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VIA ELECTRONIC MAIL

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Aida Camacho-Welch
Secretary of the Board
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
P.O. Box 350
Trenton, New Jersey 08625-0350

RE: Community Solar PY1 Comments
"Program Year 1 Lessons Learned"
BPU Docket No. QO18060646

Dear Secretary Camacho-Welch:

On behalf of Atlantic City Electric Company ("ACE" or the "Company") and in response to a Request for Comments and Stakeholder Meeting Notice issued by the New Jersey Board of Public Utilities (the "Board") on July 9, 2020, please accept the following Comments concerning the Community Solar Pilot Program "Year 1 Lessons Learned." The Company appreciates the opportunity to provide its input. ACE reserves its right to supplement its responses at a later point in this proceeding as circumstances require.

Topic 1 – Equity and the Inclusion of Low- and Moderate-Income ("LMI") Households

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.**

ACE Response: ACE has no comment to this question at this time.

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.**

ACE Response: Community solar subscribing organizations are responsible for LMI income verifications in the State of Maryland and the District of Columbia.

- a. LMI income affidavits are not currently relied on in Maryland and/or the District of Columbia.
- b. The Company has no comment to this sub-question at this time.
- c. Information regarding the community solar program is available and provided through the Potomac Electric Power Company, Delmarva Power & Light Company, and ACE websites.

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.

ACE Response: The Company has not been permitted to offer a community solar project in New Jersey during the pilot period and therefore has no experience with the “opt-in” model for community solar in New Jersey.

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?

ACE Response: The Company has no comment to this sub-question at this time.

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?

ACE Response: Establishing an “opt-out” rule for community solar simplifies subscriber recruitment and reduces subscriber organization marketing costs, but poses the risk that customers will be placed into a community solar project for an unidentified subscription percentage and be subject to additional monthly subscription fees that may exceed their bill credits in any given billing month. This potential additional cost poses a financial risk for all customers and particularly for LMI customers. This would potentially lessen the ability of customers to pay their monthly electricity bills. Additionally, all subscribers under an “opt-out” model will receive an additional monthly subscription bill from the subscribing organization, which is likely to create confusion and community solar subscription collection issues.

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

ACE Response: At a minimum, customers placed into an “opt-out” community solar program must be notified in writing through the mail at least 45 days before the enrollment occurs. The written notice should contain the following information, at a minimum: 1) the subscribing organization name and contact information; 2) the location of the community solar facility; 3) the subscription amount; 4) the monthly cost of the subscription; 5) the expected monthly electric bill credit; 6) information regarding how the subscription amount can be modified or cancelled; and 7) an accompanying extensive customer education campaign conducted by an agency of the State (i.e., the Board) or the New Jersey electric distribution utilities.

For all “opt-out” customers, the assigned subscription should provide bill credits on an annual basis that do not exceed each customer’s electricity use over a recent 12-month period. In the absence of 12 months of electric energy use history, the subscription assignment should not exceed the average monthly electricity use of the available monthly data. In the absence of any prior billing data, “opt-out” enrollments should not be permitted. Opt-out enrollment should only be permitted if the annual expected bill credits exceed the expected annual community solar subscription fee. Customers who are enrolled through on an “opt out” basis should be permitted to leave the program at any time, with 30 days of prior notification to the community solar subscribing organization. ACE submits that the Board should be responsible for assuring that these requirements are met.

In the event two or more community solar projects would like to enroll a customer on an “opt out” basis, the project that enrolls the customer first should receive the preference. All subsequent community solar projects should be required to enroll the same individual customer through an “opt-in” process after the customer has “opted out” of their existing community solar subscription.

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?

ACE Response: If a community solar “opt-out” model is permitted for subscribing organizations, this would differ from the Government Energy Aggregation program because non-governmental entities would have authority to automatically enroll customers. Unlike governmental entities, third parties are likely to have a lower level of oversight than governmental entities and are more likely to have a profit motive for enrolling customers at the highest possible subscription rate.

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

ACE Response: The Company does not have any information on successful “opt-out” community solar programs.

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

ACE Response: Information about community solar and available projects should be provided at the same time information is provided about opportunities to participate in other publicly sponsored LMI programs. This information will allow LMI customers to determine whether they have an interest in subscribing to a community solar project.

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?

ACE Response: Information regarding the community solar program should be provided through existing electric distribution company (individually, an “EDC” or collectively, the “EDCs”) websites. Available information should include a list of approved community solar projects, operational dates, and subscribing organization contact information.

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?

ACE Response: This information is not readily available in the ACE service territory.

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.

ACE Response: Available community solar bill credits for master metered buildings should be based upon the average monthly energy consumption for each apartment within each building. The responsible party for the electric bill at each master metered building will have the necessary information.

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

ACE Response: The use of an average monthly energy use amount will over- and under-incent individual tenants if the resulting bill credits are shared equally across all tenants. The responsible entity/individual for the monthly electric bill will be responsible for sharing any monthly community solar subscription fees and resulting bill credits and presumably could allocate these items based upon the relative size of each apartment.

