

Solar Landscape, LLC 522 Cookman Ave., Suite 3 Asbury Park, NJ 07712 (844) 766-2769

August 10, 2020

Re: Community Solar PY1 Comments

Dear Board Secretary:

Solar Landscape is an Asbury Park, New Jersey-based company specializing in medium- and large-scale solar project development, design, installation, and long-term asset management. Solar Landscape is currently working on bringing to commercial operation 8 projects awarded in Community Solar Program Year 1.

Over the past several years, Solar Landscape has installed over 120 MW across more than 85 projects, ranging in size from 50 kW to 7 MW, primarily located on warehouses, factories, shopping centers, schools and municipal properties. As a self-performing general contractor, we have proudly employed over 100 New Jersey residents to date, and we are honored to have been recognized as one of New Jersey's fifty fastest growing companies.

Our focus on commercial and industrial ("C&I") roof-mounted systems is driven by our belief that these projects offer more societal benefits than any other type of PV system or, for that matter, any other form of power generation. These projects take advantage of one of New Jersey's most readily available surfaces—large rooftops, which have few alternative uses. Rooftop community solar projects occupy pre-disturbed land and are thus optimal for the environment; are largely out of sight, which is optimal for local residents; and are the most cost-effective community solar option, which is optimal for ratepayers.

Solar Landscape fully supports the Board's efforts to foster a strong community solar program, commends the Board for its successes thus far, and offers the following comments as requested in Docket QO18060646 on July 9, 2020. Thank you for continuing to promote clean and equitable energy access for all New Jersey residents.

Sincerely,

Mark⁴Schottinger General Counsel



RESPONSES TO SPECIFIC QUESTIONS POSED BY STAFF

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

SOLAR LANDSCAPE RESPONSE:

To allow for maximum accessibility to the program by LMI residents, Solar Landscape recommends amending the current rules to allow for LMI verification by either income affidavit or census tract. Solar Landscape believes the additional burden currently placed on LMI subscribers to justify their income levels is impractical and unintentionally inequitable (inasmuch as no such documentation is required of other, less disadvantaged members of communities).

To the extent there are concerns about residents misrepresenting that they qualify as LMI, Solar Landscape's experience has been the opposite—i.e., some residents are not willing to consider that they may qualify as LMI (notwithstanding a substantial added discount), much less produce extensive documentation to prove the point. In any event, we should not let the perfect be the enemy of the good in this area: a simplified LMI verification process would enable widespread LMI participation and would be well worth a few "false positives," which in any event could be managed by spot audits.

Consolidated billing is also a key factor in encouraging and supporting LMI participation. For many prospective subscribers, the conversation about enrollment will end when they learn that a community solar subscription would entail receiving two electricity bills instead of one.

Furthermore, as discussed below, an **opt-out model** is one approach that would lead to widespread LMI enrollment.

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.

SOLAR LANDSCAPE RESPONSE:

a) Opt-In Model Discussion

Solar Landscape has found that the opt-in model is challenging and expensive. For example:

- LMI verification requirements make the subscription process difficult and intrusive for prospective LMI subscribers.
- Extensive consumer protection rules require presenting subscribers with long contracts (even though Solar Landscape is offering a very simple subscription that subscribers can cancel anytime with no penalty), which leads to skepticism and confusion for some subscribers.
- Solar Landscape has invested substantial time and resources into seeking master-metered housing authorities as subscribers. However, the recently released bill credit calculations make housing authorities well less than half as valuable as individual residential subscribers. (All of Solar Landscape's awarded PY1 projects are in PSE&G.)



