NJ UTILITY SCALE SOLAR
ASSOCIATION

May 27, 2021

VIA EMAIL
New Jersey Board of Public Utilities
c/o Board Secretary Aida Camacho
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Re: Comments regarding Docket No. QO20020184, Solar Successor Program
Mount Olive Solar Farm

To Whom It May Concern:

On behalf of the NJ Utility Scale Solar Association, I submit these comments to the New Jersey Board of Public Utilities in response to Board Staff's Solar Successor Program Straw Proposal issued under the above-referenced docket number. I, along with other association members and professionals have participated in the NJBPU's stakeholder process concerning the Straw Proposal over the past month. Also Staff's recent correspondence has shown that Staff is at least considering the concerns of the industry, as you can see from the below comments, which largely echo the public comments previously made by our association members and professionals, the Successor Program needs a significant amount of work before it can be considered an appropriate incentive program designed to support a robust solar industry in the state of New Jersey.

Our association is primarily concerned with the redevelopment of contaminated sites and the installation of utility-scale solar arrays on brownfields, landfills, and sites of historic fill. We believe these are important projects for many reasons. First, these are large-scale projects that, when developed, create meaningful progress towards achieving the State's green energy goals. Second, these projects are job creators. Our members have created hundreds if not thousands of well-paying, union labor jobs over the past several years just within the context of contaminated site redevelopment. Third, these projects achieve an important public policy goal, which is the redevelopment of contaminated properties. In many cases, these properties have substantial environmental concerns. The developers of these projects are required to complete remediation, cap landfills, and, in certain instances, repay the NJDEP for past remediation costs incurred by the state. Fourth, the projects turn fallow, burdensome properties into productive, tax-producing assets for local municipalities. There is literally no downside to these projects and a significant upside in all instances. Under the Straw Proposal as initially presented and even as proposed in recent staff correspondence to be modified, these projects will fail or cease being developed

altogether. Why do this? These projects can be achieved utilizing the current TREC program framework and we do not see a reason for that to change, particularly in light of the compelling public benefits.

In fact, when the legislature enacted the Solar Act of 2012, it established a clear public policy in favor of these projects. N.J.S.A. 48:3-87(t) states that, with respect to brownfield, landfill, and historic fill projects:

> Projects certified under this subsection shall be considered "connected to the distribution system", **shall not require such designation by the board**, and … Notwithstanding the provisions of [N.J.S.A. 48:3-51] or any other law, rule, regulation, or order to the contrary, for projects certified under this subsection, the board shall establish a financial incentive **that is designed to supplement the SRECs generated by the facility** in order to cover the **additional cost of constructing and operating a solar electric power generation facility on a brownfield, on an area of historic fill or on a properly closed sanitary landfill facility**.

The reality is that the Board never took up the legislative directive to create such an additional incentive. Nevertheless, the current TREC program has allowed these projects to flourish for two primary reasons: stability and certainty. The TREC is a fixed incentive that runs for a fixed duration. This is something that can be modeled, forecast, and financed. The Staff now wants to take this program and turn it on its head by forcing these projects into the completely opposite scenario by utilizing a competitive solicitation model.

There is only one clear result with competitive solicitation as Staff has proposed: **regulatory uncertainty.** You are asking developers to spend hundreds of thousands of dollars on due diligence investigations and obtaining site control, only to pull the rug out from under these developers if their project is not selected. We do not believe this is the right way to run any kind of incentive program. In fact, it is exactly the opposite. The competitive solicitation aspect of the Straw Proposal is a clear **disincentive program** to discourage what the state has previously determined to be beneficial and important landfill, brownfield, and historic fill redevelopment projects.

