Gabel Associates' Comments
Community Solar Permanent Program
Docket No. QO22030153

May 6, 2022

Dear Secretary Camacho-Welch:

Please accept the following comments on the Community Solar Permanent Program, Docket No. QO22030153 on behalf of Gabel Associates. Gabel Associates, Inc. is an energy, environmental and public utility consulting firm with its principal office in Highland Park, New Jersey. For over 29 years, Gabel Associates has provided highly focused energy consulting services and strategic insight to its clients. We have successfully assisted hundreds of public and private sector clients implement energy plans and projects that reduce costs and enhance environmental quality. Gabel Associates has had extensive involvement in the design of the Community Solar Program on behalf of various public sector clients. We provide these comments in response to the Board's Notice of Request for Comments of April 11, 2022.

Q1. 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)?

A1. Once an awarded project has either been formally terminated by the developer or is likely to be scrubbed in accordance with criteria to be set by the BPU, then the MW of that project should be added to the next year's Community Solar solicitation. Additionally, because of (a) New Jersey's strong policy preference for community solar and (b) the delay (likely to be in the range of two years) between Round 2 Awards of October 2021 and the next round of awards, the BPU should set a capacity level of 300 MW for the next round.

Q3. 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.

A3. With respect to ownership qualification, we strongly recommend that the Board remove the ambiguity that was in the pilot community solar rules and make it clear in the permanent program rules that public entities can be considered the "owner" (or "manager") of the Community Solar Project, even though the solar system itself can be owned by a private entity. This distinction is necessary because public entities have no desire to be responsible for the ownership, financing or operation

of the solar system itself – this is a role for the solar developer. The public entity has a key role in community solar (particularly in the opt-out/auto enroll design discussed elsewhere in these comments) to manage the entire project including procurement and selection of a private owner of the solar system, the identification of participants, public outreach, enrollment and relationship management. Public entities generally have no interest in using their financing capacity for a solar system and do not have the expertise to develop a solar system. Moreover, public ownership of the solar system is a higher cost option because public entities cannot avail themselves of federal tax credits and depreciation benefits associated with developing a solar system. For these reasons this clarification is necessary.

Furthermore, the proposed definition of "local government" or "local government entity" in N.J.A.C. 12:8 9.2 unduly limits participation in an automatic enrollment project to municipalities only. Please clarify that definition to include other local public entities so long as the public entity enters a Shared Service Agreement with a local municipality. This is appropriate because it will permit other public entities (counties, utility and improvement authorities and others) to support the development of community solar project so long as they are doing so in coordination with the municipality where the customers are based. This can lead to beneficial synergies while maintaining the local relationships that the municipalities have. Accordingly, the Board should permit other public entities to be eligible to conduct an automatic enrollment Community Solar project so long as the entity has a shared services agreement with a municipality.

Q5. 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?

A5. The interconnection of projects has emerged as a significant bottleneck to development. The BPU should take immediate steps to accelerate the interconnection process. This should be driven by the implementation by the Board (along with the EDCs) of a rapid planning and buildout process so that EDCs "bulk up" their systems to not just react to interconnection requests but to anticipate specific locational needs and bulk up their systems so that the Board's solar goals can be achieved. This effort is no less important than the efforts of the BPU and EDCs over the last decade to harden their system and make it more resilient following Superstorm Sandy and other events, as they both are part of New Jersey's leadership posture in addressing climate change.

The following should be included in this boost to the Community Solar interconnection process:

a) allow EDCs to rate base their expenditures for system upgrades and interconnection costs and to establish a surcharge/rider in their tariffs to allow for timely cost recovery;

b) the EDC interconnection process should be adjusted to set a maximum fixed cost per MW for interconnection (with any additional costs recovered in the surcharge/rider described in a)). This will allow projects to set their economics and pricing while the EDCs review applications, and thereby let the BPU solicitation process and project development move forward.

c) the Community Solar interconnection process should be changed to allow developers to choose either the PJM or EDC interconnection process so developers may use the interconnection process that is most feasible for their project on a case-by-case basis. The basic economics of a project are the same under either approach (the energy has value at the market clearing price) so that allowing this choice will give alternate routes for interconnection, and a developer can choose the process that best suits that project and its timing; and,

d) the Board should strongly consider developing a State Agreement Approach (SAA) with PJM so that it can drive a consolidated approach that recognizes New Jersey's leadership position in community solar. Under SAA, BPU and PJM can allow for a socialization of improvements to the New Jersey transmission system related to grid solar projects. This approach could let projects pay a defined cost for interconnection and allow the process to move forward in a faster and more coordinated manner. This action, combined with recommendations a) and b), would allow interconnection costs to a developer be clearly defined and allow New Jersey's community solar program to move forward.

Without decisive and comprehensive action by the Board on interconnection, the development and in-service dates of projects will be greatly delayed, and the Board's community solar policy will be frustrated.

Q6. What measures should the Board implement to minimize negative impacts to the distribution system and maximize grid benefits?

