Jersey Central Power & Light
A FirstEnergy Company

300 Madison Avenue
Morristown, NJ 07962

James Austin Meehan, Esq.
(610) 921-6783
(330) 315-9165 (Fax)

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VIA ELECTRONIC FILING ONLY

Sherri L. Golden, Secretary
New Jersey Board of Public Utilities
44 South Clinton Avenue, 1st Floor
P.O. Box 350
Trenton, New Jersey 08625-0350
board.secretary@bpu.nj.gov

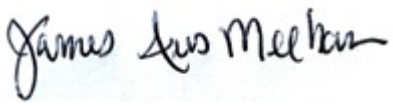
Re: In the Matter of the Community Solar Energy Program
Docket No. QO22030153

Dear Secretary Golden:

On March 30, 2023, the Staff of the New Jersey Board of Public Utilities ("Board" or "Board Staff") released a Straw Proposal regarding the permanent Community Solar Energy Program ("CSEP" or "Permanent Program").[1] Jersey Central Power & Light Company ("JCP&L" or the "Company") appreciates the opportunity to submit comments in response to the Permanent Program. The Company hopes that the Board will find JCP&L's comments and suggestions helpful as it considers this important topic.

JCP&L again thanks Board Staff for the opportunity to provide these comments. If you have any questions, please do not hesitate to contact me.

Respectfully submitted,



James Austin Meehan
Counsel for Jersey Central Power & Light Company

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

2. Proposed Community Solar Energy Program parameters

I. Program Eligibility

1) Project size and co-location of projects

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

Stakeholder feedback: N/A

Staff recommendation: The Clean Energy Act of 2018 states that each community solar project is limited to a capacity of 5 MW. Allowing co-location of two or more community solar projects would allow projects to benefit from economies of scale and make use of available space. However, it effectively circumvents the 5 MW statutory limit on the size of community solar projects. Staff therefore recommends that the Board not permit co-location of community solar projects, defined as siting more than one system on the same property or on contiguous properties, as reflected in tax records, that are under common control or ownership, if their total capacity is greater than 5 MW. Staff notes that N.J.A.C. 14:8-11.4 permits an entity to file a petition with the Board for special dispensation to engage in co-location of facilities, and Staff would propose this approach be applied here. In evaluating such a petition, Staff recommends looking at whether the co-located solar projects are under common ownership or control or whether the proposed systems are owned by financially unrelated entities. Larger projects are encouraged to apply for the Competitive Solar Incentive Program.

Staff recommends that the Board allow the co-location of a community solar project with a net metered project. Examples of this were identified in the Pilot, where a community solar installation was proposed on roof space that was not needed for an onsite net metered generation facility, thus enabling the full use of the available space.

Response:

JCP&L concurs with Staff's recommendation that the Board not permit co-location of Community Solar Energy Program ("CSEP") projects if their total capacity is greater than the five MW statutory limit[2] as such co-location would effectively circumvent the statutory limit, as noted by Staff. The capacity limit for individual community solar pilot projects is set at a maximum of five MWs per project, measured as the sum of the nameplate capacity in DC rating of all PV panels comprising the community solar facility.[3] As stated in earlier comments on this topic, the Company recommends the Board continue to implement capacity limits to ensure the reliability and resiliency of the electric distribution system is protected. Further, the Company believes all community solar projects should comply with all current and future applicable interconnection requirements, standards and processes applicable to each Electric Distribution Company ("EDC") without special treatment for Community Solar.

2) Project siting

Issue: What land use restrictions and limitations, if any, should apply to the siting of community

[2] N.J.A.C. 14:8-9.
[3] N.J.A.C. 14:8-9.4(g).

solar projects? While Section 6 of the Solar Act of 2021 does not establish siting standards for Community Solar projects, should the Board adopt standards comparable to those in the Board's proposed solar siting rules13 for community solar facilities? What should those standards look like?

Stakeholder feedback: All stakeholder feedback received on this question supports the continued use of land-use and siting restrictions set in the Pilot. Specifically, the development of community solar projects on preferred sites (rooftops, parking lots, floating solar, brownfields, areas of historic fill, or properly closed sanitary landfill facilities). There was consensus that development of community solar should be prohibited in forests, preserved farmland, and green acres properties. Some stakeholders also voiced that dual-use projects should qualify as community solar, potentially in addition to the annual 150MW awarded capacity. [Question 4]

In the matter of extending Section 6 siting standards established in the Solar Act of 2021, there were conflicting responses on whether it should apply to community solar. Those in favor of the extension believe that it would avoid conflicting local rules and provide consistency to siting standards. Others were against the extension because of potential delays in project development.

Staff recommendation: The Pilot's scoring criteria included up to 20 points for higher preference siting, and the competitive application process resulted in all selected projects and most non-selected projects being located on such sites. Therefore, Staff believes all projects should be located on preferred sites. Staff does not see adequate reason to establish a preference among these site types and would allow all projects on permitted sites to apply to the Permanent Program equally.

Staff therefore recommends that the Board only permit community solar projects on the following site types:

- Rooftops
- Carports and canopies over impervious surfaces
- Contaminated sites and landfills
- Man-made bodies of water that have little-to-no established floral and faunal resources (i.e., floating solar)

These site types conform with the ADI market segment of Net Metered Non-Residential projects located on Rooftops, Carports, Canopies, and Floating Solar, and with the CSI tranche for Contaminated Sites and Landfills.

For contaminated sites and landfills, Staff recommends updating the definition of "brownfields, areas of historic fill, or properly closed sanitary landfill" to conform to the new definition of "contaminated site or landfill" included in the Solar Act of 2021. As part of the new definition, Staff notes that it now allows siting of preferred resources on associated disturbed areas. Those areas are defined as areas which may themselves not have been contaminated but, after considering tax and property records as well as historical land use, are clearly associated with contaminated areas or landfills, be limited to no more than 10 percent of the land to be used for solar development. Agricultural land that meets the technical definition of a contaminated site will be excluded.

Since the permitted site types do not include farmland or other greenfield sites, the restrictions established in sections 6(c) and 6(e) of the Solar Act of 2021 pertaining to CSI-eligible facilities,

and identified in the Board's order dated December 7, 2022,14 are not applicable here and do not need to be specifically incorporated.

At this time, Staff does not recommend allowing dual-use sites on farmland to participate in the community solar program. The Dual-Use Solar Energy Pilot Program15 may permit participation of community solar projects in the future; in that case capacity allocation and project selection will be dependent on the design of the dual-use program. If projects in the Dual-Use Solar Energy Pilot Program are permitted to be community solar projects, then it is Staff's recommendation that they must also follow both relevant CSEP and Dual-Use Solar Energy Pilot Program rules.

Projects sited on contaminated sites and landfills would be required to be designed to prevent onsite erosion and protect offsite areas from erosion and flooding. These projects would also be required to satisfy all NJDEP regulatory compliance obligations and receive a post-construction certification prior to applying for permission to operate. If part or all of the property on which the proposed Community Solar project would be located would also qualify as forested land as defined in proposed N.J.A.C. 14:8-12.2 and 14:8-12.3(b), then Staff recommends that the project will need to obtain a waiver from the Board following the process described in proposed N.J.A.C. 14:8-12.6.

