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May 15, 2023

VIA ELECTRONIC MAIL
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Sherri L. Golden
Secretary of the Board
New Jersey Board of Public Utilities
44 South Clinton Avenue, 1st Floor
P.O. Box 350
Trenton, New Jersey 08625-0350

RE: In the Matter of the Community Solar Energy Program
BPU Docket No. QO22030153

**Comments of Atlantic City Electric Company to Community Solar Energy
Program Staff Straw Proposal**

Dear Secretary Golden:

The undersigned serves as Assistant General Counsel on behalf of Atlantic City Electric Company ("ACE"). Enclosed please find ACE's Comments in response to the New Jersey Board of Public Utilities ("BPU" or "Board") Staff Straw Proposal issued on March 30, 2023 in the above-referenced docket. ACE's comments address certain topics from Staff's narrative about the proposed Community Solar Energy Program parameters. ACE also attaches a mark-up of Staff's draft rule proposal as "Attachment 1".

Pursuant to the Board's directive, ACE's comments will be uploaded via the Post Comments button on the Board's Public Documents Search tool.

Thank you for your consideration. Feel free to contact me with any questions.

Respectfully submitted,

A handwritten signature in blue ink that reads "Solomon David". The signature is fluid and cursive.

Solomon David

Enclosure

COMMENTS OF ATLANTIC CITY ELECTRIC COMPANY
In the Matter of the Community Solar Energy Program
Docket No. QO22030153

Atlantic City Electric Company (“ACE” or the “Company”) appreciates the opportunity to offer comments on the Straw Proposal for the permanent Community Solar Energy Program (“Permanent Program” or “CSEP”) presented by Staff of the New Jersey Board of Public Utilities (“Board” or “BPU”) on March 30, 2023, in Docket No. QO22030153. ACE supports the development of a robust and successful Permanent Program with full participation from New Jersey electric distribution companies (“EDCs”). Connecting customers to solar and other clean energy sources is a top priority for the Company. ACE has helped nearly 50,000 customers adopt solar energy, totaling more than 550 MW to date. In fact, solar penetration in ACE’s service area has reached approximately 25% of net peak demand. ACE’s comments submitted here are based on its own experiences and from the lessons learned by its sister companies that have administered similar community solar programs in recent years, primarily Delmarva Power and Light Company (“Delmarva Power”) and Potomac Electric Power Company (“Pepco”). Please accept the following comments from ACE, which address certain topics from Staff’s narrative discussion of Permanent Program parameters and Staff’s draft rule proposal.

I. ACE’s Comments to Staff’s Proposed Community Solar Energy Program Parameters (Narrative)

A. (5) Qualifications for Project Ownership

ACE objects to Staff’s recommendation that “EDCs not be permitted to develop, own, or operate community solar projects.” EDC exclusion is inconsistent with the language contained in the Clean Energy Act (the “Act”), which expressly permits EDCs to participate in the permanent community solar program. The Act states that “[t]he Board **shall** adopt rules and regulations for the permanent program that set forth standards **for projects owned by electric public utilities, special purpose entities, and nonprofit entities.**” N.J.S.A. 48:3-87.11 (emphasis added). The Act plainly intended that “projects [be] owned by electric public utilities,” and did not intend for EDC participation to be limited to merely “interconnection and billing management for these projects.”

EDC ownership of community solar projects would amplify the successes of the Pilot Program. As Staff acknowledges, EDCs maintain “unique relationships to electric customers,” and thus can make community solar projects accessible to a broader public, like low and moderate income (“LMI”) customer subscribers. EDC ownership would help New Jersey reach its accelerated clean energy target of 100% clean energy by 2035. EDC ownership would also be supported by EDC historical and institutional knowledge to increase grid resilience and reliability, and available offsets during peak load demand.

The Straw Proposal raises unspecified concerns about possible risks and costs that would be shifted to ratepayers with EDC ownership of community solar projects. ACE objects to this general statement by Staff because its vagueness limits ACE’s ability to meaningfully respond. Moreover, Staff’s concern about EDCs “hav[ing] a potential competitive advantage in project ownership,” does not comport with Staff’s proposal for the Permanent Program to select community solar projects objectively on a “first-come, first-served participation process within the

ADI Program.” Staff’s concerns about EDC ownership should be addressed through rules and regulations, rather than by exclusion of EDCs from ownership in contravention of the legislative mandate in the Clean Energy Act. *See* N.J.S.A. 48:3-87.11. ACE reserves its right to provide further input regarding EDC ownership in future comments.

B. (7) Minimum Project Maturity Requirements

ACE supports Staff’s recommendation of implementing high minimum project maturity requirements to discourage non-viable projects from applying and taking up program capacity. However, ACE objects to one of Staff’s proposed minimum maturity requirements, which would have the opposite effect by promoting more non-viable projects to apply and reserve capacity. Specifically, ACE objects to Staff’s recommendation that for community solar projects to achieve conditional acceptance into the Permanent Program, they must have an “[e]xecuted EDC interconnection study for projects 1 MW or larger, or evidence of having submitted a Part 1 Interconnection Agreement to the EDC for projects smaller than 1 MW.”

This proposed minimum requirement at issue would frustrate ACE’s work towards streamlining interconnection protocols and processing applications more quickly; an objective shared by Board Staff in the Matter of Modernizing New Jersey’s Interconnection Rules, Processes and Metrics, BPU Docket No. QO21010085 (hereinafter referred to as “Grid Modernization”). Imposing this minimum requirement at issue would result in an influx of applications and overwhelm EDCs with reviewing otherwise non-viable projects because satisfying the requirement would be a necessary threshold for the projects to satisfy to proceed towards conditional acceptance and Board approval. Staff has highlighted the “tremendous market response and overall interest in developing community solar projects,” and that many projects are not viable, do not receive Board approval, and do not reach commercial operation. Indeed, ACE received 42 project applications in Phase 2 of the Community Solar Pilot Program, but only seven of those attained Board approval. Imposing the minimum maturity requirement at issue would lengthen the interconnection queue and processing times with non-viable projects to the detriment of other mature and viable community solar projects.

Imposing the minimum maturity requirement at issue would also negatively affect other non-community solar projects, especially those that do not require Board approval. EDC resources would be diverted to processing non-viable community solar project applications and studies. ACE’s engineers would be overwhelmed with reviewing non-viable community solar applications and system impact studies, which would lengthen the time for processing other types of projects. And these non-viable community solar projects would reserve capacity that would be unavailable to other types of projects. This will have an adverse impact on New Jersey’s clean energy targets because other clean energy projects will be foreclosed or limited when such capacity is reserved by non-viable community solar projects.

Moreover, a project’s submission of a Part 1 Interconnection application or execution of an interconnection study agreement does not necessarily demonstrate viability because many projects are only known to be non-viable after the completion of an interconnection study identifying necessary upgrades and costs for the project to proceed.

ACE supports Staff's suggestion that the Pre-Application Verification/Evaluation ("PAVE") be used with community solar projects to gauge project viability before a formal study is conducted subject to PAVE being adopted as a rule in accordance with the Company's comments submitted in the Grid Modernization proceeding. PAVE can be used to preliminarily convey project challenges, and identify some upgrades that may be necessary to interconnect safely and reliably. Because the PAVE process is proposed in a separate proceeding, ACE notes that Staff must ensure that the timing of the two rulemakings (and related implementation) complement each other.

C. (13) Value of the Bill Credit

ACE objects to Staff's recommendation that "bill credit[s] shall also apply to demand charges," "for master-metered affordable housing buildings, serviced with a master meter on commercial rates." Bill credits are currently not applied to demand charges in the Community Solar Pilot Program.

Staff's recommendation is highly burdensome to ACE, because it requires significant system programming changes. Although ACE can identify master metered properties, it is not easy. The demand bill credit calculation method described in § 14:8-13.6 of the draft rule proposal is complex ("The bill credit shall be calculated with demand charges pro-rated to the subscriber's electricity usage using the subscriber's average demand charges and average electricity usage over the previous energy year."). Demand charges are not billed at a kWh rate so ACE would need to find a creative system programming solution to implement the proposed billing change, and may need to resort to manual calculations and entries that are problematic because they increase the risk for billing errors. ACE also opposes having to apply different bill credit methodologies for different groups of customers in the Permanent Program.

D. (14) Bill credit banking/excess bill credits

ACE objects to Staff's recommendation for banking of excess bill credits or unallocated generation for project operators. Staff proposes that excess generation bill credits be banked for up to 24 months for allocation to subscribers. ACE counters that if project operators have excess generation credits at the end of the 12 months, they should be compensated for the value of the credits at the end of that period. Under Staff's proposal, ACE will need to implement billing upgrades with variable rules to administer customer credit allocation after 12 months. Moreover, if project operators can retain accrued credits beyond the initial 12-month period, the Company would be paying credits at the market rate at the end of the 24-month period rather than the rate at the time the credits accrued. These varying rates would be difficult to track over time.

E. (15) Consolidated billing

ACE supports Staff's recommendation to "implement consolidated billing for community solar," subject to and consistent with its shared position with the EDCs on supplier consolidated billing submitted in Docket Nos. QO20080556 and QO18060646 on May 28, 2021. ACE reaffirms the recommendations and proposals in that joint response by the EDCs.

ACE, however, objects to a May 1, 2024 (or June 1, 2024) deadline to implement consolidated billing. Such date is not feasible. Implementing consolidated billing will require significant changes to ACE's billing systems, which cannot be accomplished within this timeframe. Practically, the Permanent Program will not be effective until the Board completes a formal rulemaking proceeding, which could be after January 1, 2024. ACE anticipates that it will need at least twenty-four (24) months following the adoption of the rules and final order from the Board to fully implement consolidated billing. ACE therefore recommends expressly using this 24-month time period in the draft rule proposal as a reasonable alternative to a definite May 1, 2024 deadline. Similar timeline recommendations were made by the EDCs in the Grid Modernization proceeding.

