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New Jersey Board of Public Utilities

c/o Board Secretary Aida Camacho

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Re: Comments Regarding Docket No QO22030153 - IN THE MATTER OF THE COMMUNITY SOLAR ENERGY PROGRAM

Dear Secretary Aida Camacho and Commissioners,

CS Energy is pleased to submit the following comments on the permanent Community Solar Energy Program ("Permanent Program"). We have greatly appreciated having the opportunity to actively participate in the Community Solar Pilot Program and found success in the program as a project developer and EPC services provider.

Headquartered in Edison, NJ, CS Energy is the industry-leading engineering, procurement, and construction (EPC) energy firm that designs and builds optimized projects in solar, energy storage, and emerging energy industries. We have been a long-standing participant in the NJ markets since 2007 and have installed many flagship projects in the State including the largest single interconnection project under Subsection (r), multiple subsection (t) projects, along with an operational PY1 Community Solar Project, the Linden Hawk Community Solar Project. CS Energy has successfully designed and installed over 1.35 GW of solar projects across the United States, including nearly 300 MW's in NJ. Additionally, we have 216MW of experience nationwide developing, permitting, and constructing solar projects situated on landfills and other contaminated lands, 108MW of which have been NJ projects. Many of our comments draw on our extensive experience in the landfill markets. We are proud to be a part of the fight against climate change and of NJ's transition to a cleaner future.

A primary goal of the Solar Act of 2021 (the "Act") is to encourage solar development on contaminated lands and landfills, and we are writing today to ensure that specific considerations are made by the NJBPU in development of the Permanent Program to facilitate development of projects on

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contaminated lands and landfills. We believe that if these specific considerations are not made with respect to these types of sites then the State will see virtually no community solar projects constructed on contaminated sites and landfills. It is therefore imperative that staff carefully consider this issue to ensure these important projects have a path forward.

CS Energy is a participating member of the New Jersey Solar Energy Coalition (“NJSEC”) and SEIA and has collaborated with these organizations in development of their comments. We are supportive of the joint comments submitted by these organizations, but our experiences and resulting opinions are in some cases different than that of the trade organization’s consolidated comments. Therefore, we are submitting separate comments to highlight our recommendations given our unique experience in community solar projects on contaminated lands and landfills.

I. COMMENTS ON PROGRAM DESIGN AND ELIGIBILITY

- 1.1 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)?*

CS Energy agrees with the comments submitted by NJSEC and SEIA, which suggest a roll over mechanism for scrubbed capacity, but would also strongly recommend that preferred projects that have experienced legitimate delays be granted extensions in a straightforward process.

This is especially true for the contaminated site or landfill segment. These projects are inherently more complex than other preferred project types and there are unique factors that could extend a prudent development timeline for this segment. Despite best efforts by developers, projects in this segment can often have extended timelines due to complex state, local and federal permitting requirements, and extensive environmental studies with seasonal constraints.

- 1.2 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.” How should any blocks address this requirement?*

CS Energy agrees with NJSEC and SEIA’s recommendation to split blocks by EDC, but we strongly recommend that the Board establish a separate allocation for community solar sited on contaminated sites or landfills.

Many of the projects awarded in PY1 and PY2 of the Community Solar PILOT went to rooftop community solar applications. We are supportive of the success that the rooftop sector has brought towards New Jersey's solar goals. However, contaminated lands and landfills are a priority for the Act and should also be a focus of the Permanent Program. Environmental Justice is a key tenet of the Community Solar program and contaminated sites and landfills, or large brownfields, have historically been located amongst industrial districts with disenfranchised LMI residential communities only blocks away, if not closer. This is a result of decades of poor environmental planning and practices in our densely populated state. Transforming these sites into clean energy is an important step towards providing Environmental Justice to these communities.

