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BOARD OF PUBLIC UTILITIES
TRENTON, NJ

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DIVISION OF RATE COUNSEL
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MAY 20 2019

BOARD OF PUBLIC UTILITIES
TRENTON, NJ

STEFANIE A. BRAND
Director

May 17, 2019

VIA ELECTRONIC MAIL (communitysolar@njcleanenergy.com)
AND HAND-DELIVERY

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

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

Dear Secretary Camacho-Welch:

Enclosed please find the original and ten (10) copies of the comments of New Jersey Division of Rate Counsel ("Rate Counsel") in connection with the above-captioned matter.

We are enclosing one additional copy of the comments. **Please stamp and date the extra copy as "filed" and return it in our self-addressed stamped envelope.**

Thank you for your consideration and assistance.

Respectfully submitted,

STEFANIE A. BRAND
Director, Division of Rate Counsel

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FORWARD
CASE MANAGEMENT
2019 MAY 23 A 9:24
BOARD OF PUBLIC UTILITIES
TRENTON, NJ

STATE OF NEW JERSEY

BEFORE THE BOARD OF PUBLIC UTILITIES

In the Matter of New Jersey Community) BPU Docket No. QO18060646
Solar Energy Pilot Program)
)

COMMENTS OF THE
NEW JERSEY DIVISION OF RATE COUNSEL
ON THE NEW JERSEY COMMUNITY SOLAR ENERGY PILOT PROGRAM

May 17, 2019

INTRODUCTION

The Division of Rate Counsel (“Rate Counsel”) would like to thank the Board of Public Utilities (“Board” or “BPU”) for the opportunity to provide comments on the Community Solar Energy Pilot Program (“Pilot Program”) topics issued by Staff on April 11, 2019. Staff has requested comments on a number of questions relating to the issues of whether consolidated billing could be made available to community subscriber organizations, and whether the Community Pilot Program could be integrated with Government Energy Aggregation (“GEA”). The following comments are offered in response to Staff’s questions.

I. Consolidated Billing

1) Please describe the process and mechanism of consolidated billing as it would apply to community solar in New Jersey.

Rate Counsel assumes this question refers to the possibility of allowing the State’s electric distribution utilities to bill for and collect subscription fees on behalf of community solar subscriber organizations. Rate Counsel does not have sufficient information to provide the details requested in this question. If the Board decides to pursue this, it may wish to convene a technical working group to work out such details.

2) What measures would the BPU need to implement in order to establish consolidated billing?

The BPU would need to establish standards to assure that consolidated billing arrangements do not adversely affect the provision of safe, adequate and proper utility service. In addition, the costs of the consolidated billing arrangements should not be imposed on non-participating ratepayers, as billing and collection are part of the costs that would typically be incurred by subscription organizations and should not be subsidized by non-participating

ratepayers. Rate Counsel notes that N.J.A.C. 14:8-9.3(d) requires explicit Board authorization for utilities to charge fees or surcharges for community solar projects. If consolidated billing is authorized, such authorization should include the establishment of fees that fully compensate utilities for providing this service.

3) What would be the benefits of implementing consolidated billing?

Consolidated billing could result in cost savings and efficiencies for subscriber organizations, which could be reflected in the fees charged to subscribers. The technical working group suggested in Rate Counsel's response to Question 1 above could investigate the costs and benefits of consolidated billing.

4) What costs would be associated with implementing consolidated billing? How would those costs be allocated? Should community solar subscriber organizations be charged a fee for the use of consolidated billing?

Rate Counsel does not have sufficient information to provide comments on the specific costs that would be associated with consolidated billing. Those costs should be paid by the subscriber organizations using this service. As suggested in Rate Counsel's response to Question 2 above, the rates charged for consolidated billing should be sufficient to assure that no additional costs are borne by non-participating ratepayers.

5) Could consolidated billing for community solar be established using the existing New Jersey Electronic Data Interchange ("EDI") protocols? Why or why not?

Rate Counsel does not have sufficient information to provide comment to this request at the current time.

II. Government Energy Aggregation

Although not explicitly included Staff's Notice implicitly raises the issue of whether the Board should proceed with integrating the Community Solar and CEA programs. Rate Counsel assumes that the Board is considering allowing GEA providers to offer Community Solar as part

of the product offered to participants, i.e. the Community Solar subscription fee would be incorporated in the price offered to participants, and participants would be entitled to net metering bill credits associated with their proportionate share of the solar generating facility involved. Before proceeding with this concept, the Board should carefully consider the potential implications for the Board's ability to meet the State's renewable energy goals within the cost cap provided under N.J.S.A. 48:3-87 (d)(2). Under this provision, the cost of achieving the State's Class I renewable energy sources may not exceed nine percent of the total amount paid for electricity by all consumers in New Jersey through energy year 2020 and seven percent of the total amount paid for electricity by all consumers in New Jersey thereafter. As the Board is aware, the Community Solar program makes net metering credits available to large-scale solar projects that otherwise be treated as grid supply projects and not eligible to receive such credits. Since net metering provides a subsidy that is borne by other ratepayers, the costs of the net metering credits facilitated by the Community Solar program must be accommodated within the cost cap. To the extent the proposal facilitates Community Solar, it may result impede the Board's ability to allow other types of renewable energy initiatives within the cost cap.

Before proceeding with the suggested integration, the Board should determine how much solar capacity can be accommodated within the cost cap for Community Solar that is offered through GEA. This evaluation should include an assessment of whether to focus on other initiative that can incentivize renewable energy at less cost to ratepayers.

