

May 6, 2022

Re: Comments regarding Docket No. QO22030153, In the Matter of the Permanent Community Solar Energy Program

Dear Board Secretary:

Solar Landscape respectfully offers the attached comments to Docket QO22030153, regarding the Permanent Community Solar Energy Program (“Permanent Program”).

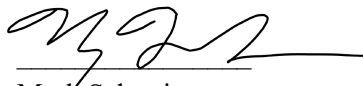
Solar Landscape is a vertically integrated community solar company headquartered in Asbury Park, New Jersey. We develop, design, construct, own, operate, and subscribe community solar projects. In Year 1 of the Community Solar Pilot Program, Solar Landscape was awarded eight projects, totaling approximately twenty megawatts. Today, those eight projects are all operational and either fully subscribed or almost fully subscribed. In Year 2 of the Community Solar Pilot Program, Solar Landscape was awarded forty-six projects, totaling approximately fifty-one megawatts; and those projects are in various stages of development, including approximately ten megawatts that are already fully installed.

We estimate that there will be a gigawatt of prospective community solar projects under site control in New Jersey by fall 2022. Accordingly, of all our comments, three points warrant emphasis:

- 1. The Board should repeat the Pilot Program’s competitive solicitation process as soon as possible, but should do so with a third-party consultant or added staff (paid for by developers via non-refundable application fees), as this would be the fastest way to get new projects online. After three years of a Pilot Program that made community solar New Jersey’s most in-demand solar market segment, now is not the time to test out a categorically different process for awarding projects.*
- 2. The Board should award 300 MWs from the next solicitation, so as to get the community solar program back on track after missing the entire EY22 SREC II budget.*
- 3. The Board should allow LMI verification via self-attestation (combined with substantial developer security deposits), as this is the only realistic way of verifying all the LMI people that the community solar program will require in the coming years.*

Thank you for your dedication to this program.

Sincerely,



Mark Schottinger

President

Solar Landscape

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RESPONSES TO SPECIFIC QUESTIONS POSED BY STAFF

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)?

SOLAR LANDSCAPE RESPONSE:

Unused and scrubbed REC (i.e., TREC or SREC II) budget from prior rounds of community solar (including scrubbed projects from the two rounds of the Pilot Program and the completely unused EY22 SREC IIs) should be added to future rounds of the community solar program as additional megawatts based on the applicable REC values. For example, 1 MW of scrubbed capacity from the Pilot Program (with a TREC value of \$129.20) should translate into 1.44 MW of added capacity in the first round of the Permanent Program (with an SREC II value of \$90) (because 1.44 SREC IIs equal 1 TREC); and 1 MW of scrubbed capacity from the first round of the Permanent Program should translate into 1 MW of added capacity in the second round of the Permanent Program (because both years have an equal SREC II value).

Accordingly, the upcoming community solar solicitation should have more than 300 MWs of capacity because: (1) the Board budgeted 150 MWs of SREC IIs for community solar in the current energy year (EY22), none of which will have been awarded by the end of EY22; (2) the Board budgeted 150 MWs of SREC IIs for community solar in the upcoming energy year (EY23, which starts June 1, 2022); and (3) there will presumably be some number of scrubbed projects from Year 1 of the Pilot Program.

Importantly, this is neither a request for more cost-cap/budget nor a request for TREC extensions. Rather, this is merely a request to let New Jersey residents benefit from the money that was already deliberately budgeted for community solar projects. Namely, with respect to both TRECs and SREC IIs, community solar capacity has always been specifically capped (which contrasts with other segments of the NJ solar industry, where an uncapped number of projects were allowed to register for TRECs up to the applicable deadlines). Thus, to date, a defined and limited amount of money has been budgeted for community solar. That budget benefits New Jersey communities and should not be reduced by virtue of scrubbed projects or delays in awarding capacity.

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[.]” (FN: N.J.S.A. 48:3-116(c)(3)). How should any blocks address this requirement?

SOLAR LANDSCAPE RESPONSE:

On these issues, the applicable Pilot Program rules should be carried forward to the Permanent Program.