ACE is also concerned about the impact of the implementation of consolidated billing because there are currently no community solar projects in service in its territory. ACE may be required to implement consolidated billing before community solar projects become operational. Given the time community solar projects take to be approved, constructed, and brought into operation, there will be a significant delay until ACE can recover a utility fee from subscriber organizations. *See also* Draft Rule Proposal § 14:8-13.6(q)(7). Regardless the Company should receive full and timely cost recovery to ensure that it is made whole on its investments in community solar, including for consolidated billing.

ACE also supports Staff's recommendation to establish a working group on consolidated billing subject to and consistent with its shared position with the EDCs submitted on May 28, 2021. ACE agrees with Staff that "[t]he working group can facilitate transparency and idea exchange to develop improvements in the billing process and exchange of information." A working group can also address consolidated billing issues like the protection of customer data, bill format, enrollment and payment timeframe.

F. (16) Interconnection Process

ACE supports Staff's stated belief, "that the process surrounding interconnection should be more transparent to developers, helping them have better indicators of project viability." Under the proposed selection process of first come, first served, ACE recommends that the Board publish a public queue for all community solar projects submitted for approval for EDCs to be informed on the allocation of the capacity throughout the year.

II. ACE's Comments to Staff's Draft Rule Proposal

ACE's comments to Staff's narrative offered above should be applied where applicable to modify Staff's draft rule proposal consistent with ACE's commentary. ACE also offers these additional comments on the draft rule proposal below.

A. Alternating Current (AC) Should be used instead of Direct Current (DC)

ACE recommends that community solar project capacity and thresholds should be measured in alternating current (AC) rather than direct current (DC). The draft rule proposal's definition of "community solar facility" measures the "nameplate capacity in direct current (DC) rating not to exceed five MW." *See* Draft Rule Proposal § 14:8-13.2. Similarly, the definition of "Megawatt" in the New Jersey Administrative Code is "measured in direct current (dc)." *See* N.J.A.C. § 14:8-1.2.

ACE recommends that the facility's capacity should be measured in alternating current, which is the industry standard rather than direct current. ACE recommends using the alternating current rating because it transmits electricity using this rating. All interconnection practices and impact studies are performed under this rating, not the direct current rating. The energy generated by the facility will be converted to alternating current to be consumed, which is further support for amending this definition since direct current is not connected to the distribution or transmission system. EDCs also recommended the use of AC in the Grid Modernization proceeding.

The use of DC rating elsewhere in the draft rule proposal should also be changed to AC. *See, e.g.,* Draft Rule Proposal § 14:8-13.3(a); § 14:8-13.5(d).

B. Definition of "Subscriber"

ACE recommends that the draft rule proposal's definition of "Subscriber" should be merged or reconciled with the definition of "Community solar subscriber" or "subscriber." The term "subscriber" is currently given two different definitions. *See* Draft Rule Proposal § 14:8-13.2. These two definitions create ambiguity.

C. Direct Payments or Rebates to Residents of Master-Metered Housing Affordable Housing Providers

ACE seeks to clarify that residents of master-metered housing or affordable housing providers subscribing to a community solar project are to be paid benefits directly by the account holder, rather than by the EDC.

In Staff's Permanent Program Parameters Narrative at "12) Participation by affordable housing providers," Staff recommends "requiring that master-metered housing providers be required to pass on 75% of the electricity bill savings to residents in the form of direct payments at least once per year." Similarly, "Staff recommends allowing affordable housing providers to qualify as an LMI subscriber, provided that they submit an affidavit indicating that they will pass on 75% of the electricity bill savings to residents in the form of direct payments or rebates at least once per year."

ACE recommends modifications to the draft rule proposal at § 14:8-13.5(i)(6), regarding Subscription Requirements, and at § 14:8-13.7(a)(2), regarding Low- and moderate-income provisions, to clarify that the "financial benefits of the-community solar subscription" are being paid to the residents directly by the account holder rather than by the EDC. ACE is unable to pay

these benefits directly to residents of master-metered housing or affordable housing. Failure to correct this issue in the proposed regulations creates uncertainty in the regulations that will impact LMI customers.

D. Subscription Portability

ACE recommends statements guaranteeing subscription portability be removed from the draft rule proposal. The draft rule proposal at § 14:8-13.5(i)(3) states “Subscriptions are portable, provided that the subscriber remains within the original EDC service territory.” ACE is concerned that its billing system will not support subscription portability even within its own service territory. Additionally, even if necessary billing upgrades could be completed, a customer’s credit might not necessarily be reflected in the initial bill after relocation because of the gap in billing cycles.

E. Cost Recovery

As with other investments and programs that are critical to achieving the goals of New Jersey’s Energy Master Plan, the Permanent Program should specifically provide for full and timely recovery of incremental costs that will result from its implementation and management, including personnel costs and costs associated with consolidated billing. *See* Draft Rule Proposal § 14:8-13.8. Regardless of the mechanism, ACE must be able to recover its full costs in a timely manner. ACE therefore objects to Staff’s recommendation limiting “EDCs to impose a utility fee no greater than one percent of the value of the bill credit” to the extent it would frustrate that purpose of full and timely recovery. *See also* Draft Rule Proposal § 14:8-13.6(q)(7).

F. Periodic Electronic Reports – Monthly to Quarterly.

ACE recommends that the draft rule proposal’s monthly electronic reporting requirement be changed to a quarterly report. *See* Draft Rule Proposal § 14:8-13.10(a). Community solar projects take time to develop, and there will likely be few meaningful updates (if any) to report on from one month to the next. Such monthly reports with minimal updates would increase administrative burdens on EDCs and Board Staff. Quarterly reports are preferred because EDCs will have more meaningful updates to share. Quarterly reporting is also consistent with the vast majority of Board reporting requirements.

**IN THE MATTER OF THE COMMUNITY SOLAR ENERGY PROGRAM
DOCKET NO. QO22030153**

ATTACHMENT 1

**ATLANTIC CITY ELECTRIC COMPANY'S
MARK-UP OF NEW JERSEY BOARD OF PUBLIC
UTILITIES STAFF DRAFT RULE PROPOSAL**

2. Draft Rule Proposal

DRAFT COMMUNITY SOLAR ENERGY PROGRAM RULES
NEW JERSEY ADMINISTRATIVE CODE: NEW SUBCHAPTER
14:8-13

§ 14:8-13.1 Purpose and scope

This subchapter sets forth the rules for the establishment of a Community Solar Energy Program, in accordance with N.J.S.A. 48:3-87.11(f).

§ 14:8-13.2 Definitions

For the purposes of this subchapter, the following words and terms shall have the following meanings, unless the context clearly indicates otherwise.

"Affordable housing" means housing that meets the definition of "affordable" as set forth in N.J.A.C. 5:80-26.2.

"Affordable housing provider" means any person or entity that owns, operates, or manages affordable housing units.

"Affordable multi-family housing" means an affordable housing building which is master metered and contains at least two units, all of which are affordable housing.

"Bill credit" means the credit placed on community solar subscribers' utility bills by their EDC, calculated according to the bill credit value as established in this subchapter.

"Community engagement plan" means a plan which details specific actions a developer and subscriber organization will take to connect a project with individual residents and community-based organizations representing residents.

"Community solar developer" or "developer" means an entity that is duly authorized to do business in the State of New Jersey and constructs or contracts for the construction of a community solar facility within the State of New Jersey.

"Community Solar Energy Program", "CSEP" or "Program" means the program established in this subchapter.

"Community solar facility" means the physical equipment, including, but not limited to, panels, inverters, racking, and balance of system, which constitutes a solar facility used for community solar, with a nameplate capacity in direct alternating current (DAC) rating not to exceed five MW.

"Community solar operator" means the entity in charge of the day-to-day oversight, safety, and control of the community solar project. The community solar operator may or may not have an ownership stake in the community solar project.

"Community solar owner" means the entity that legally and financially controls the community solar project. The "community solar owner" can be distinguished from the "community solar site owner."

"Community solar project," "community solar pilot project," or "project" means to a community solar project approved by the Board for participation in the program or pilot program, including, but not limited to, the community solar facility, project participants, and subscribers.

"Community solar site owner" or "site owner" means the entity that legally and financially owns the real property on which the community solar facility exists.

"Community solar subscriber organization" or "subscriber organization" means the entity, duly registered with the Board that works to acquire original subscribers for the community solar project and/or acquires replacement subscribers over the lifetime of the community solar project and/or manages subscriptions for a community solar project. The community solar subscriber organization may or may not be, in whole, in part, or not at all, organized by the community solar developer, community solar owner, or community solar operator.

"Community solar subscriber" or "subscriber" means any person or entity who participates in a community solar project by means of the purchase or payment for a portion of the capacity and/or energy produced by a community solar facility. One electric meter denotes one subscriber.

"Community solar subscription" or "subscription" means an agreement to participate in a community solar project, by which the subscriber receives a bill credit for a portion of the community solar capacity and/or energy produced by a community solar facility. A subscription may be measured as capacity in kW and/or energy in kWh, ownership of a panel or panels in a community solar facility, ownership of a share of a community solar project, or a fixed and/or variable monthly payment to the project operator.

"Consolidated billing" means the practice of incorporating the community solar subscription fee directly on a subscriber's utility bill.

"Guaranteed bill credit discount" means the minimum savings that a project's subscribers shall receive on their electricity bill, expressed as a percentage of the bill credits applied with respect to a subscriber's subscription size. The guaranteed bill credit discount shall be no less than 10 percent of the bill credits applied.

"Historic annual usage" means the average amount of electricity supplied by an EDC to the customer over the most recent 12-month period.

"LMI community solar project" means a community solar project in which a minimum of 51 percent of project capacity is subscribed by low- and moderate-income subscribers.

"Local government entity" or "local government" for purposes of the Program means a New Jersey municipal government, including boroughs, towns, townships, cities, and villages, or a New Jersey county government.

