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August 10, 2020

VIA ELECTRONIC MAIL

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

Re: New Jersey Community Solar Energy Pilot Program,
Program Year 1 Lessons Learned
Docket No: QO18060646

Dear Secretary Camacho-Welch:

I enclose Rockland Electric Company's Comments on the New Jersey Community Solar Energy Pilot Program, Program Year 1 Lessons Learned in the above-referenced proceeding. Please note that Rockland Electric Company is making this filing solely in electronic form pursuant to the Board's directive in its Emergency Order dated March 19, 2020 in BPU Docket No. EO20030254.

Please contact me if you have any questions regarding this filing.

Very truly yours,

/s/ JoAnne Seibel

JoAnne Seibel
Project Specialist

**Rockland Electric Company
Response to Request for Comments on
New Jersey Community Solar Energy Pilot Program
Program Year 1 Lessons Learned**

August 10, 2020

Rockland Electric Company (“RECO” or the “Company”) submits these comments and recommendations in response to the Notice requesting comments on New Jersey’s Community Solar Pilot Program Year 1, issued by the Board of Public Utilities (“Board”) on July 9, 2020. Community solar offers New Jersey electric customers the opportunity to enjoy the benefits of solar without the need to install solar facilities at their premises. Providing this opportunity to all customers, including low- and moderate-income (“LMI”) customers, offers them bill savings benefits. Community solar also encourages the deployment of additional solar facilities which can facilitate the replacement of environmentally challenged generation.

As noted below, the Company recommends that Community Solar Subscriber Organizations, rather than the Electric Distribution Companies (“EDCs”), should be responsible for verifying customers’ LMI status, as well as monitoring any guaranteed savings. Community solar projects should continue to employ an opt-in model, given the overriding concerns regarding customer consent and consumer protections, especially for LMI customers. Finally, the Board should oversee the development and implementation of consolidated billing rules as part of the permanent Community Solar Program.

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;**
 - b. verification by census tract; and**
 - c. other means of encouraging and supporting LMI community solar participation.**

RECO supports the participation of LMI households in community solar, which will allow LMI customers to enjoy the benefits of clean energy without the need to install solar facilities. EDCs can support education efforts targeted at customers, including LMI households. For example, EDCs can promote LMI participation in community solar by adding bill inserts that explain the benefits of community solar and how customers can enroll. In addition, EDCs can put out social media posts to educate customers about community solar. EDCs call centers can add community

solar participation talking points for high bill and credit related discussions with the LMI community.

Community solar subscriber organizations should continue to be responsible for verifying subscribers' income eligibility. The EDCs can collect this verified information and provide it to Board Staff, as requested. Income status is sensitive information that should be obtained from the customer, or through other means such as verification by the State agency that manages USF, after customer consent is obtained. Finally, the Company sees no compelling need for the Board to amend the current rules regarding LMI subscriber verification, as defined at N.J.A.C. 14:8-9.8.

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.

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?

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?

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

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?

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

The opt-in model provides subscribers with the opportunity to evaluate the terms of proposed community solar projects, thereby relying on their informed decision to participate in projects that best meet their needs.

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Conversely, an opt-out model raises fundamental concerns regarding issues such as lack of informed customer consent, possible agreement to a less favorable contract terms, lack of customer outreach and education, and lack of understanding of the terms in the currently mandated disclosure agreement/statement. An opt-out model also presents issues with how to size a customer's subscription accurately so that the customer receives the appropriate allocation of solar generation to offset monthly electric usage without producing a large carryover. Subscriber organizations may also find it difficult to collect subscription fees from customers who are unaware of their participation in the project. This is of particular concern if that customer is receiving kWh allocations that result in a large carryover balance on the customer's account or if the monthly subscription fee exceeds the credit for the same month.

