

David Vitali
Vice President
Optimus Partners, LLC
50 West State Street
Trenton, NJ 08608
dvitali@optimusllc.com
(609) 393-9330
August 10, 2020

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

RE: Community Solar PY1 Comments

Dear Secretary Camacho-Welch,

Governor Murphy established one of the most ambitious renewable energy portfolio standards in the nation—by 2025, 35% of the energy sold in the state must come from qualifying energy sources and 50% by 2030—and set a goal of 100% clean energy by 2050. The 2019 Energy Master Plan (“EMP”) recommended that New Jersey seek to maximize the development of in-state renewable energy generation, such as community solar, including up to 17,000 MW of solar energy.

To that end, Governor Murphy’s vow to build a stronger and fairer New Jersey, a New Jersey that lifts all communities to prosperity and provides a higher standard of living, requires that the State fully capitalize on opportunities like the Community Solar Pilot Program (“the Program”) across all 21 counties. This is especially true for the low- and moderate-income (“LMI”) community because energy bills make up a larger percentage of such residents’ income; community solar projects enable greater access to solar energy for electric utility customers whose household type, structure, socioeconomic status, or location would otherwise prevent their participation. The Murphy Administration recognized these facts, wrote the

Program scoring rubric accordingly, and awarded all 45 community solar projects to LMI applications in Program Year 1 (“PY1”).

This comment wishes to stress, however, that *statewide* access to community solar must play an important part in how New Jersey meets those goals. As described in the EMP, it is the State’s “responsibility to facilitate equal access to and representation in the clean energy economy.” This comment respectfully requests that the New Jersey Board of Public Utilities (“the Board”) consider embracing the following recommendations in Program Year 2 (“PY2”) and beyond to improve access for potential LMI subscribers in the State’s rural areas and to further the success of the Program:

1. Applications proposing community solar facilities on property assessed as farmland pursuant to the Farmland Assessment Act should be given “higher preference” scoring under the Siting Evaluation Criteria if the application demonstrates that the farmland assessment can be maintained with the solar facility installed.
2. Applications proposing community solar facilities on land that requires limited tree removal should not automatically constitute forested areas; applications with tree coverage on less than twenty-five percent of the proposed facility’s total acreage should qualify for points under the Siting Evaluation Criteria.
3. Applications proposing rural LMI projects should receive “higher preference” in the Geographic Limit Within EDC Service Territory Evaluation Criteria for committing to solicit subscribers from the same and adjacent counties to account for lower population density.
4. PY2 capacity should be increased to 300 MW to ensure the State—including LMI residents—continues to reap the benefits of being an early, standout leader in the solar industry.
5. PY2 applications should begin soliciting information about applicants’ experience and success developing similar projects, including successful LMI subscriber recruitment, in New Jersey and

other states; the Board should then give “higher preference” to applicants with demonstrated successes.

First, applications proposing community solar facilities on property assessed as farmland pursuant to the Farmland Assessment Act should be given “higher preference” scoring under the “Siting Evaluation Criteria” if the application demonstrates that the farmland assessment can be maintained with the solar facility installed. As currently designed, the Program disadvantages these largely rural projects and by extension their potential rural LMI subscribers by penalizing projects sited on farmland assessed property with zero points for siting. Again, it is the State’s self-imposed “responsibility to facilitate equal access to and representation in the clean energy economy.” So while the Clean Energy Act provides the Board some discretion over the location of community solar projects as evidenced by the regulatory prohibition against sites on preserved farmland and certain other preserved open space, there is no explicit requirement in statute or regulation for penalizing applications with facilities proposed on assessed farmland. However, as currently constituted, the Program treats proposed facilities on *assessed* farmland identically to *preserved* farmland, thereby granting less points to rural projects as a rule.

Open space and farmland—whether preserved, assessed, protected or not—dominate rural areas and are finite resources cherished and coveted by residents and the State alike. If an applicant can build a community solar facility, as opposed to residential or commercial development, *and* maintain a legal farmland assessment on the same property, denying local LMI subscribers access to additional community solar projects violates the intent of the Clean Energy Act and EMP’s equal access directive and deprives the landowner of a productive, mutually beneficial use. In fact, the EMP states that “[d]ual-use opportunities may exist for siting solar on areas of open space or non-preserved farmland” subject to appropriate oversight. Prioritizing these dual-use opportunities remedies this inequity and serves to further protect cherished farmland from residential or commercial development.

