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The logo for PSEG Services Corporation features a stylized orange sunburst icon to the left of the text "PSEG" in a bold, black, sans-serif font. Below "PSEG" is the text "Services Corporation" in a smaller, orange, italicized sans-serif font.

May 15, 2023

**In the Matter of the Community Solar Energy Program Staff Straw Proposal
Released March 30, 2023**

BPU Docket No. QO22030153

VIA E-FILING & ELECTRONIC MAIL

Secretary of the Board
New Jersey Board of Public Utilities
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Dear Secretary Golden:

Public Service Electric and Gas Company (“PSE&G” or the “Company”) submits the following comments on the Straw Proposal regarding the permanent Community Solar Energy Program (“Permanent CSEP” or “Permanent Program”) released on March 30, 2023 by the Staff of the Board of Public Utilities (“BPU” or “Board”) (the “Straw Proposal” or “Proposal”).¹

PSE&G urges Staff to reconsider its proposal to exclude New Jersey’s electric utilities from the Permanent CSEP. The Clean Energy Act mandates that the Board “set forth standards for projects owned by electric public utilities” in the Permanent CSEP. Staff’s recommendation not only contradicts the law, but it also imperils New Jersey’s ability to achieve its clean energy goals and spread solar’s benefits to underserved communities.

Additionally, PSE&G observes that the Straw Proposal’s project maturity recommendations—and particularly the proposal to require Electric Distribution Companies (“EDCs”) to perform full interconnection studies prior to a project’s eligibility to apply to the Permanent Program—may impose lengthy delays on project evaluation and impose costs on the EDCs that will be passed on to utility customers. PSE&G urges Staff to reconsider.

¹ In the Matter of the Community Solar Energy Program, Staff Straw Proposal, BPU Docket No. QO22030153 (March 30, 2023).

Below, PSE&G expands on the above comments, and additionally requests clarification on consolidated billing and certain other aspects of the Proposal. Clarification on these issues is necessary for the EDCs' effective administration of the Permanent Program.

I. Staff's Proposal to Exclude Electric Utilities Contradicts the Clean Energy Act, Jeopardizes New Jersey's Ability to Achieve Its Clean Energy Goals, and Diminishes the State's Capability to Share Solar's Benefits with Underserved Communities

PSE&G urges Staff to reconsider its recommendation to exclude EDCs from the Permanent CSEP. Staff's recommendation contradicts the Clean Energy Act's requirement that the Board create rules and regulations for EDCs ownership. Also, by preventing EDC solar development, Staff's recommendation increases the likelihood that New Jersey will fail to meet its clean energy goals. Finally, the EDCs are uniquely situated in their ability to bring low- and moderate-income ("LMI") customers into the program, which is one of Staff's goals—and preventing EDC participation imperils that goal.

a. Staff's Recommendation Does not Comport with the Law

The 2018 Clean Energy Act ("CEA") explicitly requires the Board to allow electric utilities to own facilities in the Permanent CSEP. The Straw Proposal fails to adhere to that statutory requirement.

The CEA requires that within three years of the opening of the Community Solar Pilot Program, the Board adopt rules and regulations to convert the Pilot Program into a Permanent Program.² The Straw Proposal incorrectly states that it reflects the Board's efforts to comply with that mandate, when in fact, the Proposal directly contradicts that mandate.³ The Clean Energy Act makes clear that the Board must allow electric public utilities to own facilities in the Permanent Program:

The 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.⁴

The Straw Proposal ignores that statutory requirement. Instead, Staff states:

Specifically, Staff recommends that the EDCs not be permitted to develop, own, or operate community solar projects . . .⁵

Staff justifies its recommendation by stating that it "believes" that EDC ownership is "unnecessary" because Staff determined that "the experience of the Pilot [] demonstrates both the

² N.J.S.A. 48:3-87.11(f).

³ Straw Proposal at 4.

⁴ N.J.S.A. 48:3-87.11(f).