"Low- to Moderate-Income subscriber" or "LMI subscriber" means a community solar subscriber that meets the definition of a low- or moderate-income household pursuant to this chapter. It may also mean an entity that qualifies as an affordable housing provider, pursuant to N.J.A.C. 14:8-9.8(a)2.

"Low- to moderate-income household" means a household with a total gross annual household income less than 80 percent of the area median income, as determined by annual HUD income limits set by the United States Department of Housing and Urban Development.

“Municipal community solar automatic enrollment project” or “automatic enrollment project” means a community solar project, owned and operated by a local government entity, or a project for which a local government entity serves as its subscriber organization, in which subscribers are automatically enrolled in the community solar project, provided that the customer may elect to opt-out of enrollment at any time.

~~“Subscriber” means a retail customer at a single retail meter, including master metered accounts, that subscribes to participate in the Community Solar Energy Program through a subscriber organization.~~

“Subscriber acquisition plan” means a document that describes how a community solar project will acquire LMI subscribers and non-LMI subscribers, which may include marketing plans, marketing materials, and partnerships with municipalities and organizations. The subscriber acquisition plan must identify a registered subscriber organization that may carry out the plan.

"Telemarketing sales call" or "Telemarketing" means a telephone call made by a community solar subscriber organization to a potential subscriber as part of a plan, program, or campaign to encourage them to sign a community solar subscription. A telephone call made to an existing subscriber for the sole purpose of collecting on accounts or following up on contractual obligations shall not be deemed a telemarketing sales call. A telephone call made in response to an express written, electronic, or telephonic request of a customer shall not be deemed a telemarketing sales call.

"Unsolicited advertisement" means any advertising claims of the commercial availability or quality of services provided by a community solar subscriber organization, which is transmitted to a potential subscriber without that customer's prior express invitation or permission.

§ 14:8-13.3 Community Solar Energy Program eligibility

- (a) The CSEP is open to community solar projects with a capacity of five MW or less measured as the sum of the nameplate capacity in [DAC](#) rating of all PV panels comprising the community solar facility.
- (b) The CSEP is open only to new facilities that have not commenced commercial operation prior to conditional registration, unless the Board grants a waiver in response to a petition. A planned facility which has been conditionally awarded an incentive in the Successor Solar Incentive Program may not qualify until its initial conditional registration expiration date has passed.
- (c) Community solar facilities that meet the requirements of this subsection are eligible to register under the ADI Program pursuant to N.J.A.C. 14:8-11.4. Community solar projects may receive SREC-IIs or Class I RECs, as applicable.
- (d) Unless modified by Board Order or granted a waiver by the Board, Community solar projects may be located on:
 - 1. a rooftop;
 - 2. a carport or canopy over impervious surfaces;
 - 3. a contaminated site or landfill, where the associated disturbed areas constitute a maximum of ten percent of the total area dedicated to solar development, and which excludes farmland; or
 - 4. a body of water that has little to no established floral and faunal resources, such as water treatment reservoirs and sand and gravel pit ponds.
- (e) Community solar projects shall be considered connected to the distribution system.

§ 14:8-13.4 Community Solar Energy Program registration process

- (a) All forms and instructions regarding the CSEP registration process shall be found on the Board's New Jersey Clean Energy Program website at www.njcleanenergy.com. Facilities seeking eligibility for the CSEP shall submit a complete registration package to the Board, or its designee, to the Successor Solar Incentive Program in accordance with Board rules at N.J.A.C. 14:8-11.5, except as specified in this subsection, and Board orders.
- (b) Registration packages submitted to the CSEP and ADI Program shall be reviewed by the SuSI Program registration manager on a first-come, first-served basis, except as described in (d) below.
- (c) For each program solicitation, Board staff shall initiate an application process pursuant to the Clean Energy Act as follows:
 - a. Board staff shall open an initial registration period for the Program for a length of time determined by Staff at the start of each energy year.
 - b. Following the end of the initial registration period, Board staff shall review the submissions for each community solar megawatt block set by Board order pursuant to N.J.A.C. 14:8-11.7(b) and determine if applications for a megawatt block would cause it to reach its capacity.
 - c. If a megawatt block has not received enough complete registrations to meet its capacity limit, all complete and eligible registrants shall be conditionally accepted into the Program and the megawatt block shall remain open to registrations until the segment is fully subscribed. A megawatt block will be defined as being fully subscribed when the last registration received in the registration portal causes the total capacity of all registrations in that segment to exceed the capacity allocation for said segment.
 - d. If the complete registrations for a megawatt block exceed the capacity limit for that megawatt block, projects will be reviewed and accepted in the order of their stated guaranteed bill credit discount, beginning with the registrant with the greatest guaranteed bill credit discount, until the allocated segment capacity for that year is fully subscribed.
 - e. The Board may modify the procedure for project selection in case of over-registration by Board Order.
 - ~~f. EDCs are not allowed to develop, own, or operate community solar projects beyond the billing and other responsibilities set forth in this subchapter.~~
- (d) Projects previously approved for participation in the Community Solar Energy Pilot Program under N.J.A.C. 14:8-9.3(c), but which did not reach commercial operation, shall be permitted to register in the CSEP and ADI Program irrespective of megawatt block capacity limits, provided that all CSEP and ADI Program requirements are met.

§ 14:8-13.5 Subscription requirements

- (a) All subscription requirements pertaining to the program apply to both the original subscription and to all subsequent subscriptions enacted throughout the qualified life of a project, unless expressly determined otherwise by rule or Board Order.
- (b) The minimum number of participating subscribers for each community solar project is 10 subscribers; provided that community solar projects sited on the property of multi-family buildings are exempt from the 10-subscriber minimum, where a multi-family building has three or more independent resident housing units, as per N.J.S.A. 55:13A-3(k) and the 2015 New Jersey International Building Code definition for Residential Group R-2.
- (c) There is no maximum number of participating subscribers for each community solar project.
- (d) A community solar project shall not subscribe more than 100 percent of the output of the community solar facility at the project's nameplate capacity in DC rating.
- (e) A subscriber organization may contract with customers placed on a waitlist for a community solar project, to be subscribed upon availability of capacity. The subscriber organization shall notify the customer and confirm a customer's eligibility upon activation of a waitlisted subscription.
- (f) All community solar projects must have a minimum of 51 percent of project capacity subscribed by LMI subscribers throughout the qualified life of the project.
- (g) All rate classes except lighting customers are eligible for participation in a community solar project.
- (h) Community solar projects may have subscribers anywhere in the EDC service territory to which they are interconnected.
- (i) The following requirements regarding subscribers apply:
 1. Community solar project subscriptions shall not exceed 100 percent of the subscriber's historic annual usage, excluding net-metered generation, available at the time of the application. In cases where a 12-month history is not available, the community solar subscriber organization shall estimate, in a commercially reasonable manner, a subscriber's load based on available history or projections.
 2. No single subscriber may subscribe to more than 40 percent of a community solar project's total annual net energy.
 - ~~3. Subscriptions are portable, provided that the subscriber remains within the original EDC service territory. Appropriate notice of the change in residence and/or location must be provided to the EDC and subscriber organization, no later than 30 days after the effective date of the change in residence and/or location.~~
 - 4.3. Subscriptions may be canceled by subscribers as specified in their subscription agreements. Subscribers may not sell or transfer a subscription to another party other than the project owner or community solar subscriber organization.
 - 5.4. A subscriber may not participate in more than one community solar project. It is the responsibility of the subscriber organization to verify that their subscribers are not already subscribed to another community solar project.
 - 6.5. In cases of master-metered buildings, the account holder of the master meter is allowed to subscribe to community solar subscriptions on behalf of their tenants. The account holder of the master meter will be required to provide to the project's subscriber organization an affidavit that specific, identifiable, sufficient, and quantifiable benefits of the community solar subscription are being passed

through to the tenants. Seventy-five percent of the financial benefits of the community solar subscription shall be provided to residents in the form of direct payments or rebates [by the master meter account holder](#). Nothing in this subsection prohibits the account holder of the master meter from signing a separate subscription for the separately metered building common areas.

7.6. When an EDC account is terminated or suspended for any reason, the EDC must notify the subscriber organization of the change.

- (j) No later than starting January 1, 2025, a local government may submit a registration for a municipal community solar automatic enrollment project that requests an exemption from the provisions at N.J.A.C. 14:8-13.9(b)(1)(i), which mandate subscriber enrollment through affirmative consent of the subscriber. Unless explicitly stated otherwise, an automatic enrollment project shall be subject to all of the rules of the CSEP, as well as to the following conditions:
1. Any registration for an automatic enrollment project must include a municipal ordinance or resolution authorizing the project and application. A copy of the ordinance or resolution shall be presented to the Board as part of the registration;
 2. A registration accepted into the CSEP or Pilot Program submitted by a local government entity may provide a resolution or ordinance within one year after adoption of the rule;
 3. The automatic enrollment project shall be owned and operated by the local government or served by the local government as its subscriber organization for the duration of the project life. Ownership and operation shall nonetheless permit a period of temporary third-party tax credit investor ownership or ownership of the solar panels and related equipment by a third party in order to maximize the financeability of the automatic enrollment project, subject to appropriate contractual provisions that maintain the local government entity's ultimate control of subscriptions for the automatic enrollment project;
 4. The local government may utilize a public procurement to contract for the third-party design, financing, ownership, construction, operation, and/or maintenance of the automatic enrollment project, as well as for the enrollment and management of project subscribers. Any such contractor, consultant, or other government designee shall execute a confidentiality agreement with the local government entity and provide guarantees of compliance with this subchapter, including the rules relating to consumer privacy and protection under N.J.A.C 14:8-13.9. Any public procurement shall comply with all applicable laws;
 5. An automatic enrollment project may not subscribe customers unless the project is billed via consolidated billing and provides guaranteed savings to customers;
 6. The local government shall be responsible for identifying the customers that will be automatically enrolled for participation in the automatic enrollment project, subject to the following criteria:
 - i. The local government may subscribe residential customers and affordable housing providers. At least eighty percent of subscribers shall be LMI subscribers. Subscribers may not also be net-metering customer-generators;
 - ii. All customers selected to be automatically enrolled as subscribers to the automatic enrollment project shall be within the geographic boundaries of

