

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

April 9, 2021

Comments Regarding Docket No. QO18060646: New Jersey Community Solar Energy Pilot Program - Chris Kallaher on behalf of Ampion, PBC

Dear Secretary Camacho-Welch:

Ampion, PBC is pleased to submit these comments in response to the Board's March 11, 2021 Request for Comments and Stakeholder Meeting Notice. Ampion is a community solar subscriber organization that is currently operating in New York, Massachusetts, Maine, Maryland, and other states that are in the process of implementing community solar and other distributed generation programs. We greatly appreciate the Board's efforts to enable community solar in New Jersey and see consolidated billing as an important accelerant for that goal. The detailed questions put out for comment are helpful in that regard; though we may not have answers to every question at this time, they are the right questions to be asking.

# **Responses to Stakeholder Questions**

Question 1: In New Jersey, customers who purchase their electricity supply from a Third Party Supplier (TPS) are typically billed by their EDC. Known as Utility Consolidated Billing, the customer receives a single bill that includes supply charges and related taxes from its TPS and delivery charges and related taxes and charges from its utility. Occasionally, in NJ and in other jurisdictions, dual billing is employed where a customer receives a bill from the customer's utility company that includes only the utility's charges and a separate bill from the customer's TPS that includes only the TPS charges. In other jurisdictions, the TPS sends the utility bill to the customer, which contains all of the utility's relevant charges. This billing methodology is sometimes called TPS Consolidated Billing.

What lessons can be drawn from consolidated billing for TPS customers with respect to its potential application to community solar? What are the advantages or disadvantages of Utility Consolidated Billing, TPS Consolidated Billing and dual billing as they apply to community solar?



#### **Response:**

Consolidated billing for TPS customers offers only limited lessons with respect to its application to community solar. The reason for this is the fundamental difference between the service being provided by the utility to TPSs in the former and that provided to community solar sponsors and subscribers in the latter. TPSs use the utilities distribution system to deliver commodity electricity to end-use customers. Those delivery services are charged to the end-use customers at tariffed rates and the responsibility for paying both the delivery and commodity charges remains with the end-use customer.

Community solar, on the other hand, involves the creation of bill credits through the production of electricity by a participating solar facility, which bill credits represent an obligation of the utility to the subscribers to whom the bill credits have been allocated. The application of those credits to a subscriber's bill thus reflects a financial obligation of the utility. No such financial obligation underpins the relationship between a utility and a TPS to which the utility provides consolidated billing services; absent the agreement to bill, collect and remit on the TPS's behalf, the utility owes the TPS nothing.

This distinction will be important to keep in mind as this docket proceeds. As discussed further below, the net crediting approach adopted by New York captures this distinction well, and Ampion encourages the Board to adopt that approach as soon as possible so that any confusion between that approach and "consolidated billing with purchase of receivables," which is the service provided to TPSs, can be avoided.

Distilled to its essence, the difference between these approaches can be described as follows. Consider a transaction involving \$10 worth of bill credits owed by Utility to Solar Company. Solar Company has sold the right to those bill credits to Customer for \$9. Under net crediting, rather than giving the full \$10 of credits to Customer, Utility allocates the net amount that Customer will realize from the transaction - \$1 - to Customer and remits the remaining amount of the value of the credits - \$9 - to Solar Company, minus a processing fee. This arrangement discharges Utility's obligation to Solar Company for the \$10 worth of credits while obviating the need for Solar Company to bill and collect the \$9 from Customer.

In contrast, let's say a TPS customer uses \$10 worth of power provided by the TPS. The TPS customer owes the TPS \$10, period; the utility owes neither the TPS nor the customer anything. In exchange for a fee (usually in the form of a fixed billing fee plus a percentage of the TPS's receivables), the utility bills the customer for the \$10, collects that amount, and remits it to the TPS, net of the fee.

Applying this distinction to the three approaches in the question results in the following. Utility consolidated billing, especially in its net crediting form, is superior to either dual



billing or TPS consolidated billing from the perspective of the solar provider because it achieves the same appropriate allocation of the rights to bill credits as dual billing while eliminating the need for the solar provider to bill and collect directly from the customers to whom the bill credits have been allocated.

There are notable secondary benefits to this approach as well, especially in the area of credit. In subscriber organization dual billing, the subscriber receives the benefit of the credits directly from the utility on his or her bill. If the customer doesn't pay the solar provider for the credits, the provider has few remedies other than traditional means of collection. This means that solar providers must carefully screen potential subscribers for their ability to pay and also collect and verify a payment method, limiting the overall pool of possible subscribers and tilting the playing field away from low- and moderate-income subscribers.

