



New Jersey Community Solar Energy Pilot Program
BPU Docket No. QO18060646
Comments from Gabel Associates in response to the BPU Notice of July 9, 2020

Dear Secretary Camacho-Welch:

The purpose of this letter is to provide comments from Gabel Associates on the above matter pursuant to the BPU's notice of July 9, 2020.

Gabel Associates appreciates the opportunity to provide these comments, and greatly appreciates the care with which BPU staff has engaged with parties on this matter. Gabel Associates is a New Jersey based energy consulting firm located in Highland Park New Jersey. We have a deep interest in developing community solar projects for LMI customers and want to help New Jersey establish itself as a national leader on LMI-based projects.

We have extensive experience and understanding of the various issues that affect community solar, including:

- Wide experience in developing energy aggregation programs in New Jersey, including over twenty years of administering the energy aggregation program of the New Jersey School Boards Association (the largest aggregation program in New Jersey), and operating aggregation programs for more than 200 municipalities as well as several counties and sewage authorities.
- Experience in developing community energy aggregation programs under the BPU's Government Energy Aggregation (GEA) regulations for more than twenty programs including the first in New Jersey (the Plumsted Program); as well as renewable GEA programs for numerous municipalities.
- Forty years of experience in utility ratemaking in New Jersey.
- Direct involvement in solar policy in New Jersey since the passage of EDECA in 1999.
- Extensive work at PJM including interconnection and market design issues.
- Support for development of over 250 solar projects in New Jersey.

We are endeavoring to put this expertise to use to help the BPU develop a nation-leading community solar program focused on Low- and Moderate-Income Customer (LMI) participation.

Introduction

Throughout these comments we refer to the "Municipal LMI Approach"; this is an alternate structure to Community Solar whereby:

1. The Applicant is a municipality or public entity;
2. The community solar developer and site will be selected by the Applicant via RFP, after being awarded a position by the Board into the Community Solar Program;
3. The project serves 100% LMI customers; and
4. The subscribers are enrolled on an opt-out basis.

This unique and innovative model harnesses a municipality's commitment to its community by using a program structure that is "customer-centric", with a host of engagement, communication, procurement, contractual, technical, and economic elements and protections. By having the municipality take on responsibility for leading the project, the BPU can be assured that participating customers are well-served and their interests are fully represented and protected.

The Municipal LMI Approach will serve as a model for the BPU to use in the Round 2 and future pilot solicitations and in designing the permanent Community Solar Program as it moves beyond the pilot phase.

Importantly, the municipality, as the project lead, has established "peer-to-peer" relationships with institutions and groups in the community that foster trust and can assure project success. These established relationships with community based not-for-profit organizations, including housing groups, will be an asset with respect to customer outreach.

An important and key design element of the Municipal LMI Approach is that rather than designate a solar project in the application, the municipal applicant will use a competitive procurement process to select a solar project and developer in their utility territory that best meets the needs of its residents - including extensive outreach to both the municipality where the solar project will be located and the subscribers' community. The rigorous and tested protections under public contract law will allow the municipality to designate the solar vendor who offers the best comprehensive terms and pricing for its participating customers based on a careful review of all economic and technical factors.

The Municipal LMI Approach includes strong customer protections, based on the BPU's success in administering GEA Programs, which provide revenue stability to the solar vendors offering to provide service, so that solar pricing does not contain significant risk premiums that would unnecessarily increase the solar energy price paid by customers. Cost effective projects are of increasing importance as the state is in the process of transitioning the solar market to deliver solar at a lower cost to reduce the burden on ratepayers.

Under the Municipal LMI Approach, both master-metered and individually metered LMI customer are included; this is achieved through utilizing an opt-out method of participation for the individually metered LMI customers - through the BPU's granting of a waiver - and separately reaching master metered LMI customers. This dual approach will provide benefits to both types of metered customers in the affordable housing communities: individually metered customers will realize direct savings on their energy bills, while the master metered customers will realize tangible benefits through the savings realized by the affordable housing provider. By addressing both types of customers, the Municipal LMI Approach achieves an all-inclusive system to comprehensively reach LMI residents - one that does not discriminate based on their housing situation, and serves as an excellent pilot opportunity for the BPU to review both approaches as it builds a long term Community Solar Program.