- Numerous companies from out of state have entered New Jersey to work exclusively on enrolling customers; however, these companies charge enormous fees, including substantial premiums for subscribing LMI customers. In some cases, the quoted fees for subscribing Solar Landscape's 8 projects are well into the 7 figures. This money would be better spent on developing more projects and as additional savings passed through to subscribers.
- Relatedly, third-party subscriber organizations typically require substantial upfront nonrefundable payments, priced for services to be rendered over the course of the entire life of a 20-year project, including subscriber acquisition (again, with a premium for LMI subscribers), subscriber management, and virtual consolidated billing (where the subscriber organization pays the subscriber's utility bill and community solar bill, so that the subscriber only has to pay a single bill to the subscriber organization). However, these services will become obsolete or substantially devalued if the state shifts to an opt-out approach, eases LMI verification, and/or implements consolidated billing. Presumably recognizing the risk that their services will become obsolete or substantially devalued, such companies are requiring large up-front, non-refundable payments, thereby shifting the risk of obsolescence/devaluation to developers. This is a serious and expensive inefficiency in the market that will be corrected as soon as the Board definitively announces a plan to shift to consolidated billing, an opt-out approach, and/or eased LMI verification.

c) Opt-Out Model Discussion

An "opt-out" approach would solve virtually every challenge addressed in Solar Landscape's prior answer and would immediately allow more people—including more LMI people—to benefit from community solar.

There are challenges to an opt-out system, but none that are insurmountable:

 How will pricing (i.e., discounts off bill credits) be determined? Community solar does not map onto the current system for government energy aggregation ("GEA"), because a community solar facility will not be able to supply electricity to an entire municipality or county (unlike third party energy suppliers bidding in a competitive GEA bidding process). A simple solution to this problem would be as follows:

(1) The Board would determine a fixed discount off the bill credit to be applied to community solar projects that agreed to engage in the opt-out system. For example, the Board could require a 15% discount in order to participate in the opt-out system.

(2) On the community solar application, developers would have the option to check a box agreeing to participate in an opt-out system for the fixed 15% discount off the bill credit. (Developers who were awarded in Project Year 1 should also be allowed to participate.)

(3) Any municipality hosting an awarded community solar project that checked the opt-out box would have the right to use that community solar project's electricity on an opt-out basis for its residents at the fixed discount (and if the municipality chose not to participate, an adjacent municipality could participate instead).

• Given that a community solar facility will typically not produce enough electricity for an entire municipality, municipalities would need to have systems for determining which residents get community solar bill credits. This is an issue that could be left to municipalities



to solve, and in any event, is another area where the perfect should not be the enemy of the good. A simple approach would be to allocate community solar first to LMI residents based on census tract information. Over time, as more community solar facilities came online within a municipality or county, non-LMI subscribers could also receive bill credits. Alternatively, community solar electricity could be spread across all subscribers within the municipality, which would entail lower savings per subscriber, but would ensure that all subscribers receive the intangible benefit of consuming green electricity; and as more community solar facilities came online within a municipality, those initially lower savings would grow.

• It bears noting that consolidated billing would be necessary for an opt-out system because otherwise, residents would receive a surprise bill from a community solar company. This is another reason that Solar Landscape strongly supports consolidated billing.

It bears noting that subscriber organizations whose current business models would be hurt by an opt-out approach naturally oppose an opt-out system. However, the best interests of subscribers and NJ's energy goals need to be put before the interests of a few out-of-state companies that are aiming to profit from the inefficiencies that exist in this young and promising community solar program. In opposition to an opt-out approach, these companies argue that subscriber organizations are essential in spreading the word about community solar. That does not hold water. First, in any opt-out system, there is much less need to spread the word about community solar, because people are automatically subscribed (unless they opt out). Second, the Board could easily solve this issue by adding points in the scoring rubric for developers who commit to public information campaigns geared toward those subscribed via an opt-out system. And third, there is no reason that an opt-out system needs to be mandatory for all community solar projects. In the solution proposed above, developers would have an option to participate in the opt-out system or not.

d) On consumer protection measures

Solar Landscape's above comments take into account consumer protection measures, and Solar Landscape (a New Jersey company employing numerous New Jersey residents) always considers what is most equitable for New Jersey residents.