The Pilot Program’s pro-rata division amongst EDCs should be continued (i.e., N.J.A.C. 14:8–9.4(d)). Otherwise, there should be no further blocking/segmentation. Not surprisingly, some companies are lobbying to earmark a certain percentage of capacity for the types of sites those companies control (e.g., developers with rights on landfills want to prioritize landfill projects and

developers who leased farmland are vying for the right to do community solar on farms). Such further segmentation is unnecessary: all preferred sites are already being pursued for development under the Pilot Program rules, so no further incentives or preferences for different types of sites are needed. And if any further preferences were granted, rooftop projects should be prioritized above all others because they: (a) are the most likely to be constructed and turned on in a timely manner; and (b) are least likely to fail post-award for unforeseen reasons that often affect landfills, brownfields, and parking lots (e.g., environmental and permitting issues). But again, further segmentation is unnecessary.

There should be no prioritization (or demerits) for projects located in overburdened communities. One of the benefits of community solar is that projects can be remotely located from the communities they serve; and some overburdened communities do not want additional development of any kind in their “backyard.” What matters is that overburdened communities get the benefits of community solar via subscriptions (regardless of whether the solar facilities are located directly in those communities).

That said, to comply with the act’s requirement of considering whether a project is located in an overburdened community, the Board should allow anyone in an overburdened community to automatically qualify as LMI. As discussed below, such auto-qualification alone would not solve the LMI-verification challenges New Jersey faces—which can only be solved via self-attestation combined with meaningful developer security deposits—but this would be an improvement and a simple way to comply with the above-quoted language.

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.

SOLAR LANDSCAPE RESPONSE:

We support that recommendation.

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?

SOLAR LANDSCAPE RESPONSE:

The preferred siting categories of the Pilot Program should be carried forward to the Permanent Program.

Solar Landscape’s market research shows that, as of 2021, New Jersey has nearly 3,600 commercial/industrial buildings with footprints of at least 100,000 square feet; but only 230 (or about 6%) of those buildings have rooftop solar. In terms of pure square footage, there is more than 650 million square feet of unrealized solar panel potential on New Jersey’s large buildings. That is enough roof space for 7.6 gigawatts of community solar.

Thus, there is an extreme over-abundance of prospective projects on preferred sites, including hundreds of megawatts with existing site control that were not awarded in the Pilot Program and

hundreds of more megawatts with existing site control that have been developed since the application deadline for the last round of the Pilot Program.

Accordingly, there is no reason to add other types of preferred siting (e.g., dual-use farm projects) for purposes of community solar.

That said, Solar Landscape is excited to participate in the Dual-Use Pilot Program and will likely support the idea of allowing projects approved in that program to sell community solar electricity, as long as those projects do not count against the megawatts earmarked for community solar. In other words, just as a rooftop or landfill project will not be allowed to take megawatts from the Dual-Use Pilot Program, a Dual-Use-Pilot-Program project should not be allowed to take megawatts from the community solar program (even if the Dual-Use Pilot Program ultimately allows dual-use farm projects to sell electricity in the form of community solar bill credits). The very fact that a dual-use farm “Pilot Program” is slated underscores that dual-use farms should not be added as a preferred siting category for the community solar “Permanent Program” (i.e., the place for testing the viability of dual-use farm projects is in its Pilot Program, not in the Community Solar Permanent Program after three years of a Community Solar Pilot Program that did not include dual-use).

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?

SOLAR LANDSCAPE RESPONSE:

*With respect to changing interconnection standards and processes, it is more important here to say what should not be done. Several out-of-state companies and the lobbying groups they control (all of whom have little or no experience in New Jersey community solar) are arguing for a first-come-first-served process that would require EDC interconnection approval as a prerequisite. **This would kill New Jersey’s community solar program.** Here is why:*

Solar Landscape estimates that over a gigawatt of prospective community solar projects will be under site control by fall of 2022 (i.e., the 650 MWs that lost in the last round of the Pilot Program plus all the new projects developed since the application deadline for the last round). Accordingly, if the Permanent Program requires interconnection approval as a prerequisite for applying, the EDCs will be immediately flooded with over a gigawatt (1000 MWs) of interconnection applications. The EDCs are not prepared to handle anywhere near this many interconnection applications.