The net crediting approach to utility consolidated billing provides benefits to the utility as well by greatly expanding the number of its customers who subscribe to community solar projects. The credits these subscribers become eligible for lowers their utility bill, making it more likely that they will pay their delivery and commodity charges in full.<sup>1</sup>

For these reasons, utility consolidated billing is, in general, superior to dual billing for both community solar providers and subscribers.

In contrast, TPS consolidated billing, in some circumstances, may offer some advantages over dual billing but offers no advantages over utility consolidated billing except in the scenario where the TPS has already committed to TPS consolidated billing for both its own commodity charges and the utility's delivery charges and the TPS wishes to offer its own community solar option as well. However, while Ampion sees the advantages of TPS consolidated billing from the TPS perspective, we see the implementation of a net crediting approach to utility consolidated billing, which every community solar could take advantage of, as a much higher priority than TPS consolidated billing, at least in the context of the community solar discussion. If the goal is to accelerate the development of community solar resources in New Jersey, the Board should make utility consolidated billing a high priority, even if there are valid, even compelling, policy justifications for implementing TSP consolidated billing at some point.

**Question 2:** Do you recommend implementation of some form of consolidated billing for community solar projects? If so, do you recommend Utility Consolidated Billing, or third party provision of consolidated billing for community solar subscriber fees (Subscriber Organization Consolidated Billing)? Please consider this question from the perspective of billing

<sup>&</sup>lt;sup>1</sup> The positive impact community solar has on the utility comes into play in a much larger way in the discussion, below, regarding the consequences, if any, of subscriber non-payment of the utility bill.



implementation and administration, community solar project financing, and subscriber (customer) protection.

### **Response:**

As discussed above, Ampion strongly supports the development of consolidated billing for community solar, and all of the factors cited favor utility consolidated billing (UCB) more so than subscriber organization consolidated billing (SOCB). This is especially the case if the Board adopts the net crediting approach adopted by the New York Public Service Commission.

- Billing implementation and administration are more straightforward with UCB compared to SOCB. As noted above, the utility already has the obligation to reflect bill credits on a subscriber's bill, and the net crediting approach adds only one extra element to the transaction, namely the recognition that the subscriber is paying the subscriber organization for the credit. Under SOCB, however, as we understand that term to be used, the utility's charges would need to be presented and collected by the subscriber organization. This would require a great deal of operational and financial heavy lifting compared to net crediting.
- As noted above, UCB, especially in its net crediting form, greatly expands the
  pool of potential subscribers for a project, which would have a strongly positive
  impact on a project's ability to attract financing.
- Where the utility retains the billing relationship, consumer protection is more straightforward as well as a result of the highly regulated nature of utility billing and collections operations.

**Question 3:** Please describe in detail how your proposed method of consolidated billing would work and the benefits you believe would be achieved by the use of consolidated billing for community solar. If you are or represent a community solar developer or subscriber organization, please speak specifically to your experience. Please address all related issues, including the following:

- Would the bill be sent by the utility (Utility Consolidated Billing) or the subscriber organization (Subscriber Organization Consolidated Billing)?
- How would your proposal address customer nonpayment of bills, partial payment of bills, and late payment of bills? In cases of partial payment of bills, which portion of the bill should the payment be allocated towards?
- Should customers be dropped from consolidated billing for late payments?
- Discuss any purchase of receivables issues.
- Discuss any issues relating to consumer credit.
- Should there be a fee using consolidated billing and, if yes, what should it be?
- Discuss any consumer protection implications of utilizing consolidated billing for community solar, including data privacy and data protection.



• How would customer specific data be exchanged? Alternatively, please address why you and/or your organization prefer dual billing.

# **Response:**

New York is the first state to implement UCB for community solar and, as discussed above, Ampion strongly supports the net crediting approach adopted by the New York Commission. Because New York is in the midst of implementing net crediting, it is difficult at this point to draw firm conclusions with respect to some aspects of the process, though the advantages of net crediting versus dual billing are clear, as discussed in detail above. That being said, the process in New York to date and Ampion's experience elsewhere allows us to make the following observations on the issues listed above.