Response:

The Company supports restriction of Community Solar projects to the preferred site types identified above. The Company also continues to believe land use restrictions and limitations should be consistent with current New Jersey statutes and regulations, including any local land use requirements.

II. Program capacity

3) Overall program capacity

Issue: What should be the annual Permanent Program capacity? Should the annual Permanent Program capacity limit account for potential project "scrub" (i.e., planned projects that do not reach commercial operation)?

Stakeholder feedback: The majority of stakeholders believe that the Permanent Program should award at least 150 MW per Energy Year ("EY") and rollover any "scrubbed" or unused capacity/funds from one EY to the next. Some stakeholders also requested that the first permanent program capacity block to be increased to 300 MW, accounting for the lost capacity from a third Pilot program year. [Question 1]

Staff discussion and recommendations: The Solar Act of 2021 states that the new Successor Solar Incentive Program should aim to provide incentives for at least 150 MW of community solar facilities per year for the first five years of the ADI Program.16 Additionally, several observations can be drawn from the Pilot:

- First, it is important to highlight the tremendous market response and overall interest in developing community solar projects. The Board received 252 applications representing approximately 652 MW in PY1 and 412 applications representing approximately 804 MW in PY2. In both program years, this significantly exceeded the capacity available. The Pilot rules provided for a minimum of 75 MW for each of the three planned program years; this

capacity allocation was doubled to 150 MW in PY2 in response to the strong market interest.

- Second, as indicated in the summary of the Pilot above, only 44 MW of the 78 MW conditionally approved to participate in PY1 have reached PTO.
- Finally, as several stakeholders pointed out, there was no PY3 solicitation, as had been envisioned in the original design of the Pilot. In addition, 150 MW had been assigned to community solar in the EY2022 Administratively Determined Incentive ("ADI") Program MW Block allocations, which was not filled as the permanent program had not launched.

Staff recommends that the Permanent Program annual capacity be set on an energy year basis, through the ADI Program MW Block annual capacity allocation process defined at N.J.A.C. 14:8-11.7. Staff recommends that, pursuant to the Solar Act of 2021, the annual capacity be set at no less than 150 MW and the cumulative capacity for energy years 2022 to 2026 be no less than 750 MW, with flexibility to increase this capacity allocation depending on market conditions and the Board's policy priorities. Staff recommends allocating at least 225 MW each in EY24 and EY25 and at least 150 in EY26 and beyond to meet statutory requirements and anticipated demand.

As in the Pilot, Staff recommends that the Board reserve the right to reallocate any unallocated capacity to future years. Staff does not recommend that the Board create a new provision for reallocating capacity that had been previously assigned to projects that fail to reach commercial operation: in most cases, it is not known that projects will not be completed until they reach their completion deadline. There would therefore be a significant time lag in accounting for this additional capacity, which would add unnecessary administrative burden to the program implementation. Staff still recommends that the Board take actual and anticipated project scrub into account when setting annual capacity allocations.

Staff does not recommend rolling over scrubbed capacity from the Pilot to the CSEP. Staff does, however, recommend that projects that were conditionally approved to participate in the Pilot, but did not reach operation in the allotted time, be allowed to submit a new application for the CSEP without counting against, or being subject to, otherwise applicable capacity limits. However, any conditionally approved Pilot projects seeking to rollover into the CSEP would still need to meet all applicable requirements of participation in the program, other than the capacity limits.

Response:

As stated in prior comments on this topic, the Company does not oppose accounting for potential project "scrub" subject to maintaining the annual cost cap established pursuant to statutory requirements[4]. JCP&L further recommends that the capacity associated with any project "scrub" be awarded in a subsequent program year. By way of further response, see the Company's response to parameter no. 4, below.

The Company agrees with the recommendation by Board Staff not to roll over scrubbed capacity from the Pilot to the CSEP. The Company does not oppose allowing a project that was conditionally approved in the Pilot, but did not reach operation in the allotted time, from being permitted to submit a new application to the CSEP without counting against, or being subject to, applicable capacity limits.

4) Program Capacity Segmentation

[4] N.J.S.A. 48:3-87d(2).

Issue: Should the CSEP capacity be divided into separate blocks, and if yes, how? (e.g., by EDC service territory? By project type or size)?

Stakeholder feedback: The majority of stakeholders recommend the continuation of EDC block allocations in proportion to retail electric sales. Further division by project type is viewed to be overly complicated. [Question 2]

Staff recommendation: The Pilot divided available capacity among the four EDCs based on their average respective percentages of in-State retail electric sales (hereinafter referred to as "capacity blocks"). In doing so, the Board sought to ensure that the distribution of community solar projects across the State would be roughly proportional to the distribution of potential subscribers. At this time, only PSE&G and JCP&L service territories have projects currently operational, though several projects are under development in the ACE and RECO service territories. Staff believes that this same policy rationale carries over into the Permanent Program, and therefore recommends that the Board maintain its capacity segmentation by EDC service territory. For a total available capacity of 225 MW, this would represent approximately 28 MW for ACE, 65 MW for JCP&L, 128 MW for PSE&G, and 4 MW for RECO service territories.

Staff recommends that new registrations be accepted for each EDC capacity block until that block is fully subscribed. 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.

Under the Pilot, 40% of the program capacity was reserved for projects defined as LMI. For the Permanent Program, Staff recommends that all projects be limited to those with at least 51%LMI customers, therefore eliminating the need for a dedicated LMI carve-out (see recommendation 10).

Response:

Consistent with prior comments on this topic, JCP&L supports allocating the CSEP capacity among the Electric Distribution Companies ("EDCs") based upon each EDC's percentage of in-State electric sales. This is an allocation basis which has been used in prior solar program and energy efficiency program offerings and will continue to ensure equitable distribution of these projects across the State. JCP&L also believes any carried-over capacity should not be reallocated.

The Company has no objections to the recommended Low- and Moderate-Income ("LMI") subscription requirements for all CSEP projects.

5) Qualifications for Project Ownership

Issue: Should the Board set restrictions on the ownership of community solar projects?

Stakeholder feedback: Several developers noted opposition to EDC ownership and operation of community solar projects. Conversely, EDCs request allowing their ownership of community solar projects, claiming that allowing EDC ownership will lead to a more competitive market and better serve LMI residents since they already have relationships with those customers. [Question 3]

Staff recommendation: Staff recommends that the Board adopt similar qualifications and ownership restrictions for solar developers participating in the Permanent Program as were

implemented in the Pilot. Specifically, Staff recommends that the EDCs not be permitted to develop, own, or operate community solar projects (this does not, of course, impact the EDCs' responsibilities relating to interconnection and billing management for these projects). Staff believes that it is unnecessary to allow the EDCs to own community solar generation assets, given the experience of the Pilot that demonstrates both the 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. Staff therefore believes that there is no reason to transfer the risks and costs associated with developing a community solar project from non-EDC entities to the ratepayers, nor for EDCs to have a potential competitive advantage in project ownership. The EDCs are essential partners in the administration of the community solar program and have unique relationships to electric customers, and Staff believes that the Permanent Program would be best served with the EDCs continuing to work closely with Staff to ensure the success of the program as a whole.