For context, Solar Landscape submitted its interconnection applications for 51 MWs of approved Year 2 Pilot Program projects within a week of receiving awards on October 28, 2021. As of the date of these comments—more than six months after submitting our interconnection applications—we have still not received a response on more than 17 MWs of projects, despite regularly prodding the EDCs. (These are good projects that, per our own due diligence, should ultimately receive interconnection approval; so this is a product of EDCs lacking the resources to review interconnection applications at a faster pace.) For sake of an extremely conservative estimate, assume that in the past 6 months, the EDCs have reviewed all Year 2 Pilot Program interconnection applications other than Solar Landscape’s outstanding 17 MWs – i.e., 148 MWs in six months.

(Year 2 awarded roughly 165 MWs total.) At that pace (which, again, is based on a very unrealistic assumption that increases the pace), **it would take the EDCs roughly 3.5 years to review the gigawatt of applications that will be ready by fall 2022.** This would kill the community solar program and should not be an option.

Relatedly, it bears noting that with the multi-year delay at PJM, delaying the community solar program by several years at the EDC level would leave New Jersey with no options for near-term, large-scale solar development. This also should not be an option.

Instead, with respect to interconnection, the Permanent Program should continue with the rules of the Pilot Program with the following addition:

- Every awarded project should be required to post a substantial security bond (e.g., \$40,000 per MW) to be forfeited if the project is ultimately scrubbed, including if it fails for interconnection; but projects should also be allowed extensions (including on REC deadlines) to the extent of EDC delays in reviewing interconnection applications.

In conjunction with this additional rule, the Board should encourage the EDCs to improve their interconnection review processes; but even without any such improvements, in most cases, solar developers can get a good sense of interconnection viability and likely upgrade costs by conducting careful due diligence and making conservative assumptions on a project-by-project basis without EDC involvement. The risk of forfeiting a substantial amount of money upon project failure (whether for interconnection or otherwise) would encourage developers to conduct that careful due diligence and to make those conservative assumptions before submitting an application.

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

SOLAR LANDSCAPE RESPONSE:

The Board should incentivize large-scale batteries to help minimize negative impacts to the distribution system and to maximize grid benefits.

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.

SOLAR LANDSCAPE RESPONSE:

The Pilot Program's project selection process should be carried forward to the Permanent Program, with two key changes: (1) each applicant should pay a substantial, non-refundable application fee at the time of application (at least \$1,000 per MW), and that money should be used to fund a third-party consultant or additional Board staff to review the annual applications in a timely manner; and (2) each review process should award two years' worth of projects, so as to get a "two-for-one" deal on the time and money spent reviewing applications.

The various criteria for the Pilot Program are transparent and easily verifiable. Applicants complaining otherwise chose not to invest the time and money necessary to make competitive applications and/or chose not to sacrifice economics by agreeing to higher-scoring options that benefit NJ residents (e.g., higher discounts). Those are business decisions deliberately made by

sophisticated companies. Those same sophisticated companies now complain of a lack of transparency and verifiability in an effort to get a first-come-first-served process that would allow them to play solar lottery tickets in New Jersey (while they simultaneously choose to focus their investments in other states). All of the above is underscored by the fact that multiple companies have won multiple projects – i.e., there is no code to crack because the scoring rubric specifically states how to score points. The Board has very plainly spelled out the formula for a winning application; and that formula requires substantial investment in New Jersey communities (rightly so).