- Ampion prefers UCB over SOCB.
- Under net crediting, there is no "allocation" of customer payments. The customer is not paying the utility for his or her credits. To the contrary, the net credits reduce the customer's overall bill, making it more likely that the customer will pay the bill in full. The only charges the customer is paying for are the electricity commodity charges (whether from the utility or a TPS) and the utility's delivery charges.
- A customer should not be dropped to dual billing for nonpayment, as is currently the case for utility consolidated billing, with purchase of receivables, for TPS charges. As noted above, the customer is not paying the utility directly for community solar bill credits and none of the charges that appear on the customer's bill are for community solar bill credits. When a utility customer who is also a community solar subscriber doesn't pay, he or she would be subject to the same remedies that are available today to the utility with respect to customers who are not community solar subscribers. Dropping the community solar customer to dual billing does nothing to improve the utility's cash flow but it would severely reduce the advantages of net crediting in the area of improving the ability of solar projects to obtain financing, as the residual credit risk would, once again, require subscriber organizations to apply a rigorous credit screen to the pool of potential subscribers.
- As described in the New York Commission's order on consolidated billing for community solar, with net crediting the utility does not purchase the community solar provider's receivables. The utility satisfies its obligation to provide bill credits that are created by the production from a solar facility by allocating a portion of the value of those credits to the end-use customer (in an amount equal to the full value of the credits minus what the subscriber agreed to pay the solar provider for them) and the remainder to the solar provider, minus a fee. In this



- scenario there is no purchase of receivables as there is in the current system of UCB for TPS charges.
- New York-style net crediting eliminates any issues related to consumer credit. As
  noted above, the customer's community solar subscription reduces his or her
  overall payment obligation to the utility and, thus, should have either no impact or
  a positive impact on the customer's credit profile vis a vis the utility.
- Because the implementation of net crediting in New York is still underway, the question of whether the utility should charge a fee for it and, if so, what the basis of the fee would be is an open one for now. It may be the case that the utility will incur programming expenses for building out the functionality required to do net crediting, but it is not at all clear that providing net crediting exposes the utility to the kind of credit risk that justifies the application of a discount similar to that applied to TPS receivables in the POR program. This question deserves further discussion in the context of subsequent stakeholder meetings.
- Protecting customer data and maintaining data privacy is a top priority for Ampion and others in the community solar value chain. One advantage of UCB, especially in its net crediting incarnation, is that it retains the data protections currently embedded in the utility systems with respect to customer billing and collections. Moreover, the additional information that might need to be exchanged between the utility and the community solar provider (e.g., the discount that is applied to the value of the credits allocated to the subscriber in calculating the amount to be remitted to the community solar provider) can be exchanged in a manner that protects both the privacy of the data and the integrity of the utility's system, as has been the case with data exchange between utilities and ESCOs in New York that make use of UCB with purchase of receivables.
- The optimal method for data exchange should remain open subject to further discussions among stakeholders. EDI would likely be sufficient but other alternatives may prove to be superior.

**Question 4:** If you are or represent a community solar developer or subscriber organization, please describe in detail the terms of the agreement between the subscriber and the subscriber organization. In particular, please explain the following:

- What are the fees and contract terms for subscribers?
- Are the fees and contract terms consistent among all subscribers? Does it differ by customer class?
- Do subscriber organizations intend to offer guaranteed savings to the subscriber?
- Do subscriber fees vary each month?



# **Response:**

Ampion generally considers its form of subscriber agreement to be proprietary and would prefer not to publish the entire agreement in a public forum. That concern notwithstanding, we are happy to provide the following overview of the terms included in a typical subscriber agreement.

- Regarding fees and contract terms, our typical agreement calls for credits to be sold to the subscriber at 90 percent of the value of the credits. Standard contract terms include the following:
  - High-level description of the state's community shared solar program and the nature of the bill credits that are the subject of the agreement;
  - Amount of and process for allocation of bill credits;
  - o Payment for bill credits;
  - Dispute resolution;
  - Term and termination provisions;
  - Events of default;
  - Assignment;
  - o Force majeure;
  - o Limitation of damages; and
  - Notice provisions
- Fees and terms are usually, but not always, the same among subscribers, and can vary by rate class.
- Ampion cannot speak for other subscriber organizations, but our value proposition to subscribers is that the credits they acquire through us will be worth more than the subscriber pays, thus guaranteeing savings on a net basis after the subscriber pays for the credits and they are applied to the subscriber's utility bill.
- The unit price of the credits is fixed by the subscriber agreement (TRUE?) but the amount the customer pays each month will vary based on the amount of electricity produced by the renewable facility from which the subscriber has been allocated a percentage of the credits produced.

