



May 15, 2023

VIA ELECTRONIC MAIL & ONLINE PORTAL SUBMISSION

Secretary of the Board
44 South Clinton Avenue, 1st Floor
Post Office Box 350
Trenton, NJ 08625-0350
board.secretary@bpu.nj.gov

Re: I/M/O The Community Solar Energy Program
DOCKET NO. Q022030153

Dear Secretary of the Board:

CEP Renewables, LLC (“CEP”) respectfully submits the following comments in the above-captioned docket. CEP hereby requests that these comments be included in the record and considered in full in the development of the Community Solar Permanent Program. We appreciate the opportunity to provide these comments. Should you have any questions with respect to any of the following, please do not hesitate to contact the undersigned.

As you may know, CEP is the foremost developer of utility-scale solar arrays in the State of New Jersey. CEP has completed and transacted well over 100 MW dc of utility-scale projects in New Jersey over the past several years. These projects include the 13.5 MW dc BFI landfill solar farm in South Brunswick, NJ; the 14.5 MW dc B&J Warren and Sons “brownfield” solar farm in Monroe Township, NJ; the 10.7 MW dc “Clay Pits” solar farm in Old Bridge Township, NJ; the 17 MW dc, two-phase Holland solar farm at the former Fibermark Paper Mill brownfield site in Holland Township, NJ; and the 26.5 MW dc Mount Olive solar farm in Mount Olive Township, NJ.

CEP also developed the largest “community” solar farm in the State of New Jersey – the BEMS landfill solar farm in Southampton, Burlington County, NJ. BEMS is a project consisting of two co-located 5 MW dc solar arrays. One array is connected to the local distribution system of PSE&G and one is connected to the local distribution system of JCPL&L. The BEMS project is currently under construction and is anticipated to achieve commercial operation in 2023. The project was a true partnership of various different governmental, public, and private stakeholders coming together to realize an amazing vision. It should be a model for what New Jersey can achieve in the Community Solar Energy Program (“CSEP”).

Drawing from our considerable development background in the State of New Jersey, and our experience with the BEMS landfill, we do have some concerns with the Community Solar Program Straw Proposal as currently designed. Please consider the below comments and incorporate these recommendations into the permanent program.

Community Solar Transition Principles

Providing the “maximum benefit to ratepayers at the lowest cost” is a stated goal of the CSEP. However, the CSEP does just the opposite, by encouraging the development of rooftop solar projects to the absolute detriment of projects on landfills, brownfields, carports, and floating solar. Rooftop projects are, generally, smaller and much easier to permit and cheaper to construct. The structure of the CSEP, as designed, will give these projects a distinct advantage versus the other types of projects. By doing so, the Board is targeting solar incentives where they are needed least, rather than where they are needed most. This does a disservice to the ratepayers, by effectively making them overpay for rooftop projects. The Board should be looking for opportunities to do projects at scale, which include landfill, brownfield, carport, and floating projects. By doing these projects at scale, the Board is getting “more bang for its buck” in terms of deploying more renewable energy more quickly.

2.1.1) Project size and co-location of projects.

The Board should absolutely permit the co-location of projects that are sited on landfills and brownfields. This allows a developer to take advantage of economies of scale and install two co-located projects more efficiently than it could with two separate projects located at two different locations. Again, this will allow the solar incentives offered by the State to go to a better purpose. Allowing for co-location will ultimately have the effect of driving costs *down* as developers can more efficiently acquire and permit one site rather than multiple sites. Frankly, we see no downside to co-location, since each facility will have its own point of interconnection, which typically requires a separate dedicated circuit from a local EDC. Disallowing co-location only creates increased transactional, permitting, and construction costs for developers that will then have to seek out and acquire multiple sites to install the same amount of MW. We see no benefit to disallowing co-location.

In the Straw Proposal, Staff notes that co-location effectively circumvents the statutory cap of 5 MW on community solar projects. That is simply not true. Co-located projects are physically located on the same property, but they share essentially none of the same infrastructure and, for all intents and purposes, are two distinct projects.

2.1.2) Project siting.

We would recommend that Staff consider allowing for the location of community solar projects on closed resource extraction sites (not just water bodies on those sites). Those sites tend to be attractive nuisances for local municipalities and are often difficult to develop from a

traditional (residential, commercial, or industrial standpoint). Allowing for solar development would create a long-term user for these sites, enhanced security, and a long-term rateable for the local municipality.

We would also recommend that Staff allow community solar projects to be located on industrially zoned properties of over 20 contiguous acres, consistent with the New Jersey Municipal Land Use Law and any areas designated by a local municipality as an “area in need of redevelopment” or “area in need of rehabilitation” pursuant to the Local Redevelopment and Housing Law.