With that context, please see the specific comments to the questions posed in the BPU's Notice of July 9, 2020 below.

Question 1.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.

Response: The Board does not need to change the provisions of N.J.A.C. 14:8-9.8, but rather should accept waivers to its rule to allow for the Opt-out mechanism to enroll LMI subscribers. Such a waiver should only be allowed for **100% LMI projects led by a municipality**, since the need for the opt-out mechanism is based on the difficulty of enrolling LMI subscribers, exclusively. The opt-out option (which, as a waiver, can be evaluated by Staff on a case-by-case basis) addresses LMI subscriber verification by accessing lists of LMI customers in municipal programs. Municipal staff knows who these customers are and how to access and communicate with them. Since these residents have already been “vetted” as LMI by their participation in financial assistance programs, the Community Solar Administrator can avoid the unnecessary, burdensome, and costly process of verifying customers as LMI one-by-one.

Question 1. 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.**

Response: While the opt-out mechanism allows easy and successful customer aggregation, it is paired with the following provisions to encourage and support the LMI Community’s participation in Community Solar:

- Notice to designated customers that they can opt-out at any time during the program with no penalties. (Notice will only be provided to potential participants identified by the municipality or through existing public assistance organizations and municipal services, not to every customer). This limited notice is intended to prevent customer confusion, effectively manage customer relationships, and limit the active subscribers to correlate with solar project capacity.;
- A letter to each designated customer explaining the program and advising them of their opt-out and other rights;
- Customer and constituent support, including the development of educational and marketing materials as well as holding public informational sessions at community meetings;
- Development of a website (or a dedicated page on the municipality’s website) through which the public can obtain further information regarding the program;
- A dedicated toll-free number to facilitate customer questions or opt-out requests;
- Assignment of a designated staff person in the municipal building to address any issues;
- A solar contract that is publicly procured and managed by the applicant, and not by a private vendor, with strong customer protections.

The Board should grant waivers to the opt-in requirement (N.J.A.C. 14:8-9.10(b)) if the applicant serves 100% LMI customers and commits to the above considerations.

Question 2.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?

Response: An “opt-out” approach is needed to secure the LMI customer base because the alternative, the opt-in approach, creates several highly restrictive “roadblocks” to LMI community participation and will limit the BPU from creating a program that can reach all types of LMI customers (especially individually-metered customers).

We urge the Board to consider how their current position of denying the use of the opt-out process will be practiced: an LMI customer will be required to provide wet or electronic signature, an approach that requires a highly intensive (and expensive) marketing and sales effort. Enrolling *non-LMI* customers on an opt-in basis is extremely daunting; for example, after twenty years of extensive retail marketing, less than 40% of residential customers have switched to third-party supply. The prospect of engaging and enrolling *LMI* customers on an opt-in basis will be even more difficult. The requirements to enroll customers are unreasonably demanding of the customer. Requiring a wet signature or e-signature will stunt participation and be extremely detrimental and counter-productive to the Governor’s goal to provide Community Solar benefits to LMI customers. It is also a cost that ratepayers can avoid by using a much more efficient method – the opt-out method, with all of the appropriate and proven consumer protections, to enroll customers.

Using the opt-out model for the LMI community (1) provides much greater assurance that adequate customer load will be purchasing solar energy over the term of the Community Solar power purchase agreement since customers are aggregated as opposed to gathered one-by-one; and (2) the municipality leading the Community Solar Project already has knowledge and a relationship within their own LMI community allowing for easy identification of LMI customers to be included in the program. Accordingly, the BPU should permit waivers from its rule to allow opt-out in its round 2 application process for projects serving 100% LMI customers.

The BPU should have confidence in the opt-out mechanism as it has witnessed its success in the GEA Program. In fact, it is fair to say there would be no GEA Program (with millions of dollars of savings to customers) without the opt-out mechanism. Gabel hopes to replicate the success of GEA within the Community Solar program.

Question 2.d: What consumer protection measures would need to be established in order to implement an opt-out mechanism for community solar?

