ADI Program?

If a project gets selected into the Permanent Program, it should not be shut out from the ADI Program. This should be addressed by setting the same MW cap for each.

III. Low- and Moderate-Income Access

11) What policies and measures should the Board consider to ensure that the Permanent Program maintains a high level of low- to moderate-income (“LMI”) participation? How can the Board support community outreach and education?

- 1) LMI projects should be prioritized in the Board's selection criteria
- 2) Divide the Program capacity into two blocks: LMI (150 MW) and non-LMI (75 MW) projects. In this case, the LMI block should be exclusively LMI projects and the non-LMI should include any project regardless of LMI status. This would help ensure an established minimum target of LMI projects being built.

12) Should the Board modify the Pilot Program's income verification standards (see the Pilot Program rules at N.J.A.C. 14:8-9.8)? If so, how?

The Board offers a wide range of ways to qualify as LMI. We think the important thing is that, if you do have low to moderate income, your LMI eligibility is easy to prove. The current standards seem to accomplish that so we have no criticism at this time about the current rules.

13) How should the Board consider “the economic and demographic characteristics of the area served by the facility, including whether it is located in an overburdened community, as that term is defined in section 2 of P.L.2020, c.92”?

We support an EDC-wide geographic limit for subscribers, in which case the project’s location would be irrelevant, since a subscriber can be anywhere in the utility territory. This issue should be addressed by offering a higher priority for LMI projects, which is how it’s set up now. We also supported including a separate block for LMI projects to further incentivize serving overburdened communities.

IV. Community Solar Subscribers

14) What should the geographic limitations for community solar projects and subscribers be (i.e., How far from the project can subscribers to the project reside)?
For context, the Pilot Program allowed projects to self-select the geographic limits of the project. Projects could choose between three options: municipality and adjacent municipalities, county and adjacent counties, and no limit (EDC-wide).

We support an EDC-wide geographic limit for subscribers. This would provide the most flexibility to reach overburdened subscribers and would avoid the limitations caused by thinly populated areas around a given community solar project.

15) The Pilot Program mandated that each community solar project must have a minimum of 10 subscribers, and a maximum of 250 subscribers per MW of installed capacity. Should either of these mandates be changed under the Permanent Program?

We don’t see a reason to establish a subscriber maximum. It’s an unnecessary restraint on customer acquisition, which should be carried out without bias against customers with low electricity usage.

16) Should the Board make any modifications to the consumer protection measures implemented under the Pilot Program?

No.

17) In November 2020, the Board proposed a rule amendment to the Community Solar Energy Pilot Program rules, which would have allowed certain projects owned and operated by public entities to automatically enroll subscribers without first seeking subscribers' affirmative consent to join the project. Subscribers would then have the option to "opt-out" of the project should they not wish to participate. How can the Board best support subscriber education and acquisition? Should the Board revisit its automatic enrollment proposal, and if yes, how can automatic enrollment be implemented consistent with customer data privacy rights?

These projects owned by public entities should not have different rules from everyone else. Automatic enrollment should be allowed for everyone or not be allowed at all.

V. Community Solar Bill Credits

18) If applicable, please discuss your experience with subscriber management and the allocation of community solar bill credits. What changes, if any, should be made to communications between community solar subscriber organizations and the EDCs, or to the allocation of bill credits by the EDCs?

On bill crediting is crucial to maintaining records. There should be clarity on whether the credits are volumetric or monetary, and clear communication between the EDC and subscribers in the event of delays or issues, especially wide-scale issues, so that subscribers are not left in the dark. If EDCs are managing subscribers through on bill crediting, developers and/or subscriber organizations should be notified about dropped out/disqualified customers on a regular basis, to allow for churn.

19) What modifications, if any, should the Board consider making to the value of the community solar bill credits?

None.

20) In May 2021, following an opportunity for public comment, the EDCs submitted a report to the Board with options and recommendations regarding the implementation of consolidated billing for community solar. In summary, the EDCs recommend that, if the Board adopts consolidated billing for community solar projects, this billing process be handled by the EDCs. The EDCs further recommended that the method of reflecting subscription fees on a subscriber's EDC bill be determined by each EDC based on the format that best corresponds to their existing billing practices. The EDCs did not recommend that the Board allow non-EDC billing options. Do you agree with the EDCs' recommendations? If not, why? How do you recommend the Board address payment default by customers?

Payment default - credits should continue till subscribers receive their bills and have service.

VI. Other

21) Please provide comments on any issues not specifically addressed in the questions above.

We believe the public effort to provide sustainable and affordable energy to NJ residents is deserving of creative and unique policy considerations. For example, solar companies that engage in a public/private partnership with government entities/non-profits or senior/veteran organizations that provide low/moderate income residents with affordable energy should be given extra consideration.

Renewable and Solar facilities that deliberately incorporate community service within their project missions, like educational tools to advance the Governor's mandate for clean energy, should also be accorded additional consideration. The "New York One" program is such an example.

A handwritten signature in black ink that reads "David Katz". The script is fluid and cursive, with the first letters of "David" and "Katz" being capitalized and prominent.

David Katz
Senior Director, Renewable Energy



Gabel Associates' Comments
Community Solar Permanent Program
Docket No. QO22030153

May 6, 2022

Dear Secretary Camacho-Welch:

Please accept the following comments on the Community Solar Permanent Program, Docket No. QO22030153 on behalf of Gabel Associates. Gabel Associates, Inc. is an energy, environmental and public utility consulting firm with its principal office in Highland Park, New Jersey. For over 29 years, Gabel Associates has provided highly focused energy consulting services and strategic insight to its clients. We have successfully assisted hundreds of public and private sector clients implement energy plans and projects that reduce costs and enhance environmental quality. Gabel Associates has had extensive involvement in the design of the Community Solar Program on behalf of various public sector clients. We provide these comments in response to the Board's Notice of Request for Comments of April 11, 2022.

Q1. The Solar Act of 2021 states that the new successor solar incentive program should aim to provide incentives for at least 150 mw of community solar facilities per year. How should the annual permanent program capacity limit account for potential project "scrub" (i.e., planned projects that do not reach commercial operation)?

A1. Once an awarded project has either been formally terminated by the developer or is likely to be scrubbed in accordance with criteria to be set by the BPU, then the MW of that project should be added to the next year's Community Solar solicitation. Additionally, because of (a) New Jersey's strong policy preference for community solar and (b) the delay (likely to be in the range of two years) between Round 2 Awards of October 2021 and the next round of awards, the BPU should set a capacity level of 300 MW for the next round.

Q3. Staff intends to recommend similar qualifications and ownership restrictions for solar developers participating in the Permanent Program as were implemented in the Pilot Program. Please comment.

A3. With respect to ownership qualification, we strongly recommend that the Board remove the ambiguity that was in the pilot community solar rules and make it clear in the permanent program rules that public entities can be considered the "owner" (or "manager") of the Community Solar Project, even though the solar system itself can be owned by a private entity. This distinction is necessary because public entities have no desire to be responsible for the ownership, financing or operation

of the solar system itself – this is a role for the solar developer. The public entity has a key role in community solar (particularly in the opt-out/auto enroll design discussed elsewhere in these comments) to manage the entire project including procurement and selection of a private owner of the solar system, the identification of participants, public outreach, enrollment and relationship management. Public entities generally have no interest in using their financing capacity for a solar system and do not have the expertise to develop a solar system. Moreover, public ownership of the solar system is a higher cost option because public entities cannot avail themselves of federal tax credits and depreciation benefits associated with developing a solar system. For these reasons this clarification is necessary.

Furthermore, the proposed definition of “local government” or “local government entity” in N.J.A.C. 12:8 9.2 unduly limits participation in an automatic enrollment project to municipalities only. Please clarify that definition to include other local public entities so long as the public entity enters a Shared Service Agreement with a local municipality. This is appropriate because it will permit other public entities (counties, utility and improvement authorities and others) to support the development of community solar project so long as they are doing so in coordination with the municipality where the customers are based. This can lead to beneficial synergies while maintaining the local relationships that the municipalities have. Accordingly, the Board should permit other public entities to be eligible to conduct an automatic enrollment Community Solar project so long as the entity has a shared services agreement with a municipality.

Q5. The CEA states that the Permanent Program rules and regulations shall “establish standards, fees, and uniform procedures for solar energy projects to be connected to the distribution system of an electric public utility” (Section 5(f)(11)). What changes, if any, should be made to the existing community solar interconnection standards and processes?

A5. The interconnection of projects has emerged as a significant bottleneck to development. The BPU should take immediate steps to accelerate the interconnection process. This should be driven by the implementation by the Board (along with the EDCs) of a rapid planning and buildout process so that EDCs “bulk up” their systems to not just react to interconnection requests but to anticipate specific locational needs and bulk up their systems so that the Board’s solar goals can be achieved. This effort is no less important than the efforts of the BPU and EDCs over the last decade to harden their system and make it more resilient following Superstorm Sandy and other events, as they both are part of New Jersey’s leadership posture in addressing climate change.

The following should be included in this boost to the Community Solar interconnection process:

- a) allow EDCs to rate base their expenditures for system upgrades and interconnection costs and to establish a surcharge/rider in their tariffs to allow for timely cost recovery;
- b) the EDC interconnection process should be adjusted to set a maximum fixed cost per MW for interconnection (with any additional costs recovered in the surcharge/rider described in a)). This will allow projects to set their economics and pricing while the EDCs review applications, and thereby let the BPU solicitation process and project development move forward.
- c) the Community Solar interconnection process should be changed to allow developers to choose either the PJM or EDC interconnection process so developers may use the interconnection process that is most feasible for their project on a case-by-case basis. The basic economics of a project are the same under either approach (the energy has value at the market clearing price) so that allowing this choice will give alternate routes for interconnection, and a developer can choose the process that best suits that project and its timing; and,
- d) the Board should strongly consider developing a State Agreement Approach (SAA) with PJM so that it can drive a consolidated approach that recognizes New Jersey's leadership position in community solar. Under SAA, BPU and PJM can allow for a socialization of improvements to the New Jersey transmission system related to grid solar projects. This approach could let projects pay a defined cost for interconnection and allow the process to move forward in a faster and more coordinated manner. This action, combined with recommendations a) and b), would allow interconnection costs to a developer be clearly defined and allow New Jersey's community solar program to move forward.

Without decisive and comprehensive action by the Board on interconnection, the development and in-service dates of projects will be greatly delayed, and the Board's community solar policy will be frustrated.

Q6. What measures should the Board implement to minimize negative impacts to the distribution system and maximize grid benefits?

A6. The Board can minimize negative impacts by encouraging – through added points in the evaluation of project applications – projects which utilize energy storage systems in a material way.

Q7. How should projects be selected for participation in the Permanent Program? Please provide a detailed description and discussion of the advantages and disadvantages of your proposed method of selection, with an emphasis on establishing criteria that are transparent and easily verifiable.



A7. The Board should conduct an annual solicitation with a number of clearly defined criteria addressed in the application and considered in the Board's evaluation process. The Board should use a solicitation design similar to that used during the pilot stage, with a very strong emphasis on developing projects that serve LMI customers, including significant extra points in the evaluation for projects that propose to serve only LMI customers. With respect to project type, projects on landfills, brownfields, areas of historic fill, rooftops, parking lots, parking decks, canopies over impervious surfaces, former sand and gravel pits, and floating solar on water bodies at sand and gravel pits should be the highest locational priority (and points) in the evaluation matrix.

Q9. What minimum maturity requirements should projects be required to meet before applying to participate in the Permanent Program? To what extent should the Community Solar Energy Program maturity requirements be different from, or similar to, the requirements for projects to apply to the Administratively Determined Incentive ("ADI") Program?

A9. The Board should consider the filing of an Interconnection Application to be sufficient to determine project maturity when evaluating Community Solar applications. BPU can strengthen project commitment by requiring applicants to make a monetary deposit at the time of application, which can be used to cover BPU's some of its cost of administering the solicitation including the engagement of a consultant to administer the process and review applications (under the supervision of the Board staff).

Q11. What policies and measures should the Board consider to ensure that the Permanent Program maintains a high level of low- to moderate-income ("LMI") participation? How can the Board support community outreach and education?

A11. The Board can ensure that Community Solar has a high level of LMI participation by appropriate and effective use of the application scoring system. Specifically, the "Low- and Moderate-Income and Environmental Justice Inclusion" aspect of the Evaluation Criteria should be to explicitly reward Projects serving 100% LMI customers as "Higher Preference" with materially greater points awarded than for other projects. Projects which serve 51+% LMI customers should be considered "Medium Preference"; Projects serving below 50% should be considered "Low Preference".

Furthermore, the Board can significantly heighten its LMI policies by allowing municipalities and public entities to auto-enroll LMI customers through an opt-out provision. Auto-enrollment has been proven a successful system through the Board's Government Energy Aggregation (GEA) policies to achieve a high level of savings through reduced customer acquisition and enrollment costs as well greater



certainty to investors that a project will be fully subscribed. Auto-enrollment will eliminate the significant barrier to LMI customer participation whereby participants are responsible for actively providing documentation and an affirmative signature to sign up for the program.

The BPU proposed an auto-enroll rule in November 16, 2020. This proposed rule can provide a foundation with relatively few edits for proposal and adoption of an auto-subscription rule.

It is also vital to LMI customer participation that the Board institute consolidated billing operated by the EDCs, with the specific provision that community solar projects will be paid by EDCs on a timely basis and customers will not be removed from consolidated billing should the customer be in arrears. This is especially harmful to LMI customers because LMI customers are more likely to be in arrears. EDCs provided a filing to the Board in May 2021 in which they agreed with this approach. The EDCs called this approach the “Utility Consolidated Billing, Net Crediting” as discussed on page 27 of the EDC’s May 28, 2021 filing.

Specifically, the payment structure should utilize “Net Crediting” so that solar developers can be confident that they will be paid monthly for the solar energy they provide to customers – regardless of the customer’s payment. This consolidated billing approach mirrors the EDCs (and BPU’s) treatment of BGS providers whereby providers are paid regardless of the customer’s payment patterns and history. Parity in payment treatment between Community Solar and BGS providers would not only be fundamentally fair, but it would also rapidly accelerate the development of LMI projects, as LMI customer payment risk would no longer be a concern of the community solar project (just as it has not been a concern of BGS providers for over two decades of BPU policy). Under this “Net Crediting” approach, investors will be much more interested in serving LMI customers and, in fact, would actively seek them out.