*The Pilot Program’s competitive solicitation process accomplishes two key goals that benefit New Jersey residents. **First**, the competitive solicitation’s scoring rubric aims to award projects that are most likely to succeed. Namely, the scoring rubric gauges (a) whether projects will achieve commercial operations and (b) whether projects will succeed in obtaining subscribers (e.g., by awarding points to projects that collaborate with local communities, nonprofits, and government officials, all of which increase the project’s likelihood of getting subscribers, and particularly LMI subscribers). New Jersey’s residents can only benefit from community solar projects that are ultimately turned on and subscribed, so awarding feasible projects and rejecting infeasible projects is key. Solar Landscape’s eight Pilot Year 1 projects are a testament to the effectiveness of the scoring rubric: they were among the highest scoring applications; they have all achieved commercial operations; and they are all either fully subscribed or almost fully subscribed. **Second**, the competitive solicitation’s scoring rubric effectively incentivizes applicants to offer greater savings to consumers and more benefits to communities. For example, in order to score more points on its Year 2 applications (and because we love New Jersey), Solar Landscape is offering bill-credit discounts up to 30%, is giving car-chargers to site hosts, and is providing free solar job-training throughout New Jersey.*

The only legitimate downside of the competitive solicitation is that reviewing applications is costly and time consuming. But that downside can be mitigated by the following two simple changes:

A. Charge Application Fees and Use Those Fees to Fund Reviewers:

- Applicants to the Permanent Program should be charged substantial, non-refundable application fees (at least \$1,000 per MW), which should be used to fund a third-party consultant or additional Board staff dedicated to reviewing and scoring applications.*
- For example, in Year 2 of the Pilot Program, which saw 800 MWs of applications, a \$1,000 per MW fee would have left the Board with an \$800,000 budget to hire dedicated reviewers.*
- This would enable faster and more efficient application review.*
- Such fees would also discourage developers from submitting meritless applications.*

B. Award 300 MWs from Each Round of Application Review:

- The Board can get a “two for one” deal on the time and money spent reviewing the applications by awarding two years (i.e., 300 MWs) of community solar projects from a single review.*

- *Importantly, this is not a request for more budget or cost cap. Rather, this is merely a way to double the efficiency of a single review.*
- *With respect to the next application round, this is particularly important. Aside from making the review process more cost-efficient, awarding 300 MWs from the next application round would enable the community solar program to get back on track from a budgeting/cost-cap perspective. Specifically, community solar is a year behind schedule: the Board allocated 150 MWs of SREC IIs for community solar projects in the current energy year (i.e., EY22, which expires May 31, 2022); but realistically, the next round of community solar projects will not be awarded until mid to late EY23 (which has a separate community solar budget of 150 MWs of SREC IIs). To get caught up, the Board would need either to cram two separate application reviews into a single year (which is not feasible) or else award 300 MWs from a single application review (which is feasible and would save money).*
 - *On the other hand, foregoing EY22's community solar budget (i.e., 150 MWs of SREC II projects) is not an option at all, because:*
 - *Losing a whole year's worth of community solar projects would cause New Jersey residents to miss out on millions of dollars per year in savings. By way of example, Solar Landscape estimates that its 51 MWs of projects from Year 2 of the Pilot Program will save residents roughly \$1.75 million per year for twenty years.*
 - *Community solar is the most immediate and realistic means of interconnecting the large-scale solar projects that are essential for achieving New Jersey's clean energy goals. By contrast, grid-scale projects are on a multi-year backlog with the PJM.*

By contrast, a first-come-first-served process would (a) eliminate the competitive program's benefits (i.e., prioritizing the most-likely-to-succeed projects and incentivizing consumer benefits) and (b) if combined with a requirement for interconnection review prior to submission would likely kill the community solar program (see response to Question 5 above). And the only upside of a first-come-first-served process would be avoiding the cost and time consumption of application review. That is a terrible trade off, particularly given the above solutions for saving money and time in the competitive solicitation.

Please see response to Question 5 above for the problems created by a first-come-first-served process that requires interconnection review prior to submission. Alternatively, without the requirement of pre-submission interconnection review, considering the known excess of applications (1,000 MWs by fall 2022), a first-come-first-served process would entail awarding projects to whoever can click "submit" the fastest (or to whoever can program the best e-robot to click submit the fastest, which apparently is what happened in a California first-come-first-served solicitation). This lack of quality control would lead to fewer operational community solar projects and, in turn, fewer benefits for New Jersey residents.