Response: To apply the opt-out mechanism to Community Solar, the same consumer protection measures used in GEA programs (N.J.A.C. 14:4-6.) will be utilized, as these measures have already been proven sufficient by the success of GEA. This would include the mandatory 30-day opt-out period. Consistent with BPU rules, a mailer can be sent out to every eligible household, notifying households of the program, the terms of the awarded contract, and instructions for opting out should they choose to do so. After the 30-day period has ended, a household may still opt out at any time, without penalty. Furthermore, the procurement process for a developer will be fully aligned with Department of

Community Affairs (DCA) Guidelines. All aspects of opt-out in Municipal LMI Approach to Community Solar are based on existing statutes. Finally, extensive customer education and outreach will occur as described in the answer to Question 1.b provided above.

Question 2.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?

Response: As the Board’s GEA program design has been demonstrated in the success of a multitude of programs throughout New Jersey, an opt-out program operated by a municipality can simultaneously protect customers, achieve strong pricing, and demonstrate savings and reduce customer sign-up cost. By using the same BPU-approved structure and protections of the GEA program to conduct an opt-out mechanism, Community Solar can effectively reach the LMI community.

Question 2.f: Are there examples of other states successfully using an “opt-out” model for community solar? If so, what makes them successful?

Response: Utilizing opt-out for a Community Solar program has been successful within the State Of New York Public Service Commission’s “Community Distributed Generation” Program (CDG). (CDG is New York State’s name for Community Solar.) On March 16, 2018, the State Of New York Public Service Commission (NYPSC) approved a series of filings to establish Community Choice Aggregation (CCA) – New York State’s equivalent to New Jersey’s GEA Program – which included the integration of the CDG Program¹.

As part of the filing, Joule submitted a Community Choice Aggregation Master Implementation Plan. Within this document, Joule explains the value of the opt-out method in relation to energy aggregation and community solar; this reasoning – which was accepted by NY PSC – stands true to the Municipal LMI Approach as well: “CCA ensures that low to moderate income (LMI) residents have equal access to savings from renewable energy programs. As a statewide program, Community Distributed Generation was established explicitly to ensure equitable access to renewable energy. Unfortunately, due to onerous credit checks, risk of non-payment for LMI customers is often deemed too high to include LMI consumers in CDG project membership.”

Clearly this method has proven successful, as Joule's local solar programs to utility customers in the two regions where CCA programs were launched in 2019 have resulted in communities raising funds for additional sustainability-focused projects, of their own choosing, in their own communities.

Region / Local Utility	Program Sponsor(s)	# of Community Solar Subscribers	\$\$ Raised for Community Sustainability Projects	
Hudson Valley	City of Beacon	183	\$9,150	
	Village of Cold Spring	41	\$2,050	

¹ Note: Joule’s approach differs from the Municipal LMI Approach but is comparable as far as it uses the energy aggregation opt-out mechanism as applied to community solar.

	Town of Fishkill	2	\$100	
	Town of Marbletown	117	\$5,850	
	Town of Philipstown	130	\$6,500	
	City of Poughkeepsie	19	<u>\$950</u>	
			\$25,700	
Geneva Community Power	Town of Geneva	~400	\$25,000	

Furthermore, in order to maximize the benefits of each program, Joule expects to offer community solar in the following communities, where the company is rolling out new CCA to new communities and/or launching new CCA programs in 2020.

Aggregation	Participating Communities	Size (in # of HHs)
Gateway Community Power	Village of Victor	1,000
Hudson Valley Community Power	Town of New Paltz Village of New Paltz Town of Red Hook	6,500
Monroe Community Power	Town of Brighton Town of Irondequoit Town of Pittsford Village of Pittsford	60,000
Rockland Community Power	Town of Clarkstown Village of Haverstraw Town of Orangetown Village of Nyack Village of South Nyack Village of Upper Nyack	55,000
TBD—Hudson Valley	Town of Clinton	1,500
TBD – Long Island	Town of Southampton	40,000
TBD—Rochester Area	Village of Brockport Village of Lima	3,250

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?

