From: Cortes, Joseph
To: Secretary, Board
Cc: communitysolar@njcleanenergy.com; Benrey, Ariane; Siegel, Donald H.
Subject: [EXTERNAL] Community Solar PY1 Comments
Date: Monday, August 10, 2020 8:37:43 AM

Dear NJBPU:
Please accept our comments on the Community Solar Energy Pilot Program Year 1. We also attach our comments in PDF version. Please provide confirmation you have received our comments.
Thank you.

New Jersey Community Solar Energy Pilot Program
Program Year 1 Lessons Learned
Request for Comments
August 4, 2020

GENERAL COMMENTS

As a national solar project developer, EPC, and owner, our firm has participated in other states' community solar programs. We commend New Jersey and NJBPU for having what we believe is, by far, the best community solar program in the nation for its public policy spirit and goals. However, we believe there is still much room to improve current community solar rules and procedures that would further ensure New Jersey's achievement of its key renewable energy goals.

A key impetus for the NJ Solar Act of 2012 was that in spite of numerous awards of SRECs prior to the Act, very few solar electricity-generating facilities were being built so NJ was not progressing toward achieving its renewable energy capacity goals. We believe this was mainly due to the "disconnect" between the a) rules for obtaining SREC approvals and b) realities of solar developer profit-maximization behavior in the context of the capital markets at that time.

Our general comment is that we fear similar disconnect problems re-occurring with NJ's community solar program. Specifically, we believe NJ community solar rules should be formulated carefully to ensure achievement of the most important program goals: increasing solar capacity while delivering the lion's share of program benefits to low-income (LMI), as well as residential, households and communities.

A primary result we are seeing from Year 1 of the Pilot Program is a significant number of projects approved have been, and currently are, for sale. The chief rationale to sell projects is most developers whose projects were approved in 2019 are afraid they will not be able to sign up sufficient LMI subscribers, and they do not wish to try. This is because they are not structured properly to acquire residential subscribers, let alone LMIs – they are currently structured to obtain project sites, zoning, permitting, interconnection and obtaining PPAs from other corporations or PJM (WMPA) as these activities generated success for them in NJ previously. Thus, these developers are selling projects to transfer the risks and responsibilities to the buyers, while receiving significant financial remuneration. We foresee the end macro result is that, just like in the years before 2012, there will be long delays (maybe years) in solar capacity coming on line in NJ. And, achievement of "equity" will be difficult. These results will be exacerbated if appropriate rules for providing conditionally approved projects extensions are not formulated.

Lesson Learned:
For Year 1 of the Pilot Program, developers made mere commitments to the program for LMI, community partners, and other Evaluation Criteria and obtained approvals for TRECs, which maximized the profitability of their projects. They did not invest more in evolving their structures to fulfill these commitments.
Our overarching comment to the NJBPU is to amend and implement the rules carefully for Pilot Program Year

2 and the future to avoid this behavior and the results we are seeing.

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

General Comment:
We believe Yr.1 application rules and evaluation criteria should be amended to reward projects and developers who demonstrate they actually engage communities, can sign up LMI subscribers, have real collaboration with community organizations, and provide both solar and non-solar, financial and non-financial benefits to LMIs and communities.
To support these "preferred" developers and projects, and help achieve NJ's goals, we believe the NJBPU should work with the utilities, the DEP and municipalities to expedite their permitting and Interconnection processes.