Q13. How should the Board consider “the economic and demographic characteristics of the area served by the facility, including whether it is located in an overburdened community, as that term is defined in section 2 of P.L.2020, c.92”?²

A13. The Board should allow all residents who reside within an “overburdened community” (as already defined by the State) to be eligible for enrollment under the LMI subscription standard of the Community Solar Project without further verification. This definition is as follows: “any census block group, as determined in accordance with the most recent United States Census, in which: (1) at least 35 percent of the households qualify as low-income households; (2) at least 40 percent of the residents identify as minority or as members of a State recognized tribal community; or (3) at least 40 percent of the households have limited English



proficiency.” In this case the participants’ address should be the only verification measure necessary.

Q14. What should the geographic limitations for community solar projects and subscribers be (i.e., How far from the project can subscribers to the project reside)?

For context, the Pilot Program allowed projects to self-select the geographic limits of the project. Projects could choose between three options: municipality and adjacent municipalities, county and adjacent counties, and no limit (EDC-wide).

A14. Geographic limitations should be eliminated from consideration – with the exception of location within the EDC territory which is required by statute – since the entire purpose of Community Solar is that the location of the solar system is irrelevant to where the subscribers are located. The geographic limitations in the Pilot Stage have acted as a barrier to providing energy savings to LMI customers (more likely residing in urban areas) due to their distance from solar systems (which may more likely be sited in less populated areas). Removing this limitation will result in more projects, more competition, and more LMI customer participation.

Q17. In November 2020, the Board proposed a rule amendment to the Community Solar Energy Pilot Program rules, which would have allowed certain projects owned and operated by public entities to automatically enroll subscribers without first seeking subscribers’ affirmative consent to join the project. Subscribers would then have the option to “opt-out” of the project should they not wish to participate. How can the Board best support subscriber education and acquisition? Should the Board revisit its automatic enrollment proposal, and if yes, how can automatic enrollment be implemented consistent with customer data privacy rights?

A17. The strong reasons to allow automatic enrollment are provided in our answer to Q.11. Automatic enrollment can be implemented in a manner which protects customer data rights by using protections already successfully used by the Board in its Government Energy Aggregation Program (GEA). The Board has the authority to adapt an opt-out regulation and address customer privacy issues and associated protections by N.J.S.A. 48:3 – 94(4)(b).

The very design of the auto-enrollment method provides customer protections considering that auto-enrollment is limited to projects led by public entities, who are trusted and responsible in their own right to protect the privacy of their residents (as is currently the case for GEA programs throughout New Jersey). Specifically, the addition we suggest is: “All public utilities subject to regulation by the Board shall take necessary steps to facilitate and provide local government with access to the historic billing usage of customers, point of delivery identification number, if applicable, and other information required by the public utility to enroll



customers in an automatic enrollment project upon satisfactory evidence that the automatic enrollment project is duly authorized by a municipal ordinance or resolution and by the Board. All public utilities subject to regulation by the Board shall provide this information for all residential customers in the municipality, at the option of the municipality, to facilitate the customer identification and enrollment process by the municipality. This local government access shall be for the purposes of identifying and enrolling LMI customers and determining subscribers' historic annual usage, in order to appropriately size community solar subscriptions. The municipality shall indemnify the public utility for any breach of customer information. All public utilities subject to regulation by the Board shall facilitate customer enrollment, opt-out, and, if community solar consolidated billing is directed by the Board, billing."

The Board should allow auto-enrollment to be implemented in two different manners:

- 1) a public entity competitively procures a solar developer at the "front end", prior to applying to the Board's Community Solar Program. In this approach the municipality or other public entity would apply with a designated project site, developer, and confirmed terms and conditions. The Board would review the Project Application in its established award process; and
- 2) An "after BPU award" approach whereby the public entity would have the opportunity (through public procurement) to enroll LMI customers through automatic enrollment to awarded Community Solar projects. This approach would further Board policy to enroll LMI customers. The Board can accommodate this by including an option in its application whereby an applicant could commit to participating in an auto-enrollment process. The public entity would be able to select already-awarded projects through a competitive procurement process to meet its LMI customer load requirements.

Both of these approaches would allow municipalities and other public entities to further the Board's goal of maximizing LMI participation.

Furthermore, BPU should make the clarification to the term "owned" as explained in the answer to Q3 above.

Q19. What modifications, if any, should the Board consider making to the value of the community solar bill credits?

A19. Based on the pilot program it is clear that the commercial rate is too low and discriminatory against LMI subscribers who reside in mastered-metered affordable



housing facilities, which are under the commercial rate. The current rate is especially problematic considering that the residents of master-metered affordable housing facilities are by nature LMI. BPU should address this problem and create a more equitable program for all LMI residents. The most direct way to address this in a manner that does not create complications with EDC tariff structures is to increase the ADI incentive for master metered affordable housing facilities.

Q20. In May 2021, following an opportunity for public comment, the EDCs submitted a report to the Board with options and recommendations regarding the implementation of consolidated billing for community solar. In summary, the EDCs recommend that, if the Board adopts consolidated billing for community solar projects, this billing process be handled by the EDCs. The EDCs further recommended that the method of reflecting subscription fees on a subscriber's EDC bill be determined by each EDC based on the format that best corresponds to their existing billing practices. The EDCs did not recommend that the Board allow non-EDC billing options. Do you agree with the EDCs' recommendations? If not, why? How do you recommend the Board address payment default by customers?

A20. As discussed in our response to Question 11 above, we recommend that the Board quickly adopt the Utility Consolidated Billing (UCB) net crediting approach identified by the EDCs in their May 2021 filing. UCB can supplant dual billing, which is confusing to customers and in some cases presents a roadblock for participation in community solar programs. In contrast, consolidated billing, and in particular, UCB, creates a seamless experience for participating customers. There is less confusion and less potential for complaints if a customer gets only one bill and sees all charges in one place on their existing utility bill. It will be significantly easier for customers to see the benefits from participation, as opposed to comparing two bills which may have different billing time frames.

Under UCB, customer nonpayment should be addressed exactly the same as if customers were on BGS supply whereby the customer is dropped only for nonpayment (shut off) account closure, moving, or program opt-out. Should this occur, subscription organizations will notify the utility of replacement LMI eligible participants. In accordance with BGS practices, it is recommended that community solar providers should be paid monthly consistent with the terms of section 9.1 of the BGS-RSCP Supplier Master Agreement. Community Solar suppliers would be paid "...on the first Business Day after the 19th day of each calendar month...", regardless of customer payment. LMI participants and Community Solar providers should not be required to pay a fee for consolidated billing. EDCs would be allowed the ability to recover any costs incurred, through existing cost recovery mechanisms. Furthermore, offering net crediting does not create a new state of affairs for the EDCs: **it is standard for a utility to absorb any customer payment risk**



when a customer is on the default (BGS) energy service, so there is no reason the EDC should not be responsible for this in the Community Solar Program as well, especially considering the BPU's goal to make this an LMI-focused program.

Net Crediting provides the solar developer with secure revenue from the utility, and increased security translates to higher savings for the customer and more incentive to invest in LMI Community Solar Projects. Without having to take on the credit risk of customer nonpayment, there will be significantly more interest from market participants and investors to supply solar energy to LMI customers. Rather than serving LMI customers merely to meet the BPU's requirement, solar developers will instead be incented to seek out and enroll LMI customers. Moreover, the rates charged to customers under this protocol will be lower since solar providers will not have to embed significant risk premiums in their rates to cushion them from this credit and payment risk.

Net Crediting consolidated billing should be made an option to LMI community solar projects, no matter the EDC territory. However, any project (LMI or otherwise) that wishes to continue rendering its own bills should have the option of doing so.

We urge BPU to quickly direct the EDCs to expeditiously implement the Net Crediting methodology for Community Solar Consolidated Billing.

Thank you very much for this opportunity to submit comments in this matter. Please do not hesitate to reach out for further discussion.

Much appreciated,

Belle Gabel

Associate

Gabel Associates

belle@gabelassociates.com

732.589.3057



THE BOROUGH OF HIGHLAND PARK
COUNTY OF MIDDLESEX, STATE OF NEW JERSEY
221 SO. 5TH AVENUE
HIGHLAND PARK, NJ 08904
TEL: (732) 572-3400
FAX: (732) 777-6006
www.HPBORO.com

VIA E-MAIL

TO: board.secretary@bpu.nj.gov

Aida Camacho-Welch, Esq.
Secretary of the Board
Board of Public Utilities
44 South Clinton Avenue
3rd Floor, Suite 314
Post Office Box 35`0
Trenton, New Jersey 08625-0350

**The Borough of Highland Park Comments
Regarding the Design of the Permanent Community Solar Program
Docket No. QO22030153**

Dear Secretary Camacho-Welch:

Thank you for this opportunity to provide input on the design of the Permanent Community Solar Program. Please accept the following comments on design of the permanent Community Solar Energy Program (Docket No. QO22030153). We provide these comments in response to the Notice of Request for Comments issued by BPU on April 11, 2022. Specifically, we provide responses to questions 3, 7, 14, 17, 19, and 20.

The Borough of Highland Park has a long standing history, commitment, and track record of implementing sustainable solutions, with a particular emphasis on energy projects. In 2007 we established one of the state's first Green Community Plans with the support of the New Jersey Sustainable State Institute. In 2013 we received Silver Level Certification from Sustainable Jersey, where we set the standard for Sustainable Jersey's Residential Energy Efficiency action. In 2017 we were selected for Phase I and in 2021 Phase II of the BPU's TCDER Microgrid Program. Highland Park has leadership-level experience, interest, and understanding of New Jersey's clean energy regulations. Considering this, along with our duty to serve the best interests of our residents, the Borough is obligated to advocate strongly on this issue.

In the interest of our LMI residents, Highland Park urges the Board to act promptly on adopting an automatic-enrollment process for projects led by public entities and to enact a utility consolidated billing system with net crediting.

Comments

3) In regard to ownership restrictions, we request BPU add clarification to the permanent program rules that an automatic enrollment Community Solar Project will be managed by a municipality but that the solar facility (i.e., solar panels and related equipment) in the Project may be owned by a third-party private entity developer. There has been ambiguity over this issue in the past. This ownership structure is necessary as the municipality is answerable to its residents and will manage the Program in the public interest. At the same time, the development, construction, financing, ownership, and operation of the solar facility is best undertaken by a private vendor who has expertise that the municipality does not have and can access beneficial federal tax credits that a municipality cannot receive.

7) As far as project selection, BPU should outsource application evaluation to a consultant (with continual oversight by the Board and its Staff) in order to ensure consistent, timely, and efficient timing of project awards. This will allow the high volume of applicants to be reviewed more quickly and allow Staff to focus on more critical policy and management issues.

14) The geographic limitations should be eliminated from consideration – with the exception of locations within the EDC territory which is required by statute – since the entire purpose of Community Solar is that the location of the solar system is irrelevant to where the subscribers are located. This will result in more projects, competition, and customer participation.

17) The Board should adopt an auto-enroll rule because the current "opt-in" subscription method requiring wet or electronic signatures creates an unfair barrier to entry for LMI customers. The unnecessary costs from highly intensive (and expensive) marketing and sales efforts to get LMI customer signatures reduces LMI participation and enrollment costs. The Board can best support subscriber education and acquisition and be consistent with customer data privacy rights by adopting the GEA opt-out method, rules, and protections, which have been successful in preventing the "slamming" of customers. Since auto-enrollment is restricted only to public entities, responsibility, data protection, and trust is already established between project owner (the public entity) and subscribers (the residents).

20) We support the EDC's proposal of May 28, 2021 for the use of "Utility Consolidated Billing", and importantly, we recommend that the features of BGS Consolidated Billing for Community Solar Consolidated billing be used. A solution to payment default issues is a billing approach that mirrors Basic Generation Service or BGS billing, whereby the EDC is responsible for recovering customer payment and pays the supplier on a monthly and full basis. Under this payment structure the solar developers can be confident that they will be paid monthly for the solar energy they provide to customers – regardless of the customer's payment. This way, developers will not be disincentivized to serve LMI customers and EDCs will be in no different a position regarding customer non-payment than under BGS billing.

Thank you for your time and consideration.

Sincerely,

Gayle Brill-Mittler, Mayor
Borough of Highland Park

Teri Jover, Borough Administrator and Redevelopment Director
Borough of Highland Park

Ravinder S. Bhalla, Mayor

City of Hoboken

94 Washington Street

Hoboken, New Jersey 07030



Jennifer Gonzalez AICP, PP, CFM

Director of Environmental Services

Ph. 201.420.2000 ext. 4000

jgonzalez@hobokennj.gov

VIA E-MAIL

TO: board.secretary@bpu.nj.gov

Aida Camacho-Welch, Esq.

Secretary of the Board

Board of Public Utilities

44 South Clinton Avenue

3rd Floor, Suite 314

Post Office Box 350

Trenton, New Jersey 08625-0350

Re: The City of Hoboken

Comments Regarding Docket No. QO22030153

Permanent Community Solar Program Design

Dear Secretary Camacho-Welch:

Thank you for this opportunity to provide input on the permanent Community Solar Program design. Hoboken is committed to addressing environmental justice through innovative sustainability efforts such as Community Solar. As an urban coastal city, Hoboken is particularly vulnerable to the effects of climate change, which continues to threaten the quality of life for Hoboken residents. Sadly, low-income communities and communities in urban areas often bear the brunt of pollution and the impacts of climate change. The City of Hoboken has a responsibility to its residents to counteract imminent threats to the environment by taking an advocacy role in supporting clean energy development, especially regarding the Community Solar Program.

Please accept the following comments on Community Solar Permanent Program Design, Docket No. QO22030153. We provide these comments in response to the Notice of Request for Comments issued by BPU on April 11, 2022.

The following comments pertain to Questions 17 and 20 of the Notice of Request for Comments issued by BPU:

17) In November 2020, the Board proposed a rule amendment to the Community Solar Energy Pilot Program rules, which would have allowed certain projects owned and operated by public entities to automatically enroll subscribers without first seeking subscribers' affirmative consent to join the project. Subscribers would then have the option to "opt-out" of the project should they not wish to participate. How can the Board best support subscriber education and acquisition? Should the Board revisit its automatic enrollment proposal, and if yes, how can automatic enrollment be implemented consistent with customer data privacy rights?

- **The Board should adopt an auto-enrollment mechanism because such an "opt-out" approach is needed to secure the LMI customer base.** This will provide the revenue flow that will facilitate

lower cost project financing and more effectively serve the LMI residents more in need of energy cost relief. As the Board's Government Energy Aggregation (GEA) program design has demonstrated in a multitude of programs, an opt-out program operated by a municipality can simultaneously protect customers, achieve strong pricing and demonstrate savings; and reduce customer sign-up cost. This is historically proven by the State's own actions: in 2003, legislators passed the Government Energy Aggregation Act; however, it became clear that the opt-in requirement stymied the growth of GEAs. Accordingly, in 2012 the Government Energy Aggregation Act was amended to remove the opt-in requirements. Since allowing the program to use automatic enrollment, the GEA program has flourished, now serving dozens of municipalities and hundreds of thousands of residents. This lesson learned should be applied to the design of the permanent Community Solar Program as well.