Response: The Board can leverage community organizations to facilitate LMI Community Solar subscribers by awarding participation in the Community Solar Program with an increased emphasis on the relationship between the Applicant and local community organizations during Staff's evaluation of applications. This would encourage all applicants to establish a strong relationship with the local community, which would hold the applicant accountable to act within the interests of the community.

Furthermore, the unique relationship between a municipal applicant, the community organizations which fall under the municipalities' authority (e.g. public community centers, recreation centers, residents' associations within public affordable housing communities, etc.), and the LMI customers should warrant

the highest point value for “Community Engagement” evaluation. This is appropriate as these government-run community organizations are under the purview of the municipal applicant, ensuring seamless exchange of information, shared values, and established access/trust with the LMI community.

This deep, natural relationship between a municipal applicant and community organizations makes education and marketing to the members of the LMI community a cinch.

Question 5.a: What are the challenges specific to ensuring that low- and moderate-income households in master-meter buildings can become community solar subscribers? How common are these types of master metered apartments?

Response: Gabel Associates does not have specific data on the number of these apartments. However, the BPU restricted development of master-metered apartments in the 1980s as the result of one of the requirements of the Public Utility Regulatory Policies Act (PURPA), a federal law enacted in 1978 to promote more energy efficiency in the United States. One of PURPA’s standards required states to consider policies relative to master metered apartments. As a result, for the last four decades, New Jersey’s housing stock has been developed around individually metered apartments with limitations on permitting master meters in new residential multi-family buildings². Nonetheless, there are many apartments and public housing facilities that contain master-metered apartments.

Question 5.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.

Response: Most commercial customers (not only master metered apartment complexes) have demand charges and capacity charges. These charges enable utilities and suppliers to recover their “peak related” costs. In on-site solar projects these charges cannot usually be fully avoided as the pattern of solar energy production is such that KW demand by the customer on the grid is not fully eliminated by the production of the solar project. It is our experience that usually between 20-30% of demand charge and 40-60% of capacity obligations can be avoided by an on-site solar project. Changing these rate schedules would have significant unintended impacts to utilities and other non-participating customers and would require a significant level of cost-of-service analysis. Instead of undertaking the highly complicated and likely contentious process of determining relief from demand and capacity charges to make the economics of community solar work for master-metered customers, then determining who pays these costs,, Gabel Associates recommends a much simpler alternative approach: simply increase the multiplier applied to the project’s TRECs (or Successor RECs, as applicable) to a level which is appropriate to address the financial impact of the low energy based solar credit. By setting a reasonable level for the multiplier for low income master metered housing complexes the BPU can more directly and efficiently address the impact of this low bill credit, without having to interfere with utility cost of service, tariffs, and cost recovery.

Question 5.c: Please address any unintended consequences of this type of rate reform?

² Note: this issue was shepherded and developed for more than four decades at the BPU by the late, great BPU regulatory officer, Ed Beslow, RIP.

Response: See response to Question 5.b above.

Question 5.d: What measures should the Board consider to alleviate these challenges?

Response: This issue is fully addressed in the above response to Question 5.b. As an alternative to undertaking the substantial rate reform effort that would be required to rework utility tariffs and cost recovery, the BPU should simply increase the TREC (and Successor REC) for master metered LMI housing to address this concern.

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

Response: BGS Consolidated billing must be made available to Community Solar Projects that have 100% LMI customers. This approach will address a significant gap in the BPU's current policy of billing customers on a separate bill since this current approach will not allow community solar to serve LMI customers beyond master metered facilities with multiple customers. The largest set of LMI customers, those in apartments and homes on their own meter will not have community solar access under the current paradigm. By extending BGS Consolidated billing, a highly developed and successful program which the BPU provides to BGS suppliers, these customers will be able to access community solar.