Response:

JCP&L is concerned by the recommendation of Board Staff that the EDCs "not be permitted to develop, own, or operate community solar projects". JCP&L believes that Staff's recommendation is inconsistent with the legislative intent of the 2018 Clean Energy Act ("CEA"), which explicitly requires the Board to establish rules and regulations for EDC ownership of CSEP projects that are part of the Permanent Program.[5] The language of the CEA makes clear that the Permanent Program should not include a restriction on utility ownership of community solar projects. JCP&L believes that to ensure that the community solar program continues to expand and thrive, the Board should not preclude ownership and operation options.

II. Application Process and Project Selection

6) Application Process and Project Selection

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

Stakeholder feedback: In discussing this question, stakeholders have broadly coalesced around two ideas for how projects should be selected in the Permanent Program. Option 1 is to continue to select projects via a competitive solicitation process, either as it was implemented in the Pilot or as a variation thereof. Option 2 is to run the program as a first-come, first-served process where projects can reserve capacity in the order in which they apply, so long as they meet the minimum qualifications set by the Board. [Questions 7 and 8]

Staff recommendation: The decision as to how to select projects for participation in the Permanent Program has a cascading effect on many of the other elements of program design: under a competitive solicitation, most of the policy preferences regarding project design (e.g., LMI inclusion, siting preferences, community engagement, etc.) are identified as part of the evaluation criteria. Under a first-come, first-served process, the Board will need to decide which of these policy preferences to keep by making them requirements for applying to the Permanent Program.

Option 1, the competitive solicitation process, was employed twice during the Pilot. Its main advantage is that it enables the Board to identify policy preferences and then leaves it to the

[5] N.J.S.A. 48:3-87.11(f) (stating "The board shall adopt rules and regulations for the permanent program that set forth standards for projects owned by electric public utilities…").

developer to decide how to design their project. This led to a great diversity in the applications received, with many developers deploying innovative community-centered components in order to differentiate their projects.

The primary disadvantage of the competitive solicitation is that it is a complicated process. Staff brought recommendations for the award of PY2 projects to the Board almost nine months after the application window had closed. In that time, a small number of projects withdrew from consideration, citing an inability to maintain site leases. Although the PY2 review was made easier by an online-only application process, the administrative completeness review and the scoring of each application remained a highly time-intensive, manual process. In conversations with Staff, some developers also expressed frustration with the low likelihood of individual projects being selected, caused by the high degree of competitiveness.

Furthermore, while this competitive process saw a variety of applicants and selected projects, the high competition meant that many important policy preferences were uniformly met by awardees, such as all projects being LMI projects, having higher preference siting, and providing guaranteed savings and flexible terms. The high scores among all selected projects indicate that it is likely that a sufficient number of projects will be able to meet these preferences as a minimum requirement in the CSEP.

Staff therefore recommends Option 2, a first-come, first-served participation process within the ADI Program, combined with high requirements for project quality and maturity. With strict prerequisites for application (see recommendation 7), the potential pool of applicants will be limited to those that are considered to be most beneficial from a policy perspective and are most mature and able to make progress toward completion soon after awarding. All projects would be required to meet certain criteria, as described below, to ensure key policy preferences are met.

Further, an open enrollment process fairly allows for a diversity of projects to participate without being constrained by a scoring process that may favor certain types of project elements or developers. This procedure is more sustainable for a permanent program and limits the administrative burden associated with a competitive solicitation process.

In the proposed process, developers would submit project information and documentation to the Board's Successor Solar Incentive program administrator after the opening of the portal to community solar projects. The program administrator would then review the application for completeness and eligibility. Projects would be reviewed and accepted into the program in the order in which they applied, until the program capacity has been reached.

To prevent the need for applications to be rushed to submission upon the opening of the registration portal, Staff recommends that a tiebreaker process may be employed if capacity blocks are filled quickly. In that case, all projects submitted within the first ten business days of the registration period will be reviewed for completeness and eligibility. As part of the registration process, projects will be asked to submit a minimum guaranteed bill credit savings rate that they would offer to subscribers. In the event that any EDC capacity block is oversubscribed, all complete and eligible applications will be ranked by the offered savings rate. The projects with the highest offered savings rates will be granted conditional approval for participation in the Permanent Program. Projects not selected will have the opportunity to reapply during the next application period.

Staff recommends that the Board retain the ability to adjust selection procedures in response to

the rate of applications received and the implementation of interconnection modernization procedures.

Staff question for stakeholders 6: Please comment on the proposed process for project registration. Do you believe using bill discount offering is an appropriate method to select projects, should there be more applicants than capacity available?

Response:

The Company defers comment on this topic.

Response to Staff question for stakeholders 6:

The Company defers comment on this topic.

7) Minimum project maturity requirements

Issue: What minimum project maturity requirements should projects be required to meet before applying to participate in the Permanent Program?

Stakeholder feedback: Stakeholders largely agree that there should be increased minimum maturity requirements including proof of site control, having received or applied for non-ministerial permits, proof of interconnection viability, layout design, a subscription plan/organization, and an application fee. Few stakeholders proposed the inclusion of interconnection applications as a minimum maturity requirement, but stakeholders who recommended against it note that it should be required after Board approval of projects to not waste efforts on rejected proposals. [Question 9]

Staff recommendation: Among the projects selected in PY1, only 44% of projects representing 56% of capacity reached commercial operation by the expiration date of their conditional approval. Staff recommends that the Board increase the minimum maturity requirements required prior to application to ensure that awards are given to projects with high likelihood of commercial operation within the allotted time. These standards should be more consistent with the similar non-residential segment of the ADI Program. Non-viable projects should be discouraged from applying and taking up program capacity. Staff recommends that the Board set several requirements for conditional acceptance into the Permanent Program:

- Evidence of site control, consistent with the standards used by PJM
- Receipt of all non-ministerial permits (e.g. zoning variances, planning board authorization, and Pinelands Commission approval)
- Plan for obtaining remaining permits or proof of application of building permit, unless located on a contaminated site or landfill
- Subscriber acquisition plan with a registered subscriber organization
- Community engagement plan
- Executed 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
- For projects located on a contaminated site or landfill:
    - A completed DEP permit readiness checklist
    - An approved site mitigation plan, if applicable

- 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.

The experience in the Pilot showed that making awards prior to the receipt of an interconnection study can result in delays as projects wait for its completion and possible negotiation and determination of project viability. Aligning the community solar maturity requirements with those of the non-residential segment of the ADI Program would ensure that this step required for project feasibility would be finished before capacity is reserved for them. Although the requirement for a full interconnection study and executed interconnection agreement for projects 1 MW or greater may lengthen the EDCs' interconnection queues and the community solar development cycle, Staff believes that it is appropriate to require completion of this step because it is important for identifying which projects are most viable. As part of this transition, Staff envisions 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. Projects interested in pursuing both community solar and non-community solar interconnection options should submit separate interconnection requests.