Similarly, applications proposing community solar facilities on land that requires limited tree removal should not automatically constitute forested areas; applications with tree coverage on less than twenty-five percent of the proposed facility's total acreage should qualify for points under the Siting Evaluation Criteria. As above, the Program currently disadvantages these largely rural projects and by extension their potential rural LMI subscribers by penalizing properties that require tree removal, a fact of life in any rural area. And just like the other policy preferences described in this comment and embedded in the scoring rubric, there is no explicit requirement for penalizing such applications in statute or regulation. In fact, the enabling statute and Program rules make no reference to, and provide no definition of, forested areas. Therefore, merely eliminating the penalty for minor tree removal from the Siting Evaluation Criteria gives the Board the discretion to select projects that benefit the community, remedies this inequity, and facilitates increased statewide access for potential LMI subscribers.

Third, applications proposing rural LMI projects should receive “higher preference” in the “Geographic Limit Within EDC Service Territory Evaluation Criteria” for committing to solicit subscribers from the same and adjacent counties to account for low population density. Currently, applications that commit to recruit subscribers at the county level are awarded a lower preference than those that commit at the municipal level even though there is no explicit statutory or regulatory requirement for the Board to do so. This greatly disadvantages rural projects and, by extension, their potential LMI subscribers because low population density in rural areas requires developers to cast a wider net to find enough LMI residents, leading to less points under the current rubric. If an applicant in a rural area received the same “higher preference” scoring for committing to recruit at the county level as is currently awarded to more densely populated areas, that would remedy this inequity and aid the State fulfilling its “responsibility to facilitate equal access to and representation in the clean energy economy.”

Fourth, PY2 applications should begin soliciting information about applicants' experience and success developing similar projects, including successful LMI subscriber recruitment, in New Jersey and other states; the Board should then give “higher preference” to applicants with demonstrated successes. The

EMP explained that “[the] Program was designed as a competitive application process; the criteria were designed to further the state’s policy objectives for community solar development, including preferred siting, low- and moderate-income resident inclusion, and savings for participating customers.” All these policy objectives would be better served if New Jersey made use of the due diligence and lessons learned by other states by soliciting information about applicants’ experience and bestowing “higher preference” scoring on those with demonstrated success. Furthermore, the Board should give higher preference to experienced applicants to protect its investment of precious capacity because single developers were awarded as many as eight projects in PY1; if such a developer proved unreliable, the impact on the Program’s hopeful subscribers could be devastating.

Finally, PY2 capacity should be increased to 300 MW to ensure the State—including LMI residents—continues to reap the benefits of being an early, standout leader in the solar industry. There is no statutory or regulatory cap on the size of the program and PY1 applications represented the potential for over 650 MW capacity. A 25 MW increase in PY2, as proposed by Staff in the July 9, 2020 Meeting Notice, is insufficient to persistently capitalize on the State’s frontrunner status and attract the greatest share of capital investment possible to fuel innovation, technological development, and job growth. As the EMP explained, in New Jersey, natural gas power generators and nuclear power generators combined directly employ approximately 4,500 people; comparatively few considering the New Jersey solar industry alone already employs roughly 6,400. To generate more investment, the State must expand capacity.

Likewise, a 25 MW increase in PY2 is insufficient to meet the pent up demand of rural and urban LMI residents that may wish to participate in the Program as evidenced by the fact that 90% of PY1 applications, or 232 out of 252 total applications, were LMI projects and only 45 of those were selected. As described above, Governor Murphy’s vow to build a stronger and fairer New Jersey along with the State’s self-imposed “responsibility to facilitate equal access to and representation in the clean energy economy,” requires that the State fully capitalize on opportunities like the Program across all 21 counties. This is especially true for the LMI community because energy bills make up a larger percentage of such residents’

income; community solar projects enable greater access to solar energy for electric utility customers whose household type, structure, socioeconomic status, or location would otherwise prevent their participation. The Program's scoring rubric and PY1 awardee list reflect an appreciation of this need, so too should the Program capacity in PY2.

This comment respectfully recommends that the Board consider changing the PY2 application to facilitate equal access to rural community solar projects for LMI subscribers, to maximize New Jersey's leadership in the solar industry while attracting the greatest share of capital investment possible to fuel innovation, technological development, and job growth, and for the state to satisfy its "responsibility to facilitate equal access to and representation in the clean energy economy". We appreciate your time and attention to this matter and look forward to another successful Program Year.