Proponents of a first-come-first-served model argue that creating high barriers to entry would ensure quality control of projects, but that is wrong. As discussed in response to Question 5, a high-entry barrier of pre-submission interconnection review by the EDCs would delay the program by several years (which could kill the program); and other supposedly high entry barriers that are sufficiently binary to eliminate the need for qualitative review are not high barriers at all. For example, the 650 MWs of applications that lost in Year 2 of the Pilot Program should all be able to check the right binary boxes to qualify for a first-come-first-served process that does not require interconnection approval. Furthermore, high barriers to entry do not solve for the problem that a first-come-first-served program would kill the competitive solicitation's ability to incentivize developers to maximize benefits for New Jersey residents and communities. For example, if Year 2 of the Pilot Program had been a first-come-first-served program with a high-entry barrier requiring 20% discounts off bill credits, Solar Landscape could not have instead committed to offering some customers (e.g., first responders and veterans) a 30% discount. In other words, the purportedly high barrier to entry in a first-come-first-served model becomes a ceiling on consumer benefits, whereas the competitive solicitation incentivizes consumer benefits in an uncapped manner.

Furthermore—and importantly—moving to a first-come-first-served process would be a categorical departure from the Pilot Program, which would defeat the Pilot Program's purpose of serving as a test process to be incrementally adjusted. We are three years and two solicitations into New Jersey's community solar program. In that time, New Jersey has become one of the most in-demand markets (if not the most in-demand market) in the country. For all the developers arguing that this program is untenable, there certainly are a ton of projects being developed. And relatedly, the New Jersey program is being emulated in other markets (e.g., Illinois is opening a competitive scoring process after years of a problematic lottery). Now is not the time for New Jersey to start from scratch with a categorically different project-selection process (particularly not one that other markets are moving away from). And notwithstanding the "Permanent" Program's name, the Board can revisit the rules every few years to continue making incremental changes.

Lastly, in reviewing comments promoting a first-come-first-served process, please note the non-response to the question about the disadvantages of same. Ignored reality is nonetheless reality.

In sum, the competitive solicitation process is best for New Jersey and its residents. The expenses of the competitive solicitation should be borne by developers in the form of significant, non-refundable application fees. And the problem of timing should be solved by using application fees to fund dedicated reviewers and by awarding 300 MWs from each review process.

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?

SOLAR LANDSCAPE RESPONSE:

No – the board should not implement a waitlist. Instead of a waitlist, as discussed further in response to Question 1 above, unused and scrubbed REC (i.e., TREC or SREC II) budget from prior rounds of community solar (including scrubbed projects from the two rounds of the Pilot

Program and the completely unused EY22 SREC IIs) should be added to future rounds of the community solar program as additional megawatts based on the applicable REC values.

By contrast, a waitlist would be time consuming and complicated and lead to relatively bad projects being awarded. Namely, assuming a new solicitation is conducted each year and that the Permanent Program implements the same deadlines as the SREC II program (i.e., 18 months plus a possible 6 month extension), in most instances, the Board would not learn of scrubbed projects until at least 18 months after those projects were awarded. Accordingly, in all likelihood, the waitlisted projects from the same application round as the scrubbed projects would have already applied to the intervening year's program by the time of the scrub; and assuming such waitlisted projects were near misses in the prior year, they would likely be awarded in that intervening year. The result would be a ratcheting down effect, where the only projects remaining on the waitlist at the time of the scrub would be relatively low scoring projects (i.e., projects that lost for two consecutive years). Another issue with this approach is that not all projects would have site control 18 or 24 months after being put on a waitlist; so the Board would need to go through a complicated call and response process to confirm same (i.e., call the next project on the waitlist to see about site control, and continue down the list if there is no site control).

Rolling forward unused REC budget is the simple solution to this problem.

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?

SOLAR LANDSCAPE RESPONSE:

On this issue, the Pilot Program's rules should be carried forward to the Permanent Program with one important addition:

Projects should be required to have an EPC (engineering, procurement, and construction) contract as a prerequisite for applying to the program. Without an EPC contract, the timing and expense of the project for the developer is unpredictable. Had this requirement existed in the Pilot Program, the Year 1 Pilot Projects that are (presumably) on the verge of being scrubbed probably would not have been awarded. Adding this requirement would be in line with the REC registration process for community solar to date, which has required proof of an EPC contract.