With that in mind, we ask you to please consider the following key points. We would also ask you to consider the answers to the Staff's questions that are appended to this letter. Finally, we join in the submissions made by Mark S. Bellin, Esq. and Rodger Ferguson, LSRP, who both echo many of our critiques of the Straw Proposal. We ask that you please consider these comments and adjust the final successor program to one that will actually facilitate the redevelopment of contaminated properties with solar arrays and not kill the prospect of such development altogether. Please consider the following:

1. The Utility Scale Industry Requires a Supportive Solar Tariff Founded on Two Principles: Stability and Certainty.

For utility scale projects, certainty and stability are key. These projects are costly to develop and face a challenging regulatory environment. The path from land acquisition to construction is difficult and expensive. An incentive that is for a fixed amount and a fixed duration mitigates risk and allows these projects to proceed. An incentive based on competitive solicitation creates catastrophic uncertainty and instability. Investors in these projects cannot commit to moving them through the development process at risk of not receiving a tariff at a certain rate for a certain duration, or worse, not receiving any tariff at

all. The competitive solicitation model certainly raises more questions than it answers and none of the answers to those questions are in any way satisfactory. Projects on contaminated sites serve so many beneficial public purposes and a fixed and stable incentive is so important to their development that the successor program must remove them from the competitive solicitation and create a realistic administrative incentive for these projects.

2. Contaminated Sites Projects Require a Dedicated Program.

Utility scale projects located on brownfields, landfills, and sites of historic fills are unlike any other solar projects developed in this state. These projects are more challenging, costly, and difficult to develop than other utility scale projects as they involve more complex and problematic properties. These projects must navigate a difficult entitlements process, involving the regional grid, local EDC, NJ state agencies including NJDEP and NJBPU, (in some cases) USEPA, County authorities, regional planning bodies (Highlands and Pinelands, etc.), and local authorities. The entitlements process alone for these projects commonly runs between $1 and $2 million in soft costs.

To obtain site control to these properties is similarly challenging. In some cases, the properties are municipally-owned and require either an expensive RFP response or a redevelopment designation. In others, the properties are abandoned and clearing title is an issue. Even for third-party owned sites, site control negotiations for contaminated properties are lengthy, complex, and expensive. The due diligence process required to understand the complexities of each site is similarly lengthy and costly. These sites are simply different than other solar development sites and merit special consideration.

We suggest that these projects be removed from the competitive solicitation section of the successor program and placed into a separate category of an administratively determined incentive.

3. The TREC Program Should Continue for Contaminated Sites Projects.

The utility scale industry (including developers, financiers, and owners) understands and has adjusted to the current TREC program structure. A completely new program, with entirely new elements, including competitive solicitation, will freeze new development and halt investment as the industry attempts to adapt. This will result in lost economic opportunity, lost jobs, and lost clean energy production. An entirely new program will set the industry back years and will hurt the state's efforts in achieving its renewable energy goals. The reality is, Staff has no idea what unintended consequences will result from completely upending the current incentive program and turning it on its head. These projects are not test dummies – real money and real jobs are at stake.

For contaminated sites projects, the NJBPU should continue the TREC program with its fixed price, fixed duration incentive. If the NJBPU is concerned about cost of the TREC program, it should consider modest reductions in the available subsidy year over year, extending the subsidy for beyond 15 years, or simultaneously allowing these projects to enter into power purchase agreements with non-contiguous offtakers, all of which can be achieved easily without overhauling the entire program. NJUSSA would support a modest reduction in the current TREC incentive for contaminated sites projects, which would achieve the dual purpose of controlling costs and providing an incentive that allows these important projects to move forward.

In this scenario, developers should be allowed to petition the NJBPU for "adders" or additional incentives, as the legislature had originally intended by demonstrating extraordinary costs.

In fact, even if contaminated sites are required to participate in competitive solicitation, the bid should be for the "adders" or additional incentives applicable to a given project, subject to a mandatory floor value. Each project should be allowed to proceed if it can proceed with the floor incentive. The projects would then "bid" for the "adders" or additional incentives necessary in light of the increased or extraordinary costs applicable to a given project. Again, we do not favor competitive solicitation, but if that is what the Board is fixed on doing, this is our suggestion.

4. The NJBPU Should Allow Projects Currently in Development to Submit TREC Applications Until at Least December 31, 2021.

