



**Mid-Atlantic Solar & Storage Industries Association**  
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August 10, 2020

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

Via email to:  
[board.secretary@bgu.nj.gov](mailto:board.secretary@bgu.nj.gov)  
with copy to:  
[communitysolar@bpu.nj.gov](mailto:communitysolar@bpu.nj.gov)

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

Dear Ms. Camacho-Welch and Community Sola team:

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

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

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

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

## **SUMMARY OF KEY POINTS**

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

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

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

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

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

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

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

a. LMI income affidavit;

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

b. verification by census tract;

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

and

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

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

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

This measure has the potential to:

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

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

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

*Opt-in Model:*

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

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

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

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

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

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

*Opt-out Model:*

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

The benefits of Opt-out programs are twofold:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## **Topic 2: Program Year 1 Application Form and Application Process**

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

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

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

MSSIA recommends 2 months.

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

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

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

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

Yes, the instructions were sufficiently clear.

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

a) Were certain questions unclear?

No.

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

MSSIA suggests that all financial information be kept confidential.

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

No. The application form was comprehensive and thorough.

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

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

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

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

Yes.

b) Should any changes be made to this questionnaire?

No.

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

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

Yes.

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

No.

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

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

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

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

Yes.

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

No.

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

No.

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

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

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

### **Topic 3: Program Year 2 Application Process**

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

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

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

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

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

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

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

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

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

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

### **Topic 4: Other**

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

Sincerely,

A handwritten signature in black ink, appearing to read "Lyle K. Rawlings". The signature is fluid and cursive, with the first name "Lyle" being more prominent.

Lyle K. Rawlings, P.E.  
President