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

SOLAR LANDSCAPE RESPONSE:

So far, we have only registered community solar projects for TRECs. Assuming the ADI Program's SREC II registration process is the same (or substantially similar), we have no suggested changes.

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?

SOLAR LANDSCAPE RESPONSE:

Maintaining the Pilot Program's competitive scoring process would ensure that developers continue to commit to serving LMI subscribers. In terms of enabling developers to perform on those commitments (i.e., actually getting LMI people subscribed), it is absolutely essential that the Board allow LMI verification by self-attestation. Please see response to Question 12 below for more on this issue.

The Board should do a marketing campaign around community solar. For example, the Clean Energy Program's television commercials with the buzzing bee could be redone with a focus on community solar. A significant hurdle for community solar is that the product sounds too good to be true (even though it is true) (i.e., at least for Solar Landscape's product offering, there is guaranteed savings and the ability to cancel any time without penalty). Marketing from the Board would confirm the legitimacy of the community solar product in many consumers' eyes.

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?

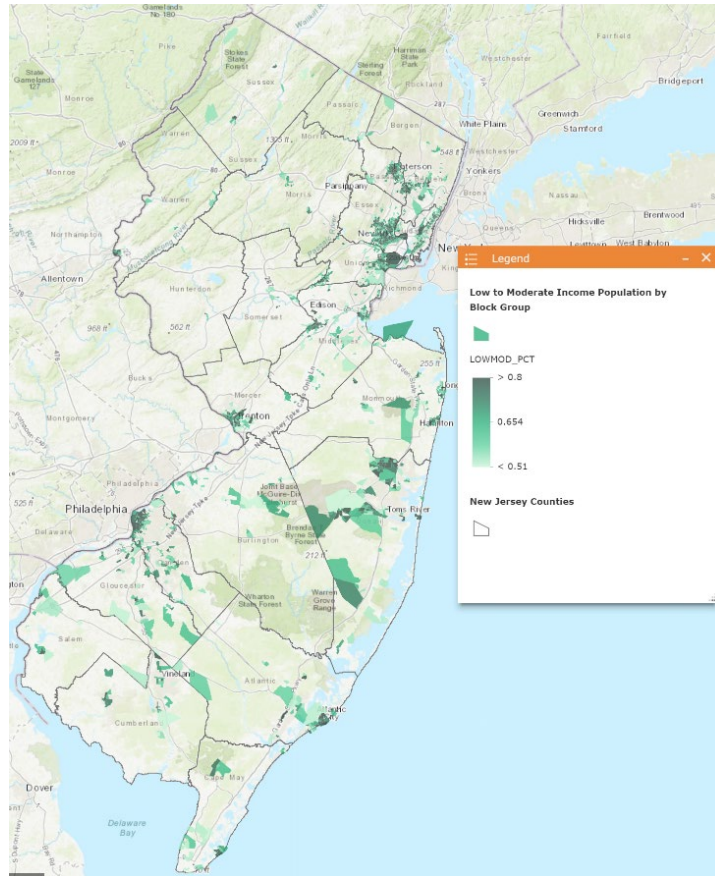
SOLAR LANDSCAPE RESPONSE:

Yes. New Jersey has by far the most aggressive LMI requirements in the country (and probably in the world) (i.e., 51% of all community solar for the foreseeable future is reserved for LMI); and LMI verification by self-attestation is the only realistic way to verify the enormous number of LMI people that the program requires. This should be combined with a requirement for project owners to post meaningful security deposits that could be drawn by the Board in the event of fraud.

To date, the Board has awarded over 225 MWs of community solar projects, all of which are required to sell at least 51% of their electricity to LMI households. At a pace of 150 MWs per year (and assuming the trend of LMI projects continues), there will be over a gigawatt of LMI projects awarded by EY27, which will require verifying roughly 80,000 LMI households. And if passed, the Clean Energy Equity Act would require 250,000 LMI households receiving clean energy by 2030.