To accomplish this, the Board must acknowledge that community solar projects on contaminated lands and landfills are at a competitive disadvantage to rooftop projects, due to the complex permitting challenges and longer construction timeframes. Separate allocations for contaminated sites and landfills would allow these projects to compete head-to-head against projects with similar constraints as seen in Maryland's community solar PILOT or on a more equal economic footing as seen in Massachusetts SMART program.

Additionally in our extensive work throughout NJ we find that contaminated sites and landfills are often less than fifty acres in size. Sites this small are ideal for the 5MW size restriction associated with community solar project but are likely to have a difficult time being competitive in the CSI program due to economies of scale benefits that accrue to larger projects and extra construction costs associated with ballasted systems. If the State is looking to encourage redevelopment of these properties to "ensure that the environmental and public health benefits of solar electric power generation facilities on contaminated sites or landfills are recognized", as outlined in the Act, it's imperative that there is space allocated to them in the permanent community solar program.

In conclusion, we support a community solar program that supports a diverse set of high-quality projects that meet New Jersey's policy objectives. Rooftop solar is an important component of those objectives, however, we strongly recommend that the BPU establish separate allocations for projects sited on contaminated sites and landfills so that the State can fully realize the environmental justice benefits of solar energy development on these properties.

- 1.3 *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.*

CS Energy agrees with NJSEC and SEIA's recommendation.

- 1.4 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?*

CS Energy agrees with NJSEC and SEIA's recommendation. We strongly prefer and a point scoring system for project awards that would likely effectively take into consideration many of the issues balanced by the CSI program Siting Straw Proposal. As discussed in our prior remarks, contaminated lands and landfills are often well positioned to benefit LMI subscribers and communities and often right sized for participation in community solar.

If the Board proceeds a first-come, first-served model similar as described in the original New Jersey Solar Successor Program Straw Proposal Option 2, it is even more important that the BPU establishes a separate allocation for projects sited on contaminated lands and landfills as we described in Section I.1 above.

Further we believe that dual use on agricultural lands could present strong and viable community solar projects that could incorporate many of the practices outlined in construction standards on agricultural resource soils from the CSI program. We could see the marketing of community solar subscriptions for dual use projects as of significant interest to many ratepayers. However, dual use community projects should be granted an allocation that is incremental to the 150MW annual community solar goal, so that projects can be fully inclusive of the forthcoming recommendations and guidelines developed by BPU staff for the Dual Use program. Dual use community solar projects should be granted an incremental incentive to accommodate the increased costs associated with these projects.

- 1.5 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?*

CS Energy agrees with NJSEC and SEIA's recommendation.

- 1.6 What measures should the Board implement to minimize negative impacts to the distribution system and maximize grid benefits?*

CS Energy agrees with NJSEC and SEIA's recommendation.

II. PROJECT SELECTION

II.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.

In contrast to NJSEC, SEIA, and CCSA's suggestion, CS Energy strongly supports a solicitation-based structure for the program is the best way for the BPU to both ensure that projects meeting the priorities of the Act are selected and advanced through the Permanent Program, and to ensure that some measure of project viability can be assessed by the BPU to limit project attrition and speculative development.

The main challenge faced by the successful Pilot Program was the level of interest and subsequent burden of review placed on BPU staff. Streamlining the review process by further standardizing project assessment and reducing application requirements is necessary to ensure certainty for the development community. We recommend that BPU develop an online webform that clearly links submissions by developers to the BPU's Community Solar Scorecard. A simpler process for aggregating scores and comparing projects would help BPU more quickly process applications. Our understanding is that the Pilot Program required extensive review of written proposals and application forms for BPU to arrive at its conclusions to support awards. We also recommend that the BPU requires applicants to make a meaningful application deposit to ensure that any projects that apply are being proposed by companies with sufficient capital required to see the projects through to completion. This has the dual benefit of ensuring only legitimate projects apply and reducing attrition rates for those projects that are ultimately awarded.

II.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?

CS Energy agrees with NJSEC and SEIA's recommendation.

II.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?