This issue goes to the heart of building a successful LMI community solar program. Without addressing this key billing and payment issue, Community Solar to LMI customers cannot move forward in a significant and comprehensive manner, as credit and payment risks will cause solar providers to avoid or limit individually metered LMI customer participation. This complex issue is explained further in the three sub-sections below:

1) The BPU's current policy requires community solar providers to render a separate bill to LMI customers. This has the following deficiencies which, taken together, means that serving LMI customers will be very difficult and limited:

- Customer confusion: Customers will receive a separate bill for community solar energy: they will see the community solar credit on their utility bill and see the payment for the solar energy on a separate bill. This makes it very difficult to see, calculate and conclude that community solar will save money.
- Severe collection issues: Under current BPU policy, community solar providers will render the bill and will have to collect on these bills from LMI customers. These customers live in an economic world where paying bills (rent, food, utilities, etc.) is extremely challenging. These separately rendered community solar bills stand a high likelihood of "going to the bottom of the pile" and collection will be extraordinarily difficult.
- Severe credit issues that will mar project financing: Due to the high risk of collecting revenues (either at all, or on a timely basis) financing of projects will be very difficult as capital commitments will not be made to back projects with unsure revenues.

- Failure to reach most LMI customers: Besides customers where the building owner can sign a contract and make payment on behalf of master-metered residents, or other special relationship situations, these deficiencies add up to a current approach which will prevent community solar from serving the large majority of LMI customers living in individually metered apartments or houses.

2) The BPU should allow BGS Consolidated billing to be used for Applicants that propose 100% LMI Projects in Program Year 2 and beyond.

Given these circumstances, access to community solar for LMI customers can be achieved by using the BGS consolidated billing approach which the Board has successfully implemented for BGS Supply for more than twenty years. Adoption of this approach can vault New Jersey to a leadership position in developing community solar for LMI customers.

For Community Solar to be successfully implemented in LMI communities, electric utilities should provide consolidated billing to community solar providers serving 100% LMI Projects in the same manner as they currently provide to Basic Generation Service (BGS) Providers. The utilities already include the charges levied by default suppliers on their bills and pay their default (BGS) suppliers on a regular and prompt basis regardless of the customers' payment patterns or histories. Under BGS, the electric utilities bill customers, collect revenues, administer collection (or termination) activities, and pay BGS Providers on a regular and prompt basis. Utilities assume these costs and risk through the ratemaking provided by the BPU (through working capital and other rate adjustments). By not having to absorb customer payment risk, BGS suppliers can charge lower rates because they do not have to add associated risk premiums to their rates.

The BPU should have the utilities provide this same billing and revenue collection for 100% LMI community solar. Its use would impose no additional collection or payment risk on electric utilities than is currently the case. In fact, it may improve collections of utility revenues since the participating Community Solar customers will have lower monthly bills. EDCs should also be able to charge a fee to reflect its administration and recover its reasonable costs.

This approach will address the limitations to the current billing and payment mechanism discussed above: creating a financeable and low-cost community solar model that will serve LMI customers.

LMI Community Solar Customers will be billed on their utility bill and pay in accord with the terms and conditions that they currently have under the utility tariff (with the community solar payments appearing on this bill in accord with the price of the community solar project in which they are enrolled). Confusion is eliminated as the customers will be able to see the cost of the solar energy and the retail credit on the same bill. Financing can move forward as the community solar provider will have revenue payment certainty in the same manner as BGS suppliers. The result is lower cost community solar being made feasible to all LMI customers.

Adoption of this approach by the BPU for 100% LMI community solar applicants in the second year of the Program will allow community solar to truly reach a wide base of LMI customers, furthering the Board's policy goals and making New Jersey a national leader.

- 3) It is discriminatory, unfair, and contrary to law to provide this type of consolidated billing and prompt payment service to BGS suppliers and not to Community Solar providers.

NJSA 48:3-1 provides as follows:

"No public utility shall:

- a. Make, impose or exact any unjust or unreasonable, unjustly discriminatory or unduly preferential individual or joint rate, commutation rate, mileage and other special rate, toll, fare, charge or schedule for any product or service supplied or rendered by it within this state;*
- b. Adopt or impose any unjust or unreasonable classification in the making or as the basis of any individual or joint rate, toll, fare, charge or schedule for any product or service rendered by it within this state."*

The BPU allows BGS suppliers to (appropriately) have access to a billing and timely payment mechanism that protects them from retail customer payment and credit risk. This protects the integrity of the BGS Program and results in lower rates to BGS customers since BGS suppliers do not have to build risk premiums into their prices. It would contradict NJSA 48:3.1 for this same quality of service to not be provided to Community Solar serving LMI customers. These two levels of billing and payment service constitute discriminatory treatment pursuant to NJSA 48:3.1 as it constitutes the imposing of unjust provision of a service. The remedy for this discriminatory, differential treatment is for utilities to provide the billing and payment service provided to BGS suppliers to community solar providers.

