

May 6, 2022

Carmen Diaz
Acting Secretary of the Board
New Jersey Board of Public Utilities
44 South Clinton Ave
Trenton, NJ 08625

Re: Docket No. QO22030153, Community Solar Energy Program

Dear Secretary Diaz:

Nexamp greatly appreciates the opportunity to provide comments to the Board in its development of a permanent community solar program. Nexamp applauds the Board's dedication to community solar, and is encouraged by the opportunity to improve upon the successes of the Pilot Program.

The Pilot Program demonstrated that community solar can respond to some of the Board's clear objectives—rapidly deploying clean energy and ensuring a more equitable energy future for New Jersey. As successful as the Pilot Program was, Nexamp believes a change in the structure for the permanent program will more efficiently achieve the state's key goals for community solar.

Specifically, Nexamp recommends that the Board adopt a first-come-first-served (FCFS) approach for the permanent program with high barriers to entry. FCFS will reduce the administrative burden on the Staff, and shift responsibility to the market to fully vet projects before they are awarded capacity. In adopting this approach, Nexamp recommends that the Board require all projects to meet high minimum standards, most notably requiring all projects to serve at least 51% LMI and to be located on preferred sites. New Jersey does not need a complicated program to achieve its goals—the Board simply needs to establish a consistent process and give stakeholders the tools to succeed.

Currently, two important tools are missing. First, Nexamp strongly urges the Board to adopt improved methods of verification for LMI subscribers. Previous changes made by the Board have not gone far enough in providing options for verification and the current policies are preventing LMI customers from easily participating in community solar. In our view, this discrepancy is the single biggest obstacle to achieving the Board's goals for LMI access to this program. As further detailed below, Nexamp respectfully urges the Board to adopt self-attestation as a method of verification. This is the simplest and most equitable approach to this issue, ensuring that all low-income New Jersey residents have a path to community solar.

The second critical tool for the success of this program is interconnection reform. Prospective community solar projects should be able to enter the interconnection process before awards, and be subject to clear standards, timelines, and procedures. Even with the project limitations that are in place, the current policies and EDC capabilities are inadequate for achieving New Jersey's clean energy goals and indeed are not geared toward achieving them.

I. Program Design and Eligibility

- 1. The Solar Act of 2021 states that the new Successor Solar Incentive Program should aim to provide incentives for at least 150 MW of community solar facilities per year. How should the***

annual Permanent Program capacity limit account for potential project “scrub” (i.e., planned projects that do not reach commercial operation)?

Nexamp recommends that the Board allow for MWs of capacity to roll over to future years of the program if awarded projects do not achieve commercial operation. This will ensure that the state’s targets are actually being met. If in a given year community solar projects drop out, the Board should adjust the size of the capacity limit for the following energy year accordingly, such that some years may exceed 150 MW.

Nexamp also recommends that the Board consider accounting for the rollover in terms of headroom under the cost cap, not strictly in MWs. Doing so will maintain the limited expenditures under the cost cap, but at the same time potentially maximizing the MWs of development possible within the same budget as incentives theoretically decline.

- 2. Should the Permanent Program capacity be divided into separate blocks, and if yes, how? (i.e., By EDC service territory? By project type or size)? Additionally, the Solar Act of 2021 requires the Board to consider “the economic and demographic characteristics of the area served by the facility, including whether it is located in an overburdened community[.]”¹ How should any blocks address this requirement?***

Generally, Nexamp recommends that the Board focus on simplicity and clarity in program design. Portioning of capacity by EDC may make sense, but further divisions of capacity are likely to add unnecessary complexity to the program, for developers and program administrators.

- 3. Staff intends to recommend similar qualifications and ownership restrictions for solar developers participating in the Permanent Program as were implemented in the Pilot Program. Please comment.***

Nexamp agrees with Staff and recommends that the Board continue to prohibit the EDCs from directly participating in the program. Allowing the EDCs into the program would create significant competitive implications that would require mitigation, while the advantages of utility participation are unclear. Third party community solar has been the basis of successful community solar programs across the country, including in New Jersey, and Nexamp has not seen any justification for the state to change course.

- 4. What land use restrictions and limitations, if any, should apply to the siting of community solar projects?***

While Section 6 of the Solar Act of 2021 does not establish siting standards for Community Solar projects, should the Board adopt comparable standards be extended to also apply to community solar facilities? What should those standards look like?