Authorizing an opt-out model may be premature given the lack of experience to date. The Company would note that projects from Program Year 1 have not been energized and have not enrolled subscribers. It is important to review and analyze the process that the Program Year 1 applicants employed to market to and enroll customers, particularly LMI customers. For these reasons, further evaluation is necessary to establish consumer protective business rules and appropriate Board oversight.

A RECO has no comments.

B Community solar in New York (known as Community Distributed Generation or CDG) uses an opt-in model. Due to the lack of experience with this model to date, it would be premature for RECO to comment on its success or lack of success.

C The Board may wish to consider the following as part of its analysis of an opt-out model. The income verification requirements will need to be changed if the Board implements an opt-out program. Methods that do not require the verification of individual customers' incomes will need to be established. For example, reliance on census data for a community may be used to determine that all residents qualify as LMI. Development of rules that can be applied to each EDC service territory, while accounting for different demographics, will be essential. Another risk is that the terms offered by community solar projects likely will vary, perhaps considerably. An opt-out model will prevent customers from comparing the terms of competing projects and selecting those projects with the most favorable terms and conditions. Such a lack of a competitive marketplace will discourage the development of an optimal mix of community solar projects and offerings. In addition, under an opt-out model, project subscribers may lack the ability to negotiate payment terms and/or the size of their subscriptions.

D The Board would need to establish the following consumer protections if it implements an opt-out mechanism for community solar:

- No contract termination or other fees;
- An allocation of solar facility net energy generation (*i.e.*, kWh) that does not produce a large carryover balance;
- Equitable subscription fees that cannot be changed unilaterally by the subscriber organization;

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- Adequate disclosure forms in clear and understandable terms;
- A call center and other easy to access resources (*e.g.*, website, brochures) available to explain the program and its terms and to process customer opt-outs; and
- Refunds and/or adjustment of any subscriber fees paid to the subscriber organization for any excess credits on a subscriber's account at the time a subscriber leaves the project.

E Government Energy Aggregation (“GEA”) requires that a customer’s cost for supply under the program is less than the cost of basic generation service (with adjustments for renewable energy). Because there is no comparable default service solar program, participation in community solar on an opt-out basis does not allow for customers to shop and compare the terms of competing projects. In addition, a customer that participates in GEA receives one bill from the EDC. However, a community solar subscriber receives two bills – one from the EDC and another from the subscriber organization, which may result in subscriber confusion, especially if the amount of the subscriber bill changes each month.

F Although the New York Public Service Commission (“NYPSC”) has authorized the use of an opt-out model by a Community Choice Aggregation (“CCA”) organization,¹ the CCA organization has not yet submitted, and the NYPSC has not yet approved, a specific program proposal. Therefore, it is premature to draw any definitive lessons learned from New York’s experience.

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

Information on community solar projects could be provided to customers participating in LIHEAP or other assistance programs, either at the time of enrollment or in subsequent communications. The information could include general information on community solar and the contact information for projects still seeking subscribers.

The Board could use a customer’s participation in the State’s Payment Assistance for Gas and Electric (“PAGE”) program as an indication of moderate-income status. Information on community solar projects could be provided to customers participating in the PAGE program, either at the time of enrollment or in subsequent communications.

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?

¹ Case 14-M-0224, *Proceeding on Motion of the Commission to Enable Community Choice Aggregation Program, et al*, Order Approving Joule Assets’ Community Choice Aggregation Program with Modifications (issued March 16, 2018)

Engagement with community organizations can facilitate customers understanding of and education about community solar opportunities. The Board can work with local organizations to design and implement outreach programs to educate all residents and businesses about community solar. Specific projects may be able to partner with community organizations to reach the LMI community. If community organizations assist with enrollment, they must adhere to the consumer protection requirements set forth in the Board's regulations.

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?**
- 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.**
- c) Please address any unintended consequences of this type of rate reform?**
- d) What measures should the Board consider to alleviate these challenges?**

Any rate reforms that are developed to address concerns with master metered buildings should be applied narrowly and not set a precedent for other types of subscribers. For example, at the July 27, 2020 stakeholder meeting, a stakeholder suggested that community solar credits be allowed to offset the demand charges of master metered accounts. This treatment, if adopted, should not be extended to other demand billed customers, as it will increase the bill impact to non-participating customers.