The ongoing grid modernization proceeding is proposing the Pre-Application Verification/Evaluation ("PAVE") process, in which the EDC would be required to provide to applicants an initial assessment of circuit hosting capacity, upgrade requirements, and interconnection cost range for the project's size and location. Staff considers it desirable that the EDCs implement this process as soon as possible so that community solar projects may use it to gauge project viability before requesting a full study. The proposed grid modernization rules are intended to help expedite the interconnection approval process.

Some stakeholders have recommended an application fee or escrow requirement, which would force developers to further invest financially in their application. Staff believes that such a requirement could be useful to show good faith and project readiness; however, Staff is concerned that setting a high financial pre-requisite could act as a barrier to entry to projects proposed by public entities, community organizations, or small developers. Staff however recommends the Board retain the option to impose such a requirement on community solar projects in the future.

Staff question for stakeholders 7: Do you believe the proposed project maturity requirements are sufficient to ensure that accepted projects are highly likely to begin operation within the 18 months allowed in the ADI Program?

Response:

JCP&L believes interconnection application for any project before Board approval of the project applicant would create an unnecessary and inefficient use of utilities' resources for projects that ultimately may not be selected by the Board. The Company urges Board Staff to consider an expanded timeline for completion of a community solar project to allow for projects to undergo the interconnection process only after selection by the Board.

By way of further response, see JCP&L's Comments in the Grid Modernization proceeding, which are incorporated herein by reference thereto.[6]

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[6] *In the Matter of Modernizing New Jersey's Interconnection Rules, Processes and Metrics*, Docket No. QO21010085, JCP&L Comments dated April 24, 2023.

Response to Staff question for stakeholders 7:
The Company defers comment on this topic.

8) Other project eligibility criteria

Issue: What other project eligibility criteria should the Board consider for projects seeking to participate in the CSEP?

Stakeholder feedback: N/A

Staff recommendation: As in the Pilot, Staff recommends that the Board not allow existing projects (i.e., projects that have reached PTO) to convert to become a community solar project.

Staff also intends to continue allowing participation in the CSEP only by projects seeking to interconnect with the EDCs Atlantic City Electric, PSE&G, JCP&L, and Rockland Electric, pursuant to the Clean Energy Act of 2018, which restricts participation to projects interconnected to electric public utilities.

Response:

The Company agrees with the recommendation of Board Staff not to allow existing projects to convert to become a community solar project.

III. LMI access

9) Definition of LMI subscriber

Issue: What types of subscribers are considered low- and moderate-income?

Stakeholder feedback: N/A

Staff recommendation: Staff recommends that the Board adopt the same definitions of an LMI subscriber as were used in the Pilot. This defines a LMI household as having an adjusted gross income below 80 percent of the area median income, as determined by annual United States Department of Housing and Urban Development HUD income limits. Qualified affordable housing providers may also be considered LMI subscribers.

Response:

The Company believes the definitions of an LMI subscriber, low-income household, and moderate-income household should be consistent with those provided in the existing rules for the Pilot[7]. By way of further response, see the Company's response to no. 12, below as it relates to affordable housing providers.

10) LMI participation

Issue: How should a high level of LMI participation in the community solar program be maintained?

[7] N.J.A.C. 14:8-9.2.

Stakeholder feedback: Stakeholders broadly believe the 51% minimum of LMI subscriber requirement should be maintained and there should be amendments to the income verification process utilized for subscribers in the Pilot, whether through self-attestation or using census tracts with 50% earning less than 55% of median income. There is some agreement that developers and the BPU should expand the use of educational campaigns to promote community solar. Examples given were increased physical and digital advertisements, creating workshops for community organizations, and an updated website. [Question 11]

Staff recommendation: Staff believes that providing access to solar energy projects for low- to moderate-income customers is an important component of the community solar program. In the Pilot, initially 40% of program capacity was reserved for projects which reserved 51% of space for LMI subscribers. The competitive solicitation process resulted in all 150 selected projects and most non-selected projects for both years being LMI projects. Staff believes the requirement of a minimum of 51% LMI subscription is attainable and desirable to ensure that customers who may most need access to the community solar program are prioritized for their participation. Further, under the Inflation Reduction Act, an adder to the solar investment tax credit is available for qualifying low-income economic benefit projects that provide at least 50 percent of the financial benefits of the electricity to households with incomes less than 80 percent of area median gross income. Staff sees advantages in not only aligning with this standard but also setting one of the highest low- and moderate-income carve-outs in the country. Therefore, Staff recommends that all projects be required to serve a minimum of 51% LMI subscribers, as measured by capacity subscribed.

Response:

As indicated in the Response to No. 4 above, the Company supports the proposed LMI subscription requirements.

11) LMI Income verification standards

Issue: How should incomes be verified for qualification of low- to moderate-income subscribers?

Stakeholder feedback: Stakeholders have proposed several income verification methods including self-attestation, certain census tracts, pay stub submissions, and assistance program participation. The most favored option is a standardized self-attestation form for all subscribers. [Question 12]

Staff recommendation: Staff recommends expanding the Pilot's list of programs that may be used to verify a subscriber as LMI to include Medicaid, Supplemental Security Income (SSI), Supplemental Security Disability Insurance (SSDI), Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), and Temporary Assistance for Needy Families (TANF).

Staff also recommends allowing a subscriber to qualify as LMI by providing a written attestation that their gross household income is below 80% of area median income, as defined by HUD. Staff believes that potential community solar subscribers should not be dissuaded from participation by having to produce a tax return, EBT card, or other documentation of income. Individuals may feel uncomfortable providing this personal information to subscriber organizations, and there is concern about subscriber organizations retaining such data. Self-attestation was recommended by a variety of commenters, including many community advocates, to ensure inclusion of overburdened communities, since the people with the highest need are often the least able and/or

willing to provide the evidence that would otherwise be required. On the other hand, there is concern that developers would falsely identify potential subscribers as LMI, in order to meet the Program's standards.

Staff recommends that the Board produce a standardized format for self-attestation, similar to the subscriber disclosure form, and that subscriber organizations would be required to present this form when contracting with customers. Staff also recommends requiring self-attestation to be done through a third-party platform or organization who would be responsible for maintaining records.

Staff recommends that the Board or its agents may conduct audits of subscriber lists to ensure compliance with the requirement that at least 51% of a project's capacity is allocated to LMI subscribers. Subscriber organizations would continue to be required to retain records of subscriber contracts, disclosure forms, proof of attestation of LMI eligibility, and generation allocation lists, which must be made available to Board or Board Staff upon request. In the case of noncompliance with the LMI subscriber minimum or other requirements, Staff recommends the Board have the authority to take enforcement actions, including but not limited to modification or revocation of a project's SREC-II incentive, both prospective or retroactive, and restrictions on the developer's or subscriber organization's future participation in the CSEP.

Response:

JCP&L has no comment on this topic.

12) Participation by affordable housing providers

Issue: Should the Board consider modification to how affordable housing providers may subscribe to community solar projects?

Stakeholder feedback: N/A

Staff recommendation: Staff believes that residents of master-metered housing should be able to access a direct financial benefit of participating in community solar just as those who have a utility account are able to. The Pilot standards were not specific enough to ensure residents have a tangible gain from the participation for the duration of the subscription. 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. Master-metered subscribers shall provide annually to the Board an affidavit that lists the names of residents and total benefits paid. The housing provider may retain 25% of the bill savings to provide general benefits to the residents.