We absolutely oppose the concept that there would be a "gap" in incentive eligibility for those projects made subject to competitive solicitation. This is arbitrary, capricious, and unreasonable. The Board has been very clear in its prior orders, as set forth in the letter from Mark S. Bellin, Esq. that the TREC program was to remain open to applications under a viable successor program was implemented and capable of accepting applications. We are not there yet and, based on Staff's comments, we will not be there for some time. Significant investments in these projects have already been made by developers in reliance on the current incentive program. To force these projects into an uncertain and undefined successor program at advanced stages of development would wreak havoc on the industry and result in forfeitures and damages.

Thank you for your attention to this matter.

Very Truly Yours,

Gary R. Cicero, President

Section III: Staff Recommendations: Successor Program Incentive Design

Overall program design: Staff proposes to establish a bifurcated Solar Successor Incentive Program in which residential projects, community solar projects, and non-residential net metered projects 2 MW or smaller are offered an administratively set $/MWh incentive. All other projects would participate in the competitive solicitation.

1. Please comment on the benefits and consequences of this suggested division. Does this program design provide a pathway to maximizing solar development while minimizing ratepayer costs and supporting the industry? Please explain and include alternative suggestions if you believe there is a better approach that Staff should consider.

We oppose any competitive solicitation, particularly for utility-scale projects located on contaminated sites. We rely on the rationale set forth in the written comments submitted by Mark S. Bellin, Esq., land use and development counsel for CEP Renewables, LLC. A competitive solicitation process will create regulatory uncertainty, which will make developing and financing these projects impossible.

Our feeling is that the competitive solicitation model is an arbitrary solution to the problem created by the statutory cost cap. We would support an incentive program that is modeled on the current TREC program, with different factors applied, consistently, to different categories of projects. Each market segment should be subject to a floor, with contaminated sites being provided the opportunity to submit a petition to the NJBPU for an increased incentive based on extraordinary costs for a particular site.

For projects on contaminated sites, we suggest a "floor" incentive of $150 per MW/h. For projects with lower entitlement costs (rooftops for example), fewer regulatory hurdles, or fewer extraordinary site development or O&M costs, the floor should be lower. For projects on contaminated sites, developers should be permitted to demonstrate those extraordinary costs that warrant additional "adders," or an increased incentive, over and above the floor rate.

2. Please comment on the proposed breakdown of market segments in the administratively set program (e.g., net metered residential, net metered non-residential rooftop and canopy, net metered non-residential ground mount, community solar, and LMI community solar). Would you suggest any changes, and if so, why?

See answer to comment #1. We suggest that all projects receive an administratively set incentive, with a corresponding floor value. Projects with demonstrably higher development and site improvements costs should be entitled to petition for increased incentives.

3. As currently proposed, all net metered projects in the administratively set program would qualify for an incentive of $85/MWh for the first three-year period (EY 2022-2024); community solar projects would qualify for an incentive of $70/MWh, and community solar LMI projects would receive an incentive of $90/MWh. Please comment on these proposed incentive levels and if you disagree, please reference specific concerns with the modeling or historic performance assumptions used to develop the proposed levels.

Based on modeling submitted to the NJBPU in response to the straw proposal, including from Gabel Associates and other industry groups, these incentives are far too low to support a robust solar industry and allow the state to achieve its solar development goals. In particular, the incentive for non-LMI

community solar project is too low to support any future development in that market segment. We predict that the Board will not see any non-LMI projects at that rate. The current reality is that LMI projects are facing serious difficulties in obtaining the necessary subscribers to support the projects that the Board approved in Year 1 of the community solar solicitation. We again would support a floor value for the incentive applicable to all community solar projects, with each project having the opportunity to petition the Board for an increased incentive based on extraordinary costs.

4. The Straw proposes that selected projects would receive a 15-year qualifying life, consistent with the TI Program. Staff seeks comments on whether this is the appropriate term due to the nature of heavily discounting outer-year incentives, as well for consistency with the proposed competitive solicitation program. Please comment on this proposal and explain any alternative suggestions.

We believe that a 15-year incentive is fine, if our other recommendations are taken into consideration. However, if Staff is fixed on reducing the incentive to levels that may not sustain any future projects, then Staff should consider extending the incentive life to 20 or 30 years, which is the typical length of a long-term ground or roof lease.