- Automatic enrollment can provide much greater assurance that an adequate LMI customer load will be purchasing solar energy over the term of the Community Solar power purchase agreement. Solar developers price a "risk premium" into their pricing that is commensurate with the level of risk related to customer erosion. The opt-out approach will minimize this risk because the Community Solar Program will keep the customer size and load at an adequate level for the term of the Community Solar power agreement, which will translate to reduced costs and greater savings to customers. Under the opt-in approach, the risk premium and high costs of enrollment for LMI customers are so pronounced that there are virtually no community solar programs around the country that have achieved 100% LMI customers participation. Accordingly, the opt-out method is vital to the success of the State's efforts and will eliminate a significant hurdle that has stunted community solar success for the LMI population in other states. In short, the opt-out approach can make New Jersey a national leader in LMI-based Community Solar, delivering on the Murphy Administration's primary Community Solar goal: serving LMI customers.
- Automatic enrollment can be implemented to protect customer data privacy rights by using the successful GEA opt-out rules and protections. These measures, which have already been approved and adopted by the Board, are sufficient to protect customers' rights. Many of these policies can be directly applied to the Community Solar automatic-enrollment system with relatively little adjustment. Specifically, the Board can adopt opt-out regulations and address customer privacy issues through the addition of the following passage to the Community Solar Automatic-Enrollment Rules:

"All public utilities subject to regulation by the Board shall take necessary steps to facilitate and provide local government with access to the historic billing usage of customers, point of delivery identification number, if applicable, and other information required by the public utility to enroll customers in an automatic enrollment project upon satisfactory evidence that the automatic enrollment project is duly authorized by a municipal ordinance or resolution and by the Board. All public utilities subject to regulation by the Board shall provide this information for all residential customers in the municipality, at the option of the municipality, to facilitate the customer identification and enrollment process by the municipality. This local government access shall be for the purposes of identifying and enrolling LMI customers and determining subscribers' historic annual usage, in order to appropriately size community solar subscriptions. The municipality shall indemnify the public utility for any breach of customer information. All public utilities subject to regulation by the Board shall facilitate customer enrollment, opt-out, and, if community solar consolidated billing is directed by the Board, billing."

20) In May 2021, following an opportunity for public comment, the EDCs submitted a report to the Board with options and recommendations regarding the implementation of consolidated billing for community solar. In summary, the EDCs recommend that, if the Board adopts consolidated billing for community solar projects, this billing process be handled by the EDCs. The EDCs further recommended that the method of reflecting subscription fees on a subscriber's EDC bill be determined by each EDC based on the format that best corresponds to their existing billing practices. The EDCs did not recommend that the Board allow non-EDC billing options. Do you agree with the EDCs' recommendations? If not, why? How do you recommend the Board address payment default by customers?

- **Hoboken supports the EDC's recommendation for "Utility Consolidated Billing," and importantly, will further advocate to use the net crediting model for Community Solar Consolidated Billing.** This will mirror the existing Basic Generation Service (BGS) Program (the electric service provided to customers who do not shop for power supply in New Jersey's deregulated market) which includes a consolidated billing mechanism with all charges on the utility bill. BGS providers have their charges collected directly on the utility bill, and – importantly – the utility makes regular payment to BGS providers on a monthly basis, regardless of whether or when customers pay their bills (i.e., net crediting). This system should be the inspiration for Community Solar Consolidated Billing. Under this mechanism, EDCs will still engage in its normal payment recovery process, subject to the consumer protections in the BPU's rules.
- BGS-style billing has been used successfully for over 20 years. For community solar to achieve our social justice goals, and for Hoboken to achieve its climate action goals, we should not exclude LMI customers from this same approach of consolidated billing. Importantly, from the customers' perspective, it will be less confusing to see their total energy cost on one bill and the benefits of participation in Community Solar will be more apparent. Furthermore, using BGS as a model for billing will lead to more LMI customer participation at a lower cost because community solar developers will have stable revenue and be incented to serve them. Without it, community solar providers will increase rates to LMI customers and will receive a financial signal to minimize, rather than pursue, enrollment of individually billed LMI customers. The costs of this approach should be recoverable by the EDC from its ratepayers, as is the case for its other clean energy and consumer collectible support functions.

The City encourages the BPU to take a national leadership position in using community solar to advance environmental justice by adopting the auto-enrollment rule for LMI customers under a Community Solar Program led by a public entity and requiring the EDC to use the USB consolidated billing method with net crediting, for at least all LMI customers, and ideally for all customers.

Thank you for your time and consideration.

Sincerely,



Jennifer Gonzalez, AICP, PP, CFM, LEED GA
Director of Environmental Services and Chief Sustainability Officer
City of Hoboken

CC: Yasmine Pessar, ENV SP, WEDG
Environmental Planner and Project Manager
City of Hoboken

New Jersey Board of Public Utilities

Secretary of the Board

44 South Clinton Ave., 1st Floor

PO Box 350

Trenton, NJ 08625-0350

Phone: 609-292-1599

Email: boardsecretary@bpu.nj.gov

In the matter of the design of the Permanent Community Solar Program

Docket No. Q022030153

**Infiniti Energy Comments on the “Request for Comments” released by the NJ Board of
Public Utilities for the design of Permanent Community Solar Program**

Dated: May 6, 2022

Infiniti Energy comments on the design of the Permanent Community Solar Program

I. Brief

Infiniti Energy thanks the New Jersey Board of Public Utilities (NJBP) for its support of New Jersey's Community Solar Pilot Program, a national model for the equitable access and participation of electricity customers going solar. Infiniti Energy also thanks the NJBP for its ongoing support of the Permanent Community Solar Program, a critical step in the state's energy transition, and its commitment towards 100 percent clean energy by 2050.

Infiniti Energy (IE) is a turnkey commercial and industrial solar developer based in Howell, Monmouth County, New Jersey. IE provides customized solar solutions through programs like Community Solar offering customers savings, benefits, and access to an in-house Engineering Procurement Construction (EPC), finance, and policy teams. IE has formed partnerships and developed projects in NJ for Wells Fargo, PepsiCo., Kaplan Companies, and Teaneck Public School District amongst others.

Alongside its business model, Infiniti Energy has formed a non-profit fund, Infiniti Equity Fund (IEF), directed towards addressing environmental justice, clean energy equity, and workforce development issues in the state. Through bi-annual grant solicitations, IE distributes grants to nonprofit based organizations that are currently or plan on working on projects/initiatives addressing the relevant issues. IEF is a commitment by IE to equitably grow access to clean electricity for customers and support overburdened communities in participating in the solar industry and beyond.

II. Program Design

Infiniti Energy believes that in order to prevent a backlog of potential project "scrub" in the permanent program, projects should be put through a well vetted process of high project maturity requirements. IE believes requiring proof of site control, signed interconnection agreement or proof of payment for a portion of the projects upgrade cost, and proof that all non-ministerial permits have been received would separate projects that achieve commercial operation from those that won't. This would ensure that project will mature efficiently through the development process with clear sight of application and approval.

IE believes that permanent program capacity should be divided into separate blocks, specifically by project type and size. This would ensure equitable allocation of funds and requirements tailored by specific characteristics, rather than being clustered into a service territory.

Regarding land use restriction and limitations, IE recommends the Board to continue to focus incentives on preferred siting (ie. rooftops, brownfields, landfills), while keeping certain restrictions on federal and state lands (i.e.. preserved farmland).

In addition, IE strongly recommends the Board to address the lack of transparency and communication between utilities and developers. Securing and developing projects can take developers multiple years of investment and capital outlay. Project developers should not be penalized due to lack of response from Electric Distribution Companies (EDCs). We believe there should be a baseline publication of typical costs providing developers with historical data on upgrading cost. Addressing the lack of communication and transparency by EDCs alongside establishing clearly defined terms for permitting and means for extensions will help allocate the most qualified projects and achieve commercial operation.

Regarding minimizing negative impacts to the distribution system, IE recommends the board support a structured finance mechanism that would enable public utilities to improve their grid. IE also believes initiating a state funded program for interconnection costs, would support developers and utilities with the cost of upgrades needed to bring solar online and supply electricity customers.

III. Project Selection

Regarding the design of the application process, Infiniti Energy recommends the Board to reconsider implementing first come-first serve in the permanent program. There has been noted success in using a first come-first serve model in other states including Massachusetts's SMART Program and New York's NY-Sun Program and it can also be seen in newer markets that are developing strong climate and energy models such as the Illinois Long Term Plan: Adjustable Block Program. A first come-first serve application process would alleviate interconnection backlog, help weed out immature projects, and help mature projects reach commercial operation.

Regarding the creation of a waitlist for non-selected projects, IE believes projects should be selected on a rolling basis, therefore, if you hit maturity requirements and in doing so you should be able to proceed with commercial operation. IE also supports creating a waitlist for mature projects to enter in the next delivery year if they have proof of site control, signed interconnection agreement, and all non-ministerial permits have been received. IE also recommends the Board provide a transparent timeframe and maintain accountability for timeframe of funding for approved projects.

IV. LMI Access

IE strongly recommends the Board to increase both physical and digital distribution of program advertising to customers. In addition, IE recommends having an opt-in opt out situation where Low-to-Moderate Income customers have preference and first choice to subscribe in the community solar program. IE also believes the Permanent Program's income verification standards should be determined by the census tract. Using a Census tract would most accurately verify customers based on the small well defined geographic area used by census data to ensure proper income verification.

V. Community Solar Subscribers

Regarding geographic limitation for community solar projects and subscribers, IE maintains that it should be kept within EDC territory.

Regarding the Pilot Program's mandate on subscriber minimums and maximums, Infiniti Energy recommends the Board to remove the maximum number of subscribers restriction.

Regarding the Board's proposed rule amendment of subscriber enrollment, Infiniti Energy believes that prioritizing automatic enrollment for LMI communities and allowing option opt-out would increase subscriber education, awareness, while providing options to that subscriber. Providing subscriber, a window to opt-out and a bill insert notifying automatic enrollment along with associated savings would increase program education. IE recommends extending this option to all community solar facilities, not just ones owned by public entities.

VI. Other

Infiniti Energy thanks the NJBPU for allowing Infiniti Energy to comment and we look forward to the release of the straw proposal and the future success of the permanent program.

James A. Meehan, Esq.
(610) 921-6783
(330) 315-9263 (Fax)

May 6, 2022

VIA ELECTRONIC MAIL ONLY

Carmen D. Diaz, Acting Secretary
New Jersey Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, New Jersey 08625 -0350
Board.secretary@bpu.nj.gov

Re: In the Matter of the Community Solar Energy Program
Docket No. QO22030153

Dear Acting Secretary Diaz:

On April 11, 2022, the staff of the New Jersey Board of Public Utilities (“NJBPU” or “Board”) issued a Request for Comments to certain questions regarding the design of the permanent Community Solar Energy Program (“Permanent Program”). Jersey Central Power & Light Company (“JCP&L” or the “Company”) appreciates the opportunity to submit comments in reference to the Permanent Program. The Company hopes that the Board will find JCP&L’s comments and suggestions helpful as it begins its consideration of this important topic.

I. Program Design and Eligibility

1. The Solar Act of 2021 states that the new Successor Solar Incentive Program should aim to provide incentives for at least 150 MW of community solar facilities per year. How should the annual Permanent Program capacity limit account for potential project “scrub” (i.e., planned projects that do not reach commercial operation)?

Response:

The Company is not opposed to accounting for potential project “scrub” subject to maintaining the annual cost cap established pursuant to N.J.S.A. 48:3-87d(2). In order to provide sufficient time for project study and system planning, JCP&L recommends that the capacity associated with any project that is scrubbed be awarded in a subsequent program year.

2. *Should the Permanent Program capacity be divided into separate blocks, and if yes, how? (i.e., By EDC service territory? By project type or size)? Additionally, the Solar Act of 2021 requires the Board to consider “the economic and demographic characteristics of the area served by the facility, including whether it is located in an overburdened community[.]”¹ How should any blocks address this requirement?*

Response:

To ensure continued equitable distribution of these projects across the State, JCP&L recommends the Program capacity continue to be allocated between Electric Distribution Companies (“EDCs”) based upon each EDC’s percentage of electric sales – an allocation basis which has been used in previous solar program and energy efficiency program offerings. This results in roughly one-half of the capacity being allocated to PSE&G, with JCP&L’s allocation half that of PSE&G’s, and Atlantic City Electric’s (ACE) portion being half the size of JCP&L’s. Rockland Electric Company typically will receive a less than 5% allocation. There should be no reallocation of any excess annual capacity.

The Company has no objections to creating a set-aside of dedicated capacity for community solar projects located in areas of, and serving, LMI participants. This is considered an under-served market which generally lacks siting capability, as well as the ability to individually invest in solar projects, and therefore JCP&L believes a dedicated allocation would be suitable for a portion of the program.

3. *Staff intends to recommend similar qualifications and ownership restrictions for solar developers participating in the Permanent Program as were implemented in the Pilot Program. Please comment.*

Response:

As stated in rule comments provided by the Company on November 30, 2018: 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 EDCs from developing, owning, or operating community solar projects. JCP&L believes that this provision from the Pilot Program is inconsistent with the legislative intent of the Clean Energy Act (“CEA”), which allows for EDC-owned community solar when the BPU establishes a permanent community solar program. In fact, the Act explicitly provides that the Board shall “adopt rules and regulations for the permanent program that set forth standards for projects owned by electric public utilities...” *N.J.S.A. 48:3-87.11(f)*. EDCs would be in the best position to locate and operate projects to provide the most benefit to the grid and its customers. Appropriate locations could be selected that benefit the grid by limiting constraints or by operation to provide reactive voltage support and voltage regulation. Given the language of the CEA and the benefits of utility ownership described above, JCP&L does not believe the Permanent Program should include a restriction on utility ownership as was included in the Pilot Program. Additionally, the costs of such facilities should be subject to full and timely recovery.

4. *What land use restrictions and limitations, if any, should apply to the siting of community solar projects?*

While Section 6 of the Solar Act of 2021 does not establish siting standards for Community Solar projects, should the Board adopt comparable standards be extended to also apply to community solar facilities? What should those standards look like?

Response:

Land use restrictions and limitations should be consistent with current New Jersey statutes and regulations, including any local land use requirements. Siting standards for Community Solar Projects should be consistent with those provided in existing rules for the Pilot Program.