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

It is important for LMI customers to enjoy the benefits of clean energy and it is equally important that it is affordable for them to do so. The Board could develop rules that monitor the net amount of the credit received by LMI customers so that these customers do not pay more for electricity as a participant in community solar. For example, the subscriber fee paid to the subscriber organization each month for participation in community solar should not exceed the monthly community solar credit. Annual guaranteed savings may not be sufficient, especially if the savings are backloaded (*i.e.*, only realized in the last few months of the annual period). Consequently, a financial hardship may occur if the fees paid in one month exceed the community solar credit resulting in a total amount paid for electricity exceeding what the customer would have paid without community solar. LMI customers are more sensitive to month-to-month variations in the cost of electricity, as compared to non-LMI customers. A monthly savings guarantee may be one way to maintain the financial benefits of community solar. The subscriber organization would be responsible for implementation and monitoring of this guarantee, because the EDC is not a party to the contract assessing the community solar fee and therefore cannot police it.

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In addition, any guaranteed savings must account for the fact that any excess credit carryover on a subscriber's account is cashed out at the wholesale rate.²

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?**
- 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?**

RECO has no specific comments but reiterates the need for the Board to implement customer privacy protections and safeguard any customer data submitted.

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?

RECO has no comments.

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

In Section xii. Question 1, community solar projects must indicate if they are paired with storage or a microgrid. The Board must develop rules to determine how the pairing with storage or a microgrid impacts the community solar project, including the value of the credit. For example, storage assets that are charged from the grid should not be able to generate community solar credits for that same energy when it is discharged back to the grid. Community solar credits must be provided from solar generation. Investigation of this structure and development of corresponding rules may be better suited as part of the permanent program.

² N.J.A.C. 14:8-9.7(f)

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

RECO has no comments.

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?**
- b) Should any changes be made to this questionnaire?**

RECO supports a subscriber organization's flexibility to offer a variety of products to meet customer's needs. However, additional consumer protections may be needed so that LMI customers do not pay more each month as a subscriber than they would as a non-subscriber. Moreover, as previously noted, EDCs should not be responsible for monitoring any savings guarantees.

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?**
- b) Should the Board modify the list of attachments required in PY2?**
- c) Are there certain required attachments for which the Board should provide further instructions and/or a standard template?**

RECO has no comments.

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?**
- 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?**
- 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?**
- 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.**

RECO has no comments.

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.

Regardless of the amount of capacity established as annual targets for the pilot and permanent programs, the amount allocated to each EDC should continue to be based on their average respective percentages of New Jersey retail electric sales, as set forth in N.J.A.C. 14:8.9(d).

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?

The Board's establishment of such limits on applicants at this early stage of community solar development may hinder achievement of the State's clean energy goals. That said, the Board should continue to monitor the market. If the market experiences an unhealthy level of consolidation, the Board should then consider imposing limitations on applications.

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

RECO has no comments.

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?

RECO has no comments.

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?

The Company does not take a position on whether all community solar subscriptions should guarantee savings. However, the Board may wish to consider a guarantee to protect LMI

customers. When weighing the benefits of a guarantee against the implementation strategy, the Board may wish to consider that a guarantee may provide some level of consumer protection for LMI customers. To the extent that the monthly subscription fee exceeds the community solar credit for that month, a monthly guarantee may prevent an LMI customer from paying more in a particular month for electricity as a subscriber than as a non-subscribing customer. Such extra payments may contribute to arrears on the customer's electricity or other bills.

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.

Because of the time needed to amend the regulations, the Board may wish to consider these changes as part of the permanent program.

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.