A6. The Board can minimize negative impacts by encouraging – through added points in the evaluation of project applications – projects which utilize energy storage systems in a material way.

Q7. 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.

A7. The Board should conduct an annual solicitation with a number of clearly defined criteria addressed in the application and considered in the Board's evaluation process. The Board should use a solicitation design similar to that used during the pilot stage, with a very strong emphasis on developing projects that serve LMI customers, including significant extra points in the evaluation for projects that propose to serve only LMI customers. With respect to project type, projects on landfills, brownfields, areas of historic fill, rooftops, parking lots, parking decks, canopies over impervious surfaces, former sand and gravel pits, and floating solar on water bodies at sand and gravel pits should be the highest locational priority (and points) in the evaluation matrix.

Q9. 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?

A9. The Board should consider the filing of an Interconnection Application to be sufficient to determine project maturity when evaluating Community Solar applications. BPU can strengthen project commitment by requiring applicants to make a monetary deposit at the time of application, which can be used to cover BPU's some of its cost of administering the solicitation including the engagement of a consultant to administer the process and review applications (under the supervision of the Board staff).

Q11. 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?

A11. The Board can ensure that Community Solar has a high level of LMI participation by appropriate and effective use of the application scoring system. Specifically, the "Low- and Moderate-Income and Environmental Justice Inclusion" aspect of the Evaluation Criteria should be to explicitly reward Projects serving 100% LMI customers as "Higher Preference" with materially greater points awarded than for other projects. Projects which serve 51+% LMI customers should be considered "Medium Preference"; Projects serving below 50% should be considered "Low Preference".

Furthermore, the Board can significantly heighten its LMI policies by allowing municipalities and public entities to auto-enroll LMI customers through an opt-out provision. Auto-enrollment has been proven a successful system through the Board's Government Energy Aggregation (GEA) policies to achieve a high level of savings through reduced customer acquisition and enrollment costs as well greater

certainty to investors that a project will be fully subscribed. Auto-enrollment will eliminate the significant barrier to LMI customer participation whereby participants are responsible for actively providing documentation and an affirmative signature to sign up for the program.

The BPU proposed an auto-enroll rule in November 16, 2020. This proposed rule can provide a foundation with relatively few edits for proposal and adoption of an auto-subscription rule.

It is also vital to LMI customer participation that the Board institute consolidated billing operated by the EDCs, with the specific provision that community solar projects will be paid by EDCs on a timely basis and customers will not be removed from consolidated billing should the customer be in arrears. This is especially harmful to LMI customers because LMI customers are more likely to be in arears. EDCs provided a filing to the Board in May 2021 in which they agreed with this approach. The EDCs called this approach the "Utility Consolidated Billing, Net Crediting" as discussed on page 27 of the EDC's May 28, 2021 filing.

Specifically, the payment structure should utilize "Net Crediting" so that solar developers can be confident that they will be paid monthly for the solar energy they provide to customers – regardless of the customer's payment. This consolidated billing approach mirrors the EDCs (and BPU's) treatment of BGS providers whereby providers are paid regardless of the customer's payment patterns and history. Parity in payment treatment between Community Solar and BGS providers would not only be fundamentally fair, but it would also rapidly accelerate the development of LMI projects, as LMI customer payment risk would no longer be a concern of the community solar project (just as it has not been a concern of BGS providers for over two decades of BPU policy). Under this "Net Crediting" approach, investors will be much more interested in serving LMI customers and, in fact, would actively seek them out.

Q13. 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"?[2]

A13. The Board should allow all residents who reside within an "overburdened community" (as already defined by the State) to be eligible for enrollment under the LMI subscription standard of the Community Solar Project without further verification. This definition is as follows: "any census block group, as determined in accordance with the most recent United States Census, in which: (1) at least 35 percent of the households qualify as low-income households; (2) at least 40 percent of the residents identify as minority or as members of a State recognized tribal community; or (3) at least 40 percent of the households have limited English

proficiency." In this case the participants' address should be the only verification measure necessary.

Q14. 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).

A14. Geographic limitations should be eliminated from consideration – with the exception of location within the EDC territory which is required by statute – since the entire purpose of Community Solar is that the location of the solar system is irrelevant to where the subscribers are located. The geographic limitations in the Pilot Stage have acted as a barrier to providing energy savings to LMI customers (more likely residing in urban areas) due to their distance from solar systems (which may more likely be sited in less populated areas). Removing this limitation will result in more projects, more competition, and more LMI customer participation.

Q17. 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?

A17. The strong reasons to allow automatic enrollment are provided in our answer to Q.11. Automatic enrollment can be implemented in a manner which protects customer data rights by using protections already successfully used by the Board in its Government Energy Aggregation Program (GEA). The Board has the authority to adapt an opt-out regulation and address customer privacy issues and associated protections by N.J.S.A. 48:3 – 94(4)(b).