⁵ Straw Proposal at 11.

strong interest in developing community solar by non-EDC entities (both private developers and public entities) as well as their ability to design projects that serve a broad diversity of customers.”⁶

Staff does not explain how this recommendation squares with the CEA. Rather, Staff appears to be making a policy determination, and suggesting to the Board that the Board adopt it. However, the Legislature already made that policy determination, and directed the Board to provide for utility ownership of Permanent CSEP projects. The Board cannot substitute its policy preferences for the Legislature’s. PSE&G therefore urges Staff to reconsider its recommendation and, in compliance with the CEA, recommend that the Board “set forth rules and regulations for the permanent program that set forth standards for projects owned by electric public utilities.”

b. Staff’s Recommendation Increases the Risk that New Jersey will Miss Its Clean Energy Targets

The Solar Act of 2021 directed the BPU to increase the size of the existing solar program by 3,750 MW of solar generation by 2026.⁷ For New Jersey to reach that goal, it will need to build approximately 900 MW of solar per year. That goal dwarfs the average annual build rate over the last five years, which is less than 400 MW per year. With that low build rate, an “all hands on deck” approach is necessary to achieve the state’s solar goals, and EDC participation is a vital part of that effort.

c. Staff’s Recommendation Could Hamper LMI Participation in the Permanent CSEP

The CEA is clear that the rules and regulations established for the permanent program shall “require the access to solar energy projects for low and moderate income customers,” and “ensure the ability of residential and commercial customers to participate in solar energy projects, including residential customers in multifamily housing.”⁸ The Straw Proposal recognizes and embraces that imperative in principle, but impedes its achievement in execution.⁹ Public utility companies like PSE&G, with established relationships with all customer segments, are best positioned to effectively satisfy these requirements. Additionally, EDCs, as fully regulated entities, are uniquely positioned to develop and manage these types of projects while acting in the best interest of customers, with oversight by the BPU.

Therefore, allowing electric utilities to leverage their existing relationships with currently underserved customers would be a cost-effective, low-risk path forward to achieve LMI market penetration. There is a substantial market of LMI customers to serve in PSE&G’s service territory that meet Staff’s proposed definition of “low- to moderate-income household.”¹⁰ PSE&G is eager to partner with the BPU, the state, cities and municipalities, and other stakeholders to help LMI customers achieve demonstrable savings while also accessing other utilities services, such as home comfort programs and energy efficiency measures. This approach to LMI community solar would

⁶ Id. at 12.

⁷ N.J.S.A. 48:3-115(a).

⁸ N.J.S.A. 48:3-87.11(f)(5), (6).

⁹ Straw Proposal at 15-16.

¹⁰ Id. at 31 (proposed rule 14:8-13.2).

build upon PSE&G’s commitment and successful history of serving LMI customer needs through PSE&G’s Multifamily Energy Efficiency and Comfort Partners programs, as well as the newer Home Weatherization program implemented as part of the Clean Energy Future – Energy Efficiency program.

Permitting full EDC participation in the permanent Community Solar program would enable the utilities to work with the BPU and other stakeholders to create programs that support the state’s goals for solar development with social impact and environmental justice benefits by delivering meaningful savings to LMI customers.

II. PSE&G’s Suggestions to Streamline EDC Evaluation and Lessen Implementation Costs

The Straw Proposal contains a number of recommendations that may delay the approval of meritorious Community Solar projects and increase the EDCs’ costs in implementing the Permanent CSEP program—costs that are passed on to utility customers. PSE&G identifies those items below and offers solutions.

a. Staff’s Proposed Maturity Requirements Will Slow the Evaluation of Projects and Increase EDC Burdens

The Straw Proposal recommends that a project 1 MW or larger must have an “Executed EDC interconnection study” before it is considered by the Board for conditional acceptance into the Permanent Program—a time- and resource-intensive EDC process that will slow EDC evaluations and increase costs, especially in light of the Board’s historically high rejection rate of applications in the pilot program.¹¹ PSE&G therefore proposes that the Board evaluate applications before EDCs are required to perform interconnection studies, or alternatively, instead accept as a sufficient maturity showing a project’s submission of a Part 1 Interconnection Agreement (or Attachment A, as appropriate) for all project sizes, not just those under 1 MW.

i. Staff’s Recommendation May Result in EDCs Performing Full Interconnection Studies of Non-Meritorious Projects at the Expense of Meritorious Projects

Across both years of the Community Solar pilot program, over 75% of applications were ultimately rejected by the Board.¹² Requiring EDCs to first perform a resource-intensive interconnection study for all applications in the larger Permanent Program—before the Board reviews them—will tie up EDC resources in the evaluation of large numbers of non-viable projects, delaying the review of viable projects and increasing EDC costs.