Further, the inclusion of Community Solar should not be mandatory for GEA providers. The express purpose of a GEA program is to save participants money for their energy supply. See N.J.S.A. 48:3-93.2(a), -94(b)(2) (third-party energy supplier ("TPS") contract to be awarded based on "the most advantageous proposal, price and other factors considered"). The initial rate

charged for electricity in a GEA program must be “the same as or lower than” the price of default basic generation service (“BGS”) available through the EDC serving the community. N.J.S.A. 48:3-94(b)(2); N.J.A.C. 14:4-6.9(b); see N.J.A.C. 14:4-6.9 (price may not exceed benchmark BGS or BGSS price, except under specific circumstances). Adding this or other mandatory components of the products offered by GEA providers would impede their ability to structure their products to meet the demands of the markets they are serving.

6) In what ways are the Pilot Program and existing GEA rules similar or dissimilar?

There are important operational differences between the two programs as under current regulations. Rate Counsel is not familiar with the all of the operational details of both programs, but has identified the following differences:

a) A GEA program is established by and operated on behalf of a municipal or county government. See N.J.S.A. 48:3-93.1; N.J.A.C. 14:4-6.4(g); -6.2; -6.6. Each GEA program begins with an authorizing resolution, N.J.A.C. 14:4-6.6(a), and a government entity is the lead agency, N.J.A.C. 14:4-6.2. Typically, an energy agent works on behalf of the government entity to manage the process of notifying residents of the GEA program and their right either to opt out (for residential customers) or to join (for non-residential customers), and acts as the option administrator. N.J.A.C. 14:4-6.4(g)(2) (an “Option 2” GEA program). The energy agent typically also manages selection of the TPS for the GEA program, through a request for proposals (“RFP”) process.¹ A GEA program typically operates as using “opt out” process, i.e. residents are deemed participants unless they opt out.

¹ In an “Option 1” GEA program, the EDC would manage the duties of the energy agent. N.J.A.C. 14:4-6.4(g)(1). All of the GEA programs known to Rate Counsel have been Option 2 programs.

The current regulations governing the Community Solar pilot contemplate a different process, with privately owned, for profit subscription organizations individually recruiting customers and obtaining individual “wet” or electronic signatures. N.J.A.C. 14:8-9.6 and -9.10. There is only a limited exception for the account holder of a master-metered building to subscribe on behalf of tenants. N.J.A.C. 14:8-9.6.

b) Residential customers may opt out of a GEA program at any time, and the TPS may not charge them an exit fee. N.J.A.C. 14:4-6.3(k) and (l). Moreover, Board rules prohibit any public utility, including a GEA program, from assessing a late payment charge on a residential customer. N.J.A.C. 14:3-7.1(e). The current Community Solar Pilot Program regulations require transferability, portability and buy-out provisions for participating customers. N.J.S.A. 48:3-87.11(f)(15); N.J.A.C. 14:8-9.6(f)(3) and (4). However, the project operator may charge fees to participants for transferring or canceling their participation, as well as late payment fees and interest. N.J.A.C. 14:8-9.10(b)(3)(i).

c) A GEA program must internalize its own costs. The selected TPS must earn its way by offering energy at a price that includes all its costs and is initially less than the cost of BGS. The EDC and the government entity that organizes a GEA program may recover any costs they incur, but only from the rates charged to participants, not from other ratepayers or the EDC’s shareholders. N.J.S.A. 48:3-93.2(b).² Under the Board’s existing Community Solar regulations, EDCs are guaranteed full recovery of any incremental costs they incur to implement Community Solar, and they must recover such cost from other ratepayers unless explicitly by authorized the

² The TPS also may not pay any concession fees, finders’ fees, or other direct monetary benefit to any government aggregator as a result of the supply contract. N.J.S.A. 48:3-92(c); N.J.A.C. 14:4-6.4(g)(2).

Board to implement a separate fee or surcharge to the Community Solar project. N.J.A.C. 14:8-9.3(d).

7) Are New Jersey's community solar and GEA programs compatible? If so, how should they be integrated?

As noted above, the Board's current Community Solar Pilot Program regulations contemplate a selection and enrollment processes that are incompatible with the statutory and regulatory requirements governing GEA. Since some of the differences noted above are based on statutory requirements that apply to GEA, some changes to the Community Solar regulations would be needed. There may also be other differences in the way these two programs operate on a practical level. Before the Board decides whether to implement this concept, the legal and practical implications of integrating these two programs should be carefully considered, with input from the relevant stakeholders. The Board could convene a technical working group for this purpose.

8) How would the recommendation under Question 7 be implemented? What changes would be necessary to existing rules or regulations (e.g. to the Pilot Program rules or the GEA program)?

In the response to Question 6 above Rate Counsel has identified some of the regulatory changes that would be required. Additional changes may be identified based on the more thorough investigation recommended in the response to Question 7 above.

9) How would the recommendation under Question 7 benefit ratepayers of New Jersey?

See the preliminary comments preceding Question 6 above. Subject to the potential adverse consequences discussed above, allowing GEA providers to offer Community Solar could result savings, such efficiencies from combined administration. Before proceeding with the concept, the Board should assure that ratepayers will be benefitted. Indeed, the GEA

implementing statute requires some benefit to the program participants. The investigation recommended in the response to Question 7 above should include this issue.