5. *The CEA states that the Permanent Program rules and regulations shall “establish standards, fees, and uniform procedures for solar energy projects to be connected to the distribution system of an electric public utility” (Section 5(f)(11)). What changes, if any, should be made to the existing community solar interconnection standards and processes?*

Response:

All Community Solar Energy Projects should comply with all current and future applicable interconnection requirements, standards and processes applicable to each EDC. The Company believes there should be no special treatment for Community Solar. The reliability and resiliency of the electrical grid must be protected. Interconnection applications and procedures ultimately are designed to ensure such protection, and thus all interconnections should be held to the same standards.

6. *What measures should the Board implement to minimize negative impacts to the distribution system and maximize grid benefits?*

Response:

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. The Company recommends the Board continue to implement capacity limits to ensure the reliability and resiliency of the electric distribution system is protected. Further, as stated in earlier comments, the Company believes all Community Solar Energy Projects should comply with all current and future applicable interconnection requirements, standards and processes applicable to each EDC. The Company believes there should be no special treatment for Community Solar.

II. Project Selection

7. *How should projects be selected for participation in the Permanent Program? Please provide a detailed description and discussion of the advantages and disadvantages of your proposed method of selection, with an emphasis on establishing criteria that are transparent and easily verifiable.*

Response:

The Company defers comment on this topic.

8. *Should the Board consider creating a waitlist for non-selected projects? If yes, why would a waitlist support the continued development of community solar projects without increasing program oversubscription? How should this waiting list be implemented to avoid a situation where all capacity is spoken for months or years ahead of a solicitation?*

Response:

The Company defers comment on this topic.

9. *What minimum maturity requirements should projects be required to meet before applying to participate in the Permanent Program? To what extent should the Community Solar Energy Program maturity requirements be different from, or similar to, the requirements for projects to apply to the Administratively Determined Incentive (“ADI”) Program?*

Response:

The maturity requirements for the ADI Program contemplate that under certain circumstances a project developer will have already submitted an interconnection application to the EDC prior to seeking Board approval of the project. Under the Permanent Program, JCP&L believes that the interconnection application for any project should not occur prior to Board approval of the 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. 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.

10. *Should the Board consider any changes to the coordination between community solar project awards and the process for registering for the ADI Program?*

Response:

The Company defers comment on this topic.

III. Low- and Moderate-Income Access

11. What policies and measures should the Board consider to ensure that the Permanent Program maintains a high level of low- to moderate-income (“LMI”) participation? How can the Board support community outreach and education?

Response:

As indicated in the Response to No. 2 above, the Company has no objections to creating a set-aside of dedicated capacity for community solar projects located in areas of, and serving, LMI participants. This is considered an under-served market which generally lacks siting capability, as well as the ability to individually invest in solar projects, and therefore JCP&L believes a dedicated allocation would be suitable for a portion of the program.

12. Should the Board modify the Pilot Program’s income verification standards (see the Pilot Program rules at N.J.A.C. 14:8-9.8)? If so, how?

Response:

The Company defers comment on this topic.

13. How should the Board consider “the economic and demographic characteristics of the area served by the facility, including whether it is located in an overburdened community, as that term is defined in section 2 of P.L.2020, c.92?”

Response:

The Company defers comment on this topic.

IV. Community Solar Subscribers

14. What should the geographic limitations for community solar projects and subscribers be (i.e., How far from the project can subscribers to the project reside)?

For context, the Pilot Program allowed projects to self-select the geographic limits of the project. Projects could choose between three options: municipality and adjacent municipalities, county and adjacent counties, and no limit (EDC-wide).

Response:

As stated in earlier comments on this topic, the Company again suggests that the geographic limitations for community solar pilot projects and subscribers should be that projects and subscriber should be within the same municipality within the EDC territory to maintain the proximity linkage between where power is generated and where it is consumed. Currently, 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. 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. As a result,

subscribers will be relying on the distribution system to deliver 100% of their power requirements, for which service subscribers will not be paying for their share of distribution costs.

15. The Pilot Program mandated that each community solar project must have a minimum of 10 subscribers, and a maximum of 250 subscribers per MW of installed capacity. Should either of these mandates be changed under the Permanent Program?

Response:

There should continue to be a minimum number of subscribers per community solar pilot project. The minimum number of subscribers could vary with the size of the community solar project. As stated previously by earlier submitted comments of the Company, requiring a minimum number of subscribers provides some protection against abuse of the program to get around contiguous property rules. Customers should not be allowed to simply install solar in a remote location and assign themselves the benefit of the generation. JCP&L also supports continuing to limit the maximum number of subscribers per MW per project in order to control the administrative burden of implementing the program and, ultimately, the costs of the program to customers.

16. Should the Board make any modifications to the consumer protection measures implemented under the Pilot Program?

Response:

The Company defers comment on this topic.

17. In November 2020, the Board proposed a rule amendment to the Community Solar Energy Pilot Program rules, which would have allowed certain projects owned and operated by public entities to automatically enroll subscribers without first seeking subscribers' affirmative consent to join the project. Subscribers would then have the option to "opt-out" of the project should they not wish to participate. How can the Board best support subscriber education and acquisition? Should the Board revisit its automatic enrollment proposal, and if yes, how can automatic enrollment be implemented consistent with customer data privacy rights?

Response:

As stated in comments submitted by the Company on August 7, 2020, the Company has legal and implementation concerns regarding the opt-out model and utility consolidated billing of subscriber fees. The Company continues to oppose transitioning from an opt-in to an opt-out subscriber model. Currently, customers must provide their affirmative consent through an opt-in before they are subscribed to a community solar project. Without this affirmative consent, a customer may not understand the terms of enrollment or impact on their bill. Moreover, N.J.S.A. 48:3-85 does not permit the release of customer information by the utility without customer consent except under limited circumstances that do not apply to the Community Solar Program. An opt-out model also could lead to certain customers paying more on their monthly electric bills because it is not yet clear whether subscriber fees would be low enough to benefit all customers. If customers are subscribed to a long-term contract by their municipality through a governmental aggregation format, customers could be subject to early termination fees if they decide to install distributed generation at their home in the future.

V. Community Solar Bill Credits

18. *If applicable, please discuss your experience with subscriber management and the allocation of community solar bill credits. What changes, if any, should be made to communications between community solar subscriber organizations and the EDCs, or to the allocation of bill credits by the EDCs?*

Response:

If properly sized, any excess credits at the end of the year should be minimal. However, in the Company's limited experience, the lone operating community solar project in our service territory is grossly undersubscribed. The Company has insufficient experience upon which to recommend further changes to the crediting and associated communications processes.

19. *What modifications, if any, should the Board consider making to the value of the community solar bill credits?*

Response:

In previous comments, the Company had suggested that the bill credit for Community Solar projects should be based on the cost of retail generation service, such as BGS. Since 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. However, with the value of the credit currently being set at the full rate, excluding certain identified non-bypassable riders and charges, there should be assurance that the EDCs be allowed full and timely recovery for the cost of the credits, along with the other program-related incremental costs.

20. *In May 2021, following an opportunity for public comment, the EDCs submitted a report to the Board with options and recommendations regarding the implementation of consolidated billing for community solar. In summary, the EDCs recommend that, if the Board adopts consolidated billing for community solar projects, this billing process be handled by the EDCs. The EDCs further recommended that the method of reflecting subscription fees on a subscriber's EDC bill be determined by each EDC based on the format that best corresponds to their existing billing practices. The EDCs did not recommend that the Board allow non-EDC billing options. Do you agree with the EDCs' recommendations? If not, why? How do you recommend the Board address payment default by customers?*

Response:

The Company agrees with the EDCs' recommendations as set forth in the May 2021 report.

VI. Other

21. *Please provide comments on any issues not specifically addressed in the questions above.*

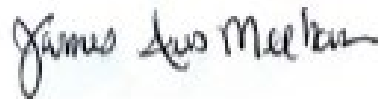
Response:

As stated in previous comments, the Company suggests the monthly reporting requirement pursuant to N.J.A.C. 14:8-9.11(a) be submitted on a quarterly basis. This monthly activity could prove to be burdensome for all involved, as the program expands. The Act does 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.

Finally, JCP&L encourages the Board to undertake a comprehensive stakeholder process to review the Pilot Program before transitioning to the Permanent Program. In crafting its final rules for the Permanent Program, the Board would benefit from a detailed review that is focused on identifying the program elements that work and those elements that should be changed or eliminated.

JCP&L again thanks the Board for the opportunity to provide these comments. If you have any questions, please do not hesitate to contact me.

Very truly yours,

A handwritten signature in dark ink, appearing to read "James Austin Meehan". The signature is fluid and cursive, with the first name "James" being the most prominent.

James Austin Meehan
Counsel for
Jersey Central Power & Light Company



**Jewish Community Center
Of Middlesex County**
"Community Is Our Middle Name"

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Adam R. Glinn

April 27, 2022

In the Matter of the Community Solar Energy Program
Docket No. QO22030153

To Whom It May Concern,

On behalf of the Jewish Community Center of Middlesex County, I am writing to support the Community Solar Energy Program and its transition to a permanent Program. This program has made accessible the benefits of solar energy to many of our constituents who otherwise would continue to be underserved.

The benefits my organization and our community members have received from community solar are at risk if the BPU does not implement the following as part of the Permanent Program:

1. **The BPU should continue to award community solar projects through a competitive scoring process.** My organization has seen an extraordinary level of support (financial and otherwise) from solar companies as a direct result of those companies' competing for my organization's partnership in order to score points on their project applications. And my organization's constituents have been direct beneficiaries of discounts and other perks from solar companies wanting to win over customers. Changing to a first-come-first-served project-selection process would eliminate these substantial benefits of the competitive process.
2. **The BPU should award more community solar projects.** Community solar projects provide real, tangible benefits to my organization and my organization's constituents, many of whom cannot benefit from traditional residential solar (e.g., because they do not own their homes and/or live in buildings without suitable rooftops). Community solar is the best – and, in many cases, only – way for my community members to get the savings and other benefits of green energy. We need more community solar.
3. **The BPU should reduce barriers to low-income and moderate-income (LMI) subscribers.** Households that have "low income" or "moderate income" should be able to qualify as LMI customers for community solar without needing to jump through invasive hoops (e.g., proving that they are on food stamps). If someone swears in writing that he or she qualifies as having low income or moderate income, that should be enough. Asking for more deters residents from wanting to sign up for the community solar program.
4. On a final note, I would strongly urge the BPU to adopt the program with the inclusion of consolidated billing for our communities, which would make acceptance and understanding of the program and its processes greater. Consolidated billing is a clearer method, particularly for those currently underserved.

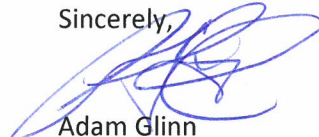
Morris & Lydia Goldfarb Building

1775 Oak Tree Road, Edison, New Jersey 08820 TEL: 732-494-3232 FAX: 732-548-2850 www.jccmc.org
A Beneficiary Agency of the Jewish Federation in the Heart of New Jersey

**Jewish Community Center
Of Middlesex County**
"Community Is Our Middle Name"

Thank you for considering these comments. We look forward to continuing to promote clean energy equity in our community.

Sincerely,



Adam Glinn
Chief Executive Officer

Morris & Lydia Goldfarb Building

1775 Oak Tree Road, Edison, New Jersey 08820 TEL: 732-494-3232 FAX: 732-548-2850 www.jccmc.org
A Beneficiary Agency of the Jewish Federation in the Heart of New Jersey

April 26, 2022



**Jewish
Renaissance
Foundation**

"One People, One Heart"

To Whom It May Concern,

I am writing on behalf of the Jewish Renaissance Foundation (JRF) in support of the Community Solar Energy Program and its transition to a permanent program. Our organization is very familiar with community solar, and we helped subscribe Solar Landscape's Perth Amboy projects – the first two community solar projects ever energized in New Jersey.

The JRF brings innovative ideas and culturally competent programs and services that focus on the social determinants of health to advance the well-being of all people as we work to address barriers to economic self-sufficiency. The JRF serves as both a Federally designated Community Action Agency administering a range of anti-poverty programs and a Qualified Health Center providing primary care at our Community Health Center (CHC) in Edison, NJ to those who have limited access to health care.

Community solar has already brought lower utility costs, air that is cleaner and workforce training to Middlesex County LMI residents. We want to ensure those benefits continue and recommend the following as part of our stakeholder feedback:

1. **The BPU should continue to award community solar projects through a competitive scoring process.** My organization has seen an extraordinary level of support (financial and otherwise) from solar companies as a direct result of the competition for my organization's partnership to increase their score on their project applications. The families and communities we serve have benefited from discounts and other incentives to subscribe customers. We strongly feel changing to a first-come-first-served project-selection process would eliminate the substantial benefits of the competitive process.
2. **The BPU should award more community solar projects.** Community solar projects provide real, tangible benefits to my organization and those we work with, many who cannot take advantage of traditional residential solar (e.g., because they do not own their homes and/or live in buildings without suitable rooftops). Community solar is the best – and, in many cases, the only way for our families to secure the savings and other benefits of clean and green energy. We need more community solar!

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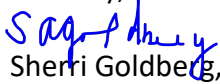
Web: www.jrfnj.org / E-mail: info@jrfnj.org



3. **The BPU should reduce barriers to low and moderate-income (LMI) subscribers.** Households that are LMI should be able to qualify as customers for community solar without having to jump through invasive hoops (e.g., proving that they are on food stamps). If a potential subscriber attests in writing that he or she is LMI, that should be enough. Asking for more deters residents from wanting to sign up for the community solar program.
4. **The BPU should require streamlining the billing process.** Community solar should be billed utilizing one bill. Our families often struggle to understand two different bills and therefore are unsure if they are receiving what was promised. Their PSE&G bill should reflect the savings and be the aggregate bill showing the benefit of their subscription to community solar.

Thank you for considering these comments. We look forward to continuing to promote clean energy equity in our community and work with our solar partner.

Sincerely,



Sherri Goldberg, Director of Community & Family Services



Mark Freda
Mayor

May 6, 2022
New Jersey Board of Public Utilities
44 South Clinton Avenue, 7th Floor
P.O. Box 350
Trenton, New Jersey 08625-0350
Attn: Carmen D. Diaz, Acting Board Secretary
RE: COMMENTS FROM THE MUNICIPALITY OF PRINCETON IN THE MATTER OF THE
PERMANENT COMMUNITY SOLAR ENERGY PROGRAM DESIGN
Docket No. QO22030153

Dear Acting Secretary Diaz,

Princeton is committed to providing clean and affordable energy to its most disadvantaged residents. As such, we support the Governor's and the BPU's Community Solar Energy Program's emphasis on environmental justice and delivering the benefits of solar energy to low and moderate-income (LMI) customers.