¹¹ *Id.* at 14.

¹² According to data published by New Jersey’s Clean Energy Program, the Board received 252 application in the first year of the Community Solar pilot program, but granted conditional approval to only 45: a rejection rate of over 80%. The second pilot year saw only a modest decrease in the rejection rate: of 412 applications received by the Board, the Board granted conditional approval to only 105: a rejection rate of nearly 75%. See “Community Solar,” New Jersey Board of Public Utilities, New Jersey’s Clean Energy Program, [available at https://njcleanenergy.com/cs](https://njcleanenergy.com/cs).

ii. EDC Interconnection Studies Require Significant Time and Resources

Completing a full interconnection study has the potential to take a number of months. For PSE&G, the first step of the analysis is to determine if the proposed interconnecting circuit has sufficient capacity to support the project. If it does, PSE&G can typically execute an interconnection study in approximately 30 business days. However, if PSE&G determines that the proposed interconnecting circuit lacks sufficient capacity, PSE&G must perform a more involved, resource-intensive study. Each such project must be analyzed by an engineer to determine what circuit upgrades are necessary, and also the costs associated with those upgrades. Such an analysis could take an additional two to three months on top of the initial 30-business-day review.

iii. PSE&G's Recommendation: EDC Review After Board Review, or Alternatively, Similar Maturity Requirements for All Project Sizes

PSE&G therefore suggests that an executed EDC interconnection study not be a prerequisite for approval into the program, and instead a step taken after the Board's acceptance into the program. To proceed in the manner recommended by Staff may lead to EDC interconnection studies becoming a bottleneck in the Permanent CSEP.

As an alternative, PSE&G suggests that a prerequisite for application to the Board be limited to evidence of a project's submission of a Part 1 Interconnection Agreement (or Attachment A), instead of an EDC interconnection study for projects over 1 MW. Such a process would provide the Board the needed assurance that the submitted project is complete and viable, while also minimizing the potential delays resulting from EDC interconnection studies.

b. Clarification of the "First-Come, First-Served" Project Selection Process

The Straw Proposal recommends "requiring the EDCs to open their interconnection processes to proposed community solar projects and process those interconnection requests prior to the project applying to the CSEP."¹³ PSE&G seeks clarification on two elements of this Staff recommendation: first, that, like the Board, EDCs may also evaluate received applications on a "first-come, first-served" basis; and second, that EDCs need not start accepting Community Solar applications from developers until a future date to be set by the Board after the Permanent CSEP is finalized.

i. PSE&G Requests Clarification that EDCs May Evaluate Permanent CSEP Applications on a "First-Come, First-Served" Basis

In the section titled "Application Process and Project Selection," Staff recommends that Permanent CSEP projects be selected on a "first-come, first served" basis, based on the date that a developer submits "project information and documentation to the Board's Successor Solar Incentive program administrator after the opening of the portal to community solar projects."¹⁴ One item of "documentation" recommended by Staff is an "[e]xecuted EDC interconnection study for projects

¹³ Straw Proposal at 14.

¹⁴ Id. at 13.

1 MW or larger, or evidence of having submitted a Part 1 Interconnection Agreement to the EDC for projects smaller than 1 MW.”¹⁵

To ensure that all developers submitting Permanent CSEP applications to EDCs receive an equitable evaluation, PSE&G suggests that the Board specify that EDCs should process Permanent CSEP applications (including the performance of an interconnection study) in the order in which they are received by the EDC.

ii. PSE&G Requests Clarification that EDCs Need Not Accept Permanent CSEP Applications Until a Future Date Set by the Board

Since the publication of the Straw Proposal, PSE&G has received over 100 applications from developers for the Permanent CSEP program. A number of developers have relayed to PSE&G that they are submitting the applications now, even before the Permanent CSEP is finalized, to ensure they are at the head of the “first-come, first-served” queue proposed in the Straw Proposal.¹⁶

To ensure equitable administration of the program, PSE&G requests that any Board order approving the Permanent CSEP clarify that EDCs may disregard any Permanent CSEP applications received prior to a certain future date, and that any developers who already had submitted applications are required to resubmit them no earlier than a specified date after the Permanent CSEP rules are finalized.