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.

Multifamily housing is proposed to be exempted from the 10-subscriber minimum if the project is located on-site.

Staff also seeks to ensure that residents retain eligibility for affordable housing when they receive community solar bill credits.

Response:
The Company has no objection to the proposed modifications by Board Staff regarding how affordable housing providers may subscribe to community solar projects. However, JCP&L recommends that the qualification requirements set forth in the existing definition of "affordable housing provider" in the Pilot be updated to include any modifications to those qualification requirements that are adopted herein as part of the Permanent Program[8].

IV. Bill Credits

13) Value of the bill credit

Issue: What modifications, if any, should the Board consider making to the value of the community solar bill credits?

Stakeholder feedback: Responses to this question varied among stakeholders. Developers are broadly concerned with the difference in bill credit values between residential and commercial/master-metered rates for subscribers and would like them to be adjusted in the Permanent Program. Their suggestions to do so would be to include demand and non-bypassable charges to master-metered bill credits. [Question 19]

EDC responses highlighted concerns with the recovery of excess credits and its carryover past generation time. Recommendations from EDCs include compensating net excess credits at the average wholesale hourly locational marginal price and basing bill credits on Basic Generation Service rates only, since there is use of distribution systems.

Staff recommendation: Staff recommends that the bill credit calculation from the Pilot be maintained in the Permanent Program for residential customers and commercial customers other than affordable housing providers. That is, the bill credit is applied to supply and delivery charges but not non-bypassable charges or demand charges. Residents of affordable multi-family housing with master meters should also be ensured access to community solar. Therefore, staff recommends that for master-metered affordable housing buildings, serviced with a master meter on commercial rates, the bill credit shall also apply to demand charges. Demand charge credit rates would be calculated for each affordable housing customer by pro-rating demand charges to the subscriber's electricity usage by using the subscriber's average demand charges and average electricity usage over the previous energy year. Subscriber organizations would be required to provide a certification to the EDCs indicating which subscribers qualify as affordable housing and should have the credit calculated based on supply, delivery, and demand charges.

Staff question for stakeholders 13: If demand charges are included in the calculation of the bill credit for affordable housing providers, would the proposed calculation process set appropriate rates, as demand is not connected to usage or project production? Would another method more effectively allow affordable housing to participate in community solar?

Response:

JCP&L does not oppose maintaining the bill credit calculation from the Pilot in the Permanent Program for the noted customers. However, with community solar, the credit process is virtual

[8] N.J.A.C. 14:8-9.2.

and there is no change to the actual kwh and kw demand requirements for a subscribing customer.

All electric requirements will continue to be delivered through the distribution system, and in some cases, the transmission system, to provide this service. In addition, kw demand is not a volumetric charge, but rather a capacity requirement. The infrastructure required to support the customer's peak demand at all times, no matter the duration - must always be in place and the existence of solar, particularly if not located on site, does not reduce the experienced impact on the system or the requirement to provide for capacity needs. The program thus shifts costs associated with the construction and maintenance of the electric grid from program participants to the bills of non-participants. As only a portion of the participants in community solar will be required to be LMI, the effect of this program could in fact be the shifting of such costs from more affluent to less affluent customers.

Response to Staff question for stakeholders 13:

The Company believes, based on its response to parameter no. 13, above, that credits or excess credits should not be considered for demand charges nor be applied to retail distribution charges, including distribution base rate charges and riders.

14) Bill credit banking/excess bill credits

Issue: Should the Board modify the standards for banking of excess bill credits or unallocated generation?

Stakeholder feedback: The consensus among stakeholders is for EDCs to be the ones managing bill credits and remaining transparent with their methods of allocation – to subscribers on their monthly utility bills and to subscriber organizations for tracking purposes. Some commenters recommend that unallocated generation credits be banked for one year from month of generation rather than one year from commercial operation date. [Question 18]

Staff recommendation: For subscribers, Staff recommends credits shall carry over monthly billing periods until the end of an annualized period, the closure of their utility account, or the end of their subscription, at which time excess net bill credits shall be compensated at the EDC's avoided cost of wholesale power. Staff recommends that the subscriber's subscription size shall be resized if a subscriber receives net excess credits for two consecutive years, rather than three. This would ensure customers have the appropriate subscription size for their usage. It would also open up project capacity and allow for more subscribers to take part. Staff also recommends that subscribers or subscriber organizations may select an annualized period so that their use of banked credits is maximized.

For project operators, Staff recommends generation not allocated to a subscriber may be banked for up to 12 months from the start of project operation. From that point, the banked credits may be held for 12 additional months to be allocated to new subscribers, after which they shall be compensated at the EDC's avoided cost of wholesale power. Staff believes that two years of operation, in addition to time before completion of construction, should be enough time to subscribe customers for the full capacity of the project without excessive banking.

Response:

Regarding banking of unsubscribed generation for up to 2 years, JCP&L recommends technical workshops be undertaken in line with comments in response to parameter 27 (Energy Accounting) to understand the complete impacts to the energy accounting equation and the cash flows of all parties (i.e., customers, community solar operators, TPS, BGS, utilities, et al.) associated with the introduction of such a long, off-time recognition of retail cash flows versus wholesale cash flows. JCP&L strongly recommends the proposed technical workshops work through multiple scenarios establishing roles and responsibilities and the mathematics of retail/wholesale energy accounting and cashflow(s) to develop a clear understanding of, for example, computer system design requirements or financing arrangements needed for any scenario chosen for final implementation.

15) Consolidated billing

Issue: Should the Board adopt consolidated billing for community solar? Who should handle consolidated billing and how should it be conducted?

Stakeholder feedback: All responses to this question expressed support for implementing consolidated billing. Most stakeholders recommended utility consolidated billing using a net crediting model that reduces risks of default. A few recommended permitting third-party consolidated billing and making consolidated billing optional. [Question 20]

Developers recommended setting expectations for consistency, standards, and limitations for EDC implementation in the rules. EDC commenters referenced a joint report filled on May 28, 2021, detailing implementation options, including requesting an administration fee or cost recovery and rejecting third-party consolidated billing.

Staff recommendation: Staff believes that customers would be better served having only a single bill to pay for their electricity services. Receiving separate bills for electricity from the utility and for a community solar subscription from the developer can result in confusion, decreased transparency, and increased risk of non-payment. Staff therefore recommends requiring the EDCs to implement consolidated billing for community solar. The utility consolidated billing model allows for existing systems to be used to apply all charges and credits to subscribers using the EDCs' experience, responsibilities, and regulations.

Staff recommends that consolidated billing be handled solely by the EDCs and that third-party consolidated billing not be permitted. Customers already receive bills from their EDCs, and processing billing through them will be simpler and more transparent than through a third party. Third-party consolidated billing presents greater administrative complexity and risks in numerous entities coordinating payments and data sharing between the customers, EDCs, and subscriber organizations. Staff has also received reports of customers who are confused by or distrust shifting billing to a third party during the sign-up process. Staff also believes auditing of billing practices is more easily facilitated with utility consolidated billing.