We appreciate the opportunity to provide comments in response to the Board's April 11, 2022, Notice of Request for Comments on Docket No. QO22030153. See Princeton's comments to Questions 17, 20, and 21 below:

Q17) In November 2020, the Board proposed a rule amendment to the Community Solar Energy Pilot Program rules, which would have allowed certain projects owned and operated by public entities to automatically enroll subscribers without first seeking subscribers' affirmative consent to join the project. Subscribers would then have the option to "opt out" of the project should they not wish to participate. How can the Board best support subscriber education and acquisition? Should the Board revisit its automatic enrollment proposal, and if yes, how can automatic enrollment be implemented consistent with customer data privacy rights?

A17) Municipalities like Princeton exist to serve the public good. We bear the responsibility of protecting our community members as no private entity does. We believe the application of government energy aggregation (GEA) program opt-out rules to community solar provides necessary access to the LMI communities that the Community Solar Pilot Program aims to serve. The GEA opt-out rules protect hundreds of thousands of customers participating in GEA programs today in New Jersey, and they will work for LMI community solar customers. Princeton launched a renewable government energy aggregation program in 2020 and has experienced firsthand how this



Mark Freda
Mayor

structure is a powerful tool for making significant steps toward cleaner, affordable energy.

The current "opt-in" subscription method requiring wet or electronic signatures creates a barrier to entry for LMI customers. The unnecessary costs from highly intensive (and expensive) marketing and sales efforts to get LMI customer signatures will be passed on to them by private developers and subscriber organizations. These costs are avoided when a Municipality vets and procures a community solar project partner on behalf of its LMI residents. Municipalities are also in a good position to maximize participation for LMI customers. Working closely with affordable housing entities, as there may be several in a town as there are in Princeton, a municipality can reach all of the qualified LMI customers spread out across town in a program design that can include master and individually metered apartment developments, and single-family homes. Without an opt-out approach, significant numbers of individually metered customers will not be enrolled in or benefit from Community Solar. This is an opportunity for New Jersey to lead the nation in LMI customer enrollment.

Furthermore, we believe using the GEA opt-out method will protect the data privacy rights of LMI customers. The GEA model allows a municipality to procure a community solar project partner using a transparent, public, and competitive process to secure the best terms for all LMI residents. It also puts the municipality squarely in the role of the trusted, responsible party.

Q20) In May 2021, following an opportunity for public comment, the EDCs submitted a report to the Board with options and recommendations regarding the implementation of consolidated billing for community solar. In summary, the EDCs recommend that, if the Board adopts consolidated billing for community solar projects, this billing process be handled by the EDCs. The EDCs further recommended that the method of reflecting subscription fees on a subscriber's EDC bill be determined by each EDC based on the format that best corresponds to their existing billing practices. The EDCs did not recommend that the Board allow non EDC billing options. Do you agree with the EDCs' recommendations? If not, why? How do you recommend the Board address payment default by customers?

A20) We agree with the EDC's position in their May 2021 Report that for Community Solar to be successfully implemented EDCs should optionally provide consolidated billing under UCB (Utility Consolidated Billing), whereby EDCs provide one bill to customers, which includes their Community Solar savings. Furthermore, UCB should be designed in the same manner as EDCs



Mark Freda
Mayor

currently provide such billing for Basic Generation Service (BGS) Providers. Under BGS, EDCs bill customers, collect revenues, administer collection (or termination) activities, and pay BGS Providers on a regular basis. This approach can be used for Community Solar, as it imposes no additional collection or payment risk on EDCs than is currently the case. In fact, it may improve collections of EDC revenues since the participating Community Solar customers will have lower monthly bills. EDCs should also be able to charge a fee to reflect its administration and recover its reasonable costs.

Without such a mechanism, Community Solar to LMI customers cannot move forward significantly and comprehensively as credit and payment risks will cause solar providers to avoid or limit LMI customer participation. This approach ("net crediting") will also reduce the risk and cost of financing projects in the Community Solar Program and lower rates for participating customers.

Q21) Please provide comments on any issues not specifically addressed in the questions above.

A21) The BPU should consider allowing for a scenario where, following a competitive request for proposals (RFP), municipalities could select to partner with a community solar developer that has an approved project(s) with unsubscribed load. The RFP would include the auto-enroll method described in Q17 and A17 but would allow respondents to propose to provide load for either a future project, an existing project, or a combination of both with the same terms for all subscribers.

Thank you for your time and consideration.

Sincerely,

Mayor Mark Freda



Scott G. Munro
Perkins Director

In the Matter of the Community Solar Energy Program

Docket No. QO22030153

To Whom It May Concern,

On behalf of Solarlandscape, I am writing to support the Community Solar Energy Program and its transition to a permanent Program.

Mercer County Technical Schools are leading the way in providing training programs for a more equitable and greener economy. The workforce training provided to our teachers **(free of charge)** for our students and teachers provided by Solar Landscape as part of the Community Solar program provides invaluable, industry recognized programs that help us fulfill our mission. It is our hope that the BPU continues to operate the program on a competitive basis to ensure companies are motivated to provide the highest quality training and educational programs that will benefit the students in our district and in the state.

Technical training programs, such as solar panel installer training, can help our students learn the skills they need and prepare for certification exams in a short time frame. This allows you to move into the workplace faster and minimize the costs of your education.

The benefits my organization and our community members have received from community solar are at risk if the BPU does not implement the following as part of the Permanent Program:

1. **The BPU should continue to award community solar projects through a competitive scoring process.** My organization has seen an extraordinary level of support (financial and otherwise) from solar companies as a direct result of those companies' competing for my organization's partnership in order to score points on their project applications. And my organization's constituents have been direct beneficiaries of discounts and other perks from solar companies wanting to win over customers. Changing to a first-come-first-served project-selection process would eliminate these substantial benefits of the competitive process.
2. **The BPU should award more community solar projects.** Community solar projects provide real, tangible benefits to my organization and my organization's constituents, many of whom cannot benefit from traditional residential solar (e.g., because they do not own their homes and/or live in buildings without suitable rooftops). Community solar is the best – and, in

**Assunpink Center
Health Science Academy**

1085 Old Trenton Road, Trenton, New Jersey 08690

T: 609.586.5144

www.mcts.edu



Scott G. Munro
Perkins Director

many cases, only – way for my community members to get the savings and other benefits of green energy. We need more community solar.

3. The BPU should reduce barriers to low-income and moderate-income (LMI) subscribers. Households that have “low income” or “moderate income” should be able to qualify as LMI customers for community solar without needing to jump through invasive hoops (e.g., proving that they are on food stamps). If someone swears in writing that he or she qualifies as having low income or moderate income, that should be enough. Asking for more deters residents from wanting to sign up for the community solar program.

Thank you for considering these comments. We look forward to continuing to promote clean energy equity in our community.

Sincerely,

Scott G. Munro

Perkins Director

Mercer County Technical Schools

Assunpink Center
Health Science Academy

1085 Old Trenton Road, Trenton, New Jersey 08690

T: 609.586.5144

www.mcts.edu

Office of Career and Technical Education

Middlesex County Vocational and Technical Schools

112 Rues Lane P.O. Box 1070 East Brunswick, NJ 08816-1070 Tel: (732) 257-3300 Fax: (732) 390-4252

In the Matter of the Community Solar Energy Program, Docket No. QO22030153

To Whom It May Concern,

On behalf of Middlesex County Vocational and Technical School District (MCVTS) and Office of CTE, I am writing to support the Community Solar Energy Program and its transition to a permanent Program.

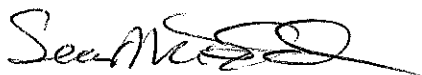
MCVTS has directly benefited from this program via work based learning experiences that the Community Solar program and Solar Landscape provided to our students, including a paid internship. We have progressed in our relationship to include development of a training program for teachers and students and we anticipate piloting regional trainings for additional teachers in the near future. During our Comprehensive Local Needs Assessment meeting on April 27th, we highlighted the valued partnership with the Community Solar program as a benefit to train entry level solar installers and technicians as well as the direct benefits of the Community Solar program to local communities.

We are concerned that the benefits that our organization and a variety of local communities have received through the Community Solar program are at risk if the BPU does not implement the following as part of the Permanent Program:

1. **The BPU should continue to award community solar projects through a competitive scoring process.** Our organization has seen an extraordinary level of support (financial and otherwise) from solar companies as a direct result of the point system within the project application process. As well, our organization's stakeholders can have direct beneficiaries of discounts and other perks from solar companies wanting to provide information and a valuable service to its customers. Changing to a first-come-first-served project-selection process would eliminate substantial benefits of the competitive process.
2. **The BPU should award more community solar projects.** Community solar projects provide real, tangible benefits to our district and stakeholder, many of whom cannot benefit from traditional residential solar. The Community Solar program is the greatly beneficial for community members to benefit from green energy. We advocate for more community solar.
3. **The BPU should reduce barriers to low-income and moderate-income (LMI) subscribers.** Households that have low or moderate income should be able to qualify as LMI customers for community solar without barriers. If a person testifies that they qualify as low or moderate income that should suffice. Requiring more details will most likely deter residents from signing up for a community solar program.

Thank you for considering these comments. We look forward to continuing to promote clean energy equity in our community.

Sincerely,



Sean McDonald

Director of Career and Technical Education



Mid-Atlantic Solar & Storage Industries Association

Rutgers Eco-Complex, Suite 208-8

1200 Florence-Columbus Road, Bordentown, NJ 08505 | info@mseia.net

May 6, 2022

Secretary of the Board

New Jersey Board of Public Utilities
44 South Clinton Avenue, 1st Floor
Trenton, NJ 08625

Via email to:

board.secretary@bgu.nj.gov

Re: Docket No. QO22030153

IN THE MATTER OF THE COMMUNITY SOLAR ENERGY PROGRAM

Dear Acting Secretary Diaz:

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

MSSIA is a trade organization that has represented solar energy companies in New Jersey, Pennsylvania, and Delaware since 1997. During that 25-year period, the organization has spearheaded efforts in the Mid-Atlantic region to make solar energy a major contributor to the region's energy future. Its fundamental policy goals, in brief, are to: (1) grow solar energy and storage in our states as quickly as practicable; (2) do so at the lowest possible cost to ratepayers, while delivering the greatest possible benefit as a public good; and (3) preserve diversity in the market, including opportunity for Jersey companies to grow and create local jobs (<https://mssia.org/fundamental-policy-objectives/>).

Many MSSIA members have been actively involved in the development, design, and construction of community solar projects in Program Year 1 and Program Year 2. Many members want to participate in the Permanent Community Solar Program. They look forward to investing in growth in the community solar segment and to creating hundreds more high-quality jobs in the state.

A summary of MSSIA's main recommendations regarding the permanent Community Solar Energy Program is given below. Following that are answers to staff questions as presented in the request for comments, with the questions repeated, followed by MSSIA responses in blue font.

SUMMARY OF MSSIA'S MAIN RECOMMENDATIONS

1. Streamline and accelerate the flow of project development – rolling applications similar to other SuSI ADI segments

Replace the annual, competitive, point scoring-based program with a program of rolling applications, similar to other SuSI ADI programs, based on explicit, measurable eligibility requirements. Application would be through the SuSI ADI portal.

Considering the over-subscription that occurred in the Community Solar Pilot Program Year 1 and Year 2, the total program volume (150 MW) should be made available in two tranches (75 MW each) for the first half and second half of each year, so that long gaps in the project development process do not occur. If there is any unused capacity at the end of a half-year period, the unused portion should be added to the next half-year tranche.

As explained further in the answers to staff questions, these changes will enable development of projects to move forward in a continuous fashion, accelerating success of the program, while avoiding the waste of development capital on projects that never happen because they don't get approved by the program.

2. Establish eligibility using quantitative metrics and explicit, categorical requirements. Avoid requirements that are qualitative or require "judgement calls"

MSSIA believes that the permanent Community Solar Program should accept rolling applications, submitted through the SuSI Program portal. Like other SuSI program segments, the eligibility requirements should be clear-cut and measurable.

The eligibility requirements should include:

- a. An LMI subscriber minimum percentage
- b. An LMI subscriber minimum percent savings
- c. Limits on the territory from which subscribers are acquired
- d. A minimum state of development of the project
- e. Restrictions on the location/type the project
- f. Explicit minimum requirements for municipal and community support and engagement
- g. Explicit minimum requirements for workforce development

3. Increase focus on the primary objectives of the program, and "raise the bar" for the key eligibility requirements (relative to the Community Solar Pilot Program PY1 and PY2 minimums).

As we understand the primary objectives of the program, MSSIA believes that they are:

- I. Provide access to the benefits of solar energy to low- and moderate-income households, and in particular, providing those households relief from the cost of electric bills.
- II. Enable the deployment of cost-efficient solar projects in locations that accomplish policy objectives such as use of underutilized types of properties, providing benefits to overburdened communities, and advancing resiliency.

In particular, MSSIA recommends:

- a. LMI subscriber minimum percentage:
75% (increase from 51%)
- b. LMI subscriber minimum percent savings:
20%, possibly increasing to 25% by permanent program year 2 or 3 (with review of the incentive levels necessary to do so)
- c. Limits on the territory from which subscribers are acquired:
Host town plus adjacent towns
- d. A minimum state of development of the project:
The same requirements as the other segments in the SuSI program, plus:
 - Interconnect application submitted
 - Non-ministerial permits submitted (e.g., town planning board application)
 - If no non-ministerial permits required, ministerial permits submitted (e.g., construction permit applications)

- e. Restrictions on the location/type of the project:
 - Underutilized property types, including rooftops, landfills/brownfields/areas of historic fill, and bodies of water
 - Within boundaries of an overburdened community
 - Solar plus storage project providing resilient power for a critical facility or function
 - Dual-use agricultural PV projects
- f. Consider a modest adder to the CS ADI incentive for projects physically located within the boundaries of an overburdened community, such as a \$20 adder, similar to the Public Entity Adder in other ADI segments.
- g. Explicit minimum requirements for municipal and community support and engagement:
 - Letter of support from the municipality
 - Letter of support from one or more community organizations
- h. Explicit minimum requirements for workforce development
 - Approved apprenticeship program
 - Approved private workforce development program

4. Facilitate the increase in LMI requirements in Recommendation No. 3 by enabling municipally-led subscriber acquisition with opt-out (see detail in MSSIA answers to Question 17, below).