Question 1

a) Having spent time with LMI households, we understand LMI (and, in general, residential) participation is inherently difficult and has been made more so by questionable sales practices by various energy firms and ESCOs. The result is the difficulty in obtaining income documents from LMI. We believe current NJ LMI verification rules should be amended to include more avenues to verify LMI status.
b) Other ways to verify LMI status: 1) pay stubs, 2) bank statements redacted for sensitive info, 3) proof of unemployment, 4) benefits award letters or documents such as for Social Security, Welfare and other forms of income, housing and healthcare assistance.
We believe an LMI income affidavit is acceptable as a last resort if none of the above can be obtained, but we recommend independent certification of such an affidavit, not self-certification.
We also recommend that certain non-profit community organizations be given LMI status for community solar projects, albeit with stricter requirements and rules. Our primary reason is that many churches, schools and smaller non-profits have high numbers of LMI members and provide much needed programs to LMIs; thus, large electric bill discounts would alleviate their budget realities. Illinois allows non-profits to count as LMIs, but with restrictions such as only one non-profit per project, or a maximum capacity per project for non-profits.

Question 2

Opt-in Model:

a) We did not apply any projects in Program Year 1. However, we observe that the opt-in model is prevalent in community solar states.
b) Our experience in other states is with the proper investment of manpower, money and time by developers, the opt-in model works; we note that specialist subscriber organizations have had limited success with LMIs because they do lack these resources. We believe the opt-in model is the best for LMIs because it requires full, effective conveyance of information regarding community solar, and therefore, sufficient understanding on the part of the LMI subscriber of the program elements to obtain sign-ups.

Opt-out Model:

c) We believe an opt-out model offers few advantages, most of which benefit the developer and not the LMI. The main risks to an opt-out model are the 1) lack of education of the LMI, thus the lack of understanding of what they have been signed-up for, and 2) inadvertent recruitment of non-LMI subscribers. An opt-out process would entail a significant administrative challenge and substantial manpower and administrative resources. One important question is: who will provide such resources? Government agencies and large non-profits do have these resources, but for their own particular LMI assistance and benefits programs.
d) We envision an opt-out model would necessitate a large number of consumer protection measures

that require a lot of planning, detailed implementation and enforcement, and, thus, may be uneconomical.

Question 4

We believe strongly that the responsibility of leveraging or utilizing community organizations or others should fall to the project developer and owner. The TREC subsidies awarded to approved projects are substantial and proper incentive for the developer to spend time and money actually working with community and other organizations. As per our General Comment above, NJBPU assistance to project developers and owners with other organizations only serves to maximize further the developers and owners' profits.

Question 6

We suggest the NJBPU amend community solar rules and enforcement, and implement an application process to include measures that encourage, or even require, developers to integrate the engagement of LMIs into a project's development process from the very beginning . Doing this would make it easier to see that a project does have and will have the requisite LMIs. Our experience shows that in all community solar states, developers wait until their project(s) receive(s) RECs before starting both their residential and LMI efforts. These are other inherent problems of larger solar firms and small developers: 1) they keep their investment in a project minimal until it receives RECs or high tariffs and 2) they "invest" on a project-by-project basis.

TOPIC 2: Program Year 1 Application Form and Application Process

Question 7:

a) Based on our experience in other states, an online application process is feasible but can get restrictive in demonstrating a project's true ability to meet the NJBPU's requirements and its qualitative strengths. We suggest the NJBPU welcome backup documents and information not requested or required by the application to show these developer and project features.

Question 9:

b) We suggest these additional questions/information requests:

a. Provide some proof or demonstration that a project will have 51% or greater LMIs.
b. What is the project's projected LMI allocation?
c. Is a small non-profit community organization a subscriber to the project and why should this organization be approved as an LMI subscriber?
d. Provide clear evidence of a local community organization's active involvement in, and assistance with, the engagement of LMIs.