Staff further recommends requiring all projects participate in consolidated billing, as all subscribers should be provided its benefits, with uniformity for the customer experience, program messaging, and information sharing.

Staff recommends that consolidated billing be implemented with the "net crediting" methodology. In this model, subscribers can be directly guaranteed a specified savings rate. The applied bill credit is multiplied by the savings rate, and the product is subtracted from the initial billed amount to determine the final amount billed to the subscriber and paid to the project. This method also allows different savings rates for different subscribers.

Subscriber organizations should be required to enter into an agreement with the billing EDC that covers terms, conditions, and requirements to enroll. Subscriber organizations would then provide documentation about enrolled projects to the EDC, including payment information and subscriber allocations. The EDCs, in consultation with the subscriber organizations, may develop standardized and automated methods for electronic data transfer that would facilitate efficient subscription administration across the state. Staff recommends that each EDC produce a manual describing the process subscriber organizations should follow to share subscriber and financial information necessary for allocating bill credits and transmitting payments.

Implementation of consolidated billing will impose a cost on the EDCs for upgrades of billing systems and administration. Staff recommends allowing the EDCs to impose a utility fee no greater than one percent of the value of the bill credit.

Staff also recommends that projects participating in the Pilot also be required to use consolidated billing. Projects would be given time to transition customers to this system after it is implemented. Existing outstanding subscription fees would not be allowed to be transferred to consolidated billing. Staff recommends that the EDCs be required to provide consolidated billing no later than June 1, 2024.

Staff recommends establishment of a billing working group or subgroup with representatives from the Board, the EDCs, subscriber organizations, community solar developers, and other stakeholders. The working group can facilitate transparency and idea exchange to develop improvements in the billing process and exchange of information.

Response:

Consistent with prior comments on this topic, JCP&L agrees that if the Board adopts consolidated billing for community solar projects, this billing process should be handled by the EDCs. The Board should ensure that utilities are afforded the flexibility to determine the method of reflecting subscription fees on a subscriber's EDC bill based on the format that best corresponds to the EDCs' existing billing practices, without precluding any methodologies.

The Company believes EDCs should be allowed full and timely recovery for the cost of the credits, along with the other program-related incremental costs. JCP&L appreciates the reference to cost recovery with respect to the proposed implementation of consolidated billing. However, upgrades of billing systems and administration are likely to result in substantial incremental costs to the EDCs. Thus, the EDCs should be provided the opportunity for full and timely recovery, through a rider or similar mechanism, for *all* incremental costs associated with this proposal.

JCP&L believes that June 1, 2024 is an insufficient period of time to implement and provide consolidated billing. JCP&L recommends that all new requirements be implemented within a specified period of time from the effective date of adoption of the revised rules, not a date specified before the Board knows when the rule changes will receive final publication in the New Jersey Register, as the proposed rules are currently written. JCP&L further recommends this timeframe should be expanded to be a minimum of one year from the effective date of the rules.

JCP&L supports Board Staff's recommendation to establish a billing working group of subject matter experts from the Board, EDCs, subscriber organizations, community solar developers, and other interested parties to focus on and develop improvements in the billing process, exchange of information, and implementation timeline.

V. Project Interconnection

16) Interconnection process

Issue: The CEA states that the CSEP rules and regulations shall "establish standards, fees, and uniform procedures for solar energy projects to be connected to the distribution system of an electric public utility" (N.J.S.A. 48:3-87.11(f)(11)). What changes, if any, should be made to the existing community solar interconnection standards and processes?

Stakeholder feedback: Several stakeholders expressed support for aspects of the Board's grid modernization proceedings, including standardization of interconnection fees, publication of EDCs' hosting capacity maps, and implementation of an interconnection pre-application review process. The Solar Energy Industries Association and some developers recommended that EDCs should accept interconnection applications and conduct studies prior to projects receiving awards, which would help ensure project completion. Other stakeholders were concerned that requiring interconnection before application would overwhelm the EDCs in their review process. Developers also indicated concerns with the need for transparency and faster studies by EDCs. The EDCs supported consistent fees and rules for projects. [Question 5]

Staff recommendation: Staff recommends that the standards in the Pilot be adopted in the Permanent Program and that all projects meet applicable codes and requirements. The Board is in the midst of grid modernization proceedings, and Staff believes the Permanent Program should align with its proposed changes. Staff believes that the process surrounding interconnection should be more transparent to developers, helping them have better indicators of project viability. The grid modernization proceedings include a Staff proposal for a standard interconnection application fee that would be assessed based on a project's size. They would also direct the EDCs to ensure their capacity hosting maps are up to date and accurate, as well as to report how long they take to process Level 2 and Level 3 interconnection applications through each stage of the process. There will also be working groups that will advance recommendations on interconnection process improvements. However, Staff recommends that the EDCs be directed to immediately begin accepting applications for interconnection ahead of a project's application for participation in the Permanent Program.

Response:

Consistent with earlier comments, JCP&L believes all CSEP projects should comply with all current and future applicable interconnection requirements, standards and processes applicable to each EDC, without special treatment for community solar. Interconnection applications and procedures ultimately are designed to ensure reliability and resiliency of the electrical grid, and thus all interconnections should be held to the same standards.

However, JCP&L opposes immediately accepting applications for interconnection ahead of a project's application for participation in the Permanent Program. JCP&L believes interconnection application for any project before Board approval of the project applicant would create an unnecessary and inefficient use of utilities' resources for projects that ultimately may not be selected by the Board. The Company urges Board Staff to more closely consider an expanded timeline for completion of a community solar project to allow for projects to undergo the interconnection process only after they have been selected by the Board.

By way of further response, see JCP&L's Comments in the Grid Modernization proceeding, which are incorporated herein by reference thereto.[9]

17) Distribution system support

Issue: What measures should the Board implement to minimize negative impacts to the distribution system and maximize grid benefits?

Stakeholder feedback: Commenters offered a wide variety of recommendations in response to this question. Measures given by multiple commenters include the establishment of an interconnection working group, encouragement or incentivization of battery storage, preference for projects sited near load or existing electric stations, and preference for siting that does not require system upgrades. [Question 6]

Staff recommendation: The substantial capacity of projects connecting to the distribution system in New Jersey has put strain on local circuits while also reducing the power needed to be delivered via the transmission system. The Board's grid modernization proceedings include recommendations for reform of the interconnection process to support the distribution system. Staff intends for these reforms to be applicable to distributed solar in general and does not make further recommendations specific to community solar.

Battery storage can provide benefits to the grid such as peak shifting and flexibility to enable the development of renewable energy sources. Staff does not recommend incorporating energy storage preferences or requirements into the community solar Permanent Program but encourages participation in the Board's proceedings on energy storage. Community solar projects may benefit from participation in the proposed Storage Incentive Program.

Staff question for stakeholders 17: What, if any, additional stipulations would need to be included in the Program in order to create the greatest benefits to the grid, including storage and compatibility with the proposed Storage Incentive Program?