5. Staff proposes to establish annual capacity allocations for each market segment on an annual basis, as discussed in the Cost Cap section. The annual program capacity allocation would be divided (by four) into a quarterly allocation. Developers would then be able to reserve a spot within each quarter's capacity allocation.

a. Staff proposes to allow projects to reserve capacity against the quarterly capacity allocation on a first-come, first-served basis. Please provide any comments on this proposal.

We support the first-come, first-served methodology as, in our view, any other methodology is unworkable. However, we offer that waiting for any particular PJM milestone is not realistic. Based on PJM's current backlog, it takes up to one year to obtain even a feasibility study. We suggest that definitive site control must be the threshold requirement for locking a project into any particular queue.

b. Staff anticipates that there may be situations in which a quarter's allocation becomes over-subscribed. How should the Board handle over-subscription?

Any qualifying applications (i.e., with site control) should roll over into the next queue on a first-come, first-served basis.

c. What different or additional measures could the Board take to ensure that there is sufficient opportunity to participate in the incentive program throughout the year?

We support a quarterly, rolling application process to lock a project into a particular queue for a particular market segment.

6. Concern of "ghost projects" or "queue sitting" threatens the productive functioning of the incentive program. Please comment generally on the slate of project maturity requirements as proposed on page 13 of the Successor Straw or suggest alternative bidding requirements,

including minimum criteria to demonstrate project maturity, site control, or escrow amounts to discourage speculation.

We suggest that site control be the only qualifying criteria. The concern of "ghost" projects could be determined by conditions to the incentive award (e.g., milestone timing) and the requirement to post an escrow deposit (see below comments).

7. Staff proposes that projects awarded within a quarterly window pay a fee to the program administrator to cover the costs of administering the program. The fee would vary based on project size (under 25 kW, between 25 kW and 500 kW, and over 2 MW). Please comment on what fee should be required for the three project sizes.

We support an application fee of $0.025 per watt, not to exceed $25,000. For example, the fee to submit a CAFRA application to NJDEP can be in the $30,000 range. This too would discourage "ghost" projects and ensure that developers would only submit to the program if they felt that their project had a reasonable likelihood of success.

8. Staff proposes that developers seeking an extension beyond the initial 12-month deadline must submit a deposit, refundable upon project completion, equal to 10% of the project cost and not to exceed a value determined with stakeholders. Please comment on how Staff should determine the deposit fee for a deadline extension request.

Our comments are primarily concerned with grid-supply projects. For these projects, the 12-month deadline should be 24 months from the date that the project secures an executed interconnection agreement with the local EDC and a WMPA with PJM. Developers should be entitled to extensions based on legitimate and established force majeure without penalty. If an extension is required and is not based on force majeure, it should require an additional payment of 10% of project costs not to exceed $250,000.

9. Staff proposes to set incentives every three years to provide market certainty. However, using an administratively set incentive risks the potential for market under or over performance in any particular sub-market. What measures could be used to stop an overheated market and prevent inefficient use of incentive funds? Should the Board consider implementing measures such as a declining block structure, downward adjustments on the quarterly capacity allocation for the market segment, or others? How should the Board consider and assess market underperformance?

We support a three-year adjustment period.

10. What are the benefits and consequences of allowing or prohibiting behind-the-meter projects in non-EDC territories to register in the Successor Program?

No comment.

Competitive solicitation model for all grid supply projects and large net metered projects

11. Staff proposes to divide the competitive solicitation into four tranches to allow like projects to compete against like projects. The four tranches are designed to enable the Board to set policy

preferences through the design and project requirements of the tranches, thereby enabling cost to be the single deciding factor in awarding bids in each tranche.

a. Please comment on the overall approach of using a cost-based bid determination within the four described tranches, rather than a single solicitation with a Staff-led scoring process, such as is currently used for the Community Solar Energy Pilot Program. What eligibility or other solicitation criteria could be established to enable competitive bids from a diversity of project types and market segments with divergent cost structures?

See comment #1, above. We do not favor competitive solicitation for utility-scale projects sited on contaminated lands for the reasons set forth in the letter from Mark S. Bellin, Esq. Once again, the competitive solicitation for these projects will create regulatory uncertainty that will discourage investment in these important projects, which should be incentive for all the reasons set forth in Mr. Bellin's letter.