Nexamp recommends that the Board adopt a first-come-first-served approach, and under this structure, establish a high barrier to entry by requiring projects to be located on preferred siting. In addition to rooftops, landfills and other existing preferred sites, Nexamp recommends that the Board also allow dual-use projects to participate. While the details of the dual-use program are yet to be determined, in principal the programs should be able to work together.

5. The CEA states that the Permanent Program rules and regulations shall “establish standards fees, and uniform procedures for solar energy projects to be connected to the distribution system of an electric public utility” (Section 5(f)(11)). What changes, if any, should be made to the existing community solar interconnection standards and processes?

Overall, New Jersey’s interconnection policies and procedures are in need of a major overhaul in order to achieve the state’s clean energy goals, including for community solar. Nexamp understands that the Grid Modernization proceeding is likely to be the primary venue for addressing those challenges.

With regard to community solar specifically, several changes should be made. First, community solar projects should be allowed to apply for interconnection and to be studied by the EDCs prior to award. Allowing projects to apply for interconnection to receive study results in advance will provide the cost certainty that is a key factor in determining overall project viability—ultimately allowing more awarded projects to reach COD. Under a FCFS model for project selection, this is particularly important. Second, there must be clear and enforced timelines for the EDC interconnection study process. Currently there is no standard and as a result projects have no ability to schedule around project timelines. The timelines we have seen to date from the EDCs are far longer than is typical in neighboring states.

In addition, the EDCs should make available detailed pre-application reports upon request. These pre-apps provide an efficient way for developers to get a sense of interconnection feasibility and cost, without undergoing the full study process that is time consuming and resource intensive for both the developers and for the EDCs. Such an option limits the number of projects that formally enter the interconnection queue, and ensures projects are well-sited on the grid.

Some stakeholders may raise concerns about the ability of the EDCs to process community solar applications before award, and that a requirement for projects to receive a completed study may delay the community solar program. Nexamp is certainly mindful of these concerns and recognizes that it may take time for the EDCs to catch up. It may be reasonable in the first year of a FCFS permanent program for the Board to require a pre-application report in lieu of a full study before ultimately transitioning to a study as the requirement.

However, it is critically important that the Board not use a transition or interim step as an alternative to putting into place improvements both for the community solar program and the interconnection process. Using these concerns as a delay will only delay the realization of the success of this program and New Jersey’s clean energy goals more broadly.

6. What measures should the Board implement to minimize negative impacts to the distribution system and maximize grid benefits?

Nexamp understands that the Grid Modernization proceeding is likely to be the primary venue for addressing these issues and will reserve most of our comments to that proceeding.

II. Project Selection

- 7. How should projects be selected for participation in the Permanent Program? Please provide a detailed description and discussion of the advantages and disadvantages of your proposed method of selection, with an emphasis on establishing criteria that are transparent and easily verifiable.**

As noted above, Nexamp recommends that the Board shift from an RFP or solicitation model to a first-come-first-served (FCFS) model with high barriers to entry. The FCFS model has a number of advantages, and has worked well in other states, particularly New York.

In particular, FCFS has the benefit of simplicity—for administration and for developer participation. Program requirements and expectations, as well as timing, can be worked out well in advance, and applicants will show up when they are ready. Due diligence from the Board would shift from the current arduous undertaking of individually scoring hundreds of speculative projects, to the more straightforward exercise of determining that project submissions meet the defined criteria.

FCFS also has the important benefit of shifting the burden of vetting speculative projects from the Board and to the developers themselves, ensuring through maturity requirements that only viable projects are brought forward. This reduces the number of projects ultimately submitted, and greatly increases the likelihood that the projects that are awarded are ultimately successful, preventing drop-out and providing value to New Jersey residents as quickly as possible.

For developers, the FCFS process provides the certainty that is so critical for project development. Timelines and requirements can be made clear well in advance, and this allows developers to focus time and resources on development. The current solicitation model creates a “boom and bust” scenario, whereby developers race to get projects together for an RFP, only to then become largely idle while waiting for a future RFP without a defined timeline. Developers are forced to plan entirely around the Board’s calendar, and as such are not able to conduct regular business planning. FCFS provides the predictability needed for developers to continue due diligence throughout the year and to feel confident that investments—particularly in workforce—will be justified and pay off down the road. The current solicitation model provides little comfort in that regard.