Response:

The Company agrees with the recommendation by Board Staff that energy storage developers not be allowed to participate in both the New Jersey Storage Incentive Program ("NJ SIP") and the Competitive Solar Incentive ("CSI") Program at the same time. JCP&L also agrees that energy storage developers should be afforded the flexibility to select which program, CSI or NJ SIP, benefits their project the most. The Company does not oppose allowing a project that is not selected for one program from being permitted to apply for the other program. This will ensure that projects have the opportunity to seek appropriate incentives but that ratepayers are not overburdened by any individual project by having to pay two different forms of incentive.

By way of further response, see JCP&L's Comments in the Grid Modernization proceeding, which are incorporated herein by reference thereto.[10]

Response to Staff question for stakeholders 17:

[9] *In the Matter of Modernizing New Jersey's Interconnection Rules, Processes and Metrics*, Docket No. QO21010085, JCP&L Comments dated April 24, 2023.
[10] *In the Matter of Modernizing New Jersey's Interconnection Rules, Processes and Metrics*, Docket No. QO21010085, JCP&L Comments dated April 24, 2023.

The Board has an existing docket and stakeholder proceeding open with respect to energy storage[11]. That is the appropriate proceeding for discussion of the role of energy storage and related interconnections. By way of further response, see JCP&L's Comments in the NJ SIP proceeding, which are incorporated herein by reference thereto.[12]

VI. ADI Program

18) ADI Program registration

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

Stakeholder feedback: Several commenters recommended automatic enrollment in the ADI Program upon acceptance as a community solar project and that both programs should have the same capacity limit. One commenter suggested keeping registration for the incentive separate to allow for flexibility of the timeline. [Question 10]

Staff recommendation: Staff views the awarding of a community solar project as tied to the awarding of incentives in the ADI Program. A project that has been accepted to participate in the CSEP should not be stranded without an incentive, so awards in both programs should be coordinated and streamlined. Staff intends for developers to register their projects in the ADI Portal. Upon review of application materials and acceptance into the Permanent Program, projects would be simultaneously and automatically conditionally registered in the ADI Program and eligible for incentives upon commercial operation. Staff recommends that approval to participate in the community solar program shall be for the same 18-month period as established at N.J.A.C 14:8-11.5(g)(3)(ii), which will begin upon issuance of a notice of conditional registration by Board staff or the Successor Solar Incentive Program registration manager.

Response:

The Company defers comment on this topic.

19) SREC-II values

Issue: The Solar Act of 2021 allows the Board to consider "the economic and demographic characteristics of the area served by the facility, including whether it is located in an overburdened community" in the assignment of an SREC-II value.17 How should the Board address this criterion? What should the value of the ADI Program incentive be?

Stakeholder feedback: Stakeholders broadly agree that benefits from community solar projects should be made available to those in overburdened communities. Many stakeholders wish to see a continued preference for lower income communities in the Permanent Program's awarded project capacity. [Question 2]

Staff recommendation: Staff believes that all community solar projects should serve LMI households and communities and therefore recommends all projects serve a minimum of 51% LMI households (see recommendation 10). The ADI Program should have a single overall capacity block with an incentive that reflects this parameter. Staff believes further differentiation

[11] *In the Matter of the New Jersey Energy Storage Incentive Program,* BPU Docket No. QO22080540, Notice dated September 29, 2022.
[12] *Id.*, JCP&L Comments dated December 12, 2022.

of SREC-II values by the location of the facility is unnecessary, should they serve a majority of LMI customers. Staff does not recommend differentiation by EDC territory.

Staff recommends maintaining the current ADI Program incentive of $90/MWh for LMI community solar projects, which would apply for all projects, and the non-LMI incentive would not be applicable.

Staff questions for stakeholders 19: The IRS has released an initial guidance document18 for the ITC adder in the Inflation Reduction Act ("IRA") for projects that benefit low-income communities. Do you believe the permanent program will appropriately align with federal solar incentives?

Should the incentive available for community solar projects in the ADI Program be modified to reflect the fact that projects may or may not qualify for the ITC adders for siting in energy communities designated in the IRA or for being low-income benefit projects?

Response:

As stated in earlier comments on this topic, the Company supports the proposed LMI subscription requirements.

Response to Staff question for stakeholders 19:

The Company defers comment on this topic.

VII. Community Solar Subscribers

20) Number of subscribers

Issue: Should the Board consider changes to the minimum and maximum number of subscribers to a project?

Stakeholder feedback: The majority of stakeholders suggest the removal of, or at least an increase in, the maximum number of subscribers. A few comments suggested modifying the minimum to accommodate large housing or business customers, such as a minimum of 1 subscriber per MW. [Question 15]

Staff recommendation: The Pilot set a minimum of 10 subscribers to each project and a maximum of 250 subscribers per MW of installed capacity. Staff believes that community solar should have a character of supporting many customers and recommends maintaining the 10-subscriber minimum. Staff recognizes that there may be interest in smaller projects that support multi-unit housing. Therefore, Staff recommends maintaining the exemption of this requirement for multi-family buildings.

Staff believes community solar is an important program for residents of apartments, small homes, and LMI customers who have low electricity demand. In some cases, such as highly efficient buildings and vacation homes, even if the rooftop can accommodate a solar installation, the low energy usage will make the building less suitable for a net-metered project. Although subscriber organizations may find it easier to recruit a large anchor subscriber and a smaller number of subscribers with greater average demand, Staff finds that the maximum subscriber limit may unnecessarily restrict community solar access to such low-demand subscribers who should be encouraged to participate. By Board Order dated June 9, 2021,19 the Board waived the maximum

subscribers rule for a petitioning community solar project because this rule may decrease solar accessibility to New Jersey electric utility customers. Staff therefore recommends removing the maximum number of participating subscribers to each project.

Staff recommends maintaining the requirement that no single subscriber may subscribe to more than 40% of a project's energy production.

Response:

The Company agrees there should continue to be a minimum number of subscribers per community solar project in the Permanent Program. Requiring a minimum number of subscribers provides some protection against abuse of the program to circumvent contiguous property rules. Customers should not be allowed to simply install solar in a remote location and assign themselves the benefit of the generation.

The Company disagrees with providing an exemption of the minimum subscriber requirement to multi-family buildings. The Company interprets multi-family in this case to apply only to master-metered sites. At a minimum, application to multi-family needs to be clarified. The Company believes that allowing a multi-family master-metered site to be the sole subscriber to a community solar project may be a method to circumvent the intent of a "community" solar construct and provide for a virtual net metering arrangement by allowing a project to be sited anywhere within an EDC's territory and simply apply credits. The energy produced is injected into the grid at the site of generation while the subscriber continues to use the distribution system for delivery of energy requirements, in addition to receiving a financial benefit from credits. If this exemption is allowed, the Company recommends requiring the multi-family housing site to demonstrate that it would be impossible to install solar generation at the housing site.

21) Geographic distance between project and subscribers

Issue: Should subscribers be required to live in the same or adjacent municipality or county as their projects?

Stakeholder feedback: The majority of stakeholders advocate for projects to be able to subscribe across a singular EDC territory. [Question 14]

Staff recommendation: Staff recommends that consideration of the geographic distance between a project and its subscribers be eliminated. A project would therefore be permitted to subscribe subscribers living anywhere in the EDC service territory in which the project is located. Staff believes this will simplify the subscriber enrollment process and give all residents of the state greater choice in selecting a project. Residents located in rural areas or otherwise distant from project sites would have more community solar options, even when some reach capacity. Projects would also see more competition to attract subscribers and may increase the offered bill credit.