Moreover, such differential treatment is not only contrary to law, but from a policy perspective it is in conflict with the very policy aim of the BPU and the Murphy Administration for New Jersey to strongly address disparities in treatment to LMI customers. In this case, such discrimination will prevent the vast majority of LMI customers from realizing solar benefits, while other customer groups (upper middle- and upper-income residential customers, and commercial and industrial customers) are provided the benefits of solar energy.

It should be noted that the third-party supplier (TPS) consolidated billing model cannot and should not be used for Community Solar. Under BPU rules, applicable to all TPS transactions, the utility can refuse to accept for consolidated billing those accounts that have been delinquent for 120 days or more. This would tend to disqualify a significant portion of low-income residents. Instead, as discussed above, the BGS model of consolidated billing should be used.

In sum, BGS Consolidated Billing can make the BPU's community solar program a national model in truly and fully enrolling LMI customers. It should be adopted and made available to applicants in the

Round 2 application process for 100% LMI Proposals, and thereafter. Without it, LMI participation will be restricted to master metered buildings with strong credit, and other special situations.

Question 7.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?

Response: The Board should change the method for applying to allow an entirely digital submittal. In consideration of the COVID crisis, it is an unnecessary safety risk to bring documents in-person. But COVID crisis aside, requiring multiple hard copies of an application is unnecessary and outdated. A safe and easy alternative to an online application platform (which is ideal) would be to allow applicants to submit an encrypted flash-drive containing all application documents.

Question 9.b: Should certain questions in the PY1 Application Form be omitted from the PY2 Application Form? Why would you recommend excluding them?

Response: The Board should make the following questions optional if 1) the applicant is a government entity (municipal, county, or state), AND 2) the community solar developer will be selected by the applicant via a Request for Proposals (“RFP”). These exceptions are necessary in order to allow for the “Municipal LMI Approach” whereby a developer and site for the Community Solar project is selected post-award:

- Section B: III. Community Solar Developer
- Section B: IV. Property/Site Owner Information
- Section B: VI. Proposed Community Solar Facility Characteristics
- Section B: VII. Community Solar Facility Siting
- Section B: VIII. Permits

This is consistent with the exemptions provided by the BPU for Sections B.III, B.XIII (3), the "Project Developer Certification", and "Appendix A".

As a result of a municipality using this extensive public procurement process to designate the best solar project to serve its residents, the application submitted by municipality cannot at the time of application provide some of the specific information requested in the application which relates to identifying the property characteristics and location. The municipality can provide this information to BPU in a timely fashion after completion of the RFP to be conducted after designation as a pilot project by BPU.

In order to attract the attention of bidders and receive the most attractive bids that maximize savings for LMI residents (without significant risk premiums embedded in project price offers), it is critical that the BPU award be in place prior to when the RFP process is conducted by the municipality. Only with a BPU award in place can the program attract competitive, low cost and financeable projects (including the developer, facility, and site). This is because a) the BPU award will mitigate risk in several crucial areas by addressing and solidifying regulatory certainty, customer load, revenue and project and procurement design features, and b) after the BPU award, the applicant municipality can undertake a procurement

process that targets proposals that best meet the relative importance of the criteria identified by the BPU in its application weighting and subsequent award.

Moreover, since in this model the municipality (and not the solar developer) will be acting as the subscription organization, it is anticipated that proposals through the RFP process conducted by the municipality will be received from a much wider universe of solar developers (and not just those in the community solar development community which is a subset of the solar industry) with customer load that is more secure. This greater competition will yield better terms and pricing for participants. In sum, running the RFP after a BPU award will give security and certainty to the project and ensure the best economic responses.