5. Adopt standards to limit undue concentration of Community Solar Project approvals among few developers, as originally stated in Program Year 1, and as has been done in the past in oversubscribed programs of limited size. Attention to this matter is needed if the state wants to create a thriving, diverse community of growing, in-state businesses.

ANSWERS TO STAFF QUESTIONS

I. Program Design and Eligibility

- 1) The Solar Act of 2021 states that the new Successor Solar Incentive Program should aim to provide incentives for at least 150 MW of community solar facilities per year. How should the annual Permanent Program capacity limit account for potential project “scrub” (i.e., planned projects that do not reach commercial operation)?

In the Summary of MSSIA’s Main Recommendations above, sections 1 and 2, MSSIA recommends moving to rolling applications in two half-year, 75 MW tranches each year, based on explicit, elevated eligibility requirements. MSSIA also recommends that any unused capacity in any half-year period will be carried over and added to the capacity for the next period. This should reduce the short-term potential for negative effects of project scrub.

After building up some data over time regarding the incidence of scrubbed project as a percentage of program approvals, the Board could account for the anticipated scrub by increasing the total amount of approvals during each period by a percentage of that anticipated scrub.

See also the related MSSIA comments in its answers to Question No. 8.

- 2) Should the Permanent Program capacity be divided into separate blocks, and if yes, how? (i.e., By EDC service territory? By project type or size)? Additionally, the Solar Act of 2021 requires the Board to consider “the economic and demographic characteristics of the area served by the facility, including whether it is located in an overburdened community[.]”¹ How should any blocks address this requirement?

MSSIA does not believe that separate blocks by EDC are necessary, particularly with the rolling application program design recommended by MSSIA. Further, separate blocks by EDC will begin to slow development and could increase costs and decrease program effectiveness if interconnection limitations slow or stop development in wide swaths of territory, as is already happening. The result may be that development in some EDC territory may be oversubscribed and halted. Development in EDC territories that are still open may be forced into sub-optimal projects, while better projects in closed EDC territories can't be developed because their block allocations are full.

This problem also extends to siting projects in overburdened communities. An EDC territory that still has allocated capacity left may not have project opportunities in overburdened communities, while another EDC without any capacity left may then have project opportunities in overburdened communities that remain undeveloped.

For these reasons, it is better for the total available capacity in the program be applied statewide, as is the case with the other SuSI ADI segments.

- 3) Staff intends to recommend similar qualifications and ownership restrictions for solar developers participating in the Permanent Program as were implemented in the Pilot Program. Please comment.

MSSIA has no comments at this time regarding this issue.

- 4) What land use restrictions and limitations, if any, should apply to the siting of community solar projects?

See Summary of MSSIA's Main Recommendations above on this topic, in section 3.e.

While Section 6 of the Solar Act of 2021 does not establish siting standards for Community Solar projects, should the Board adopt comparable standards be extended to also apply to community solar facilities? What should those standards look like?

See Summary of MSSIA's Main Recommendations above on this topic, in section 3.e.

- 5) The CEA states that the Permanent Program rules and regulations shall "establish standards, fees, and uniform procedures for solar energy projects to be connected to the distribution system of an electric public utility" (Section 5(f)(11)). What changes, if any, should be made to the existing community solar interconnection standards and processes?

The interconnection standards for the Community Solar Pilot Program Year 1 and Year 2 generally were appropriate and worked well. MSSIA believes that only minor tweaks are needed. The point in time at which interconnection applications can be accepted should be clarified. If the Board accepts MSSIA's recommendation to adopt rolling applications like the other SuSI segments, then interconnect applications would also be accepted at any time (also like the other SuSI segments). Timelines for approval should also be set.

- 6) What measures should the Board implement to minimize negative impacts to the distribution system and maximize grid benefits?

As with other solar development, there is a pressing need for new standards, new methods, and upgrades to enable the re-opening of restricted circuits, as well as the continued accessibility of the unrestricted ones.

The “low-hanging fruit” – the use of low-cost and no-cost assets, methods, and changes to standards should be implemented as quickly as possible, since the amount of circuit restriction and closing is already at an alarming level, and is increasing at an accelerating pace. Such “low-hanging fruit” includes, for example:

- Allow reverse flow of solar power through substations. This is a low-cost change in standards, and is a necessity if high penetration of solar is to occur.
- Enable the use of inverter Volt-VAR control to regulate voltage on circuits with high PV penetration.
- Enable battery capabilities to be used for voltage control, smoothing, etc.
- Enable direct inverter up-ramp control, and down-ramp control based on precision weather-based prediction of performance (PWB-POP) to assist in voltage regulation.
- Coordination between PJM and the EDC’s regarding frequency control (PJM; regional) vs. distribution system voltage control (EDC’s; local).

II. Project Selection

- 7) How should projects be selected for participation in the Permanent Program? Please provide a detailed description and discussion of the advantages and disadvantages of your proposed method of selection, with an emphasis on establishing criteria that are transparent and easily verifiable.

See Summary of MSSIA Main Recommendations, Sections 1 and 2.

MSSIA recommends moving to rolling applications in two half-year, 75 MW tranches each year, based on explicit, elevated eligibility requirements. This will:

- Accelerate development and allow for continuous, orderly development.
- Get quicker results and more successes sooner in the Permanent Program.
- Promote the growth of multiple local solar businesses in the state.
- Greatly reduce the wasted capital expenditures that have occurred during the pilot period on projects that expend great effort and resources, but do not get approved. In PY1 and PY2, this happened to the great majority of projects under development. Over time, this increases costs in the program, since these losses and the elevated level of risk must result in upward adjustments to the selling price of projects.
- Reduce the short-term potential for negative effects of project scrub and project wait-listing.

The extended development cycle of these projects (which will be extended even further with new EJ approval requirements) is such that having projects able to start, on average, 6 months earlier and retain the ability to be constructed successfully under prescribed time constraints would help facilitate the success of the program.

- 8) Should the Board consider creating a waitlist for non-selected projects? If yes, why would a waitlist support the continued development of community solar projects without increasing program oversubscription? How should this waiting list be implemented to avoid a situation where all capacity is spoken for months or years ahead of a solicitation?

MSSIA's recommendations above for rolling applications, with any unused capacity held over to the next period, should reduce the need for waitlists or limit it to a short-term wait, unless the program is chronically over-subscribed over a long period of time. If that should happen, the Board could then consider expanding the program, or tightening project eligibility requirements, or reducing incentives.

- 9) What minimum maturity requirements should projects be required to meet before applying to participate in the Permanent Program? To what extent should the Community Solar Energy Program maturity requirements be different from, or similar to, the requirements for projects to apply to the Administratively Determined Incentive ("ADI") Program?

See the Summary of MSSIA's Main Recommendations, section 3.d.

- 10) Should the Board consider any changes to the coordination between community solar project awards and the process for registering for the ADI Program?

Yes. As stated in the Summary of MSSIA's Main Recommendations sections 1 and 2, MSSIA's recommendations would largely harmonize the Permanent Community Solar Program with the SuSI ADI program, and function through the same portal.

III. Low- and Moderate-Income Access

- 11) What policies and measures should the Board consider to ensure that the Permanent Program maintains a high level of low- to moderate-income ("LMI") participation? How can the Board support community outreach and education?

See the Summary of MSSIA's Main Recommendations, sections 1 through 4.

- 12) Should the Board modify the Pilot Program's income verification standards (see the Pilot Program rules at N.J.A.C. 14:8-9.8)? If so, how?

In order to streamline and facilitate LMI subscriber acquisition, the best way is through the recommendations of MSSIA and others regarding municipally-led subscriber acquisition and opt-out, in which case the municipality could utilize its records and follow its standards for identifying LMI households. Logically, municipalities participating in this way can most easily identify households by special housing type, such as Section 8 housing. The Board could also offer guidance to municipalities regarding how they should verify LMI status.

In the case of private subscriber acquisition, MSSIA believes that the Board should consider policies to simplify LMI qualification, such as qualifying households by zip code (zip codes with a high percentage of LMI households), or allowing self-verification by subscribers in conjunction with statistical measures.

- 13) How should the Board consider "the economic and demographic characteristics of the area served by the facility, including whether it is located in an overburdened community, as that term is defined in section 2 of P.L.2020, c.92"?

See Summary of MSSIA's Main Recommendations, sections e. and f. for recommendations on how

to encourage development in overburdened communities. MSSIA has no comments at this time regarding how to define overburdened communities or determine which communities qualify as such.

IV. Community Solar Subscribers

- 14) What should the geographic limitations for community solar projects and subscribers be (i.e., How far from the project can subscribers to the project reside)?

For context, the Pilot Program allowed projects to self-select the geographic limits of the project. Projects could choose between three options: municipality and adjacent municipalities, county and adjacent counties, and no limit (EDC-wide).

See Summary of MSSIA's Main Recommendations above, section 3.c.

- 15) The Pilot Program mandated that each community solar project must have a minimum of 10 subscribers, and a maximum of 250 subscribers per MW of installed capacity. Should either of these mandates be changed under the Permanent Program?

No.

- 16) Should the Board make any modifications to the consumer protection measures implemented under the Pilot Program?

MSSIA has no suggestions regarding this question at this time, other than the suggestions for question 17, below.

- 17) In November 2020, the Board proposed a rule amendment to the Community Solar Energy Pilot Program rules, which would have allowed certain projects owned and operated by public entities to automatically enroll subscribers without first seeking subscribers' affirmative consent to join the project. Subscribers would then have the option to "opt-out" of the project should they not wish to participate. How can the Board best support subscriber education and acquisition? Should the Board revisit its automatic enrollment proposal, and if yes, how can automatic enrollment be implemented consistent with customer data privacy rights?

MSSIA believes that the Board should press forward with this proposed rule amendment to allow opt-out in municipally-led subscriber acquisition, and in fact encourage and assist municipalities in adopting and implementing it if they so choose.

Municipally-led, opt-out subscriber acquisition should focus mainly or exclusively on LMI subscribers. MSSIA members have been consistently reporting that there have been great difficulties encountered in getting and maintaining LMI subscribership. On the other hand, MSSIA believes that the BPU should work toward the aspirational goal of achieving 100% LMI subscribership in Community Solar Projects. MSSIA believes that municipally-led, opt-out subscriber acquisition could be the most powerful tool in not only resolving the current difficulties, but also in making this aspirational goal a reality.

Since the usage size and number of subscribers must be matched to the generation of each project, municipalities will in most cases need to choose which specific households to match with which

project. This suggests a possible process in which the municipality, or the developer, or both in concert, would individually contact each potential subscriber, describe the benefits of enrollment and the process of doing so, and provide the ability to opt out.

MSSIA believes that the Board should be an active participant in this process, aiding in the production of standard educational and explanator materials, and helping train municipalities in how to implement such programs.

V. Community Solar Bill Credits

- 18) If applicable, please discuss your experience with subscriber management and the allocation of community solar bill credits. What changes, if any, should be made to communications between community solar subscriber organizations and the EDCs, or to the allocation of bill credits by the EDCs?

MSSIA has no comments on this topic at this time.

- 19) What modifications, if any, should the Board consider making to the value of the community solar bill credits?

MSSIA believes that the Board should include the societal benefit charges and similar charges in the bill credit in order to maximize the potential savings to LMI subscribers.

- 20) In May 2021, following an opportunity for public comment, the EDCs submitted a [report](#) to the Board with options and recommendations regarding the implementation of consolidated billing for community solar. In summary, the EDCs recommend that, if the Board adopts consolidated billing for community solar projects, this billing process be handled by the EDCs. The EDCs further recommended that the method of reflecting subscription fees on a subscriber's EDC bill be determined by each EDC based on the format that best corresponds to their existing billing practices. The EDCs did not recommend that the Board allow non-EDC billing options. Do you agree with the EDCs' recommendations? If not, why? How do you recommend the Board address payment default by customers?

MSSIA has not decided on a position regarding this issue at this time.

VI. Other

- 21) Please provide comments on any issues not specifically addressed in the questions above.

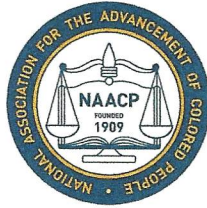
- In Community Solar Pilot Program Year 1, projects on landfills, brownfields, and areas of historic fills took much longer periods of time to complete than the program rules provided. Although to a great extent this was due to extraordinary pandemic-related delays, including global supply-chain issues, there are also time delays inherent in the process of developing solar on contaminated sites that have proven to be longer than anticipated. Furthermore, global supply-chain issues continue and are, in fact, getting worse over time instead of resolving as at first thought. Therefore, MSSIA recommends allowing three years for approved projects on contaminated sites to complete.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Lyle K. Rawlings". The signature is fluid and cursive, with the first name "Lyle" and last name "Rawlings" clearly distinguishable.

Lyle K. Rawlings, P.E.
President



New Brunswick Area Branch of the NAACP
(Unit #2094)

P.O. Box 235 © New Brunswick, NJ 08903 © 732-828-5363 © newbrunswickareanaacp@gmail.com

May 3, 2022

Subject: Statement from NAACP NJ State Conference on Community Solar

Comments on Permanent Community Solar Program Design
BPU Docket No. QO22030153

New Jersey Board of Public Utilities
44 South Clinton Avenue
Trenton, NJ 08609

Dear President Fiordaliso:

The NAACP NJ State Conference (NAACP) applauds the efforts of the Board of Public Utilities (BPU) and Governor Murphy for their commitment to environmental justice in the context of Community Solar. Environmental injustices, which are now being exacerbated by climate change, have a disproportionate impact on communities of color and low-income communities. NAACP has been an active participant in the BPU proceedings to develop Community Solar policy in New Jersey, having previously filed comments with the BPU with the aim of ensuring that the Community Solar Program (Program) is highly successful in its goal to benefit low-and-moderate income (LMI) New Jersey residents.

NAACP believes that the BPU's Community Solar Program creates a prime opportunity for New Jersey to enhance its environmental justice efforts – if designed and implemented correctly. For solar developers, the current Program design includes substantial deterrents to serving individually metered LMI residents, as detailed below. As a result, to date most LMI-based programs have focused on master-metered housing, leaving individually metered LMI customers (by far the largest LMI customer sector) including people living in apartments and other individually metered residences with greatly reduced opportunities to participate and benefit from the Program.

This is an urgent and significant program flaw that should be addressed for both the pilot program and the permanent program moving forward.

Accordingly, we respectfully request that to truly address racial and income disparities in the Community Solar Program the BPU should expeditiously acknowledge and address the

inherent bias in the Program's current enrollment and billing systems, and make the following changes as soon as possible to address these disparities:

- 1. Adopt Rules allowing auto-enrollment of LMI customers for municipal Community Solar projects; and**
- 2. Adopt Community Solar Consolidated Billing using net crediting to provide LMI project revenue security and expand Community Solar to LMI customers.**

These changes to the Community Solar Program design should be adopted by September 1, 2022, as these are key aspects of environmental injustice that the BPU urgently need to address.