Considering these numbers, New Jersey needs to allow subscribers to qualify as LMI via self-attestation; and for each such self-attesting subscriber, the project owner should be required to post a security deposit that could be drawn by the Board in the event of fraud. From the project developer/owner perspective, such security deposits would be well worth eliminating the substantially increased costs of requiring customers to provide proof of LMI status. And from New Jersey's perspective, such security deposits would deter bad actors (or else lead to additional funding if a developer nonetheless committed fraud).

The alternatives to LMI verification by self-attestation are not feasible. For example, the recently amended rules for Year 2 of the Pilot Program provide no way to verify moderate-income subscribers on a case-by-case basis. Rather, all the LMI categories listed in NJAC 14:8-9.8(d)(2)(i) are associated with having low or very low income. Thus, under the current rules for Year 2 of the Pilot Program, a moderate-income person could only be counted toward a project's LMI quota by living within a qualifying census block group, as per NJAC 14:8-9.8(d)(2)(ii); but such qualifying block groups are extremely uncommon, as shown by the New Jersey Community Solar PV Siting Tool, which depicts qualifying block groups on the following map in only the darkest shade of green (whereas the lighter shades of green do not meet the qualifying definition):



Accordingly, the Year 2 Pilot Program rules have effectively eliminated the moderate-income category, which is a problem for Year 2 Pilot Program projects, all of which committed to selling 51% electricity to low-income or moderate-income subscribers.

In addition to allowing verification by self-attestation, the Board should allow anyone in an overburdened community to automatically qualify as LMI. To be sure, though, that alone would not come anywhere close to meeting the necessary demand for LMI verification; so auto-qualification by geography is not an alternative to self-verification.

In sum, New Jersey cannot meet its ambitious LMI enrollment goals without a simple, scalable, and reliable method for LMI verification. Self-attestation combined with meaningful developer security deposits is the only realistic solution.

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”? (FN: N.J.S.A. 48:3-116(c)(3)).

SOLAR LANDSCAPE RESPONSE:

The Board should allow anyone in an overburdened community to automatically qualify as LMI. As discussed above, such auto-qualification alone would not solve the LMI-verification challenges New Jersey faces—which can only be solved via self-attestation combined with meaningful

developer security deposits—but this would be an incremental improvement and a simple way to comply with the above-quoted language.

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).

SOLAR LANDSCAPE RESPONSE:

The Pilot Program’s approach to geographic limitations should be carried forward to the Permanent Program, with one important change: any project—regardless of its choice of geographic limitation—should be allowed to subscribe LMI people from overburdened communities anywhere within the EDC.

The local focus that is incentivized by the Pilot Program rules encourages developers to forge relationships with local communities. These local relationships make projects more likely to get subscribed by the people in the community, and that should continue to be incentivized; but there are also people in overburdened communities throughout the state who should be allowed to reap the benefits of community solar, regardless of whether projects are located in or adjacent to their communities. Limiting this exception specifically to overburdened communities would incentivize developers to invest in those communities in addition to investing in the communities where projects are located.

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?

SOLAR LANDSCAPE RESPONSE:

There should be an exception to the 10-subscriber minimum for projects that subscribe master-metered affordable housing. For example, if a project’s entire capacity can be taken up with a single master-metered affordable housing complex (i.e., LMI housing), that project should be allowed to give all of its capacity to that affordable housing complex. The 250 subscriber per MW maximum does not seem to be an issue one way or another and could thus be eliminated to simplify the rules; but we do not have a strong opinion on that.

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

SOLAR LANDSCAPE RESPONSE:

We have no proposed changes here.

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?

SOLAR LANDSCAPE RESPONSE:

As an initial matter, opt-out should not be allowed until consolidated billing is setup. If a town conducted community solar opt-out prior to consolidated billing, consumers who did not pay attention to the opt-out notice would receive surprise bills from their unknown community solar provider. Those consumers would not pay those bills (which would be completely understandable); and those surprise bills would give the entire community solar program a very “scammy” feel (which we have worked hard over the past three years to avoid). Once consolidated billing is in place, these would no longer be issues; and at that time, the Board should allow opt-out.