CS Energy supports objectively clear project maturity standards. Reiterating our stance on the importance of contaminated lands and landfills and the importance of those projects to the interests outlined in the Act, projects on these lands should not be subject to the same maturity requirements and not be subject to the same construction COD deadlines as other projects in the program. These projects are often characterized by lengthy and costly studies, complex engineering design efforts, and extensive engagement with various federal, state, and local regulators. It is critical for projects on contaminated lands and landfills to be able to secure the certainty represented by a community solar award for the development community to move these projects forward. To be clear we do not believe that non-ministerial permits should be a maturity requirement for projects on contaminated lands or landfills.

As an alternative to these maturity requirements, we believe that a feasibility study produced by a qualified engineer that characterizes the site's condition, confirms its suitability for solar, and describes the projected permitting and construction process for site is a more reasonable bar to set for such projects. This simple step would improve the quality of applications and would provide the BPU with greater certainty of success for awarded projects sited on contaminated lands or landfills while at the same time providing developers with the certainty required to justify the significant incremental time and cost investment in developing these complex but important sites. The reality is that contaminated lands and landfills are much more expensive and time-consuming development endeavors when compared to a rooftop solar array, and, while both project types are equally important, they need to be evaluated differently.

If the Board does not adopt such application standards for landfill / contaminated site, they must at minimum be willing provide extended COD deadlines for such projects to the extent they are delayed due to the complexities that are inherent to these types of projects.

If the Board proceeds with a first-come, first-served model similar as described in the original New Jersey Solar Successor Program Straw Proposal Option 2, it is even more important that the BPU establishes a separate allocation for projects sited on contaminated lands and landfills as we described in Section I.1 above.

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

CS Energy does not have any suggested changes at this time.

III. COMMENTS ON LOW AND MODERATE INCOME ACCESS

III.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?

CS Energy agrees with NJSEC and SEIA’s recommendation.

III.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

CS Energy agrees with NJSEC and SEIA’s recommendation.

III.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”?

CS Energy agrees with NJSEC and SEIA’s recommendation.

IV. COMMENTS ON COMMUNITY SOLAR SUBSCRIBERS

IV.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).

CS Energy agrees with NJSEC and SEIA’s recommendation.

IV.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?

CS Energy agrees with NJSEC and SEIA’s recommendation.

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

CS Energy does not have any suggested changes at this time.

IV.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?

CS Energy agrees with NJSEC and SEIA's recommendation.

V. COMMENTS ON COMMUNITY SOLAR BILL CREDITS

V.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?

CS Energy agrees with NJSEC and SEIA's recommendation.

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

CS Energy does not have any suggested changes at this time.

V.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?

CS Energy agrees with NJSEC and SEIA's recommendation.

VI. OTHER COMMENTS

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

CS Energy has no further comments and agrees with NJSEC and SEIA's recommendation.

Conclusion

As a leading solar developer and EPC of landfill and community solar projects in New Jersey we are highly knowledgeable and informed of the challenges associated with these project types. Contaminated lands and landfills present a unique opportunity to deliver environmental justice to the communities in which they are located by remediating and redeveloping otherwise blighted properties into productive renewable energy facilities that can have a meaningful financial impact to the surrounding community. However, the complicated design and permitting process associated with such projects make them more expensive and require more time to successfully develop and construct when compared to other types of projects. To achieve the added environmental benefit of landfill and contaminated community solar sites, the Board must consider these challenges and allow for a separate allocation and unique requirements for such projects. The Subsection (t) projects were a huge success in deploying landfill solar in the State as was the Community Solar Pilot Program. The permanent Community Solar Program is an incredible opportunity to build on those programs' successes and even more directly impact the communities in which these landfills and contaminated sites are located.

We look forward to learning more about the permanent Community Solar program as staff releases additional proposals around the program's wider design and would welcome the opportunity to engage further on the comments we have brought forward as part of this submission.

Sincerely,



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