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May 15, 2023

Sherri Golden
Secretary of the Board
New Jersey Board of Public Utilities
44 South Clinton Ave
Trenton, New Jersey 08625

**Re: Docket No. QO22030153 - Community Solar Energy Program
Comments from North Jersey District Water Supply Commission**

Dear Secretary Golden:

The North Jersey District Water Supply Commission (the “**Commission**”) greatly appreciates the opportunity to provide comments on the BPU Staff Straw Proposal for the Community Solar Energy Program (the “**CSEP**” or “**Straw Proposal**”). The Board deserves credit for the success of the CSEP, and the Commission looks forward to the establishment of a permanent community solar program that can continue delivering on the promise of clean energy equity within New Jersey.

Overall, the Commission believes the Straw Proposal includes the key components for a successful permanent community solar program, and applauds Staff for proposing significant improvements to the structure of the pilot program. The Straw Proposal takes key elements from the pilot—such as the commitment to serving 51% LMI, and a preference for projects on preferred sites—and adopts those, while incorporating important changes, such as to the LMI verification requirements, and replacing the inefficient RFP scoring process with a maturity-based qualification system that will lead to more community solar projects succeeding.

While we support the bulk of the proposed rules, the Commission does have concerns about some elements of the Straw Proposal. In consequence, we respectfully recommend the following clarifications and additions.

Co-location Should Be Allowed up to 10 MW

Co-location should continue to be allowed up to 10 MW, as that was the standard under the Pilot Program. At a minimum, projects which were approved by the BPU during the Pilot program, but which did not meet their construction deadlines due to the complexities of permitting and building on certain sites (e.g., landfills, reservoirs, etc.) and which have incurred significant development costs, should be allowed to co-

locate under the permanent CSEP. We appreciate that the Board has created a no cap restriction on these projects, but would ask that the same consideration be given for co-located projects which will deliver the benefits of solar for the LMI communities they intended to serve during the Pilot program.

In consideration of the long-term impact of community solar in New Jersey, co-location creates greater scale that allows landfill, brownfield, and interconnection-hosting-capacity challenged projects, to be economically viable. These sites are likely to be at a disadvantage under the Straw Proposal, as rooftop projects lack the robust permitting requirements landfill and similar complex sites (e.g., floating solar upon a reservoir) have, as well as certain attendant costs, such as the cost of capping a landfill, or pulling new service from a substation for example. These complex sites provide an even greater benefit to local communities by maximizing the value of otherwise unproductive sites, improving the environmental impact of landfills and similar sites (even including reservoirs and similar water bodies), potentially increasing hosting capacity, and should be a robust part of the CSEP. Allowing co-location up to 10 MW is a middle ground approach that will enable more of these types of projects to participate in the CSEP, while deferring larger projects better aligned to the CSI program.

Tiebreaker Should Not Rely on Discounts

Further, the Commission respectfully urges the Board to reconsider the proposed tiebreaker protocol. While well-intentioned, the proposal to use discounts as the tiebreaker would likely have negative market implications. The Commission is concerned that to be competitive, projects would be incentivized to artificially overpromise discounts, only to fail to secure financing for their projects—thus leading to the kind of dropouts that the Board is seeking to correct in the CSEP program. Additionally, an unintended consequence of this methodology for awarding projects is that increasingly new community solar will chase higher discounts, prompting subscribers to legacy community solar projects to migrate to new community solar projects. If enough subscribers move, this could potentially cause legacy projects to fail economically. Instead, the Commission recommends that the Board rely on either the date of the submitted interconnection application, or the date of the executed interconnection agreement, as the standard for tiebreaking.

We also provide further context to our comments below, while also answering selected questions and topics as numbered by Board Staff in the Straw Proposal document.

1) Project size and co-location of projects

Issue: Should the Board permit co-location of a community solar project with another solar Installation?

The Commission respectfully recommends that the Board revisit the recommendation in the Straw Proposal to prohibit co-location, and instead to continue the current policy under the pilot which allows co-location up to 10 MW.

Through co-location, community solar projects are able to reach the scale necessary to make certain projects economically viable. Projects on landfills, brownfields, closed distribution circuits and other similar sites (including upon reservoirs or other water bodies) are more expensive and take longer to permit and construct, and may not be viable without added scale. For these types of projects, scale not only enables their viable construction and financing but also delivers tangible benefits to the local community (e.g., by closing or capping landfills, remediating contaminated sites, and/or opening new

electric hosting capacity for additional solar). Arguably, these community solar projects will deliver more value than just savings to subscribers, and therefore should be encouraged. Higher permitting and development costs (when compared to rooftop and similar solar projects), can be mitigated through the scale provided by co-location—thereby allowing more projects to move forward and offer competitive savings to customers of community solar.

Also, these projects are worth incentivizing, because the community benefits can be significant. In addition to the availability of local community solar, communities are able to turn liabilities and underutilized land and similar sites (including reservoirs and other water bodies) into assets. In addition, particularly for congested urban areas, these types of sites and locations may be one of the few ways to scale local solar access.