- the local government that owns the community solar project or serves as the subscriber organization of the project;
- iii. Subscribers shall be allowed to decline or opt out from their participation in the automatic enrollment project at any time. If a participating customer opts out of an automatic enrollment project, the solar credit shall be eliminated on a prospective basis in new billing months with no retroactive adjustments except for billing errors;
 - iv. Opt-out requests may be submitted either in writing or online through a designated website designed and maintained by the local government or its designee. The records of opt-out requests shall be accessible for viewing on an ongoing basis by Board staff; and
 - v. All customer personal information provided to a subscriber organization shall be deemed confidential and is exempt from the public disclosure requirements of the Open Public Records Act, N.J.S.A. 47:1A-1 et seq. Such information shall not be used, sold, or disseminated by any person for any purpose other than the facilitation of the automatic enrollment project.
7. Subscribers may not be charged a fee for their enrollment in the automatic enrollment project or any exit fees or penalties for opting out from the automatic enrollment project. All fees or modification thereof must be approved by the Board through a petition submitted no less than 120 days prior to their proposed implementation;
 8. The local government, or its designee, if applicable, selected through the public procurement process set forth in this subchapter shall provide written notice by the United States Postal Service to selected subscribers of their enrollment in the community solar project no less than 90 days before the subscribers receive their first bill credits for participating in the automatic enrollment project. Another written notice shall be sent as a reminder of their enrollment no later than 30 days before the subscribers receive their first bill credits for participating in the automatic enrollment project. A draft of the notice and envelope, as well as any subsequent revisions, shall be submitted to the Board and Rate Counsel for comments, revisions, and approval at least 60 days prior to their intended use. The notice shall be sent to prospective subscribers in both English and Spanish and be made available in other languages upon request. The notice shall include the following:
 - i. A statement that the local government is establishing an automatic enrollment project. The statement shall include a clear definition of community solar, the date on which the automatic enrollment project was approved by municipal resolution or ordinance, and the date on which the automatic enrollment project was registered with the Board;
 - ii. A statement that the prospective subscriber has the right to opt out of the automatic enrollment project at any time, but that if no opt out is received, the prospective subscriber will be enrolled in the automatic enrollment project;
 - iii. A specific written statement of the consolidated billing procedures of the automatic enrollment project. The statement shall explicitly state that enrolled subscribers will receive, and be expected to pay, a bill separate

- from their utility bill for the cost of their participation in the automatic enrollment project, unless or until community solar consolidated billing is enacted;
- iv. A statement that subscribers may opt out from their participation in the automatic enrollment project at any time, and detailed instructions on how to submit an opt-out request;
 - v. The estimated start date of their enrollment in the automatic enrollment project;
 - vi. A contact name, phone number, and email address for subscriber inquiries and complaints managed by the local government or their designee; and
 - vii. A Community Solar Energy Program Automatic Enrollment Summary and Disclosure Form that summarizes all relevant opt-out project provisions.
9. The local government shall provide a contact name, phone number, email address, and website portal for subscribers to submit inquiries or complaints. This information shall figure prominently on the local government website, as well as the website of any contracted subscriber organization;
 10. An automatic enrollment project may suspend or cancel a subscription in the event of suspension or cancellation of an EDC account.
 11. In the event that an automatic enrollment project is found to be in material violation of any applicable rule, the Board may immediately and permanently cancel the automatic enrollment project's exemption at N.J.A.C. 14:8-9.10(b)1, after notice and failure to remedy the violation. In the event of such cancellation, the automatic enrollment project shall be prohibited from employing opt out subscriber enrollment for the remainder of the automatic enrollment project's life. All subscribers wishing to continue their enrollment in the automatic enrollment project shall be required to affirmatively consent to their re-enrollment pursuant to N.J.A.C. 14:8-9.10(b)1; and
 12. The EDCs shall take necessary steps to facilitate local government access to the historic billing usage of customers, point of delivery identification number, if applicable, and other information required by the EDC to subscribe customers in an automatic enrollment project upon satisfactory evidence that the automatic enrollment project is duly authorized by a local government ordinance or resolution, as appropriate, and by the Board. The EDCs shall provide this information for all residential customers in the municipality, at the option of the local government, to facilitate the customer identification and enrollment process by the local government. This local government access shall be for the purposes of identifying and enrolling customers and determining subscribers' historic annual usage, in order to appropriately size subscribers' community solar subscriptions in compliance with N.J.A.C. 14:8-9.6(f)1. The local government shall indemnify the EDC for any breach of customer information. The EDCs shall facilitate customer enrollment, opt-out, and consolidated billing.

§ 14:8-13.6 Community solar billing

- (a) The value of the bill credit shall be set at the current pre-Sales and Use Tax retail rate, inclusive of supply and delivery charges, ~~except as provided in (b) below.~~
- ~~(b) For affordable multi-family housing which measures electricity usage with a master meter and is billed on a commercial rate class, the value of the bill credit shall be set at retail rate, inclusive of supply, delivery, and demand charges. The bill credit shall be calculated with demand charges pro-rated to the subscriber's electricity usage using the subscriber's average demand charges and average electricity usage over the previous energy year.~~
- ~~(c)~~(b) After payment of a subscription fee, subscribers shall receive the project's guaranteed bill credit discount, as identified in the project's registration, respective to the capacity to which they are subscribed. The net bill savings shall be no less than 10% of the calculated bill credit.
- ~~(d)~~(c) The calculation of the value of the bill credit shall remain in conformance with the retail rate, as determined in (a) above and shall remain in effect for the life of the project, defined as no more than 20 years from the date of commercial operation of the project or the period until the project is decommissioned, whichever comes first.
- ~~(e)~~(d) The credit may not be applied to non-bypassable charges. Non-bypassable charges are the Societal Benefits Charge, established at N.J.S.A 48:3-60; the Market Transition Charge, established at N.J.S.A 48:3-61; the Transition Bond Charge, established at N.J.S.A. 48:3-62; the Zero Emissions Certificate, established at N.J.S.A. 48:3-87.5; and any other applicable charges as defined by the Board.
- ~~(f)~~(e) An annualized period shall be established for each subscriber.
1. The default annualized period shall begin on the day a subscriber first earns a community solar bill credit based on the delivery of energy.
 2. The annualized period shall continue for a period of 12 months, until the subscription ends, the subscriber's EDC account is closed, or different annual period is selected and accepted, whichever occurs earlier.
 3. The EDC shall offer each subscriber one opportunity to select a different monthly billing period as the start of the subscriber's annualized period.
 4. In the case of an automatic enrollment project, the project's subscriber organization shall determine and set an annualized period for all subscribers which is likely to minimize subscribers' excess net bill credits.
 5. A subscriber may submit their annualized period selection to the EDC at any time. However, an EDC is not required to accept a customer-generator selection of an annualized period that begins before the first full day of the first monthly billing period after the submittal of the selection.
 6. If any subscriber has been participating for one monthly billing period or more before it submits its annualized period selection, the following shall apply:
 - i. If the subscriber has been participating for more than 12 monthly billing periods, the time between the selection submittal and the end of the subscriber's most recently ended annualized period shall be treated as one annualized period; and
 - ii. If the subscriber has been participating for fewer than 12 monthly billing periods, the time between the first day of the first full monthly billing period after the subscriber's subscription began and the selection submittal shall be treated as one annualized period.

~~(g)~~(f) Credits shall carry over from monthly billing period to monthly billing period, with the balance of credits accumulating until the earlier of:

1. The end of the annualized period;
2. The closure of the subscriber's EDC account; or
3. The end of the subscriber's community solar subscription.

~~(h)~~(g) At the end of the annualized period and/or when a subscriber's EDC account is closed and/or at the end of the subscriber's community solar subscription, any excess net bill credits greater than the sum of all appropriate billable charges shall be compensated at the EDC's avoided cost of wholesale power, as defined at 14:8-4.2. The excess compensation must be returned to the subscriber by bill credit, wire transfer, or check.

~~(i)~~(h) If a subscriber receives net excess credits for each of the two previous consecutive years, the subscriber organization must resize the subscriber's subscription size to ensure it does not exceed 100 percent of historic annual usage, calculated over the past 12 months, available at the time of the reassessment.

~~(j)~~(i) Any generation delivered to the grid that has not been allocated to a subscriber may be banked by the project operator in a dedicated project EDC account for up to 12 months from the date of commercial operation. The banked credits may be distributed by the project operator to any new or existing subscriber during that 12-month period ~~or the subsequent 12-month period~~, in conformance with subscription requirements set forth in N.J.A.C. 14:8-13.5. At the end of the 2412-month period, any remaining generation credits shall be compensated at the EDC's avoided cost of wholesale power, as defined at 14:8-4.2.

~~(k)~~(j) Subscribers must have an active EDC account within the EDC service territory of the community solar project to which they are subscribed.

~~(l)~~(k) Subscribers must agree to a remote read smart meter upon EDC request, purchased and installed at EDC cost.

~~(m)~~(l) EDCs must make appropriate data available through the U.S. Department of Energy's Green Button Connect My Data, subject to appropriate privacy protections, or alternative method directed by Board Order if Green Button capabilities are not available or are insufficient.

~~(n)~~(m) Subscriber organizations shall send to the relevant EDC, via the method determined in N.J.A.C. 14:8-9.7(n) or another standardized process for sharing subscriber information, a list of subscribers to the project with all appropriate subscriber information, no later than 60 days prior to the first monthly billing period for the community solar project. Additionally, subscriber organizations shall send an updated list to the EDC once per month, following the same method.

~~(o)~~(n) The billing process shall be administered by the EDCs, who shall apply the community solar bill credit to subscribers' utility bills in proportion to each subscriber's share of the community solar project as indicated on the most recent list received from the subscriber organization.