Finally, we would recommend that Staff allow community solar projects to be located on property that is publicly owned, such as property owned by a Township or Borough. This would allow opportunities for municipalities to sponsor their own community solar projects and it would give towns the chance to revitalize property that is otherwise not contributing to the local tax base. It would open the program to more municipalities than can currently participate under the framework as laid out by staff, which would lead to greater diversity of opportunity in the state. Any project located on municipally-owned property should have to otherwise comply with the siting restrictions of the Solar Act of 2021.

II.3. Overall program capacity and II.4. Program Capacity Segmentation.

We support the recommendations of other commenters that the capacity for the program be increased to account for the lost opportunity of the past two years with no community solar program. We also support the recommendation that there be a waiting list for projects that otherwise meet the maturity requirements to account for project “scrub.”

Most importantly, we believe that any allocation of capacity in the CSEP should be allocated in two separate tranches – one tranche for rooftops and a second tranche for the other three types of projects (currently, contaminated sites, carports, and floating solar on man-made water bodies). This will give the three other types of projects the opportunity to participate in the program so that it is not comprised solely of rooftop projects. Our recommendation is that the program be divided 50/50 between rooftop and “other” types of projects.

II.7. Minimum project maturity requirements.

Staff must revise the minimum project maturity requirements so that rooftops and the other three types of projects being considered for the program are placed on equal footing.

The Straw Proposal contains certain minimum project maturity requirements that are a pre-requisite to any application to the Program, including a complete, final interconnection study and agreement with a local EDC. The minimum project maturity requirements also include

receipt of all “non-ministerial permits,” and, for contaminated sites and landfills, the Straw Proposal also recommends:

- A completed DEP permit readiness checklist;
- An approved site mitigation plan, if applicable; and
- BPU certification of eligibility verification from the NJDEP, including that the project is on NJDEP’s list of contaminated or landfill sites or has received a waiver if not on one of those lists, a review of compliance history at the proposed site, approval for proper closure of the landfill, and contaminated site remediation information.

As written, the CSEP is substantially incentivizing rooftop projects to the detriment of all other types of solar projects. If these recommendations are to be accepted by the Board as is, the Program will be discriminatorily weighted against projects sited contaminated sites and landfills. We believe that it is important to continue to incentive the development of solar arrays on contaminated sites and landfills and to not create a community solar project that is solely targeted to rooftop development.

There are a few issues with the Straw Proposal in this regard. For one, the Straw Proposal requirements a final, complete interconnection study for each project as a prerequisite to apply. To this point, local EDCs have not accepted applications for community solar array interconnections until there is Board approval of that project. Staff is now asking the EDCs to study potentially hundreds or thousand of interconnections for projects that will seek admission to the Program.

Naturally, our fear is that the EDCs will not take these applications on a first-come, first-served basis, but, rather, the EDCs will study the easier applications first. Those applications would be for rooftops, where the interconnections are straightforward. The EDCs would likely put applications for larger projects on landfills or contaminated sites to the bottom of the pile, effectively prohibiting these projects from seeking admission to the Program.

Further, the requirement that projects must demonstrate all non-ministerial permits (e.g., zoning variances, planning board authorization, and Pinelands Commission approval) in order to be eligible for the Program effectively eliminates participation from all projects other than rooftop projects. The non-ministerial permits required to build a rooftop project are essentially non-existent while the permitting required in order to build the other three listed categories are generally the same: local site plan approval, county approval, soil conservation district approval, NJDEP approval, and Highlands or Pinelands approval. For contaminated sites and landfill projects and floating solar projects, there is an additional layer of DEP permits such as the wetlands permit and site remediation issues that must be dealt with.

Our recommendation for non-rooftop projects, is that project maturity could be demonstrated if the project:

- (a) has made application for I/C agreement with the local EDC;
- (b) has *applied* for all non-ministerial permits or (i) include a list of all non-ministerial permits not yet applied for and (ii) a certification from a license professional engineer or LSRP as to why certain permits have not been applied for (because there are instances where you would not apply for everything right at the outset and would save certain applications for after other approvals are received);
- (c) can demonstrate having had a meeting with NJDEP permit coordination;
- (d) can produce a concept plan signed by a licensed professional engineer;
- (e) can produce a signed and sealed survey of the subject property; and
- (f) include a proposed project schedule signed by a licensed professional engineer demonstrating that the project can be installed in time.

We would also recommend that these projects be given eighteen (18) months to connect along with the availability of up to two (2) extensions that would be granted on good cause shown. These projects should be allowed to participate in the program provided that they can show the above minimum project maturity requirements. This will allow developers to make sound business decisions and investments, to know at the outset of project permitting that the project has been accepted into the program.

Thank you for your time and consideration of CEP's comments.

Very truly yours,

Gary Cicero

Managing Member
CEP Renewables, LLC