That said, if Staff is fixed on employing competitive solicitation for these projects, we have the following suggestions:

1. **The Staff should consider a 50 MW per year competitive solicitation pilot program open to all utility-scale projects to see if the program actually works.**

2. **If Staff is going to require the entire utility-scale marketplace to participate in competitive solicitation, then steps need to be taken to reduce the risk of regulatory uncertainty. For example:**

    i. **There must be separate tranches of the competitive solicitation category so that like projects are bidding against one another. We would suggest:**

        - **Projects on contaminated lands (landfills, brownfields, historic fill)**
        - **Projects on** former or current commercial or industrial site that is currently vacant or underutilized**(i.e. quarries, sand mines))**
        - **Dual-Use Agrivoltaic Projects**
        - **Floatovoltaic Projects**
        - **Projects on built environment (rooftops)**
        - **Net-metered projects over 5 MW**

    ii. **If one tranche is under- or over-subscribed, the allocations for the tranches can be adjusted to fit market demand.**

    iii. **Staff must select enough projects to fill the MW allocations of each category in each solicitation. If one category is undersubscribed, the other categories may be adjusted as noted above. If all categories are over-subscribed, any last in time applications should roll to the next solicitation.**

b. Please comment on the four proposed tranches: basic (i.e., open space) grid supply; desired land use (e.g., contaminated land, built environment); solar + storage; and net metered projects greater than 2 MW. Is this the optimal configuration for the competitive

solicitation? Would you suggest any changes?

Please see comment immediately above. We suggest that projects with a storage component should be eligible for an "adder" or increased incentive, but that those projects should not have their own categories. Project categories should be based exclusively on siting, other than net-metered projects over 5 MW.

12. Staff proposes to hold an annual competitive solicitation. Please comment on this proposed schedule. Specifically:

a. Would you advise running the solicitations more or less often, and if so, why?

Again, we do not support any competitive solicitation. However, if competitive solicitation will be used, we believe the solicitation should be quarterly. If there is oversubscription in one quarter, the last in time applications should roll over to the next quarter. Developers should receive an answer to their bid submissions in no more than 60 days.

b. Can all four tranches be administered on the same schedule, or should one or more be run more or less often than the others?

We believe these can all run concurrently.

c. Should the program vary the solicitation frequency schedule based on liquidity in any given tranche? For example, if a given tranche fails to attract sufficient bids in one period, should the program provide extra time before holding the next procurement in that market segment?

There should be no extra time, but Staff could adjust the MW targets on an annual basis based on bids received. For any quarter that is under-subscribed, the MW targets should be allocated to another category where there is over-subscription.

d. Staff is particularly interested in determining if the net metered tranche should run more often than the grid supply tranches, and if so, why.

We believe that if the threshold is increased to 5 MW, there will not be an issue.

13. In the interest of procuring the maximum amount of solar energy and the lowest possible price, Staff requests feedback on whether projects awarded within the competitive solicitation should be paid-as-bid or receive a single clearing price.

Again, we do not support any competitive solicitation. However, if competitive solicitation will be used, we support a paid-as-bid approach. A single clearing price model fosters a "beauty contest" among applications that could lead to inequitable and arbitrary results.

We favor a competitive solicitation that employs a floor incentive based on project category. Developers would bid for "adders" or increased incentives based on extraordinary projects costs.

14. Staff proposes that selected projects would receive a contract for REC off-take in a term of 15

years, due to the nature of heavily discounting outer-year incentives, as well for consistency with the administratively determined program. Please comment on this proposal and explain any alternative suggestions.

See answer to comment #4, above.

15. Staff proposes that projects applying to the competitive solicitation must post a deposit equal to $40/kW of DC nameplate capacity of the solar facility in an escrow account. Projects proposed with energy storage would be required to place an additional deposit of $40/kW of nameplate capacity of energy storage offered. The escrow amount would be reimbursed to the applicant in full upon either (i) the project not being awarded a contract through the competitive solicitation, or (ii) upon attainment of PTO for the solar electric power generation facility. If a project is selected, the escrow will be forfeited to the State on a pro rata basis for any kW capacity that remains unbuilt after 2 years, plus any applicable extensions.