**Question 5:** Do any subscriber organizations currently use consolidated billing for community solar subscriber fees in other jurisdictions? If so, please identify the jurisdictions and explain the design of the billing framework, being sure to address the issues identified in Question 2 and 3 above.

# **Response:**

As noted above, New York is in the process of implementing utility consolidated billing in the form of net crediting. All of the relevant design features of that approach to utility consolidated billing can be found in the relevant documents in that docket, which is New York PSC Case No. 19-M-0463. The New York Commission's



December 19, 2019 Order Regarding Consolidated Billing for Community Distributed Generation and the various utility net crediting manuals filed in compliance with that Order are particularly instructive.

**Question 6:** Are subscriber organizations paying an administrative fee to EDCs for the use of consolidated billing of subscriber fees in other jurisdictions? If so, how is it structured? If not, how does the EDC recover those costs? Please provide your recommended method of cost recovery.

### **Response:**

The New York net crediting program anticipates the payment of a "Utility Administrative Fee," which is defined in Niagara Mohawk's net crediting manual as "the amount of the monthly value of the CDG Project's Value Stack Credits that the Company will retain, as approved by the Commission. The current Utility Administrative Fee is 1.0%."

**Question 7:** Should consolidated billing of community solar subscriber fees only be available to projects that provide a guaranteed monthly savings to subscribers? If not, would the provider of consolidated billing be expected to charge subscribers for their community solar participation resulting in an amount due greater than the amount due for electric service? Should this result be permitted for low- to moderate-income (LMI) customers?

# **Response:**

The application of utility consolidated billing to community solar providers that do not ensure that customers pay less for their credits than the value of those credits on their utility bill (thus providing guaranteed savings) would create a variety of complications best avoided at this point in the development of the market. Thus, the New York Commission required guaranteed savings in its Order addressing consolidated billing for community solar:

As compared to the more traditional consolidated billing used for ESCOs, where the ESCO identifies a charge for the utility to put on the customer's bill and the utility collects that charge on behalf of the ESCO, the net crediting model avoids putting the utility in the position of collecting a higher charge than it would have applied to the customer by guaranteeing savings to the customer. Therefore, it can be assumed that any partial payment or nonpayment would have happened even in the absence of the customer's CDG membership and there is no risk that the amount of uncollectibles or the utility's exposure will increase. <sup>2</sup>

<sup>&</sup>lt;sup>2</sup> New York Public Service Commission Case. No. 19-M-0463, December 19, 2019 Order Regarding Consolidated Billing for Community Distributed Generation, at 13 (footnote omitted).



**Question 8:** Please provide comments on the following framework for utility consolidated billing of subscriber fees, which is currently being implemented in New York:

- a. Utility consolidated billing of subscriber fees is optional for community solar projects. If a project chooses utility consolidated billing of subscriber fees, all subscribers enrolled in that project are billed via utility consolidated billing (with the exception of one anchor subscriber per project).
- b. In order to participate in utility consolidated billing, all subscribers enrolled in the project must receive a percentage of their original community solar credit on their bills each month. Currently, this minimum percentage is five percent (5%) in New York.
- c. The subscriber fee is a percentage of the subscriber's original community solar credit each month. The dollar amount of the subscriber fee varies each month based upon the underlying community solar credit.
  - o Example: The subscriber fee is 90% of a customer's community solar credit. On the monthly bill, the customer receives 10% of their credit. The remaining 90% of the credit is remitted by the EDC to the subscriber organization less the administrative fee retained by the EDC.
- d. At least 60 days prior to operating under a consolidated billing framework, the community solar project owner must provide the EDC with the percentage of the subscriber community solar credits that is available to be applied to the subscribers' bills.
- e. The same percentage must be applied to all subscribers for the same project (with the exception of an anchor subscriber, if applicable, that will receive its entire community solar credit on its utility bill and is billed by the community solar project owner for subscription fees). The percentage can change no more frequently than every six (6) months.
- f. Subscriber organizations must agree to use the EDC's communication tool for sharing subscriber percentage information.
- g. The EDC retains a portion of the subscriber fee to compensate for their implementation and administrative costs associated with utility consolidated billing. This results in the Subscriber Fee percentage in item "c" above being reduced.
- The EDC receives timely recovery of subscriber credits through a surcharge or similar mechanism.