FCFS, if properly designed, will also result in the same key public policy outcomes the Board has prioritized for the community solar pilot program—mainly a high level of LMI customers served, and a preference for projects in the built environment.

- 8. Should the Board consider creating a waitlist for non-selected projects? If yes, why would a waitlist support the continued development of community solar projects without increasing program oversubscription? How should this waiting list be implemented to avoid a situation where all capacity is spoken for months or years ahead of a solicitation?**

While a waitlist could be an alternative means to “recycle” capacity from projects that drop out, it is unlikely that projects will drop out quickly enough for a short-term waitlist to be viable. Rather, it is likely to make more sense to take unused MWs and reallocate those to future years of the program.

9. What minimum maturity requirements should projects be required to meet before applying to participate in the Permanent Program? To what extent should the Community Solar Energy Program maturity requirements be different from, or similar to, the requirements for projects to apply to the Administratively Determined Incentive (“ADI”) Program?

Nexamp recommends that the Board include strong maturity requirements in order to apply for capacity in the program as part of a FCFS approach. Maturity requirements demonstrate that individual projects are viable, and that the developers applying are prepared to meet the requirements of the program. Nexamp supports the comments of the Coalition for Community Solar Access and the detailed recommendations made there on this subject.

As discussed above, Nexamp recommends that the permanent program require projects to have proceeded through interconnection and have received their study results before applying. With study results in hand, developers will know perhaps the most crucial project variable—their interconnection costs—before applying. To date, the EDCs have not studied community solar projects in advance and Nexamp recognizes that it may take time to adjust processes. In such a case, in the first year of the permanent program, the Board may consider requiring a detailed pre-application report in lieu of a completed interconnection study. If so, Nexamp urges the Board to see this as a short-term interim step, not a long-term structure for the program. Requiring a full study, as noted above, provides a greater assurance of project viability and weeds out more speculative projects that are unlikely to reach commercial operation.

In addition, Nexamp recommends that the Board require a deposit, refundable at COD, and recommends a value of \$40 per kw of capacity. This will ensure that there is money behind the commitments made by developers.

If the Board were to *not* require a completed interconnection study as a maturity requirement, however, Nexamp would strongly urge the Board to allow the deposit to be refundable within a set time frame following receipt of interconnection study results. Projects that post a deposit in good faith, only to learn later of interconnection costs that are unmanageable, should be able to recover the deposit. Long term, this emphasizes the importance of projects proceeding through interconnection first.

Finally, Nexamp recommends that the Board require that developers applying into the program, or their partners, to have demonstrated experience with community solar and/or working with low-income communities.

10. Should the Board consider any changes to the coordination between community solar project awards and the process for registering for the ADI Program?

The Board should allow for projects that are awarded under the community solar program to be automatically registered in the ADI program. In addition, communications and document requests should be streamlined as much as practicable between the requirements of the community solar program and the ADI program to avoid duplication of requests and efforts.

III. Low-and-Moderate-Income Access

11. What policies and measures should the Board consider to ensure that the Permanent Program maintains a high level of low- to moderate-income (“LMI”) participation? How can the Board support community outreach and education?

As further discussed below, Nexamp believes that the current verification rules are the most significant barrier to LMI participation currently and urges the Board to revisit those rules.

In terms of education, the Board should consider strengthening its web materials for an audience less familiar with community solar, that could act as a source of information for consumers and otherwise interested stakeholders.

12. Should the Board modify the Pilot Program’s income verification standards (see the Pilot Program rules at N.J.A.C. 14:8-9.8)? If so, how?

Nexamp recommends that the Board change its rules to allow for greater flexibility for LMI verification, steps which would fulfill the Board’s goals for eliminating barriers to entry and ensuring equity in the community solar program. The current rules effectively act as a barrier to entry, in that they limit verification to customers within a narrow set of geographic areas, or to those who participate in an exclusive list of programs. This runs counter to the definition of an LMI customer, which is solely based on income.

Specifically, Nexamp recommends that the Board allow for self-attestation of income as a method of verification. This is the most equitable method of verification, as it allows all customers, regardless of where they live or whether they participate in a given program, to participate based on their income level, and without handing over sensitive personal documents. The Board could develop a standardized form, or attestation language to be used, as has been done by stakeholders for Virginia’s program.