We support the escrow concept to mitigate against "ghost" projects. The developer should post the escrow with the initial application. Once awarded, the escrow should be reduced by 50% and returned to the developer to be utilized to fund project development costs. The escrow should then be refunded periodically as project milestones are achieved. We would support an escrow of $80/kw up to 5MW and then $40/kw above 5 MW.

a. Please comment on the proposed deposit fee(s) as they relate to the solar facility, whether it should be lower or higher, and why.

See above.

b. Please comment on the proposed deposit fee(s) as they relate to the storage facility, whether it should be lower or higher, and why.+

No comment.

c. The Straw Proposal seeks to ensure both strict project maturity requirements as well as general program accessibility. Please comment on whether the deposit should be required upon initial application or upon acceptance of a bid. In the alternative, should the Board require a lower deposit for initial application, followed by the balance due upon award?

See above.

16. The Straw proposes to include a tranche restricted to hybrid systems (solar and energy storage) in the competitive solicitation. Staff seeks commentary on the following:

a. The Straw proposes establishing a $/MWh incentive for hybrid systems would be administratively simpler than establishing separate contracts for the storage and solar components. Please comment on this approach.

See answer to comment #11.b, above. Storage components should merit an "adder" but solar + storage projects should not be their own category. Categories should be strictly based on siting.

b. How should the competitive solicitation account for battery degradation? For example, should applicants be required to commit to minimum performance metrics in order to qualify for the solicitation? Should applicants be required to commit to maintaining their stated capabilities until the end of the term? What criteria and documentation should the program administrator require as evidence?

No comment.

c. Please address how the competitive solicitation should normalize bids associated with different MW and MWh capabilities. Should the Board require pricing based on specific battery sizes to enable clear bid comparisons, or should the Board allow flexibility?

No comment.

d. Please comment on the potential for allowing distributed storage developers to place offers that aggregate a pool of distributed resources into a single "virtual power plant" bid that can participate in the grid supply paired with an energy storage tranche. Please address whether this is technically feasible for implementation in the first round of auctions or whether it should be deferred for possible consideration in future development cycles.

No comment.

17. For solar projects proposed on farmland that allow for continued farming on the same parcel, known as "agrivoltaics" or "dual-use programs," is it likely that there is a market for dual-use projects smaller than 2 MW, or should Staff presume that all dual-use projects would be larger and enter the competitive solicitation?

It is not likely that dual-use projects smaller than 2 MW would be developed based on high interconnection cost.

18. If dual-use projects are permitted into the competitive solicitation in future years, should they be permitted as a fifth tranche or into the basic grid supply tranche with an adder? If with an adder, how should the Board determine the adder?

See answer to comment #11.a, above.

19. Should additional siting restrictions be established for dual-use projects, for example, by limiting dual-use projects only to farms that meet certain soil characteristics or that are used for a certain type of herding, grazing, or crop type?

No. Since the land will continue to be farmed and soil health can be improved, no prohibition on soil characteristics is warranted. In fact, it should be specifically encouraged as it is in MA to ensure that crop production under panels is successful which in turn ensures a successful dual-use program. **In**

addition, adders should be provided for dual-use projects on farm used for crop production to promote innovation and additional sustainability goals. Further incentivizing food production by including adders would also allay the Department of Agriculture's fears of a loss of certain important crop production, such as Jersey tomatoes and cranberries. Otherwise, the dual-use program will consist of all grazing or white clover projects.

20. What rules and regulations should be established to ensure either no loss, or a reasonable loss, of agricultural productivity for dual-use projects? What should be considered a "reasonable loss" of agricultural productivity?

None. This is a decision is market-driven. A farmer would make this decision based on presumed productivity. If a farmer believes that dual-use will result in a loss of productivity so as to not justify the additional revenue from the solar installation, the farmer will not pursue dual use solar. However, we do not believe that to be the case in most instances. In fact, the real and actual loss of productivity is that many farms in NJ are likely to be developed with other land uses based on local zoning because farming alone does not provide sufficient income.