This will reduce gamesmanship and ensure that all prospective developers apply to the Permanent CSEP with the same understanding of the final parameters of the Permanent CSEP.

III. Consolidated Billing: Requests for Clarification

PSE&G stated its position on consolidated billing as part of a joint EDC filing submitted on May 28, 2021, and generally supports its implementation.¹⁷ In addition to maintaining the positions articulated in that filing and incorporating them here by reference, PSE&G requests clarification on the following items.

a. Subscriber Fee

PSE&G requests clarification that the subscriber fee portion of the bill will be considered an electric revenue for the purposes of recovery of uncollected revenues.¹⁸ The Straw Proposal does not address the treatment of uncollected revenues. For the protection of all ratepayers, PSE&G seeks clarification that these subscription-fee charges are considered electric energy charges, and therefore eligible for all normal energy collection activity and regulatory treatment. This would be

¹⁵ Id. at 14.

¹⁶ Id. at 12-13.

¹⁷ In re the Community Solar Energy Pilot Program Year 2 Application Form and Process & In re the Community Solar Energy Pilot Program, Consolidated Billing EDC Report, BPU Docket Nos. QO20080556 and QO1806064 (May 28, 2021).

¹⁸ Straw Proposal at 19-20.

consistent with how consolidated billing works for customers who are billed by PSE&G for supply from a third party supplier.

b. Standardization of Data Submissions by Developers

PSE&G looks forward to engaging in the proposed “billing working group” to discuss implementation of consolidated billing.¹⁹ PSE&G observes that a priority of the working group should be the establishment of a standardized, administrable process through which developers provide the EDCs the necessary billing information through an electronic medium. For the pilot program, developers have provided that information via individual, monthly excel spreadsheets that developers upload to PSE&G. As the permanent program scales up and consolidated billing is added, PSE&G looks forward to establishing an alternative, streamlined solution, with stronger controls, similar to third party supplier billing.

c. Minimum 10% Discount Proposal

PSE&G requests clarification on EDCs’ obligations regarding the 10% minimum subscriber savings requirement in the Straw Proposal.²⁰ PSE&G seeks confirmation that this minimum 10% discount is 10% of the community solar credit, which excludes non-bypassable charges. If that is Staff’s intention, PSE&G suggests clarifying proposed rule 14:8-13.6(q)(4) to be in line with Staff’s prose description on page 24 of the Straw Proposal, and in line with the net crediting example filed by the EDCs in the EDCs’ May 2021 Consolidated Billing Report.²¹

IV. Additional Observations and Requests for Clarification

PSE&G provides the following comments and requests for clarification so as to be better positioned to administer the Permanent Program.

a. Clarification that Community Solar Subscribers May Not Also Participate in Net Metering

The Straw Proposal acknowledges that the purpose of Community Solar is to “enable[] access to clean energy for utility customers currently unable to place clean energy generation directly on their own properties.”²² Therefore, PSE&G requests that the Board clarify that any customer who chooses to become a Community Solar subscriber be excluded from participating in the state’s Net Metering program by installing solar generation at his/her property.

Allowing customers to both subscribe to Community Solar and to participate in a net metering program would provide benefits to classes of customers not intended to benefit from Community

¹⁹ Id. at 20.

²⁰ Id. at 24.

²¹ In re the Community Solar Energy Pilot Program Year 2 Application Form and Process & In re the Community Solar Energy Pilot Program, Consolidated Billing EDC Report, BPU Docket Nos. QO20080556 and QO1806064 (May 28, 2021) at 14.

²² Straw Proposal at 4.

Solar, and additionally require upgrades to PSE&G’s billing system—and increase the burdens of PSE&G’s maintenance and administration of the program—in service of such customers.

b. Recommendation to Include Demand Charges in Master Metered Buildings

In a departure from the pilot program, the Straw Proposal recommends that the subscriber credit calculation include demand charges for master metered buildings.²³ PSE&G recommends against adopting that proposal for the Permanent CSEP, for two reasons.

First, such a procedure could result in circumstances where credits exceed the current bill. This could happen in winter months due to seasonal demand charges, and in situations where capacity prices decrease from the prior year. In all, it will significantly increase the credit for master-metered buildings that receive service on PSE&G’s Commercial and Industrial rates.

Second, PSE&G notes that implementing this change will likely increase administrative costs, both to implement the initial billing system change and to administer it going forward.