If the Board is considering the potential for abuse, there are ways to deal with the issue. The Board could require audits of a percentage of LMI customers on projects, and/or it could require subscriber organizations to post a bond subject to withdrawal in the event any complaints are made. Overall, Nexamp believes such cases would be exceedingly rare.

In addition, Nexamp also recommends that the following programs be added as acceptable methods of verification:

- Medicaid
- Supplemental Security Income - Social Security (SSI)
- Supplemental Security Disability Insurance - Social Security (SSDI)
- Special Supplemental Nutrition Program for Women, Infants, and Children (WIC)
- Temporary Assistance for Needy Families Assistance (TANF)

Finally, Nexamp also recommends that the Board improve the current census-based verification method. While the Board currently limits eligibility to just census tracts where 80% or more of the population make 80% of AMI, Nexamp recommends the Board set the level at 51%, consistent with its current mapping tool.

- 13. How should the Board consider “the economic and demographic characteristics of the area served by the facility, including whether it is located in an overburdened community, as that term is defined in section 2 of P.L.2020, c.92”?**

In keeping with the above, residence in an overburdened community should be an additional means of LMI verification. This will increase opportunities and access for residents within these communities.

IV. Community Solar Subscribers

- 14. What should the geographic limitations for community solar projects and subscribers be (i.e., How far from the project can subscribers to the project reside)?**

For context, the Pilot Program allowed projects to self-select the geographic limits of the project. Projects could choose between three options: municipality and adjacent municipalities, county and adjacent counties, and no limit (EDC-wide).

Nexamp recommends that the Board, in adopting a FCFS approach, not impose any geographic limitations on subscribers beyond requiring subscribers to be located in the same EDC territory as their community solar project. Further geographic restrictions—which while voluntary under the Pilot Program, were the norm—are likely to have negative consequences as more projects come online. Some areas of the state are likely to be relatively underserved with community solar opportunities, and in practice such restrictions are likely to limit access rather than broaden it. In particular, the Board should be mindful of the effect that geographic restrictions might have on limiting access for low-income customers.

- 15. The Pilot Program mandated that each community solar project must have a minimum of 10 subscribers, and a maximum of 250 subscribers per MW of installed capacity. Should either of these mandates be changed under the Permanent Program?**

Nexamp recommends that the Board remove the 250 subscribers per MW maximum. Nexamp does not see any advantage to this requirement. In practice it is likely to constrain the ability of subscriber organizations to expand the number of customers with smaller allocation sizes on projects, who are overwhelmingly renters and low-income customers, the subset of customers that are likely to benefit most from participation in the program.

- 16. Should the Board make any modifications to the consumer protection measures implemented under the Pilot Program?**

Nexamp has no additional comments at this time.

- 17. In November 2020, the Board proposed a rule amendment to the Community Solar Energy Pilot Program rules, which would have allowed certain projects owned and operated by public entities to automatically enroll subscribers without first seeking subscribers’ affirmative consent to join the project. Subscribers would then have the option to “opt-out” of the project should they not wish to participate. How can the Board best support subscriber education and**

acquisition? Should the Board revisit its automatic enrollment proposal, and if yes, how can automatic enrollment be implemented consistent with customer data privacy rights?

Nexamp appreciates the interest from some stakeholders in the potential of opt-out models. While the Board may choose to explore this topic going forward, Nexamp respectfully urges the Board not to shift the focus of the program away from the current opt-in model. The opt-in model is not a barrier to the participation of LMI customers and has several key strengths.

In Nexamp’s view, the full range of benefits of community solar go beyond the clean energy added to the grid and the savings for our customers, although those are rightly highlighted. More broadly, community solar provides a direct connection between people and clean energy and it empowers subscribers and their communities. For customers who are not able to host rooftop solar, for example, community solar can replicate the satisfaction of personally contributing to addressing climate change, it can educate customers about their energy usage and options, and it opens the door into the clean energy economy. For LMI or otherwise disadvantaged communities, this engagement is a central part of what makes community solar meaningful.

Under an opt-out model, these goals are difficult to achieve. In practice, it may also limit LMI outreach to only certain areas that have aggregation programs, which may not be fully representative of LMI populations or need in New Jersey. Additionally, if done on a large scale across a whole community, individual LMI customers may see only a minimal savings. In our view, the program would be better served helping fewer customers with a larger benefit, than to substantially dilute the savings.