In the interests of protecting LMI residents, the Board could mandate that any municipality participating in an opt-out system first allocate community solar electricity to residents in all its LMI census tracts before allocating any community solar electricity to non-LMI census tracts.

e) On comparison to Government Energy Aggregation (GEA)

See responses above. Community solar does not map onto GEA perfectly, because—particularly in the infancy of the community solar program—there will not be enough community solar electricity to fill an entire municipality or even a substantial portion of a municipality (in contrast to third party energy suppliers bidding in a GEA auction). Forcing community solar developers in an opt-out model to join auctions with third-party energy suppliers who are offering an entirely different product at an entirely different scale would be unnecessarily complicated and would likely prevent or stall the implementation of a successful opt-out method. Accordingly, Solar Landscape recommends the approach outlined above (i.e., setting a fixed bill-credit discount for opt-out, and allowing developers and municipalities to choose whether to participate at that discount level).



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

SOLAR LANDSCAPE RESPONSE:

While Solar Landscape supports an opt-out, centrally coordinated subscriber approach with fixed discount to retail energy rates, if Staff continue to apply an opt-in model, Solar Landscape believes that centrally supported marketing efforts would be helpful. This could take the form of utilities marketing to their customers on behalf of community solar projects, having smaller pools of opt-out community solar participation based on participation in existing LMI programs, or sharing relevant customer information with community solar developers to enable outreach to a qualified pool of consumers (subject to participating developers agreeing to confidentiality restrictions in the interests of consumer protection).

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?

SOLAR LANDSCAPE RESPONSE:

The most expedient path to equitable inclusion of the maximum number of community solar subscribers would be moving to an opt-out system (as outlined above) and consolidated billing.

In the current opt-in system, anything the Board can do (e.g., mailers, email campaigns, social media campaigns, etc.) to increase consumer awareness of community solar would be helpful.

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

SOLAR LANDSCAPE RESPONSE:

Solar Landscape has expended substantial time and resources to partner with master-metered housing authorities over the past year. There are numerous master-metered housing authorities throughout the state.

Rate reform is essential for these master metered housing authorities. Unfortunately, the recently released bill credit calculations make master-metered housing authorities well less than half as valuable as subscribing individually metered residential tenants. This is unfortunate because (a) tenants of master metered housing authorities are just as deserving as anyone else of electricity discounts and environmental benefits, but (b) the extreme discount creates a substantial disincentive to subscribe these housing authorities. To make matters worse, some housing authorities require a public RFP process before they will contract with an electricity supplier, which adds substantial costs and time to the process of subscribing a housing authority and therefore makes the extreme discount even harder to justify.

A housing authority should not have the same bill credit value as a Walmart, for example, but that is currently the case. A housing authority should also not have the same bill credit value as an equivalent number of residential subscribers, inasmuch as there are substantial benefits to developers from subscribing master metered housing authorities (e.g., the simplicity of signing



one contract that applies to numerous subscribers). The value of the bill credit applicable to master-metered housing authorities should be somewhere in between the residential and commercial values.

Solar Landscape recommends the BPU amend the community solar bill credit rules to include a significant proportion of master meter demand charges. The calculation of these credits could either be purely a function of the subscriber's demand charges or incorporate the solar array's generation at hours when peak demand is calculated. Although more complicated, the latter would align customer savings with the array's impact on grid infrastructure as originally intended by demand charges (and in particular, coincident peak demand charges).

As an aside, Solar Landscape believes that this bill credit calculation including demand charges accurately captures the physical benefit of community solar to grid infrastructure and should therefore be applied to all commercial rate tariffs and consumers. However, in the absence of that sweeping change, applying the bill credit change to master-metered housing authorities is a viable solution to ensure that they are not excluded from the community solar program. This approach would save master meter buildings more money on their utility bills, direct more payments from master-metered housing authorities to solar projects, and still align payments to the utility with the net strain on the grid from the master-metered housing authorities, after solar is taken into account.

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

SOLAR LANDSCAPE RESPONSE:

As stated above, consolidated billing and an opt-out approach would be the best methods to facilitate inclusion of LMI households.