Additionally, we should note that community solar on the “built environment” will be artificially limited by definition as proposed under the Straw Proposal. Imposing an artificial 5MW cap is not in accordance with the State’s goals. Any site that meets the siting requirements should not only be encouraged, but rewarded. Several industrial and similar sites have ample capacity for renewable deployment (including by way of example, even the prospect of floating solar projects), and artificially limiting them based on common ownership and parcel arrangement will have the unfortunate consequence of limiting their potential use to fight climate change, reduce heat island effects and accelerate renewable deployment. For these types of sites, the 10MW cap we are advocating for could be imposed on a “per developer” or “per energy year” basis as a method for enabling solar deployment at these sites without conveying extraordinary returns to a developer, but also, without giving up on the use of desirable sites for hosting solar.

The Commission recommends that the Board continue to allow co-location up to 10 MW for those reasons. If the Board is committed to restricting co-location to 5 MW generally however, we would recommend that the Board consider some allowances. The Board could explicitly allow, for example, projects to submit requests for a waiver from this restriction, if they can demonstrate substantial community benefit for the project. In addition, the Board should consider allowing projects that originally submitted into the Pilot Program to continue under the previous co-location rules.

2) Project siting

Issue: 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 standards comparable to those in the Board’s proposed solar siting rules for community solar facilities? What should those standards look like?

The Commission supports the intent of the Straw Proposal to limit community solar development to projects on preferred sites. The list of eligible sites, however, misses the potential for other opportunities that achieve the State’s goals to prioritize solar development in the built environment.

Specifically, the Commission recommends that the Board allow for projects located on land that is zoned for commercial and industrial or similar type use and, in general, to follow the NJDEP’s Community Solar Siting tools. Projects located on land identified as preferred siting by the NJDEP should be eligible to participate in the CSEP. Sites identified as “indeterminate” should also be allowed, if accompanied by an NJDEP letter stating that it has reviewed the site, and determined the site and development plan are suitable for use as a community solar location.

Additionally, the Commission recommends that the Board adjust the proposed definition for “floating solar”. The current definition is vague, and is subject to the arbitrary disqualification of otherwise excellent sites for community solar. We recommend the Board take a more holistic and inclusive approach, recognizing that development on any State waters will still require NJDEP review and approval in either event. We therefore recommend that the Board allow projects sited on man-made, non-recreational bodies of water, and defer the question of how these bodies of water are suitable for floating solar to the expertise of the NJDEP. Note that New Jersey is currently a national leader in the use of floating solar technology, and we should continue to encourage this type of solar deployment with the oversight of NJDEP professionals best suited in assessing environmental impact thereof (maximizing positive impacts, and minimizing negative impacts). For example, floating solar at the right scale relative to the surface area of the body of water may have negligible impact to existing flora and fauna, and may provide valuable habitat for fish, reduce algal blooms, and reduce water evaporation, while also serving as a valuable community solar resource. Drinking water reservoirs and other strategically sensitive bodies of water that already preclude their use for recreational purposes (e.g., they are already fenced and offer no public access), are indeed valuable potential sites for community solar.

6) Application Process and Project Selection

Issue: How should projects be selected for participation in the Permanent Program? Should the Board consider creating a waitlist for non-selected projects?

Please comment on the proposed process for project registration. Do you believe using bill discount offering is an appropriate method to select projects, should there be more applicants than capacity available?

The Commission agrees with the structure proposed under the Straw Proposal. Aligning project maturity and the selection process is critical for an efficient program, and we believe this will be an improvement from the Pilot structure. The Commission also agrees that there should be no rolling waitlist for the Program, and that the Program should re-open to projects with each new capacity each energy year.

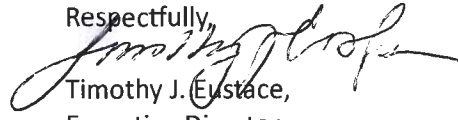
The Commission also agrees with the Straw proposal’s intent of having a tiebreaker, should the annual capacity fill up within the first ten days of opening. We respectfully disagree, however, with the proposal to use the billing discount offering as the method of selecting projects in that circumstance.

While at face value favoring projects that are providing the greatest discount to subscribers might make sense, it would likely lead to unintended market consequences. If a tiebreaker is reasonably expected, some developers will likely overestimate the discounts their projects can handle in order to secure capacity. For example, some projects may assume a higher level of ITC benefit under the Inflation Reduction Act than they are ultimately able to secure solely to get into the CSEP Program. In short, this tiebreaking structure will likely lead to the kind of speculative projects (and attendant speculation) that the CSEP program, taking a lesson from the Pilot Program, is designed to weed out.

Instead, the Commission recommends that the Board rely on project maturity, with either the date of a project’s interconnection application submission or the date the interconnection agreement is executed, to be the basis for a tiebreaker. To continue to provide greater value for customers, the Board could consider pairing this option with an increase to the standard discount, and require at least a 15% discount for all LMI customers.

Thank you for the opportunity to provide comment to the Board on these matters.

Respectfully,

A handwritten signature in black ink, appearing to read "Timothy J. Eustace". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Timothy J. Eustace,
Executive Director
North Jersey District Water
Supply Commission