1. The method of application of the bill credit (whether as a dollar credit and/or a kWh credit) shall be the same for all community solar projects in the EDC service territory; and
2. The community solar bill credit shall be specifically identified as the community solar bill credit in a separate line on the subscribers' utility bills.

~~(p)~~(o) The EDCs shall inform subscriber organization of the bill credit applied

to each subscriber's bill, measured in both kWh and dollar amounts.

~~(e)~~(p) No later than ~~May 1, 2024~~ 24 months after the adoption of the rules and final Board order for the implementation of the Program, the EDCs shall develop and implement a method for the consolidated billing of a subscriber's utility bill that includes both the applied bill credit and a subscription fee to be paid to the community solar project owner. The consolidated billing shall incorporate a net crediting model, and the following provisions shall apply:

1. All projects shall bill customers via utility consolidated billing.
2. The subscriber organization shall include in its data transmission to the EDC the savings rate for each subscriber. All subscribers shall be billed using consolidated billing.
3. Subscribers are not required to have the same savings rate, but the savings rate must be a minimum of 10%.
4. The savings rate shall be applied to each subscriber's bill in accordance with the bill credit applied against the initial billed amount. The subscription fee shall be the applied bill credit minus the amount discounted by the savings rate.
5. The bill must clearly indicate the value of the bill credit discount and label it as being part of the community solar subscription.
6. The EDC shall remit to the project owners the subscription fee, less a utility administrative fee.
7. The EDCs may charge subscriber organizations a utility administrative fee ~~of no more than one percent of the subscription fees~~ to cover the EDCs' costs of implementing and administering consolidated billing.
8. Prior to implementation of consolidated billing, each EDC shall file with the Board a manual containing rules for a subscriber organization to implement consolidated billing and what processes a subscriber organization must follow to facilitate consolidated billing of their projects.

~~(f)~~(g) The EDCs may synchronize the monthly billing period of subscribers and projects by modifying, with due written notice given, the monthly billing period for subscribers upon their first month of participation in the community solar project.

~~(s)~~(r) The Board may modify standards to ensure billing accuracy and information sharing.

§ 14:8-13.7 Low- and moderate-income provisions

- (a) A low- to moderate-income subscriber for the purposes of this subchapter is as follows:
1. A qualified low- to moderate-income household; or
 2. A qualified affordable housing provider. In order to qualify as an LMI subscriber for the purposes of a community solar project, they [qualified affordable housing provider](#) must provide 75 percent of the financial benefits of the community solar subscription to residents in the form of direct payments.
- (b) All projects in the Community Solar Energy Program shall be LMI community solar projects, unless granted a waiver by the Board.
- (c) An LMI community solar project may not accept participation by a non-LMI subscriber if doing so would cause LMI participation in the project to fall below 51 percent of project capacity. If a project is less than 51 percent subscribed by LMI customers, the subscriber organization shall provide written notification to the Board within 30 days which details steps taken to ensure the standard is met.
- (d) The following LMI eligibility criteria shall be applied:
1. If the community solar project is sited on government-owned property and is serving LMI subscribers living on that property, the government site owner may provide an affidavit that those community solar pilot project subscribers are considered LMI for the purposes of the Program.
 2. In all other cases, subscribers must be individually qualified as LMI for the purposes of the program. The subscriber organization for each project shall receive and review proof of LMI eligibility for each LMI subscriber. Any of the following may be accepted by a subscriber organization as proof of LMI status for individual subscribers:
 - i. Proof of participation in one or more of the following: LIHEAP, Universal Service Fund, Comfort Partners, Lifeline Utility Assistance Program, Payment Assistance for Gas and Electric, Section 8 Housing Choice Voucher Program, Supplemental Nutrition Assistance Program, the Lifeline program administered by the Universal Service Administrative Company, Supplemental Security Income, Social Security Disability Insurance, Special Supplemental Nutrition Program for Women, Infants, and Children, Temporary Assistance for Needy Families, or other low- or moderate-income local, State, or Federal programs, as may be added to this list by the Board by Board Order;
 - ii. If the subscriber is a residential customer, proof that the subscriber's metered residence is in a census block group in which 80 percent or more of the households earn less than 80 percent of the area median income, as determined by data from the U.S. Department of Housing and Urban Development;
 - iii. Self-attestation by the customer that their household income is less than 80 percent of the area median income, as determined by data from the U.S. Department of Housing and Urban Development, provided on a standard form to be approved by the Board and signed by the customer and recorded through an authorized administrator procured by the EDCs; or
 - iv. An alternate form of income verification proposed through a petition by a subscriber organization and approved by the Board. The petition shall

include: a written description of the proposed income verification method; a complete description of how the method respects consumer privacy concerns; how the measures and safeguards established prevent fraud or misrepresentation by either the prospective subscriber or a subscriber organization; if the proposed methodology utilizes a statistical probability-based identification mechanism, how the method is reasonably expected to minimize incorrect eligibility determinations; and how the Board will be able to verify the income claims for accuracy. Alternatively, a subscriber organization may provide notice to Board staff of the entity's intent to utilize a verification mechanism that has already been approved by the Board. A subscriber organization may not utilize any alternate method of income verification until it has been approved by the Board.

3. Qualification of a household as low- to moderate-income is required at the time of execution of the subscription agreement, when a subscriber moves to a new utility account, and on every fifth anniversary of the subscription.
 4. A community solar subscriber whose subscription has, for any reason, ended must re-submit a new application along with LMI qualifying criteria if applicable.
- (e) Board staff or its agents may request information regarding subscriptions and subscriber status to ensure compliance with this subsection.
- (f) If a project does not meet or maintain LMI subscriber requirements on an annualized basis, the project owner may be subject to financial penalties, including the bill credit value for the portion of the subscriber base that does not meet the LMI targets and a change in the project's SREC-II incentive value. The Board will examine the magnitude of the shortfall, the diligence with which the shortfall is being remedied after notice, and any other factors as the Board may deem relevant to determine the appropriate penalty.

§ 14:8-13.8 Cost recovery and EDC responsibilities

- (a) Electric distribution companies shall, subject to review and approval by the Board, be entitled to full cost recovery for any incremental costs incurred in implementation, compliance, and administration of the Program in accordance with N.J.S.A. 48:3-87.11(e). EDCs may not set a separate fee or surcharge for community solar projects unless explicitly authorized to do so by the Board.
- (b) The EDCs shall be responsible for measuring the metered production of energy by community solar projects, and for verifying that the community solar projects are producing an amount of energy that is greater than or equal to the amount of energy that is being credited to subscribers' bills.
- (c) Community solar projects shall comply with all current and future applicable interconnection requirements applicable to each EDC, as set forth in N.J.A.C. 14:8-5, and EDCs shall process interconnection requests following normal procedures.

§ 14:8-13.9 Consumer protection

- (a) Board staff shall develop a standard registration form for subscriber organizations. Subscriber organizations shall be required to complete and submit this form at least 30 days prior to first conducting community solar business operations in New Jersey. Failure to comply may result in a temporary or permanent prohibition from conducting business related to community solar in New Jersey. Subscriber organizations must submit the form only once, unless there is material change to the content of the registration form, at which time a new registration form must be submitted.
- (b) Community solar subscriber organizations must comply with all applicable laws and rules governing advertising, marketing, and fair business practices, including, but not limited to, N.J.A.C. 13:45A-9, N.J.A.C. 13:45D, N.J.S.A. 56:8-2, and N.J.S.A. 48:3-85. Additionally, the following consumer protection measures shall apply to all subscriber organizations, and any agent, contractor, subcontractor, or affiliated person.
1. As to subscriptions, as follows:
 - i. Unless affirmatively allowed under N.J.A.C. 14:8-13.6(q), a community solar subscriber may not be subscribed without their affirmative written consent, either via wet or electronic signature.
 - ii. If a subscriber organization uses electronic methods to sign up, renew, or switch subscribers, the subscriber organization shall comply with the Uniform Electronic Transaction Act, N.J.S.A. 12A:12-1 through 26.
 - iii. A subscriber organization may not add a new charge or make any other material change to the content of the contract or subscription without first obtaining affirmative written consent via wet or electronic signature from the subscriber, whether it be for a new service, existing service, or service option.
 - iv. Customers must be notified in writing within 30 days if the subscriber organization managing their subscription has changed.
 2. As to marketing, advertising, and solicitations, as follows:
 - i. Subscriber organizations may market and advertise community solar projects. Under no circumstances can subscriber organizations, or any agent, contractor, subcontractor, or affiliated person knowingly make false or misleading marketing claims or suggestions, engage in marketing or advertising practices that are unfair, misleading, or deceptive, or in any way violate consumer protection laws and/or rules implemented or enforced by the New Jersey Division of Consumer Affairs.
 - ii. Subscriber organizations shall provide information about the community solar projects which they are marketing in a prominent location on their websites, including projects' nameplate capacity, address, areas served, and projected or actual commercial operation date.
 - iii. Subscriber organizations or any agent, contractor, subcontractor, or affiliated person must clearly identify themselves by the name of the subscriber organization, as registered with the Board. They may not falsely represent themselves as another party, including an EDC or a New Jersey government entity, such as the "New Jersey Board of Public Utilities" or the "New Jersey Clean Energy Program."
 - iv. Subscriber organizations may not use high-pressure sales tactics, including, but not limited to, excessive number of communications,