It is important to note there is already a foundation in place that will allow the BPU to expeditiously take these actions. Specifically: (a) the BPU has already drafted (but not adopted) an automatic enrollment rule which it can quickly use (with minor adjustment) as a basis for the auto-enrollment proposal; and (b) the electric utilities are amenable to consolidated billing using a net crediting method as they recommended such in their filing of May 28, 2021 to the Board. Accordingly, an implementation pathway is already established. What is needed now is timely BPU leadership and action.

The discussion below provides the policy basis for these recommendations.

Adopt an Auto-Enrollment Mechanism for Low-and-Moderate Income

Individually Metered Customers to enroll in The Community Solar Program

As NAACP shared in previous comments, Community Solar needs to be designed with a focus on the realities of LMI customers who struggle to meet their basic needs and stay within budget. At its core, the design must recognize that these customers are not looking for or nor should they be expected to put the time and effort into shopping for a green energy product. There are Community Solar Programs around the country that are aimed at typically affluent, environmentalist customers who are willing to go out of their way to sign up for the community solar, but this is not the people this program must reach in order to fulfil the State's goal towards environment justice. To reach the people and communities who are most in need of financial relief, the BPU must allow municipalities to use an auto-enroll or "opt-out" mechanism to subscribe customers.

Under an "opt-out" structure, LMI customers are identified en-masse by the municipality and auto-enrolled into Community Solar, while being well-informed of their right to opt-out of the Program at any time with no penalty. Opt-out is already a proven and Board-approved mechanism proved successful in Government Energy Aggregation Programs across the State. If the built-in protections used for Government Energy Aggregation are sufficient to enroll an entire town, then it stands to reason the same mechanism would and should be just as easily applied to the much smaller Community Solar Program.

From the perspective of providing sufficient energy savings to truly counteract the LMI customer's energy burden, the BPU's current rules on enrollment – whereby subscribers must enroll themselves on a one-by-one basis – are harmful to program success. The high costs to Community Solar developers to achieve sufficient enrollment of LMI customers significantly makes enrollment of individually metered LMI customers highly inefficient, difficult, and costly. Without an opt-in mechanism, the Board's goal of widespread, successful enrollment of individually metered LMI customers will not happen.

These points have been made to the BPU by the NAACP and others over the last several years, leading the BPU to issue a proposed rule amendment to allow auto-enrollment in November 2020. Unfortunately, the BPU allowed to this rule proposal to expire with adopting it (without explanation). Accordingly, **NAACP requests that the BPU re-propose an auto-enrollment rule to the Community Solar Program, applicable to both the Pilot and Permanent Program, to resolve the injustice that is embedded in their current Community Solar Pilot Program design.**

The BPU should direct the electric utilities to adopt Utility Consolidated Billing (UCB) Under the Net Crediting Methodology for The Community Solar Program

As NAACP shared in previous comments, in seeking equity it is important to examine the insidious ways that program design may be inherently discriminatory – including in its billing structure. The current billing approach for Community Solar is via dual billing, whereby community solar providers render a bill that is separate from the electric utility bill. For individually metered LMI customers, this leads to (a) customer confusion through receipt of a new bill and confusion about whether savings are being realized, (b) an increased rate of non and late payment, and (c) higher risk and costs to solar projects, resulting in increased cost and pricing to customers and less interest by investors in seeking individually metered LMI based projects.

The most appropriate and equitable structure of community solar billing would utilize the key features of the successful existing Basic Generation Service (BGS) billing structure which has been used by the BPU for over twenty years. BGS is the electric service provided to customers who do not shop for power supply in New Jersey's deregulated market. In the BGS billing structure, utilities already include the charges levied by default suppliers on their bills to customers and pay their default (BGS) suppliers on a regular and prompt basis for the power they provide, regardless of customers' payment patterns or histories. Under this system, the confusion of two bills is avoided and payments to suppliers are secured. NAACP shared this position during the Consolidated Billing Stakeholder Process held by BPU in March of 2021.

In response to the Consolidated Billing Stakeholder Process, on May 28, 2021, the electric utilities filed a report to BPU which agreed that the current billing approach creates significant problems and recommended a consolidated billing approach, known as Utility Consolidated Billing (UCB), in which the electric utilities will prepare and issue a single monthly electricity bill (inclusive of their normal electricity charges, the solar credit and the

charges from the community solar provider) to community solar subscribers. The electric utilities' proposed UCB structure is consistent with the BGS billing structure NAACP advocated for.

Furthermore, NAACP recommends that to truly fix this design flaw the electric utilities should make payment to the Community Solar Project monthly, regardless of the timing of customer payment (in the same manner utilities make payment to BGS providers). This will provide the Community Solar Project with more secure revenue; consequentially, the cost of serving low-income customers will be reduced, leading to higher savings for customers and a more successful Community Solar Program overall. Importantly, this will motivate investors to seek projects that serve LMI customers and mend a historical barrier to the success of programs aimed at serving that demographic.

Unfortunately, in the eleven months since the EDCs' submission, BPU has taken no action nor indicated to stakeholders when and what action will be taken to address the current unfair billing structure.

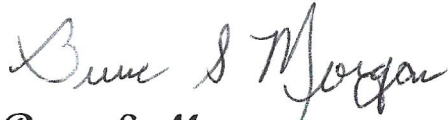
Creating an equitable Community Solar Program is within the BPU's reach. We urge the BPU to require the electric utilities to offer the same consolidated billing method for community solar which is already used for BGS for (at least) all LMI customers, and ideally for all customers; and to allow utility cost recovery of such initiatives from ratepayers. By instituting this design, BPU can change the status quo where investors view programs which serve LMI customers as risky due to the high degree of LMI payment risk. Instead, BPU can be leaders in addressing this problem and flipping the script, so investors want to invest in programs benefitting LMI customers.

Accordingly, **we recommend that BPU expeditiously adopt Utility Consolidated Billing (UCB) under the Net Crediting methodology for current pilot program community solar projects and for future permanent community solar program projects serving LMI customers.**

Conclusion

Through the two recommendations above (auto-enrollment and consolidated billing), the BPU and the State can create a nation-leading Community Solar program which addresses the past, present, and institutional environmental injustices that have plagued people of color and LMI customers. We look forward to working with you to make New Jersey a national leader in community solar and furthering much-needed environmental justice.

I greatly appreciate your attention to this matter and am available for any follow-up conversation.



Bruce S. Morgan

Bruce S. Morgan,
NAACP National Resolutions Committee Member
1st VP New Jersey State Conference NAACP
President New Brunswick Area Branch NAACP

Lawrence Powell

Lawrence Powell
Environmental Justice Chairman New Brunswick Area Branch NAACP

CC:

Jane Cohen, Executive Director of Governor's Office of Climate Action and the Green Economy

Taryn Boland, BPU Chief of Staff

Henry Gajda, BPU Deputy Chief of Staff

Kelly Mooij, BPU Director of Division of Clean Energy

ABOUT THE NAACP Founded in 1909, the NAACP is the nation's oldest and largest nonpartisan civil rights organization. Its members throughout the United States and the world are the premier advocates for civil rights in their communities. You can learn more about The New Jersey State Conference NAACP, the numerous local units throughout the state, the advocacy efforts, and the annual convention at <http://www.njscnaacp.org>

The New Brunswick Area NAACP was chartered to serve the following municipalities: Bound Brook, East Brunswick, Franklin Township (Somerset County), Highland Park, Hillsborough, Middlesex Borough, Milltown, New Brunswick, North Brunswick, Piscataway, Sayreville, Somerville, South Brunswick, and South River.

April 26, 2022

To Whom It May Concern,

I am writing on behalf of the NAACP to support New Jersey's Community Solar Energy Program and its transition to a permanent program. I participate in the Vote Solar monthly calls and am well informed about the community solar program and the benefits it brings to NJ residents.

The vision of our organization is to ensure a society in which all individuals have equal rights and there is no racial hatred or discrimination. With more than 2,200 units across the nation powered by well over 2 million activists, the NAACP is the preeminent home of grassroots activism for a range of civil rights and social justice issues.

From the point of view of the NAACP, community solar programs are an important element in the struggle for environmental justice. They have already brought lower utility costs, cleaner air, and workforce development to marginalized communities. We want to ensure those benefits continue and recommend the following as part of the stakeholder feedback:

1. **The BPU should continue to award community solar projects through a competitive scoring process.** My organization has seen an extraordinary level of support (financial and otherwise) from solar companies as a direct result of those companies' competing for my organization's partnership in order to score points on their project applications. And my organization's constituents have been direct beneficiaries of discounts and other perks from solar companies wanting to win over customers. Changing to a first-come-first-served project-selection process would eliminate these substantial benefits of the competitive process.
2. **The BPU should award more community solar projects.** Community solar projects provide real, tangible benefits to my organization and my organization's constituents, many of whom cannot benefit from traditional residential solar (e.g., because they do not own their homes and/or live in buildings without suitable rooftops). Community solar is the best – and, in many cases, only -- way for my community members to get the savings and other benefits of green energy. We need a substantially larger community solar program to reach NJ's many deserving potential subscribers.
3. **The BPU should reduce barriers to low-income and moderate-income (LMI) subscribers.** Households that have "low income" or "moderate income" should be able to qualify as LMI customers for community solar without needing to jump through invasive hoops (e.g., proving that they are on food stamps). If someone swears in writing that he or she qualifies as having low income or moderate income, that should be enough. Asking for more deters residents from wanting to sign up for the community solar program.

Thank you for considering these comments. We look forward to continuing to strongly advocate for clean energy equity in our community.

Sincerely,

Keith F. Voos, Chair,
Health, Education, Energy & Pollution Subcommittee,
Environmental and Climate Justice Committee,
New Jersey State Conference – NAACP

May 6, 2022

Carmen Diaz
Acting Secretary of the Board
New Jersey Board of Public Utilities
44 South Clinton Ave
Trenton, NJ 08625

Re: Docket No. Q022030153, Community Solar Energy Program

Dear Secretary Diaz:

Nexamp greatly appreciates the opportunity to provide comments to the Board in its development of a permanent community solar program. Nexamp applauds the Board's dedication to community solar, and is encouraged by the opportunity to improve upon the successes of the Pilot Program.

The Pilot Program demonstrated that community solar can respond to some of the Board's clear objectives—rapidly deploying clean energy and ensuring a more equitable energy future for New Jersey. As successful as the Pilot Program was, Nexamp believes a change in the structure for the permanent program will more efficiently achieve the state's key goals for community solar.

Specifically, Nexamp recommends that the Board adopt a first-come-first-served (FCFS) approach for the permanent program with high barriers to entry. FCFS will reduce the administrative burden on the Staff, and shift responsibility to the market to fully vet projects before they are awarded capacity. In adopting this approach, Nexamp recommends that the Board require all projects to meet high minimum standards, most notably requiring all projects to serve at least 51% LMI and to be located on preferred sites. New Jersey does not need a complicated program to achieve its goals—the Board simply needs to establish a consistent process and give stakeholders the tools to succeed.

Currently, two important tools are missing. First, Nexamp strongly urges the Board to adopt improved methods of verification for LMI subscribers. Previous changes made by the Board have not gone far enough in providing options for verification and the current policies are preventing LMI customers from easily participating in community solar. In our view, this discrepancy is the single biggest obstacle to achieving the Board's goals for LMI access to this program. As further detailed below, Nexamp respectfully urges the Board to adopt self-attestation as a method of verification. This is the simplest and most equitable approach to this issue, ensuring that all low-income New Jersey residents have a path to community solar.

The second critical tool for the success of this program is interconnection reform. Prospective community solar projects should be able to enter the interconnection process before awards, and be subject to clear standards, timelines, and procedures. Even with the project limitations that are in place, the current policies and EDC capabilities are inadequate for achieving New Jersey's clean energy goals and indeed are not geared toward achieving them.

I. Program Design and Eligibility

- 1. The Solar Act of 2021 states that the new Successor Solar Incentive Program should aim to provide incentives for at least 150 MW of community solar facilities per year. How should the***

annual Permanent Program capacity limit account for potential project “scrub” (i.e., planned projects that do not reach commercial operation)?

Nexamp recommends that the Board allow for MWs of capacity to roll over to future years of the program if awarded projects do not achieve commercial operation. This will ensure that the state’s targets are actually being met. If in a given year community solar projects drop out, the Board should adjust the size of the capacity limit for the following energy year accordingly, such that some years may exceed 150 MW.

Nexamp also recommends that the Board consider accounting for the rollover in terms of headroom under the cost cap, not strictly in MWs. Doing so will maintain the limited expenditures under the cost cap, but at the same time potentially maximizing the MWs of development possible within the same budget as incentives theoretically decline.

- 2. Should the Permanent Program capacity be divided into separate blocks, and if yes, how? (i.e., By EDC service territory? By project type or size)? Additionally, the Solar Act of 2021 requires the Board to consider “the economic and demographic characteristics of the area served by the facility, including whether it is located in an overburdened community[.]”¹ How should any blocks address this requirement?***

Generally, Nexamp recommends that the Board focus on simplicity and clarity in program design. Portioning of capacity by EDC may make sense, but further divisions of capacity are likely to add unnecessary complexity to the program, for developers and program administrators.

- 3. Staff intends to recommend similar qualifications and ownership restrictions for solar developers participating in the Permanent Program as were implemented in the Pilot Program. Please comment.***

Nexamp agrees with Staff and recommends that the Board continue to prohibit the EDCs from directly participating in the program. Allowing the EDCs into the program would create significant competitive implications that would require mitigation, while the advantages of utility participation are unclear. Third party community solar has been the basis of successful community solar programs across the country, including in New Jersey, and Nexamp has not seen any justification for the state to change course.

- 4. What land use restrictions and limitations, if any, should apply to the siting of community solar projects?***

While Section 6 of the Solar Act of 2021 does not establish siting standards for Community Solar projects, should the Board adopt comparable standards be extended to also apply to community solar facilities? What should those standards look like?

Nexamp recommends that the Board adopt a first-come-first-served approach, and under this structure, establish a high barrier to entry by requiring projects to be located on preferred siting. In addition to rooftops, landfills and other existing preferred sites, Nexamp recommends that the Board also allow dual-use projects to participate. While the details of the dual-use program are yet to be determined, in principal the programs should be able to work together.