That said, the proposed opt-out rule amendment is unnecessarily complicated and untenable. There is no reason to require municipal ownership of a project as a prerequisite for opt-out; and such requirement would make project development and project financing extremely difficult (if not impossible in some instances). This proposed rule has also created confusion among some towns (e.g., one town was reluctant to collaborate on subscribing residents for already approved community solar projects because they thought doing so would somehow negatively impact their ability to take advantage of this complicated proposed opt-out rule).

A much simpler and more effective approach for opt-out would be as follows: (a) any town that wants to do opt-out community solar would conduct an RFP; (b) the RFP would allow any Board-approved community solar project that has the right to sell community solar electricity in that town to participate in the opt-out program at whatever discount the town requires; and (c) that process could repeat to allow in new projects after every new round of community solar approvals until the town’s capacity were full. Prioritizing LMI residents in this opt-out process would also make sense.

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?

SOLAR LANDSCAPE RESPONSE:

The “banking” time-limit for unallocated bill credits should run from the date each bill credit is generated, rather than running from the project’s commercial operation date. (Solar Landscape and other companies have read the Pilot Program rules to mean that the banking time-limit does run from the date of bill-credit creation, rather than from commercial operation; but we understand that is not how the Board reads that rule and currently have a petition pending on this issue.) We also recommend that the time-limit for banking change from one year to two years. These changes would make effective bill-credit management more feasible, which ultimately benefits New Jersey residents (i.e., residents don’t get the benefits of community solar when the bill credits are ultimately unallocated and reimbursed for wholesale).

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

SOLAR LANDSCAPE RESPONSE:

Master-metered affordable housing complexes in PSEG have an untenably low bill credit. Those bill credit values should be increased so that the LMI people in those master-metered buildings can get the benefits of community solar.

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?

SOLAR LANDSCAPE RESPONSE:

We agree that consolidated billing should be handled by the EDCs.

From the perspective of billing implementation and administration, EDC Consolidated Billing presents the most efficient, transparent, and simplest approach, largely because the EDC already has the billing relationship with the customer. EDC Consolidated Billing will remove a major obstacle to subscriber participation in the community solar program and will make it easier for subscriber organizations to enroll customers. From a subscriber's perspective, EDC Consolidated Billing will simplify the billing and payment process, clarify the benefits of participating in community solar, and increase consumer protection by only requiring payment information to be shared with one billing entity. From the perspective of community solar financing, consolidated billing will, by removing an obstacle to enrollment, allow for greater predictability for financiers and grow enrollment. Moreover, EDC Consolidated Billing (as opposed to non-EDC Consolidated Billing) is preferable for financing purposes because the utility company is more bankable (e.g., less at risk of bankruptcy) than the entities that would offer non-EDC Consolidated Billing (which would inevitably include "startup" companies, some of which may fail, thereby adding to the confusion for any customers whose consolidated bills were provided by such startup).

We further recommend that the consolidated billing system should address nonpayment and late payment by making such losses the responsibility of the EDC. We believe that participation in community solar does not increase the likelihood of non-payment by an EDC customer, and may in fact reduce the likelihood of non-payment by virtue of reducing the amount billed. As a result, we believe that the EDC assuming non-payment risk for community solar—where it would already have assumed that risk to an equal or greater extent without community solar existing—is a fair and simple solution. The EDC should pay the full amount due to the community solar project and socialize non-payment and late payment of any particular customer over its entire customer base—just as it would with any other non-paying or late-paying customer. Because of this much larger customer base and a natural information advantage on historical non-payment, we believe the EDCs are clearly best positioned to manage and absorb this risk. This structure would also allow for the complete exclusion of credit or income considerations when subscriber organizations are acquiring subscribers, which would encourage LMI enrollment and facilitate financing. We finally also recommend that there should be no fee for using consolidated billing, but that any administration costs for the EDC also be socialized into its rate base to the extent allowable. This approach is warranted because community solar providers generate clean/renewable electricity

that disproportionately benefits New Jersey's LMI residents, which should be incentivized over electricity that is not clean/renewable and/or does not benefit LMI residents.

21. Please provide comments on any issues not specifically addressed in the questions above.

SOLAR LANDSCAPE RESPONSE:

Thank you!