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

Response: Section C: Certifications need to be amended to make the Property Owner Certification optional if the Applicant is a government entity and the community solar developer will be selected by the Applicant via RFP. This exception would be in line with optionality of the Project Developer Certification already distinguished in the PY1 Application.

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

Response: Appendix B: Required Attachments Checklist needs to be amended to account for an application using the Municipal LMI Approach, as the following attachments cannot be provided in the case of a project that will be selecting a solar developer and site post-award:

- Delineated map of the portion of the property on which the community solar facility will be located.
- For electronic submission only: copy of the delineated map of the portion of the property on which the community solar facility will be located as a PDF and in drawing file format (.dwg) or as a shapefile (.shp).
- Copy of the completed Permit Readiness Checklist as it was submitted to NJDEP PCER, if applicable.
- Proof of a meeting with NJDEP PCER, if applicable.
- A screenshot of the capacity hosting map at the proposed location, showing the available capacity.

This discrepancy could be addressed with a third option box – “Yes”, “No”, and “N/A”. This modification would allow for an Application that does not need those attachments to still have a completed Checklist. Relatedly, the use of the phrase “if applicable” as used above is undefined and in need of clarification.

Question 13.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.

Response: The Board should award more points for projects proposing to serve 100% LMI customers. This 100% LMI program design fully and aggressively addresses one of the key goals of the Murphy Administration and the Board: a full recognition of ongoing and historic difficulties facing low- and moderate-income people in New Jersey (and the United States). Community solar stands at the intersection of environmental and economic justice; any project proposing to serve only LMI customers should be awarded additional points in furtherance of these policies, 30 points should be awarded to 100% LMI Projects specifically.

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.

Response: Staff should adjust the capacity to 300MW in PY2 and 300 MW for PY3. This is warranted by the need for a bold change in the New Jersey solar energy landscape so that renters and LMI customers can finally realize the benefits of solar energy. Moreover, as evidenced by the volume of capacity that was offered in the first-year application process, there is certainly more than adequate supply to meet this requirement and yield competitive results. To put the 300MW solicitation into perspective, New Jersey's peak demand is 20,000 MW; a 300 MW solicitation would serve just 1.5% of demand, hardly an over-ambitious result.

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?

Response: The Board should not limit the number of applications accepted/awarded to a single developer as this limitation could be detrimental to the quality of the Program. A limitation on the number of project applications based on the project developer is in effect a limitation on the competitive process. A Community Solar Project should be judged exclusively on the application submitted and the merit of the project proposed – regardless of the other applications submitted by a developer.

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

Response: For projects that procure a developer and project site post-award, it is not possible for the applicant to engage with DEP on permitting. To accommodate this structure the Board should make an exception to the DEP Permit Coordination checklist process for applications if the applicant is a government entity and the community solar developer will be selected post- BPU award by the Applicant



via a Request for Proposals (“RFP”) process. This is in line with the exceptions described in Section A.II.4 of the PY1 Application.

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?

Response: It was helpful that the PY1 Application Form made certain sections optional for government entities, although the designation of sections as optional was overly restrictive. It is important to note that the exemptions made for government entities only facilitated one government entity to be awarded – this is because the exemptions only applied to one model of a municipal-led Community Solar Project (the applicant has a landfill on its site which is the site of the Community Solar Project). To allow for more approaches to Community Solar from a municipality’s perspective will require that further exemptions be made to questions/requirements that require the Applicant to identify a site for this project. Accordingly, the specific sections of the Application that need to be made “optional” include: Section B: III, IV, VI, VII, and VIII; Section C; and Appendix B. Further detail on the necessary changes to these sections can be found in the above comments to Question 9.b, Question 10, and Question 12, respectively.

The Board should not create a fully separate carve-out and application process for government entities because to do so would be an unnecessary burden and may create more bureaucracy to slow the progress of the Pilot. A separate carve-out and application is undue because Staff can simply address the proposed changes to the Application found above. These adjustments, plus the allowance of waivers to the opt-in provision, would effectively give the pilot program the necessary flexibility to permit different project structures without the need for a new application.

Thank you for your consideration.

Sincerely,

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