- whether in-person, by phone, e-mail, mail, and/or other forms of communications.
- v. Subscriber organizations shall comply with all Federal Trade Commission telemarketing rules, including, but not limited to, the restriction on telemarketing between the hours of 9:00 P.M. and 8:00 A.M., Eastern Standard Time.
 - vi. Subscriber organizations must include in all advertisements, marketing, or sales materials, a toll-free or local telephone number and a link to a website through which customers can obtain further information regarding the subscriber organizations' product and/or services.
 - vii. Subscriber organizations are prohibited from contacting a potential subscriber by telephone for the purpose of making an unsolicited advertisement if the subscriber organization does not have an existing business relationship with the potential subscriber and the potential subscriber's telephone number appears on the no telemarketing call list established and maintained by the New Jersey Division of Consumer Affairs, pursuant to N.J.S.A. 56:8-127 or any successor statute, or the national do-not-call registry as maintained by the Federal Trade Commission. Any violation of this provision shall be forwarded to the Division of Consumer Affairs for further investigation.
 - viii. Subscriber organizations shall not contact, market to, or engage potential subscribers prior to registration with the Board under (a) above.
3. As to community solar subscription contracts, as follows:
- i. Contracts must contain a plain-language description of the subscription agreement, including effective date of the contract, duration of the contract, a clear description of the amount and terms of payment of the subscription fee and underlying calculations, a good-faith written estimate of the savings a subscriber will realize net of the subscription fee or payment per year (or other applicable period) and the assumptions underlying such estimate, a clear description of the billing arrangements, and a complete list of any other fees, including, but not limited to, any applicable fees, due date for payment, late payment fees and the number of days after which a late payment fee may be applied, and any interest charges. The contract must also contain the specific conditions under which such penalties and/or fees can be imposed.
 - ii. Contracts shall not include a fee for cancellation of a community solar subscription for residential subscribers. A cancelled subscription may continue to the next billing cycle, as appropriate.
 - iii. Prices, whether in a quote or a contract, must include disclaimers that:
 - (1) Utility rates and projected savings are subject to change; and
 - (2) The Board does not regulate the price of community solar subscriptions, nor does it guarantee projected savings beyond those provided in N.J.A.C 14:8-13.6.
 - iv. Under no circumstances shall the contract contain a statement or provision by which a subscriber waives any rights they have under New Jersey or Federal consumer protection laws, rules, and/or regulations. The contract also may not include provisions (sometimes referred to as

"material change notices") that permit the subscriber organization to change material terms of the contract without the subscriber's affirmative consent, unless the change is required by operation of law. "Material terms of a contract" include, but are not limited to, terms regarding the price, deliverability, or term of the contract.

- v. The use of robo-signing is prohibited. Contracts must be signed either by a wet signature or by requiring the signer to take an affirmative action (at least a click) at each location in the document where the signatures and/or initials appear; if the signature is electronic, the software used must provide a digital certificate of the number of times each signature and set of initials was applied to the document.
 - vi. Subscribers will have a seven-calendar-day rescission period, during which they may cancel their contract with no penalty. This rescission period must be clearly communicated to subscribers in the original signed contract.
 - vii. Contracts must include a toll-free or local telephone number and email address through which subscribers can request information, address complaints, and cancel or renew their subscription consistent with the terms of their contract.
 - viii. Subscribers must receive, via electronic means and/or mail, a copy of the signed applicable contract and disclosure statement, no later than two calendar days after signing the contract and disclosure statement.
4. As to disclosure statements, as follows:
- i. Subscriber organizations must present to each community solar subscriber a disclosure statement designed by Board staff at the same time as their community solar subscription contract. Each subscriber must sign an acknowledgement that they have received and read the disclosure statement.
 - ii. Disclosure statements are intended to provide subscribers with an accurate overview of the community solar subscription contract and shall include a plain-language summary of key provisions from said community solar subscription contract.
 - iii. Disclosure statements must be made available to a subscriber in Spanish, upon request of the subscriber.
5. As to non-discrimination, as follows:
- i. Subscriber organizations may not discriminate against any customer on the basis of race, origin, gender, religion, sexual orientation, age, or engage in any other discriminatory practice.
 - ii. Subscriber organizations must apply uniform income, security deposit, and credit standards when deciding whether to offer a subscription to customers within a given customer class (low-income, moderate-income, or other). The subscriber organization may, however, apply separate sets of uniform standards for the purpose of promoting participation by low- and moderate-income residential customers.
 - iii. While a subscriber organization may market services on a geographic basis, they may not refuse to provide service to a customer based on the

economic character of a geographic area or the collective credit reputation of the area;

6. As to inquiry and remediation, as follows:
 - i. Community solar developers, operators, owners, and/or subscriber organizations shall use good faith efforts to respond to and resolve all complaints promptly.
 - ii. The Board may revoke a subscriber organization's registration, as set forth under (a) above, resulting in a temporary or permanent prohibition from conducting business related to community solar in New Jersey, if said subscriber organization has been found by the Board to have engaged in fraud, deception, misrepresentation, false promise or pretense, repeated acts of negligence, submissions of incorrect or incomplete data, significantly deficient service, sales, or commercial practices that are unethical, misleading, or illegal, or having been engaged in and/or having been convicted of any crime or offensive action involving moral turpitude or relating adversely to the entity's or person's business.
7. As to document retention, as follows:
 - i. Signed community solar subscription contracts, disclosure forms, and acknowledgements, and the signed approval of any changes made to the original contract, must be kept by the subscriber organization for a minimum six years following the expiration of said contract, and be made available to the Board and Board staff upon request.
 - ii. Proof of eligibility for LMI subscribers must be collected by the subscriber organization and be kept by the subscriber organization for a minimum of six years following the expiration of the contract with said subscriber and be made available to the Board and Board staff upon request.

§ 14:8-13.10 Reporting

- (a) EDCs are required to submit ~~monthly~~ quarterly electronic reports to the Board on community solar project interconnections and energy production, within 30 days of the end of the ~~calendar month~~ quarterly period being reported upon. The content of the reports shall include, but not be limited to:
1. A list of community solar projects that submitted an interconnection application, including name, location, and proposed capacity;
 2. A list of community solar facilities interconnected over the previous month, including name, location, and capacity;
 3. The estimated kilowatt-hours supplied to the distribution system by community solar facilities over the previous month, and a description of the estimation methodology used;
 4. The total number of community solar subscribers and estimated total community solar bill credits distributed to community solar subscribers, over the previous month;
 5. The estimated "excess" kilowatt-hours, that is, estimated kilowatt hours produced by a community solar facility that were not allocated to a community solar subscriber; and
 6. The cumulative totals since the beginning of the pilot program. This shall include the total number of community solar interconnection applications received, total number of community solar facilities interconnected, total capacity of community solar facilities interconnected, estimated total kilowatt-hours supplied to the distribution system by community solar facilities, estimated total community solar bill credits distributed to community solar subscribers, and estimated total number of community solar subscribers.
- (b) The EDCs shall submit to the Board updated calculations of the bill credit within 30 days of new electricity rates which affect the value of the bill credit taking effect.
- (c) The Board must be notified, in writing, of any change to the project developer, owner, or operator in case of sale, transfer, contract modification, or other material change to the parties initially listed in the community solar application. Specifically:
1. Within 30 days of a material change in control of the owner, such new beneficial owners are required to notify the Board of their individual and/or corporate names, tax ID, address, contact phone, and percent of ownership of the project.
 2. Within 30 days of a material change in the community solar project operator, such new project operator is required to notify the Board of their individual and/or corporate names, tax ID, address, and contact phone.
 3. The Board shall be kept apprised of all major project developments and milestones via written notification (e-mail or letter).
- (d) Each EDC shall retain a record of the community solar project generation that was applied to each subscriber's bills for six years.
- (e) Each community solar subscriber organization, and any successor, shall retain a record of all subscriber contracts, disclosure forms, LMI proof of eligibility, and generation allocation lists for at least six years from the date of their expiration. Each of these documents must be made available without delay upon request from the Board or Board staff.

DRAFT COMMUNITY SOLAR ENERGY PROGRAM RULES
MARKUP OF PROPOSED CHANGES TO
NEW JERSEY ADMINISTRATIVE CODE

§ 14:8-1.2 - Definitions

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise. Additional definitions that apply to this chapter can be found at 14:3-1.1 and 14:4-1.2.

"Advertising" has the same meaning as set forth in N.J.A.C. 14:4-1.2.

"Annual net energy" means the total amount of net energy produced by the community solar facility on an annual basis, measured at the EDC's meter.

"Annualized period" means a period of 12 consecutive monthly billing periods.

"Associated disturbed areas" means areas, which may not have been contaminated, but after considering tax and property records as well as historical land use, are or were the site of an accessory use to contaminated areas or landfills. Examples include access roads, lay-down areas and former building sites that were previously part of an industrial or landfill complex.

"Avoided cost of wholesale power" has the same meaning as set forth in N.J.A.C. 14:8-4.2.

"Basic generation service" or "BGS" has the same meaning as set forth in N.J.A.C. 14:4-1.2.

"Board" or "BPU" has the same meaning as set forth in N.J.A.C. 14:3-1.1.

"Brownfield" means any former or current commercial or industrial site that is currently vacant or underutilized and on which there has been, or there is suspected to have been, a discharge of a contaminant.

"Class I renewable energy" means electric energy produced from solar technologies, photovoltaic technologies, wind energy, fuel cells powered by renewable fuels, geothermal technologies, wave or tidal action, small scale hydropower facilities with a capacity of three megawatts or less and put into service after July 23, 2012, and/or methane gas from landfills or a biomass facility, provided that the biomass is cultivated and harvested in a sustainable manner. Types of Class I renewable energy that qualify for use in meeting the requirements of this subchapter are set forth at N.J.A.C. 14:8-2.5.

"Class II renewable energy" means electric energy produced by a hydro power facility that has a maximum design capacity of greater than 3 megawatts but less than 30 megawatts from all generating units combined or by a resource recovery facility, provided that such facility is located where retail competition is permitted and provided further that the Commissioner of Environmental Protection has determined that such facility meets the highest environmental standards and minimizes any impacts to the environment and local communities. Types of Class II renewable energy that qualify for use in meeting the requirements of this subchapter are set forth at N.J.A.C. 14:8-2.6.

"Clean Energy Act" means P.L. 2018, c.17, signed into law on May 23, 2018.

"Co-location" means siting two or more SuSI-eligible solar facilities on the same property or on contiguous properties, such that the individual facilities are eligible for a different program or higher incentive value than they would be if they were combined into one single facility. In the case of net metered projects, SuSI-eligible solar facilities are not deemed co-located if they serve separate net metering customers as defined at N.J.A.C. 14:8-4. In the case of community solar projects, SuSI-eligible solar facilities are not deemed co-located if they are located on rooftops of separate buildings on different properties. A community solar facility and a net metered facility are not deemed co-located if they serve separate customers.