### **Response:**

As noted above in response to Questions 1, 2, and 3, Ampion strongly supports the net crediting model adopted by the New York Commission, which is described above. Regarding (e), above, we do believe that subscriber organizations should be given the flexibility to have different percentages for different subscribers. There is no clear benefit at this point in the development of the community solar industry to this constraint.



**Question 9:** If you disagree with any portion of the framework in Question 8, please describe in detail the framework you would support (or refer to your response to Question 3, as relevant). Include specific examples from other jurisdictions, if possible.

# **Response:**

Please see responses to Question 1, 2, 3, and 8, above. In addition, we note that there is a concern with the manner in which the New York utilities propose to apply bill credits when using net crediting. This concern, and a proposed solution for it, is described in detail in a petition filed with the New York Commission by the Coalition for Community Solar Access on December 9, 2020.<sup>3</sup> That matter is pending before the Commission. This is an issue that we believe should continue to be addressed in the context of ongoing stakeholder meetings, during which any further developments on the subject in New York can be taken into account.

**Question 10:** In the case of Utility Consolidated Billing, if you are a community solar subscription organization, should you opt to participate in Utility Consolidated Billing would you maintain backup billing procedures to bill customers who fail to pay the EDC for their community solar subscription? What other options would you suggest to address the risk of non-payment by customers?

# **Response:**

As noted by the New York Commission, when the net crediting approach is adopted the risk of non-payment of the utility's charges is not increased. If anything, that risk is decreased. Thus, under net crediting there is no scenario in which a customer "fails to pay the EDC for their community solar subscription." The customer's community solar subscription reduces the total amount the customer owes to the utility. The only charges the customer pays are the commodity charges owned to the utility or a third-party supplier and the utility's own delivery charges. For those reasons, community solar subscription organizations need not maintain "backup billing procedures to bill customers who fail to pay the EDC for their community solar subscription." While some community solar subscription organizations might retain such a billing capability, requiring them to do so would reduce the overall positive effect of adopting utility consolidated billing (at least in the form of net crediting), with no corresponding benefit.

**Question 11:** What are the potential challenges to implement consolidated billing for community solar? How can these challenges be addressed?

<sup>&</sup>lt;sup>3</sup> Petition of the Coalition for Community Solar Access Regarding Net Crediting Billing, Case 19-M-0463, filed December 9, 2020.



#### **Response:**

The challenges to implementing consolidated billing for community solar are those that are endemic to any such change to a complex system that attempts to balance the interests of multiple stakeholders while doing so at a reasonable cost to those who will pay for such changes. Ampion is confident, however, that implementing consolidated billing for community solar can be achieved much more quickly and efficiently than the implementation of consolidated billing for TPS commodity charges many years ago because of the tremendous amount of experience the utilities and other stakeholders have gained through the presence of that system over the years. Moreover, the ongoing implementation of net crediting in New York provides an excellent template for such an effort in New Jersey. This is especially the case given that one New Jersey utility, Rockland Electric, is a subsidiary of a New York utility, Orange and Rockland, that is in the process of implementing net crediting.

**Question 12:** If Utility Consolidated Billing were available, how would subscriber billing inquiries be handled? Would subscriber inquiries regarding subscriber fees and/or community solar credits be handled by the subscribing entity or the developer, or would the utility be required to take on that role?

# **Response:**

Customer care is an issue that requires further consideration and stakeholder input. Ampion's view at this time, which is not definitive, is that requiring community solar subscription organizations to continue to answer questions that relate to the customer's solar subscription would benefit the most parties, including the utility, which would otherwise have to train its customer care representatives with respect to the community solar programs of every subscription organization making use of utility consolidated billing. Fully enabling subscription organizations to serve this function will require the sharing of certain customer-level information with them, which would be appropriate in any event given the need of subscription organizations to maintain clear sight into how credits are being allocated among subscribers and whether any of their subscribers are falling in arrears to the utility to an extent that could result in termination, which would affect the subscriber's ability to fulfill the terms of its subscriber agreement.



**Question 13:** If Utility Consolidated Billing were available, how would subscriber billing information be provided to the utility?

# **Response:**

As noted above, the optimal method of information exchange between community solar subscription organizations and the utility should be the subject of further discussion among stakeholders.

Thank you for the opportunity to provide comments on these important questions.

Respectfully submitted this 9th day of April, 2021.

/s/ Chris Kallaher

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