For these reasons, PSE&G suggests that the Permanent Program keep intact the methodology used in the pilot program, whereby fixed costs (including demand charges) were not included in the Community Solar credit. Alternatively, if the Board chooses to include demand charges, PSE&G suggests that similar to other residential customers, these customers receive a credit based on the residential RS rate class.

c. Recommendation to Allow Local Governments to Create “Opt Out” Programs

PSE&G cautions that this proposal raises significant data privacy and administrability concerns, and may not be viable absent legislative change.²⁴

The Straw Proposal recognizes that to effectively administer an opt-out program, municipalities would be required to determine how to allocate appropriate subscription sizes to the automatic enrollees.²⁵ PSE&G sees no way a municipality can do that other than by receiving the energy usage history of individual customers. This raises significant data privacy concerns, as it appears to require the EDCs to provide to municipalities non-anonymized energy usage for any customer identified by the municipality—a significant privacy risk and burden on the EDCs.

PSE&G also notes that it is not clear if PSE&G can provide this information to municipalities under existing law without those municipalities first obtaining each customer’s consent. New Jersey law contains the following prohibition:

an electric power supplier, a gas supplier, an electric public utility, and a gas public utility shall not disclose, sell, or transfer individual proprietary information, including, but not limited to, a customer's name, address, telephone number, energy

²³ Id. at 17-18.

²⁴ Id. at 24-25, 38.

²⁵ Id. at 25 (recognizing the following as “challenges:” “fairly determining whom to automatically enroll, and allocating appropriate subscription sizes for each customer while maintaining data privacy.”).

usage, and electric power payment history, to a third party without the consent of the customer.²⁶

The only exception to this consent requirement is for municipalities to “establish a government energy aggregation program,” not applicable here.²⁷ Neither proposed rule 14:8-13.5(j), which waives the subscriber consent requirement, nor proposed rule 14:8-13.5(j)(12), which requires EDCs to provide this data to municipalities, address this statutory bar. PSE&G therefore requests clarity regarding how Staff’s opt-out proposal will operate absent legislative change.

d. Recoverability of Incremental Costs

PSE&G also requests clarification on recoverability of incremental costs. Proposed rule 14:8-13.8(a) includes the following language:

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).²⁸

PSE&G agrees with this language. However, proposed rule 14:8-13.6(q)(7) states that:

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.²⁹

These two proposed rules contradict: “implementing and administering consolidated billing” is a component of the “implementation, compliance, and administration of the Program.” To the extent that Staff is proposing to carve out a portion of those costs and impose a cap upon them, it is unclear why: all costs that EDCs incur in connection with the Permanent Program will be subject to a prudence review at the appropriate time. A cap on a specific cost category will only serve to delay and degrade the deployment of this key feature of Staff’s proposal.

e. Banking Unallocated Generation

PSE&G requests clarification on Staff’s proposal regarding banking unallocated generation.³⁰ PSE&G’s understanding is that Staff proposes that an EDC’s obligation to compensate a developer for unallocated generation expires 24 months after the start of project operation. PSE&G requests clarification whether, after 24 months, the EDCs are no longer required to track unallocated generation for any purposes, or whether Staff intends for the EDC to continue tracking that

²⁶ N.J.S.A. 48:3-85(b)(1).

²⁷ N.J.S.A. 48:3-85(b)(2).

²⁸ Straw Proposal at 44.

²⁹ Id. at 41.

³⁰ Id. at 18-19.

unallocated generation, but without the EDC's obligation to compensate that generator for unallocated generation.


f. Retroactivity of Rule Application

Finally, PSE&G requests clarification on which Permanent CSEP rules will apply retroactively to customers in the pilot program, and which will apply only going forward. PSE&G has numerous customers in the pilot program, and is concerned about the difficulty of administering different rules for pilot-program projects and permanent-program projects. For clarity, PSE&G recommends that all rules that represent a change from the pilot program apply to all current customers in the pilot program, as of a certain future date.

* * *

We thank you for your consideration of PSE&G's comments in this matter. Please do not hesitate to contact us if you think we could be of additional assistance.

Very truly yours,

A handwritten signature in black ink that reads "Aaron I. Karp". The signature is written in a cursive style with a distinct loop for the letter 'A' and a clear 'I' and 'Karp'.

Aaron I. Karp