In the meantime, another option would be to adjust the scoring rubric so that LMI projects are allowed to subscribe LMI customers anywhere within the applicable EDC territory (without losing points on the scoring for geographical limitations). Presumably, the rationale for incentivizing geographic subscriber limits is to prevent developers from building solar facilities in LMI communities, only to then sell the electricity elsewhere. In light of the importance of subscribing LMI residents throughout the entire state, there should be an exception for LMI subscribers to this geographical restriction.

7) Please provide feedback on the process of submitting an Application.

SOLAR LANDSCAPE RESPONSE:

b) On online vs hard-copy applications

An electronic application is probably necessary this year in light of COVID 19. That said, the Board does not need to establish an online application portal/process. Rather, applicants should be required to submit their applications as PDFs. Since the applications will likely be too big to transmit as email attachments, applicants should be allowed to submit their applications via links (e.g., to Dropbox or similar sites). This submission process might warrant some leeway if applicants experience technical difficulties that otherwise would not exist in paper submissions or a more elaborate electronic submission portal. For example, if a developer submits an application via a link in an email, and days later, Staff determines that the link is broken, that developer should be allowed to correct the issue, rather than being rejected from the program (provided that the developer signs something swearing that he intended for the original submission to work and that the late submission is the same as that which he aimed to submit on the due date).



Unrelatedly, Staff was very helpful last year in reminding applicants after the application deadline of the option to redact applications for confidentiality. For PY2, it might be helpful (for both Staff and applicants) to set in the application instructions a post-application date by which applicants will be required to submit redactions and confidentiality requests. This would avoid the Staff needing to send out reminders after the application deadline.

13) Please provide feedback on Appendix C: Evaluation Criteria from the PY1 Application Form.

SOLAR LANDSCAPE RESPONSE:

Regarding the weighting of evaluation criteria, Solar Landscape believes that the Board correctly identified the project siting that should be given "higher preference"; however, within the higher preference category, additional points should be awarded to rooftop projects because of their ability to be constructed and turned on substantially faster than other types of projects. In general, as compared to rooftop projects, non-rooftop projects have substantially more permitting and zoning hurdles to clear before they begin construction. Faster construction and commercial operation entail bringing the benefits of community solar to residents sooner. The relative ease and speed of rooftop projects should be prioritized accordingly.

Relatedly, there is an apparent push by out-of-state developers to add greenfield and farm development to the "higher preference" siting category. While Solar Landscape believes that eventually resorting to other forms of ground development may be necessary in order to reach 100% renewable energy by 2050, we are currently very far from having exhausted the extensive preferred siting options available throughout the state. Prioritizing the current slate of preferred sites is important because—unlike farms and greenfields—installing solar facilities is often the only meaningful additional use for a rooftop, parking lot, or landfill. Furthermore, building large solar facilities on the few remaining farms and greenfields in the Garden State (which is now the most densely populated state in the country) would create low-hanging fruit for people to oppose community solar. (Consider the outcry over whether offshore windfarms will be visible from beaches.) By contrast, there is generally no public outcry over putting solar on a large roof, making good use of a landfill, or creating covered parking. The companies vying for farm/greenfield development do not understand these concerns because—unlike Solar Landscape—they are not from New Jersey and have very few ties to New Jersey (other than having purchased options to lease farmland here). We should give New Jersey's residents at least a few years to get behind the important factors motivating community solar (i.e., saving the planet and saving money) before we unnecessarily dive into potential public controversies over farm and greenfield development. Lastly, it bears noting that N.J.S.A. 48:3-87(s) appears to prohibit siting community solar on farms. That is a complication that should be resolved in the legislature before any farm projects are awarded community solar capacity.

The best way to get more LMI subscribers (beyond the 51% threshold) would be to implement an opt-out system (which, as described above, developers could elect to participate in by checking a box on the application) and consolidated billing.

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.



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SOLAR LANDSCAPE RESPONSE:

PY2 and each year thereafter should have at least a 300MW capacity in order to meet the State's aggressive clean energy goals. New Jersey has a rare opportunity to be a vanguard for community solar and, more generally, for clean energy and environmental justice; and there is currently a much greater market demand than the capacity proposed above, as evidenced by the 600+ MW that applied to PY1. Solar Landscape expects that PY2 will have at least as much applied capacity as PY1. (For context, Solar Landscape is currently negotiating more than three times the number of MW it submitted last year.)