RECO supports the exemption for all multi-family buildings, which have an on-site community solar system. Continuing this exemption will promote full subscription to community solar projects and an increased number of projects in diversified locations throughout the State, all in furtherance of the State's clean energy goals.

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

In developing the Successor REC program, it is critical that the Board balance the achievement of clean energy goals with the resulting customer bill impacts. The Board should pay particular attention to the bill impacts on LMI customers, as well as those customers that do not participate in solar programs. The State should look holistically at incentives and rate design for clean energy projects and the revenues received by Community Solar subscriber organizations/owners. Any Successor REC program should adopt a balanced approach that encourages development while delivering broad based customer benefits.

Rate design that is technology neutral should value the benefits provided by clean energy assets while providing that participating customers pay for their use of the electricity system. Such an approach will minimize the cross-subsidization of those assets by non-participating customers. Incentives should be transparent in their implementation and reflect the declining costs resulting from the development of clean energy markets.

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?

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

The benefits of technical assistance or other grants provided by the Board must be weighed against the bill impacts of those grants for all customers, including LMI and non-participating customers.

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

Consolidated Billing

Consolidated billing of community solar projects by EDCs may help to increase deployment of community solar projects by lowering their administrative costs, with cost reductions passed on to subscribers in the form of lower payments for participation in a community solar project. Consolidated billing should be a voluntary program offered by EDCs to subscriber organizations and available to all community solar projects and their subscribers. The Board will need to develop rules to implement the program, with input from interested stakeholders. Therefore, implementation would be better suited for the permanent program. Once the Board develops these rules, the EDCs will need time to implement and automate this program, including upgrades to their billing and related systems.

RECO recommends that consolidated billing be implemented in the form of a “net credit” rather than including an additional fee on the subscriber’s utility bill. The net credit model essentially results in a “net community solar credit” being provided to a subscriber, after reduction for the subscriber payment due to the subscriber organization. Program rules that the Board should consider as part of a net crediting billing program include:

- Application of one payment rate to all subscribers (*e.g.*, all subscribers pay 90 percent of their monthly credits to the subscriber organization resulting in a net credit on the subscriber utility bill of 10 percent of the original credit);

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- Determination of a maximum subscriber payment so that subscribers always receive a valuable community solar credit;
- The frequency of changes to the subscriber payment rate;
- The impact on the annual cash out; and
- The impact of non-payment of the utility bill on a subscriber's participation in consolidated billing.

The net credit model guarantees that the monthly subscriber payment will not exceed the monthly credit, which can be extremely important to LMI subscribers. In addition, setting one payment rate for all subscribers to a community solar project minimizes the amount of data transmitted to the EDC each month.

Key to implementing a net crediting consolidated billing program is the timely recovery by the EDC of the community solar credits. The Board needs to consider the timing of cash flow relative to a net crediting model. For community solar to be successful, EDCs must have funding available to pay to the subscriber organization.

Further, subscriber organizations that elect to enroll in consolidated billing should be required to pay the EDC for this service which reduces their costs, as well as the risk related to the creditworthiness of a subscriber. Many stakeholders at the July 27, 2020 stakeholder meeting touted the benefits of consolidated billing and the cost savings that it will produce. EDCs must be able to recover the consolidated billing development costs, as well as the on-going program costs. Community solar projects that benefit from this service should pay for this benefit. These costs should not be borne by non-participating customers.

Permanent Community Solar Energy Program

Development of the rules for the permanent community solar energy program should begin as soon as possible to provide certainty to developers, subscriber organizations, EDCs and the State. Establishing the rules for the permanent program can translate into lower costs for project financing, which in turn should result in increased benefits to subscribers and increased subscriber interest and enrollment. In addition, EDCs can begin to understand the billing and other system changes needed to implement the permanent program rules and can make informed decisions regarding the upgrades necessary for implementation of the pilot program rules.

Question 24: Please provide comments on issues associated with the Pilot Program not specifically addressed in the questions above.

RECO has no comments.