"Community Solar Energy Pilot Program" or "Pilot Program" means the program established in N.J.A.C. 14:8-9.

"Connected to the distribution system" means, for a solar electric power generation facility, that the facility is:

1. Connected to a net metering customer's side of a meter, regardless of the voltage at which that customer connects to the electric grid;
2. An on-site generation facility;
3. Qualified for net metering aggregation;
4. Owned or operated by an electric public utility and approved by the Board;
5. Directly connected to the electric grid at 69 kilovolts or less, regardless of how an electric public utility classifies that portion of its electric grid, and is designated as "connected to the distribution system" by the Board pursuant to N.J.S.A. 48:3-87.q, r, or s; or
6. Certified by the Board, in consultation with the Department of Environmental Protection, as being located on a brownfield, an area of historic fill, or on a properly closed sanitary landfill facility.

Any solar electric power generation facility, other than that of a net metering customer on the customer's side of the meter, connected above 69 kilovolts shall not be considered connected to the distribution system.

"Contaminated site or landfill" has the same meaning as provided in N.J.S.A. 48:3-51.

"EDC" or **"electric distribution company"** means an electric public utility as defined in N.J.A.C. 14:3-1.1.

"EDC area" means the geographic area over which an electric distribution company has a privilege or franchise granted by the State or by any political subdivision of the State, in accordance with the provisions of N.J.S.A. 48:2-13 and -14.

"Electric distribution system" has the same meaning as set forth in N.J.A.C. 14:5-1.2.

"Farmland" means land actively devoted to agricultural or horticultural use that is valued, assessed, and taxed pursuant to the "Farmland Assessment Act of 1964," N.J.S.A. 54:4-23.1 at any time within the 10-year period prior to the effective date of the Solar Act.

"Final remediation document" has the same meaning as provided in N.J.S.A. 58:10-23.11b.

"Fossil fuel" means natural gas, petroleum, coal, or any form, of solid, liquid, or gaseous fuel derived from such material.

"Government entity" has the same meaning as set forth in N.J.S.A. 48:3-51.

"Green Acres preserved open space" means land classified as either "funded parkland" or "unfunded parkland" under N.J.A.C. 7:36, or land purchased by the State with "Green Acres funding" as defined at N.J.A.C. 7:36.

"Grid supply facility" means a solar electric power generating facility that is directly connected to the distribution system in the state that sells the electricity it generates at wholesale rates through PJM Interconnection or under wholesale bilateral contracts, but is not owned or operated by an electric utility and approved by the Board pursuant to N.J.S.A. 48:3-98.1.

"Historic fill" means non-indigenous material, no matter what date this material was emplaced on the site, used to raise the topographic elevation of a site, which were contaminated prior to emplacement and are in no way connected with the operations at the location of emplacement and which include, but are not limited to, construction debris, dredge spoils, incinerator residue, demolition debris, fly ash, and non-hazardous solid waste. "Historic fill" shall not include any material which is substantially chromate chemical waste or any other chemical production waste or waste from processing of metal or mineral ores, residues, slags, or tailings.

"Interconnection agreement" means an agreement between a generator and an EDC, which governs the connection of the generator facility to the electric distribution system, as well as the ongoing operation of the generator facility after it is connected to the system. An interconnection agreement shall follow the standard form agreement developed by the Board and available from each EDC.

"Megawatt" or **"MW"** means 1,000 kilowatts, measured in [direct-alternating](#) current ([dac](#)).

"Nameplate capacity" means the maximum rated output of an electric power generator under specific conditions designated by the manufacturer and usually indicated on a nameplate physically attached to the power production equipment.

"Net metering" means a system of metering and billing for electricity in which the supplier/provider and/or the EDC:

1. Credits a customer-generator at the full retail rate for each kilowatt-hour produced by a class I renewable energy system installed on the customer-generator's side of the electric revenue meter, up to the total amount of electricity used by that customer during an annualized period determined under 14:8-5.3; and
2. Compensates the customer-generator at the end of the annualized period determined under 14:8-5.3 for any remaining credits, at a rate equal to the supplier/provider's avoided cost of wholesale power.

"Net metering aggregation" means a procedure for calculating the combination of the annual energy usage for all facilities owned by a single customer where each customer is a State entity,

school district, county, county agency, county authority, municipality, municipal agency, or municipal authority, and which are served by a solar electric power generating facility in accordance with N.J.S.A. 48:3-87.e(4).

"NJDEP" means the New Jersey Department of Environmental Protection.

"On-site generation facility" means a Class I or Class II renewable generation facility and equipment and services appurtenant to electric sales by such facility to the end use customer located on the property or on property contiguous to the property on which the end user is located. An on-site generation facility shall not be considered a public utility. The property of the end use customer and the property on which the on-site generation facility is located shall be considered contiguous if they are geographically located next to each other but may be otherwise separated by an easement, public thoroughfare, or transportation or utility-owned right-of-way.

"Preserved farmland" means land from which a permanent development easement was conveyed and a deed of easement was recorded with the county clerk's office pursuant to N.J.S.A. 4:1C-11 to -48, land subject to a farmland preservation program agreement recorded with the county clerk's office pursuant to N.J.S.A. 4:1C-24, land from which development potential has been transferred pursuant to N.J.S.A. 40:55D-113 to -129 or 40:55D-137 to -163, or land conveyed or dedicated by agricultural restriction pursuant to N.J.S.A. 40:55D-39.1.

"Properly closed sanitary landfill facility" means a sanitary landfill facility, or a portion of a sanitary landfill facility, for which performance is complete with respect to all activities associated with the design, installation, purchase, or construction of all measures, structures, or equipment required by the Department of Environmental Protection, pursuant to law, in order to prevent, minimize, or monitor pollution or health hazards resulting from a sanitary landfill facility subsequent to the termination of operations at any portion thereof, including, but not necessarily limited to, the placement of earthen or vegetative cover, and the installation of methane gas vents or monitors and leachate monitoring wells or collection systems at the site of any sanitary landfill facility.

"Renewable energy" means class I renewable energy or class II renewable energy, as those terms are defined in this section.

"Residential customer" has the same meaning as set forth in N.J.A.C. 14:3-1.1.

"School district" means a local or regional school district established pursuant to chapter 8 or chapter 13 of Title 18A of the New Jersey Statutes, a county special services school district established pursuant to article 8 of chapter 46 of Title 18A of the New Jersey Statutes, a county vocational school district established pursuant to article 3 of chapter 54 of Title 18A of the New Jersey Statutes, or a district under full State intervention pursuant to N.J.S.A. 18A:7A-34 et seq.

"Site investigation" shall have the same meaning as provided in N.J.S.A. 54:10-23.11.b.

"Small scale hydropower facility" means a facility located within this State that is connected to the distribution system, and that meets the requirements of, and has been certified by, a

nationally recognized low-impact hydropower organization that has established low-impact hydropower certification criteria applicable to:

1. River flows;
2. Water quality;
3. Fish passage and protection;
4. Watershed protection;
5. Threatened and endangered species protection;
6. Cultural resource protection;
7. Recreation; and
8. Facilities recommended for removal.

"Societal benefits charge" or "SBC" means a charge imposed by an electric public utility, at a level determined by the Board, in accordance with 48:3-60.

"Solar electric generation" means creation of electricity using a system that employs solar radiation to produce energy that powers an electric generator. Solar electric generation includes technologies that utilize the photovoltaic effect. Solar electric generation is a type of class I renewable energy.

"Solar panel" or "PV panel" has the same meaning as set forth in P.L. 2018, c. 17.

"SREC-II" means a solar renewable energy certificate created for each megawatt-hour of energy produced by a qualifying electric power generation facility during the facility's qualification period.

"SREC Registration program" or "SRP" means an administrative process developed by the Board that requires filing with the Board documents detailing the size, location, interconnection plan, land use, and other project information as required by the Board for all proposed solar electric generation facilities seeking to create SRECs, including grid supply facilities seeking approval, designation, or certification as "connected to the distribution system."

"State entity" means a department, agency, or office of State government, a State university or college, or an authority created by the State.

"Supplier/provider" means an electric power supplier or a basic generation service provider, as these terms are defined at 14:4-1.2.

"TPS/BGS provider" means an electric power supplier or a basic generation service provider, as these terms are defined at 14:4-1.2.

§ 14:8-11.5 - Successor Solar Incentive Program registration process

- (a) The SuSI Program registration process shall be developed by Board staff and the SuSI Program registration manager in compliance with Board rules and orders. All forms and instructions regarding the SuSI Program registration process shall be found on the Board's New Jersey Clean Energy Program website at www.njcleanenergy.com.
- (b) For any facility seeking eligibility for the SuSI Program, the registrant shall submit a complete registration package to the Board, or its designee, in accordance with Board rules and orders and the instructions posted on the NJ Clean Energy Program website.
- (c) Each completed registration package must be accompanied by the payment of a registration fee, the value of which will be determined by the Board through a Board order. The registration fee shall take effect one year from the opening of the SuSI Program; projects registering during the first year of the SuSI Program will be exempted from the registration fee.
- (d) The registrant shall meet minimum facility maturity standards and provide all documentation required by Board rule or order as part of its initial registration package, including, but not limited to:
 1. A contract between the primary installer or the third-party owner, as applicable, and the customer of record;
 2. A site map;
 3. A disclosure statement signed by the customer, the installer, and the third-party SREC-II owner, if applicable, available on the New Jersey Clean Energy Program website;
 4. For net metered facilities, a utility bill showing the site host's name, address, and electric tariff, if applicable;
 5. For facilities sized 25 kW or greater, electrical and building permits or documentation that applications for electrical and building permits have been submitted to the relevant municipality;
 6. For [net metered] facilities sized 25 kW or greater, up to one MW, evidence of having submitted to the relevant EDC a Part 1 interconnection agreement signed by the customer-generator and the installer;
 7. For [net metered] facilities sized one MW or greater, an executed Part 1 interconnection agreement and a Milestone Reporting Form;
 8. For public entities seeking eligibility for the ADI public entity adder, if such an adder is established by the Board pursuant to N.J.A.C. 14:8-11.6(g), a letter on official stationery of the public agency under signature of a bona fide officer, elected official, or employee of the public entity attesting to the status of the public entity;
 - 9. For community solar facilities:**
 - i. All relevant non-ministerial permits including, but not limited to, zoning variances, planning board authorization, and Pinelands Commission approval;**
 - ii. A subscriber acquisition plan with a registered subscriber organization;**
 - iii. A community engagement plan;**
 - iv. A guaranteed bill credit discount to be offered to subscribers; and**
 - v. For projects on a contaminated site or landfill, an estimated size of the area designated as a "contaminated site" or "properly closed**

sanitary landfill”, a completed NJDEP permit readiness checklist, and certification by Board Staff that NJDEP has verified the site’s eligibility.