There is no published study that supports the concept that dual-use solar results in a loss of productivity. In reality, it is very likely that dual-use solar will support increased productivity and lead to the preservation of farms that otherwise would be developed with other land uses.

21. Are there additional solar technologies or use cases for which this Successor Straw has not yet considered that may be considered for the Successor Program, either now or in the future? Please explain.

Yes, but this is captured in our proposed siting categories, noted above in the answer to comment #11.a.

Solar Siting

22. Please comment on Staff's proposed methodology for (a) limiting solar development on the areas specified on page 20 and (b) establishing a path forward for projects seeking to be developed on desired land uses that fall within otherwise prohibited siting areas.

See answer to comment 11.a.

Also, The Straw proposal includes a petition process to allow for site specific exemptions to the areas excluded from solar siting on page 20, specifically stating sites in the "preferred siting" category as an example. We would recommend a categorical exemption for preferred siting projects.

It's hard to envision when the BPU would deny a project over an approval by any one of those agencies responsible for those exclusion areas. DEP, Highlands, Pinelands all have rules related to development. If those rules allow for the siting of solar within their purview, why would BPU deny the project, and with what authority. Conversely, why, or by what authority, would BPU approve a project that is not permittable by those agencies? Therefore, if the controlling agency determines that the solar development is permittable, then BPU would always approve the petition.

Having a petition process that is in addition to the permitting process is redundant and unnecessary. BPU should categorically allow for permitted preferred siting solar projects in those exclusion areas.

23. Has Staff overlooked any siting categories for which solar development should be either expressly prohibited or otherwise limited as described in the Successor Straw and noted in the question above?

We do not support any additional restrictions on solar development beyond the existing land use and environmental regulations already in place. We should be encouraging solar development on all lands where there is not another suitable land use.

24. Has Staff overlooked any siting categories for which solar development should be considered a desired land use?

See answer to comment 11.a and 22.

25. How should Staff consider relatively new land uses for solar development, such as floating solar, former mines, and quarries? Others?

See answer to comment 11.a. Of course, the Board could also consider a category for "other" sites that are not captured, but we feel that any of those sites could fit into our proposed categories.

26. Please comment on a proposed methodology for qualifying "contaminated lands." Please cite objective federal or state standards.

We join in the comments of Rodger Ferguson, LSRP from Penn Jersey Environmental on this topic.

Section IV: Megawatt Targets

27. Should the annual capacity targets for the administratively set program be set broadly for the whole program, or should the administratively set program be further sub-divided into market segments with individual cost caps? In other words, should the Board set cost caps for the residential sector, net metered commercial rooftop, net metered commercial ground-mount, etc., or simply allocate a certain amount of money to the whole net metered program? Staff notes that the community solar segment will have its own cost cap.

No comment other than that we believe that the entire program should be administratively determined, subject to floors for each category and the opportunity for the developers to obtain additional incentives for extraordinary costs.

28. Should the annual capacity targets for the competitive solicitation tranches be set with flexible parameters, such that the Board may accept more or fewer projects into any particular tranche based on viable project applications and pricing, as long as the total projects accepted into the competitive solicitation don't exceed the overall annual budget cap?

Yes, see comments above.

29. Please comment on Staff's proposed megawatt targets for the first year (EY 2022) (see page 22).

No comment other than that the MW target for contaminated site projects should be 150 MW per year.

Section V: Cost Cap Calculation

30. Staff proposes to include the total amount of expenditures by electricity customers on annual retail bills and the costs associated with all net metered and other solar projects – whether host owned or third-party owned – when calculating the denominator of the cost cap, as to accurately reflect the total amount of money paid by New Jersey customers for electricity (see details beginning on page 24 for details).

a. Do you agree with Staff's proposed categories for inclusion? Should any category be omitted? Has Staff overlooked a category that should be included?

No comment.

b. Please comment on the sources of information, calculations, and assumptions underlying the categories.

No comment.

31. Please consider the benefits and consequences of using the moving three-year average of annual electricity demand versus annual amounts in calculating and forecasting the annual cost cap percentage.

No comment.