Question 13:

b), c) and d)

The following are our suggestions to the Yr. 1 Application's Appendix C: Evaluation Criteria (note that penalties for not delivering on the requirement should be loss of the conditional approval):

a. "Low- and Moderate-Income and Environmental Justice Inclusion"
    1. Assign more than 30 Maximum Points (we suggest 40 or more points) to this category
    2. Higher Preference: Proof of LMIs or Capability to sign-up LMIs
    3. Higher Preference: Greater than 70% LMI allocation
    4. Medium Preference: Greater than 60% LMI allocation
    5. Low Preference: 51% or greater LMI allocation
b. "Siting"
    1. Higher Preference: Non-Profit Owned Properties
    2. Higher Preference: Farmland for which the Developer commits, and can demonstrate, greater than 65% LMI allocation

3. Medium Preference: Farmland for which the Developer commits, and can demonstrate, greater than 55% LMI allocation

Note: The economics of farming has weakened, especially given the current trade wars. As a result, in other states, most projects submitted to community solar programs are on excess farmland as farm owners seek other income sources to cushion the volatility of crop sales. The mandated maximum size of community solar projects has encouraged this trend. Moreover, farmland enables larger projects so combined with strict LMI requirements would enable more LMIs to participate in the financial benefits of community solar.

c. "Product Offering"

1. Assign More than 15 Maximum Points (we suggest 20 or more points) to this category
2. Higher Preference: guaranteed savings > 35% to LMIs and > 12.5% to non-LMIs
3. Medium Preference: guaranteed savings > 25% to LMIs and > 10% to non-LMIs
4. Low Preference: guaranteed savings > 10% to LMIs and > 5% to non-LMIs

Note: Illinois requires 50% discounts to receive LMI Project RECs.

d. "Subscribers"

1. Higher Preference: more than 65% of project capacity is allocated to residential subscribers

Note: To date, corporations and PJM have been the primary beneficiaries of NJ renewable energy programs.

a. "Other Benefits"

1. Properly designed Job Training and Hiring programs benefit exclusively LMIs so a developer who demonstrates actual investment in these programs should be awarded more points.
2. A developer should be awarded points for investing in other, non-solar programs it or its community partners provide to LMIs and the community.

b. "Geographic Limit within EDC service territory"

1. Our suggestion is that no points should be awarded for this category if the NJBPU wishes to maximize the engagement of LMIs. The reason is that geographical limitations to the engagement of LMIs makes it more difficult to sign up LMIs. In some areas of NJ, the LMI population is more dispersed so a project's location could well be disadvantaged in the engagement of LMIs by such limitations.

Question 14:

We suggest NJBPU staff should have the flexibility to increase capacity each year to accommodate projects that truly achieve the community solar program's goals of substantial LMIs, residential subscribers, and maximum financial and other benefits to these as well as communities.

Question 15:

As per our comments on Question 14 above, there should be no limits imposed on developers whose projects demonstrate they will help achieve the community solar program's goals.

Question 18:

Yes

Question 19:

We believe strongly that extensions hamper NJ and community solar from achieving their goals (Please see our General Comments). Any extensions should give weight to the project developer's evidence of significant progress in engaging and signing up LMIs. We suggest shorter extension periods unless interconnection and permitting issues not under the developer's control warrant the extension.

Question 21:

> We believe strongly that Legacy Program projects do not help NJ achieve its mandated community solar goals. Therefore these projects represent less desired additional capacity and may replace capacity that help NJ achieve its current and future goals.

Question 23:

We suggest Staff should actively support developers and firms who have actual programs to inform and educate communities and households regarding NJ's community solar programs. In our experience in communities in other states, the first challenge is always the fact that almost no one at the community level, and certainly at the potential subscriber level, knows of, or about, the state's community solar program.

Joseph Z. Cortes
President and CEO
Tatleaux Solar Group
(617) 336-3999 (Boston Ofc)
(609) 786-2423 (Princeton Ofc)
(312) 674-7891 (Chicago Ofc)
(617) 283-5387 (mobile)
(617) 945-1516 (fax)
Boston | Chicago | Washington DC | Princeton
Main Office
177 Huntington Avenue, 17th Floor
Boston, MA 02199
New Jersey Office
300 Carnegie Center, Suite 150
Princeton, NJ 08540
Illinois Office
180 N. LaSalle Street, Suite 3700
Chicago, IL 60601