5. **The CEA states that the Permanent Program rules and regulations shall “establish standards fees, and uniform procedures for solar energy projects to be connected to the distribution system of an electric public utility” (Section 5(f)(11)). What changes, if any, should be made to the existing community solar interconnection standards and processes?**

Overall, New Jersey’s interconnection policies and procedures are in need of a major overhaul in order to achieve the state’s clean energy goals, including for community solar. Nexamp understands that the Grid Modernization proceeding is likely to be the primary venue for addressing those challenges.

With regard to community solar specifically, several changes should be made. First, community solar projects should be allowed to apply for interconnection and to be studied by the EDCs prior to award. Allowing projects to apply for interconnection to receive study results in advance will provide the cost certainty that is a key factor in determining overall project viability—ultimately allowing more awarded projects to reach COD. Under a FCFS model for project selection, this is particularly important. Second, there must be clear and enforced timelines for the EDC interconnection study process. Currently there is no standard and as a result projects have no ability to schedule around project timelines. The timelines we have seen to date from the EDCs are far longer than is typical in neighboring states.

In addition, the EDCs should make available detailed pre-application reports upon request. These pre-apps provide an efficient way for developers to get a sense of interconnection feasibility and cost, without undergoing the full study process that is time consuming and resource intensive for both the developers and for the EDCs. Such an option limits the number of projects that formally enter the interconnection queue, and ensures projects are well-sited on the grid.

Some stakeholders may raise concerns about the ability of the EDCs to process community solar applications before award, and that a requirement for projects to receive a completed study may delay the community solar program. Nexamp is certainly mindful of these concerns and recognizes that it may take time for the EDCs to catch up. It may be reasonable in the first year of a FCFS permanent program for the Board to require a pre-application report in lieu of a full study before ultimately transitioning to a study as the requirement.

However, it is critically important that the Board not use a transition or interim step as an alternative to putting into place improvements both for the community solar program and the interconnection process. Using these concerns as a delay will only delay the realization of the success of this program and New Jersey’s clean energy goals more broadly.

6. **What measures should the Board implement to minimize negative impacts to the distribution system and maximize grid benefits?**

Nexamp understands that the Grid Modernization proceeding is likely to be the primary venue for addressing these issues and will reserve most of our comments to that proceeding.

II. Project Selection

7. **How should projects be selected for participation in the Permanent Program? Please provide a detailed description and discussion of the advantages and disadvantages of your proposed method of selection, with an emphasis on establishing criteria that are transparent and easily verifiable.**

As noted above, Nexamp recommends that the Board shift from an RFP or solicitation model to a first-come-first-served (FCFS) model with high barriers to entry. The FCFS model has a number of advantages, and has worked well in other states, particularly New York.

In particular, FCFS has the benefit of simplicity—for administration and for developer participation. Program requirements and expectations, as well as timing, can be worked out well in advance, and applicants will show up when they are ready. Due diligence from the Board would shift from the current arduous undertaking of individually scoring hundreds of speculative projects, to the more straightforward exercise of determining that project submissions meet the defined criteria.

FCFS also has the important benefit of shifting the burden of vetting speculative projects from the Board and to the developers themselves, ensuring through maturity requirements that only viable projects are brought forward. This reduces the number of projects ultimately submitted, and greatly increases the likelihood that the projects that are awarded are ultimately successful, preventing drop-out and providing value to New Jersey residents as quickly as possible.

For developers, the FCFS process provides the certainty that is so critical for project development. Timelines and requirements can be made clear well in advance, and this allows developers to focus time and resources on development. The current solicitation model creates a “boom and bust” scenario, whereby developers race to get projects together for an RFP, only to then become largely idle while waiting for a future RFP without a defined timeline. Developers are forced to plan entirely around the Board’s calendar, and as such are not able to conduct regular business planning. FCFS provides the predictability needed for developers to continue due diligence throughout the year and to feel confident that investments—particularly in workforce—will be justified and pay off down the road. The current solicitation model provides little comfort in that regard.

FCFS, if properly designed, will also result in the same key public policy outcomes the Board has prioritized for the community solar pilot program—mainly a high level of LMI customers served, and a preference for projects in the built environment.

8. **Should the Board consider creating a waitlist for non-selected projects? If yes, why would a waitlist support the continued development of community solar projects without increasing program oversubscription? How should this waiting list be implemented to avoid a situation where all capacity is spoken for months or years ahead of a solicitation?**

While a waitlist could be an alternative means to “recycle” capacity from projects that drop out, it is unlikely that projects will drop out quickly enough for a short-term waitlist to be viable. Rather, it is likely to make more sense to take unused MWs and reallocate those to future years of the program.

9. What minimum maturity requirements should projects be required to meet before applying to participate in the Permanent Program? To what extent should the Community Solar Energy Program maturity requirements be different from, or similar to, the requirements for projects to apply to the Administratively Determined Incentive (“ADI”) Program?

Nexamp recommends that the Board include strong maturity requirements in order to apply for capacity in the program as part of a FCFS approach. Maturity requirements demonstrate that individual projects are viable, and that the developers applying are prepared to meet the requirements of the program. Nexamp supports the comments of the Coalition for Community Solar Access and the detailed recommendations made there on this subject.

As discussed above, Nexamp recommends that the permanent program require projects to have proceeded through interconnection and have received their study results before applying. With study results in hand, developers will know perhaps the most crucial project variable—their interconnection costs—before applying. To date, the EDCs have not studied community solar projects in advance and Nexamp recognizes that it may take time to adjust processes. In such a case, in the first year of the permanent program, the Board may consider requiring a detailed pre-application report in lieu of a completed interconnection study. If so, Nexamp urges the Board to see this as a short-term interim step, not a long-term structure for the program. Requiring a full study, as noted above, provides a greater assurance of project viability and weeds out more speculative projects that are unlikely to reach commercial operation.

In addition, Nexamp recommends that the Board require a deposit, refundable at COD, and recommends a value of \$40 per kw of capacity. This will ensure that there is money behind the commitments made by developers.

If the Board were to *not* require a completed interconnection study as a maturity requirement, however, Nexamp would strongly urge the Board to allow the deposit to be refundable within a set time frame following receipt of interconnection study results. Projects that post a deposit in good faith, only to learn later of interconnection costs that are unmanageable, should be able to recover the deposit. Long term, this emphasizes the importance of projects proceeding through interconnection first.

Finally, Nexamp recommends that the Board require that developers applying into the program, or their partners, to have demonstrated experience with community solar and/or working with low-income communities.

10. *Should the Board consider any changes to the coordination between community solar project awards and the process for registering for the ADI Program?*

The Board should allow for projects that are awarded under the community solar program to be automatically registered in the ADI program. In addition, communications and document requests should be streamlined as much as practicable between the requirements of the community solar program and the ADI program to avoid duplication of requests and efforts.

III. Low-and-Moderate-Income Access

11. What policies and measures should the Board consider to ensure that the Permanent Program maintains a high level of low- to moderate-income (“LMI”) participation? How can the Board support community outreach and education?

As further discussed below, Nexamp believes that the current verification rules are the most significant barrier to LMI participation currently and urges the Board to revisit those rules.

In terms of education, the Board should consider strengthening its web materials for an audience less familiar with community solar, that could act as a source of information for consumers and otherwise interested stakeholders.

12. Should the Board modify the Pilot Program’s income verification standards (see the Pilot Program rules at N.J.A.C. 14:8-9.8)? If so, how?

Nexamp recommends that the Board change its rules to allow for greater flexibility for LMI verification, steps which would fulfill the Board’s goals for eliminating barriers to entry and ensuring equity in the community solar program. The current rules effectively act as a barrier to entry, in that they limit verification to customers within a narrow set of geographic areas, or to those who participate in an exclusive list of programs. This runs counter to the definition of an LMI customer, which is solely based on income.

Specifically, Nexamp recommends that the Board allow for self-attestation of income as a method of verification. This is the most equitable method of verification, as it allows all customers, regardless of where they live or whether they participate in a given program, to participate based on their income level, and without handing over sensitive personal documents. The Board could develop a standardized form, or attestation language to be used, as has been done by stakeholders for Virginia’s program.

If the Board is considering the potential for abuse, there are ways to deal with the issue. The Board could require audits of a percentage of LMI customers on projects, and/or it could require subscriber organizations to post a bond subject to withdrawal in the event any complaints are made. Overall, Nexamp believes such cases would be exceedingly rare.

In addition, Nexamp also recommends that the following programs be added as acceptable methods of verification:

- Medicaid
- Supplemental Security Income - Social Security (SSI)
- Supplemental Security Disability Insurance - Social Security (SSDI)
- Special Supplemental Nutrition Program for Women, Infants, and Children (WIC)
- Temporary Assistance for Needy Families Assistance (TANF)

Finally, Nexamp also recommends that the Board improve the current census-based verification method. While the Board currently limits eligibility to just census tracts where 80% or more of the population make 80% of AMI, Nexamp recommends the Board set the level at 51%, consistent with its current mapping tool.

- 13. How should the Board consider “the economic and demographic characteristics of the area served by the facility, including whether it is located in an overburdened community, as that term is defined in section 2 of P.L.2020, c.92”?**

In keeping with the above, residence in an overburdened community should be an additional means of LMI verification. This will increase opportunities and access for residents within these communities.

IV. Community Solar Subscribers

- 14. What should the geographic limitations for community solar projects and subscribers be (i.e., How far from the project can subscribers to the project reside)?**

For context, the Pilot Program allowed projects to self-select the geographic limits of the project. Projects could choose between three options: municipality and adjacent municipalities, county and adjacent counties, and no limit (EDC-wide).

Nexamp recommends that the Board, in adopting a FCFS approach, not impose any geographic limitations on subscribers beyond requiring subscribers to be located in the same EDC territory as their community solar project. Further geographic restrictions—which while voluntary under the Pilot Program, were the norm—are likely to have negative consequences as more projects come online. Some areas of the state are likely to be relatively underserved with community solar opportunities, and in practice such restrictions are likely to limit access rather than broaden it. In particular, the Board should be mindful of the effect that geographic restrictions might have on limiting access for low-income customers.

- 15. The Pilot Program mandated that each community solar project must have a minimum of 10 subscribers, and a maximum of 250 subscribers per MW of installed capacity. Should either of these mandates be changed under the Permanent Program?**

Nexamp recommends that the Board remove the 250 subscribers per MW maximum. Nexamp does not see any advantage to this requirement. In practice it is likely to constrain the ability of subscriber organizations to expand the number of customers with smaller allocation sizes on projects, who are overwhelmingly renters and low-income customers, the subset of customers that are likely to benefit most from participation in the program.

- 16. Should the Board make any modifications to the consumer protection measures implemented under the Pilot Program?**

Nexamp has no additional comments at this time.

- 17. In November 2020, the Board proposed a rule amendment to the Community Solar Energy Pilot Program rules, which would have allowed certain projects owned and operated by public entities to automatically enroll subscribers without first seeking subscribers’ affirmative consent to join the project. Subscribers would then have the option to “opt-out” of the project should they not wish to participate. How can the Board best support subscriber education and**

acquisition? Should the Board revisit its automatic enrollment proposal, and if yes, how can automatic enrollment be implemented consistent with customer data privacy rights?

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

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

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

The opt-out approach also raises implementation challenges, as the question suggests. In particular, opt-out would seem to rely on consolidated billing as a prerequisite, which while under consideration, is not in place today. In addition, the Board should consider other issues, such as the overlap of an opt-out project with other opt-in projects. If a customer had opted-in to a project, but was then included in an opt-out project, how would that be resolved? In our view, the opt-in project should clearly be maintained in that scenario, but there would need to be a process in place to handle such cases.

While there may be a limited opportunity provided by opt-out, overall Nexamp respectfully urges to Board to continue with the opt-in approach, and to keep the overall customer experience under the program front of mind when considering any such changes.

V. Community Solar Bill Credits

18. If applicable, please discuss your experience with subscriber management and the allocation of community solar bill credits. What changes, if any, should be made to communications between community solar subscriber organizations and the EDCs, or to the allocation of bill credits by the EDCs?

Nexamp recommends that the Board clarify the treatment of unsubscribed energy under the rules. Nexamp is aware that the EDCs have interpreted the current regulations differently than expected and requests that the Board clarify that unallocated credits expire 12 months from when they are generated, not on a calendar basis. Treatment of unallocated credits based on when they are generated is standard practice in most community solar markets. There does not appear to be a justification for treating unallocated credits generated in month 11 differently from those generated in month 2 of a project's commercial operation. Nexamp recommends that the Board modify the program rules accordingly.

In general, Nexamp recommends that the Board adopt best practices for data exchange and communications within the program regulations. Specifically, the regulations should require the EDCs to issue to Subscriber Organizations a monthly credit report, by a date certain, that details the credits applied to each subscriber account. In addition, each utility should accept subscriber allocation lists from Subscriber Organizations in a standardized format, preferably through an electronic portal or other such means, that allows for the bulk upload of data. Automated, electronic processes that cut down on manual inputs reduce unnecessary billing errors, on the part of both Subscriber Organizations and the EDCs.

In addition, the Board should have policies in place to track and if necessary, penalize, EDCs for billing errors. Unfortunately, our experience in other states has shown that accountability is necessary to ensure a good customer experience.

Relatedly, the Board should establish a Billing and Crediting Working Group to handle such issues on an ongoing basis among subscriber organizations, the EDCs and Staff. This forum has been successful in other states, particularly New York, and can help in identifying and resolving problems among stakeholders without the need for formal regulatory intervention.

19. What modifications, if any, should the Board consider making to the value of the community solar bill credits?

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

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

20. In May 2021, following an opportunity for public comment, the EDCs submitted a report to the Board with options and recommendations regarding the implementation of consolidated billing for community solar. In summary, the EDCs recommend that, if the Board adopts consolidated billing for community solar projects, this billing process be handled by the EDCs. The EDCs further recommended that the method of reflecting subscription fees on a

subscriber's EDC bill be determined by each EDC based on the format that best corresponds to their existing billing practices. The EDCs did not recommend that the Board allow non-EDC billing options. Do you agree with the EDCs' recommendations? If not, why? How do you recommend the Board address payment default by customers?

Nexamp supports the Board's effort to explore consolidated billing for community solar. If properly designed, consolidated billing could serve as a beneficial option for program participants. If it is to be beneficial, the design of consolidated billing is of critical importance. Nexamp does not believe that the EDCs should be allowed to design, on their own, a consolidated billing option. The effort should be led by the Board, with all stakeholders afforded an opportunity to provide feedback, and the approach should be standardized across EDCs.

It is not clear whether the Board intends to address this issue in the context of this rulemaking, or whether it will be a separate undertaking. In either case Nexamp looks forward to providing greater input on this question.

Respectfully,

Jake Springer
Policy Director, Mid-Atlantic
Nexamp