The opt-out approach also raises implementation challenges, as the question suggests. In particular, opt-out would seem to rely on consolidated billing as a prerequisite, which while under consideration, is not in place today. In addition, the Board should consider other issues, such as the overlap of an opt-out project with other opt-in projects. If a customer had opted-in to a project, but was then included in an opt-out project, how would that be resolved? In our view, the opt-in project should clearly be maintained in that scenario, but there would need to be a process in place to handle such cases.

While there may be a limited opportunity provided by opt-out, overall Nexamp respectfully urges to Board to continue with the opt-in approach, and to keep the overall customer experience under the program front of mind when considering any such changes.

V. Community Solar Bill Credits

18. If applicable, please discuss your experience with subscriber management and the allocation of community solar bill credits. What changes, if any, should be made to communications between community solar subscriber organizations and the EDCs, or to the allocation of bill credits by the EDCs?

Nexamp recommends that the Board clarify the treatment of unsubscribed energy under the rules. Nexamp is aware that the EDCs have interpreted the current regulations differently than expected and requests that the Board clarify that unallocated credits expire 12 months from when they are generated, not on a calendar basis. Treatment of unallocated credits based on when they are generated is standard practice in most community solar markets. There does not appear to be a justification for treating unallocated credits generated in month 11 differently from those generated in month 2 of a project's commercial operation. Nexamp recommends that the Board modify the program rules accordingly.

In general, Nexamp recommends that the Board adopt best practices for data exchange and communications within the program regulations. Specifically, the regulations should require the EDCs to issue to Subscriber Organizations a monthly credit report, by a date certain, that details the credits applied to each subscriber account. In addition, each utility should accept subscriber allocation lists from Subscriber Organizations in a standardized format, preferably through an electronic portal or other such means, that allows for the bulk upload of data. Automated, electronic processes that cut down on manual inputs reduce unnecessary billing errors, on the part of both Subscriber Organizations and the EDCs.

In addition, the Board should have policies in place to track and if necessary, penalize, EDCs for billing errors. Unfortunately, our experience in other states has shown that accountability is necessary to ensure a good customer experience.

Relatedly, the Board should establish a Billing and Crediting Working Group to handle such issues on an ongoing basis among subscriber organizations, the EDCs and Staff. This forum has been successful in other states, particularly New York, and can help in identifying and resolving problems among stakeholders without the need for formal regulatory intervention.

19. What modifications, if any, should the Board consider making to the value of the community solar bill credits?

In our experience, master metered housing is reasonably common in New Jersey. Because they are on a commercial rate, the value of the bill credit currently is significantly lower for master metered buildings. The Board's order from August 2019, which set the value of the bill credit, specifically excluded demand charges from the calculation and this exclusion in particular makes it very difficult for master metered buildings to see savings from community solar.

The Board should consider revisiting its decision regarding the bill credit master metered customers, if the Board wants to ensure participation from these entities going forward. The Board could act narrowly for this segment of customers or could more broadly revisit the bill credit to make it more economically attractive.

20. In May 2021, following an opportunity for public comment, the EDCs submitted a report to the Board with options and recommendations regarding the implementation of consolidated billing for community solar. In summary, the EDCs recommend that, if the Board adopts consolidated billing for community solar projects, this billing process be handled by the EDCs. The EDCs further recommended that the method of reflecting subscription fees on a

subscriber's EDC bill be determined by each EDC based on the format that best corresponds to their existing billing practices. The EDCs did not recommend that the Board allow non-EDC billing options. Do you agree with the EDCs' recommendations? If not, why? How do you recommend the Board address payment default by customers?

Nexamp supports the Board's effort to explore consolidated billing for community solar. If properly designed, consolidated billing could serve as a beneficial option for program participants. If it is to be beneficial, the design of consolidated billing is of critical importance. Nexamp does not believe that the EDCs should be allowed to design, on their own, a consolidated billing option. The effort should be led by the Board, with all stakeholders afforded an opportunity to provide feedback, and the approach should be standardized across EDCs.

It is not clear whether the Board intends to address this issue in the context of this rulemaking, or whether it will be a separate undertaking. In either case Nexamp looks forward to providing greater input on this question.

Respectfully,

Jake Springer
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Nexamp