The recently released application scores demonstrate that numerous qualified projects were denied in PY1. This will necessarily continue to happen if the Board does not substantially increase the program capacity; and if qualified projects continue to be denied because of capacity limits, New Jersey's community solar market will be chilled. Namely, some developers and financiers will lose interest in the New Jersey community solar market; property owners who leased property to a losing project may become disinclined to discuss community solar with other developers; community organizations that lent their resources to losing projects may lose excitement for the program; etc. All of this can be avoided by increasing the size of the program.

Most importantly, a larger program will entail more community solar subscriptions for New Jersey residents—particularly LMI residents.

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?

SOLAR LANDSCAPE RESPONSE:

The Board's focus should be on ensuring that the scoring and selection process are as aligned as possible with the goals and priorities of New Jersey—i.e., environmental justice, benefits to subscribers (particularly LMI) (financial and otherwise), benefits to communities, and optimal use of New Jersey's limited space/real estate. In short, the Board should award the best projects.

On the recent BPU stakeholder call, the only commenter who favored capping awards expressed concern over large out-of-state companies being awarded an unfair portion of program capacity. However, Solar Landscape won more capacity than any other developer in PY1; and Solar Landscape is a family company out of Asbury Park, NJ that employs mostly NJ residents and is wholly owned by NJ residents.

Additionally, the BPU does not (and rightly should not) control who ultimately owns any of the awarded projects, and it is standard within the solar industry for some projects to be bought and sold. For example, some of the large companies that lost applications in PY1 have attempted to buy and/or have bought PY1 projects that were awarded to other developers (not Solar Landscape). Accordingly, focusing on who applies for the projects is not a good proxy for the professed concern (as the applicant may not be the ultimate owner). Moreover, capping the awards to individual applicants would likely lead to unwanted gamesmanship, like developers forming shell companies and partnerships with other developers to avoid the cap.



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.

SOLAR LANDSCAPE RESPONSE:

Slightly less aggressive deadlines would save time for developers and Board Staff by reducing the number of extensions that need to be requested and granted. Extending the deadline for commercial operation to 18 months and the deadline for starting construction to 9 months would be a modest change that would accomplish this goal without any meaningful downside (inasmuch as developers generally want to build their projects as soon as possible in any event).

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

SOLAR LANDSCAPE RESPONSE:

Not knowing whether TRECs or an undefined successor REC will apply to the upcoming PY2 projects makes development unusually risky. Just as with other sources of value, the value of RECs affects the pricing of site control agreements, which typically take several months to negotiate. Site control pricing should be (in part) a product of REC value; so, without knowing the REC that will apply to PY2, pricing involves guesswork and risk for both developers and hosts. The Board could eliminate this risk by definitively announcing that PY2 will receive TRECs, regardless of the timing of the application deadline or the Successor REC program.

For PY3, it will be important to get the Successor REC program defined sufficiently soon so that developers and property owners can negotiate site control agreements based on known budgets. If that is not possible, applying TRECs to PY3 would again solve the problem.

Solar Landscape notes that certain out-of-state companies have expressed interest in eliminating PY3 out of purported concern for aligning the stakeholder processes for the permanent community solar program and the Successor REC program. Solar Landscape fails to understand the need for these two stakeholder processes to happen at the same time. Moreover, it bears noting that these same out-of-state companies are pushing for the permanent program (which would happen sooner if PY3 were eliminated) to have a non-competitive, first-come-first-served application process (which would eliminate the incentives for preferred siting and LMI that exist in the current competitive application process). The apparent upshot is that these companies want a non-competitive, first-come-first-served award process to happen as soon as possible, so that they can build projects on non-preferred siting without the complications of selling power to 51% LMI subscribers. This is contrary to New Jersey's energy goals, the interests of New Jersey's residents (particularly its LMI residents), and the well-being of the community solar program.