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

ACE Response: After the deployment of an Advanced Metering Infrastructure (“AMI”) System by the electric distribution utilities, the Board should evaluate the benefits and costs of converting master metered building into individually metered residential accounts. This action should only be taken if the costs of doing so are less than the expected benefits.

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

ACE Response: The Board should permit New Jersey utilities to develop community solar projects that are intended for LMI households. In this way, utilities can help make electricity more affordable to LMI customers, reduce bad debt expense, and provide some measure of Board oversight over the treatment of LMI subscribers.

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?**

ACE Response: The Company respectfully submits that the application window should be shortened. A five-month application window is unnecessarily lengthy unless a rolling selection process is established.

- 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?**

ACE Response: Yes, an online application process should be developed and will simplify the application process. If a secure online application processing protocol cannot be developed, an emailed application should be accepted.

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?

ACE Response: The Company has no comment to this question at this time.

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?**

ACE Response: The Company has no comment to this sub-question at this time..

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

ACE Response: The Company has no comment to this sub-question at this time.

- 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?**

ACE Response: The Company has no comment to this sub-question at this time.

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

ACE Response: The Company has no comment to this question at this time.

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?**

ACE Response: The Company has no comment to this sub-question at this time.

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

ACE Response: The Company has no comment to this sub-question at this time.

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?**

ACE Response: The New Jersey electric utilities were excluded from submitting applications; therefore, the Company is unable to comment.

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

ACE Response: The Company has no comment to this sub-question at this time.

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

ACE Response: The Company has no comment to this sub-question at this time.

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?

ACE Response: The Company has no comment to this sub-question at this time.

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?

ACE Response: The Company has no comment to this sub-question at this time.

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?

ACE Response: The Company has no comment to this sub-question at this time.

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.

ACE Response: The Company has no comment to this sub-question at this time.

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.

ACE Response: If the Board increases the size of the community solar pilot program, the EDCs should be permitted to participate as a developer, owner, and/or operator of community solar. This will provide valuable experience to the EDCs and enable them to be better prepared for the permanent community solar program, which permits utility participation by statute.

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?

ACE Response: The Company has no comment to this question at this time.

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

ACE Response: The Company has no comment to this question at this time.

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?

ACE Response: The Company has no comment to this sub-question at this time.

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?

ACE Response: The Company respectfully disagrees with this suggestion. This requirement only makes sense for LMI participants – or for all customers – if the program is revised to be an “opt out” program. Non-LMI customers may be motivated to subscribe to community solar for altruistic reasons and could subsidize greater participation by LMI customers. Additionally, individual customer electric energy use can vary over time and it will be difficult to “guarantee” savings over future years.

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.

ACE Response: Yes, all timelines should be extended by an additional six months to provide a more reasonable time period for project development and to lessen the number of extension requests.

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.

ACE Response: The Company has no basis recommending a change to this exemption at this time.

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

ACE Response: The impact is unknown. The number of community solar applications that were submitted indicates that the transition did not have a significant impact.

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?

ACE Response: The Board should allow greater market participation in community solar by permitting the EDCs to develop, own, and operate community solar projects during the remaining years of the pilot program.

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

ACE Response: The Company has no comment to this sub-question at this time.

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

ACE Response: Board Staff can support community solar developers and subscribers by offering a more extensive community solar customer education campaign. Staff can also initiate the development of regulations for the permanent program to provide sufficient information for perspective developers and subscribers of community solar projects.

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

ACE Response: The Company respectfully submits that the Board should finalize the rules regarding cost recovery for the EDCs. The EDCs, Board Staff, and the Division of Rate Counsel have each made recommendations regarding utility cost recovery. Under the existing regulations, utilities are responsible for calculating and issuing participant bill credits, tracking customer subscriptions, program metric reporting, managing project interconnection requests, and fielding customer inquiries.

As stated above, the EDCs should be permitted to develop, own, and/or operate community solar projects during the pilot period. Since the utilities are permitted by statute to develop, own, and/or operate community solar projects during the permanent program, allowing utilities to participate in the pilot program will prove instructive to and for all stakeholders. To continue to exclude the EDCs from directly participating in the pilot program places the utilities at a competitive disadvantage for future participation in the permanent program.

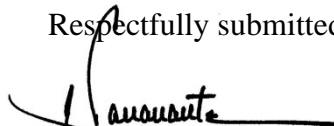
Moreover, a rulemaking for regulations that will be applicable to the permanent program should be initiated so that rules can be adopted well in advance of the start of the permanent program. Changes to the existing regulations include permitting utilities to participate in the permanent program as a developer, owner, and/or operator of community solar.

* * *

ACE appreciates this opportunity to provide comments concerning the community solar pilot program – Year 1 Lessons Learned. As the Board is aware, Company representatives have broad and relevant experience with community solar programs in other jurisdictions. ACE looks forward to continuing to provide input on this important initiative in the future.

Feel free to contact the undersigned with any questions.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Rasanante", written over a horizontal line.

Philip J. Rasanante
An Attorney at Law of the
State of New Jersey