- (e) Registration packages submitted to the ADI Program shall be reviewed by the SuSI Program registration manager on a first-come, first-served basis.
- (f) Board staff or the SuSI Program registration manager shall notify registrants whether the facility is eligible to participate in the program, and whether the initial registration package is complete, incomplete, or deficient. Registrations that are deemed incomplete due to a minor deficiency, as defined below, will be notified of the deficiency by the SuSI Program registration manager and granted seven business days to cure the deficiency. Registrations that are deemed ineligible, incomplete, have a major deficiency, as defined below, or fail to correct minor deficiencies within the time allowed, will be rejected, and the registration will be cancelled. If the registration is cancelled, the registrant may submit a new completed registration to the SuSI Program if the relevant capacity block established pursuant to N.J.A.C. 14:8-11.7 remains open, or in a future capacity block.
 - 1. Minor deficiencies include such items as an inconsistency between the signatures on different sections of the SuSI certification form; failure to complete one or more sections on the SuSI certification form; failure to label technologies or to indicate panels on the site map; a missing or incorrect premise address or missing installer information on the site map; submittal of an incorrect page of the utility bill; failure to enter complete equipment information in the online portal; an incomplete section or sections on the Milestone Reporting Form or disclosure form; or other similar clerical error.
 - 2. Major deficiencies include such items as failure to upload the SuSI certification form to the SuSI portal or failure to include all signatures on that form; failure to upload the site map or utility bill to the SuSI portal; failure to upload the Milestone Reporting Form to the SuSI portal or to include all signatures; failure to upload the disclosure form to the SuSI portal or to include all signatures; and for net metered projects one megawatts or larger, failure to upload a fully executed Part I of the Interconnection Approval from the relevant EDC with the application.
- (g) Registrants that submit a completed registration package or that cured all minor deficiencies in the time allowed, and that meet the eligibility and qualification requirements for a SuSI market segment pursuant to this subchapter, will be issued a notice of conditional registration by Board staff or the SuSI Program registration manager. The notice of the conditional registration shall:
 - 1. Indicate for which market segment megawatt block the facility is eligible;
 - 2. State that, if the solar facility is constructed as described in the initial registration package, Board staff or the SuSI Program registration manager will issue a New Jersey State Certification Number for the facility upon receiving a complete post-construction certification package, and if no waiver is granted, an inspection will be required necessary in accordance with the provisions at (j) below;
 - 3. Include an expiration date occurring on:
 - i. The one-year anniversary of the registrant's notice of conditional registration for net metered facilities;
 - ii. The 18-month anniversary of a registrant's notice of conditional registration for community solar facilities; or

- iii. The 24-month anniversary of a registrant's notice of conditional registration for projects granted conditional certification by the Board as part of the Contaminated Sites interim market segment established pursuant to N.J.A.C. 14:8-11.7(b)8; and
 4. Include notice that the facility must receive permission to operate from the relevant EDC and submit a post-construction certification packet as set forth at (j) below prior to the expiration date indicated in the notice of the conditional registration; and
 5. After issuance of the notice of conditional certification by the Board, construction of the solar facility as described in the initial registration package may begin.
- (h) All registered facilities one MW or greater will be required to submit quarterly milestone reporting forms, on a standard form to be developed by the SuSI Program registration manager in coordination with Board staff. Timely submission of milestone reporting forms will be considered in cases of extension requests pursuant to (i) below.
- (i) SuSI-eligible facilities that received a SuSI Program notice of conditional registration may request one six-month extension to their registration expiration date. Extension requests must be submitted to the SuSI Program registration manager on or before the expiration date noted in the notice of conditional registration. Any extension request shall be reviewed by the SuSI Program registration manager, in consultation with Board staff, on a case-by-case basis, based on consideration of extenuating circumstances for the delay in completing the facility, evidence that the facility has made progress towards completion, and the likelihood of timely and successful completion of the solar facility. For facilities one MW or greater, the SuSI Program registration manager shall also consider whether the registrant has submitted timely quarterly milestone reporting forms. If the extension is granted, the SuSI Program registration manager shall provide a new conditional registration expiration date, six months from the expiration of the original conditional registration.
- (j) Following commencement of commercial operations, and prior to the expiration date provided in the notice of conditional registration, the registrant shall submit a post-construction certification package, through the Board's New Jersey Clean Energy Program website at www.njcleanenergy.com. The post-construction certification form and instructions will be found on the New Jersey Clean Energy Program website at www.njcleanenergy.com. If the post-construction certification package demonstrates that all program requirements have been met, and the facility either passes an inspection or receives an inspection waiver, Board staff shall assign a New Jersey State Certification Number to the solar facility for use in obtaining SREC-IIs from PJM-EIS GATS. The Certification Number will identify the facility's market segment, and associated incentive level, based on the completed facility size information certified in the post-construction certification package.
- (k) If, after submittal of an initial registration package, an increase of up to 10 percent or 25 kWdc, whichever is smaller, in the solar electric generating facility's generating capacity is planned, the registrant shall notify Board staff following the instructions provided on the New Jersey Clean Energy Program website. Facilities shall not be permitted to increase their generating capacity by more than 10 percent or 25 kWdc, whichever is smaller. Notwithstanding a permissible increase pursuant to this subsection, no ADI-eligible facility will be permitted an increase in generating capacity that would expand the project beyond five MWdc.

- (l) Solar electric generation facilities that have received a notice of conditional registration for SREC-IIs pursuant to (g) above shall retain eligibility to remain in the SuSI Program until the expiration or cancelation of the facility's SuSI registration. Any facility that does not commence commercial operation, within the time provided in its SuSI registration (that is, by the registration expiration date), or that commences commercial operation, but does not submit a post-construction certification package within the time provided in its SuSI registration (that is, by the registration expiration date), will no longer be eligible for the SuSI Program and its registration shall be canceled. A registrant may submit a new registration to the SuSI Program if capacity remains in the relevant megawatt capacity block as established at N.J.A.C. 14:8-11.7. Board staff and the SuSI Program registration manager shall treat the new registration package as if it were a first-time submittal, with no reference to the previous registration process. In the case of resubmittal of an expired registration, registrants will be exempt from the requirement at N.J.A.C. 14:8-11.4(b) prohibiting construction on the facility prior to submission of the registration and receipt of a notice of conditional registration.

§ 14:8-11.7 - Market segment megawatt blocks

- (a) The Board shall set, through a Board order, an annual budget allocation for each of the market segments described at (b) below. The annual budget allocations shall ensure that total program spending remains in accordance with the cost cap established pursuant to P.L. 2018, c. 17, codified at N.J.S.A. 48:3-87(d)(2), and promote project diversity after considering the historic market share of each market segment. The Board may set annual budget allocations that are aggregated for multiple market segments.
- (b) The Board shall allocate megawatt blocks to the following initial market segments in the ADI Program:
1. Net Metered Residential (all sizes);
 2. Net Metered Non-Residential smaller than one MW, located on a rooftop, carport, canopy, or floating solar;
 3. Net Metered Non-Residential one MW to five MW, located on a rooftop, carport, canopy, or floating solar;
 4. Net Metered Non-Residential smaller than one MW, all ground mounted facilities;
 5. Net Metered Non-Residential one MW to five MW, all ground mounted facilities;
- and**
6. [LMI] Community Solar (**up to five MW**), as defined in the [Community Solar Energy Pilot Program or] Community Solar Energy Program[, as relevant;]. **The Community Solar market segment may be divided into megawatt blocks for each EDC area.**
 7. [Non-LMI Community Solar, as defined in the Community Solar Energy Pilot Program or Community Solar Energy Program, as relevant; and]
 8. On an interim basis, contaminated sites, which is a market segment open only to facilities previously eligible for conditional certification pursuant to N.J.S.A. 48:3-87(t).
- (c) The Board may adjust the market segments or create new market segments through a Board order to reflect changes in the solar market. In considering an adjustment, the Board shall include consideration of whether increased or decreased differentiation between market segments is necessary in light of the costs and revenues of different project types, administrative complexity, or the emergence of new technologies.
- (d) Based on the annual budget allocation for each market segment established by the Board pursuant to (a) above, divided by a forecast of the estimated cost of NJ SREC-IIs from that market segment, the Board will establish, by Board order, an annual capacity megawatt block or quarterly capacity megawatt blocks for market segments. If the Board establishes quarterly megawatt blocks, unused capacity within a block will roll over from quarter to quarter within each given energy year. The Board may set capacity targets that are aggregated for multiple market segments.
- (e) The SuSI Program registration manager shall accept new registration packages for a given market segment until the capacity block for that market segment is fully subscribed. When the capacity block for a given market segment is reached, the SuSI Program registration manager shall close the registration portal and stop accepting new registrations until the next capacity block is opened. A capacity block will be defined as being fully subscribed when the last registration received in the registration portal causes the total capacity of all registrations in that block to exceed the capacity allocation for said block.