32. For the purposes of forecasting future electric costs to estimate the cost cap in later years, Staff proposes using a 0.5% growth factor based on consumption patterns, presumptive expenditures for future and continued clean energy incentives, such as energy efficiency programs, ORECs, and ZECs, as well as increased demand due to vehicle electrification in particular, and cost declines due to increasing energy efficiency. Please comment on Staff's assumptions.

No comment.

33. Staff proposes to include the following elements in calculating the numerator of the cost cap to reflect the cost of incentives paid by ratepayers: the annual costs of SRECs, TRECs, and Class I RECs, minus the DRIPE benefits of solar (see section beginning on page 29 for details).

a. Do you agree with Staff's proposed categories for inclusion? Should any category be omitted? Has Staff overlooked a category that should be included?

No comment.

b. Please comment on the calculations and assumptions underlying each of the components of the cost cap.

No comment.

c. How should the Board consider the assumed annual value of SRECs, which is not fixed?
Section VI: Implementing the Successor Program and Transitioning from the Transition Incentive Program

No comment.

34. Please comment on the Staff proposal that, following the close of this stakeholder process, the Board will issue an Order directing Staff to close the Transition Incentive Program within 30 days. After that 30-day period, the administratively set program will open immediately. The competitive solicitation is targeted to commence in the second half of 2021. Staff notes that there will be a seamless transition for residential, community solar, and net metered projects at 2 MW or less, but there will likely be a gap between the end of the TI Program and the start of the competitive solicitation that will affect large net metered and grid supply projects.

We join in the comments of Mark S. Bellin, Esq. on this topic. We do not support the concept of creating a "gap" for utility-scale projects. All projects should be treated the same. It is arbitrary and inequitable to treat utility-scale projects differently, particularly given the long development timelines and costs already incurred. The TREC program should remain open to new applications until the successor program is finally determined and capable of accepting applications, consistent with prior Board Order, as described in Mr. Bellin's comments.

Ensuring State Policy Priorities

35. Should "adders" or "subtractors" be used to further differentiate incentives by project attributes in both the administratively set incentive program and the competitive solicitation, only one program, or neither? Explain why.

Yes. See comments above.

36. Would adders make the administratively set incentive program too complex when coupled with the anticipated differentiation envisioned for residential, non-residential roof, non-residential ground, community solar LMI, and community solar non-LMI? How could they be used most effectively?

No.

37. Should the administratively set incentive program include an adder for projects that benefit environmental justice communities? For the competitive solicitation? If so, should there be criteria to select the projects with the highest benefits? How can "benefits" for these communities be quantified?

No comment.

38. How else could the Board consider designing the program to encourage broader participation among traditionally underrepresented groups?

No comment.

Section VII: Community Solar Permanent Program

39. Please comment generally on whether the Board should consider maintaining the competitive solicitation for community solar projects in the Permanent Program, or if it should adopt strict qualifications and otherwise establish a first-come, first-served model (detailed as Option 1 and Option 2 on pages 40-41).

We support keeping the current model for these projects.

40. Please comment on the Pilot Program rules (detailed beginning on page 41) and discuss which, if any, the Board should consider modifying for the Permanent Program, and why.

No comment.

41. Currently, community solar projects must be sited in a single location and are not permitted to include aggregated rooftops.

a. Should the Board consider revising this policy to allow aggregation of rooftop projects, up to the 5 MW capacity limit? Please comment on this general policy, and if you agree, what kind of limitations should the Board set with respect to the proximity of the rooftops, site control or ownership, etc.

Yes.

b. What should the Board consider with respect to the competing value of rooftop space, particularly on multi-unit residential and small commercial buildings, in locating HVAC or other equipment necessary for future energy efficiency and building decarbonization measures?

No comment.

Bonus Question

42. Staff is seeking feedback on its proposal to call the Successor Renewable Energy Certificate a "UREC" to differentiate it from the Solar Renewable Energy Certificate (SREC) and the Transition Renewable Energy Certificate (TREC). In the alternative, please provide additional acronyms or program names for consideration.

We suggest "SREC-II," which is the name used in Senator Smith's pending grid-supply bill.