The very design of the auto-enrollment method provides customer protections considering that auto-enrollment is limited to projects led by public entities, who are trusted and responsible in their own right to protect the privacy of their residents (as is currently the case for GEA programs throughout New Jersey). Specifically, the addition we suggest is: "All public utilities subject to regulation by the Board shall take necessary steps to facilitate and provide local government with access to the historic billing usage of customers, point of delivery identification number, if applicable, and other information required by the public utility to enroll

customers in an automatic enrollment project upon satisfactory evidence that the automatic enrollment project is duly authorized by a municipal ordinance or resolution and by the Board. All public utilities subject to regulation by the Board shall provide this information for all residential customers in the municipality, at the option of the municipality, to facilitate the customer identification and enrollment process by the municipality. This local government access shall be for the purposes of identifying and enrolling LMI customers and determining subscribers' historic annual usage, in order to appropriately size community solar subscriptions. The municipality shall indemnify the public utility for any breach of customer information. All public utilities subject to regulation by the Board shall facilitate customer enrollment, opt-out, and, if community solar consolidated billing is directed by the Board, billing."

The Board should allow auto-enrollment to be implemented in two different manners:

1) a public entity competitively procures a solar developer at the "front end", prior to applying to the Board's Community Solar Program. In this approach the municipality or other public entity would apply with a designated project site, developer, and confirmed terms and conditions. The Board would review the Project Application in its established award process; and

2) An "after BPU award" approach whereby the public entity would have the opportunity (through public procurement) to enroll LMI customers through automatic enrollment to awarded Community Solar projects. This approach would further Board policy to enroll LMI customers. The Board can accommodate this by including an option in its application whereby an applicant could commit to participating in an auto-enrollment process. The public entity would be able to select already-awarded projects through a competitive procurement process to meet its LMI customer load requirements.

Both of these approaches would allow municipalities and other public entities to further the Board's goal of maximizing LMI participation.

Furthermore, BPU should make the clarification to the term "owned" as explained in the answer to Q3 above.

Q19. What modifications, if any, should the Board consider making to the value of the community solar bill credits?

A19. Based on the pilot program it is clear that the commercial rate is too low and discriminatory against LMI subscribers who reside in mastered-metered affordable

housing facilities, which are under the commercial rate. The current rate is especially problematic considering that the residents of master-metered affordable housing facilities are by nature LMI. BPU should address this problem and create a more equitable program for all LMI residents. The most direct way to address this in a manner that does not create complications with EDC tariff structures is to increase the ADI incentive for master metered affordable housing facilities.

Q20. 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?

A20. As discussed in our response to Question 11 above, we recommend that the Board quickly adopt the Utility Consolidated Billing (UCB) net crediting approach identified by the EDCs in their May 2021 filing. UCB can supplant dual billing, which is confusing to customers and in some cases presents a roadblock for participation in community solar programs. In contrast, consolidated billing, and in particular, UCB, creates a seamless experience for participating customers. There is less confusion and less potential for complaints if a customer gets only one bill and sees all charges in one place on their existing utility bill. It will be significantly easier for customers to see the benefits from participation, as opposed to comparing two bills which may have different billing time frames.

Under UCB, customer nonpayment should be addressed exactly the same as if customers were on BGS supply whereby the customer is dropped only for nonpayment (shut off) account closure, moving, or program opt-out. Should this occur, subscription organizations will notify the utility of replacement LMI eligible participants. In accordance with BGS practices, it is recommended that community solar providers should be paid monthly consistent with the terms of section 9.1 of the BGS-RSCP Supplier Master Agreement. Community Solar suppliers would be paid "…on the first Business Day after the 19th day of each calendar month…", regardless of customer payment. LMI participants and Community Solar providers should not be required to pay a fee for consolidated billing. EDCs would be allowed the ability to recover any costs incurred, through existing cost recovery mechanisms. Furthermore, offering net crediting does not create a new state of affairs for the EDCs: **it is standard for a utility to absorb any customer payment risk**

when a customer is on the default (BGS) energy service, so there is no reason the EDC should not be responsible for this in the Community Solar Program as well, especially considering the BPU's goal to make this an LMI-focused program.

Net Crediting provides the solar developer with secure revenue from the utility, and increased security translates to higher savings for the customer and more incentive to invest in LMI Community Solar Projects. Without having to take on the credit risk of customer nonpayment, there will be significantly more interest from market participants and investors to supply solar energy to LMI customers. Rather than serving LMI customers merely to meet the BPU's requirement, solar developers will instead be incented to seek out and enroll LMI customers. Moreover, the rates charged to customers under this protocol will be lower since solar providers will not have to embed significant risk premiums in their rates to cushion them from this credit and payment risk.

Net Crediting consolidated billing should be made an option to LMI community solar projects, no matter the EDC territory. However, any project (LMI or otherwise) that wishes to continue rendering its own bills should have the option of doing so.

We urge BPU to quickly direct the EDCs to expeditiously implement the Net Crediting methodology for Community Solar Consolidated Billing.

Thank you very much for this opportunity to submit comments in this matter. Please do not hesitate to reach out for further discussion.

Much appreciated,

Belle Gabel
Associate
Gabel Associates
belle@gabelassociates.com
732.589.3057