Staff question for stakeholders 21: Without a preference for projects which serve only the municipality or county in which they are located and neighboring municipalities or counties, how should projects in the Program maintain focus on local communities?

Response:

Consistent with prior comments on this topic, the Company suggests that the geographic limitations for community solar projects and subscribers in the Permanent Program should be

within the same municipality within the EDC territory to maintain the proximity linkage between where power is generated and where it is consumed. The only current geographic restriction for siting projects relative to the location of participating subscribers requires participants and the project be located within the territory of the same EDC. Participants in community solar projects do not reduce their use of the distribution system by the virtual crediting mechanism contained in a community solar program. As such, subscribers will be relying on the distribution system to deliver 100 percent of their power requirements, for which service subscribers will not be paying for their share of distribution costs and shifting those costs onto non-participating customers.

Response to Staff question for stakeholders 21:

The Company defers comment on this topic.

22) Consumer protection

Issue: Should the Board consider changes to the consumer protection measures implemented under the Pilot?

Stakeholder feedback: Commenters suggested the addition of a customer help line with a phone number available in the contract, conducting spot checks of marketing materials, providing sample contracts, guaranteeing a discount, and disallowing termination fees. [Question 16]

Staff recommendation: Staff recommends maintaining the current consumer protection measures and adding additional measures. Staff believes that when a customer chooses to subscribe to a community solar project and participate in New Jersey's solar transition, they should receive a benefit for doing so. Therefore, Staff recommends ensuring that subscribers should be guaranteed a minimum discount on their utility bill. Projects must state a guaranteed bill credit discount of no less than 10 percent in their registration, which will apply for the duration of customers' subscriptions. The guaranteed bill credit discount will be calculated as a percentage of the bill credits received by the customer based on their subscription size. Projects may still offer a greater discount than that identified in the registration, including to LMI subscribers. Staff also recommends that customers may not be charged a termination fee for ending their subscription with appropriate notice by the next billing cycle.

Staff would also require that marketing materials clearly identify the specific community solar project or projects being advertised, including the project's capacity, address, and actual or expected in-service date. Staff further intends to provide additional educational information such as sample contracts on the Clean Energy Program website. The Board may also elect to develop a sample contract that may be used for project subscriptions, in addition to the disclosure form.

Response:

The Company defers comment on this topic.

23) Automatic enrollment

Issue: Should the Board consider allowing automatic enrollment of subscribers to community solar projects?

Stakeholder feedback: Several commenters support automatic enrollment, stating it could prioritize broader subscription of LMI communities and reduce subscriber churn and marketing

costs. Some noted that this process would need to include transparency for selecting customers and data privacy provisions. Other commenters, including the Coalition for Community Solar Access and SEIA, recommended further study of this process and waiting until consolidated billing is implemented. Some were concerned about requiring municipal ownership and the potential lack of customer education and engagement. [Question 17]

Staff recommendation: Under an automatic enrollment or "opt-out" program, a municipality could own and operate a community solar project or serve as its subscriber organization and select residential customers to be subscribed to the project. Those customers would subsequently be able to decline to participate. Staff believes that automatic enrollment would be a useful tool to facilitate customer acquisition and reach potential subscribers, particularly LMI customers. Staff also sees challenges with respect to accurately identifying and verifying eligible low- and moderate-income residents, fairly determining whom to automatically enroll, and allocating appropriate subscription sizes for each customer while maintaining data privacy. It is also important that customers receive a single bill and are well informed about the community solar program to which they would be subscribed. Staff therefore recommends permitting automatic enrollment with standards similar to those set in the rules proposed in 2020,20 but automatic enrollment may not be implemented until after consolidated billing has been implemented, which should be no later than May 1, 2024. At least 80 percent of subscribers to an automatic enrollment project must be LMI subscribers. Staff believes the benefits of easier enrollment of low-income residents are substantial and that eligible projects in both the Pilot and Permanent Program should be able to make use of these processes.

Staff question for stakeholders 23: How should projects using automatic enrollment ensure customers being subscribed are low- or moderate-income? What other standards should be put in place for these projects?

Response:

Consistent with prior comments on this topic, the Company continues to have legal and implementation concerns regarding the opt-out model and utility consolidated billing of subscriber fees. The Company opposes an opt-out subscriber model. Customers currently must provide their affirmative consent through an opt-in before they are subscribed to a community solar project. Without this affirmative consent, a customer may not understand the terms of enrollment or impact on their bill. Moreover, existing law, at N.J.S.A. 48:3-85, does not permit the release of customer information by the utility without customer consent except under limited circumstances that do not apply to the Community Solar Program. If customers are subscribed to a long-term contract by their municipality through a governmental aggregation format, customers could be subject to early termination fees if they decide to install distributed generation at their home in the future.

Additionally, JCP&L recommends that all new requirements be implemented within a specified period of time from the effective date of adoption of the revised rules, not a date specified before the Board knows when the rule changes will receive final publication in the New Jersey Register, as the proposed rules are currently written. JCP&L further recommends this timeframe should be expanded to be a minimum of one year from the effective date of the rules.

Response to Staff question for stakeholders 23:

The Company defers comment on this topic.

VIII. Other

24) Community engagement

Issue: What requirements for community engagement should the Board set?

Stakeholder feedback: Some community organizations commented that the selection process should promote competition for community partnerships. Local groups say they have received financial and other support from solar companies and that they have helped their members and communities subscribe to community solar projects.

Staff recommendation: Staff believes that engagement and outreach by community solar projects to both residents in the communities where projects are located and any potential subscribers across each EDC are important aspects of community solar. Developers should work with municipalities and neighbors to ensure local support for siting of projects before they are approved and constructed, and subscriber organizations should conduct marketing campaigns that target LMI and underserved communities and provide education about solar power generally and their projects in particular. Educational campaigns through advertisements and collaboration with community organizations are valuable methods to promote community solar energy.

The Pilot provided points for community and environmental justice engagement that encouraged partnerships and agreements with municipalities and local community organizations. However, Staff found these criteria to be variable and their significance potentially subjective, without a clear indication of the degree to which letters of support and other evidence of consultation represent wider impact, improved customer experience, or a superior project. Staff still seeks to ensure that, under a first-come, first-served selection process, awarded projects will continue to engage community groups and subscribers. Staff therefore recommends that projects be required to submit a Community Engagement Plan with their application that details how the project will reach out to residents local to the solar project as well as potential subscribers within the EDC area. Required elements for a Community Engagement Plan would include:

- Description of partner community organizations or how they will be identified
- Statement of the philosophy the project will operate under to promote community benefits
- List of desired outcomes for community engagement
- Point(s) of contact responsible for maintaining community relationships
- Sample of written language and educational content to be used for project marketing
- Plan to incorporate data and community feedback to continually improve engagement

Staff question for stakeholders 24: What should community engagement and subscriber acquisition plans include to ensure that meaningful collaboration with the surrounding community has taken place and the project will be able to meet its LMI requirements?

Response:

The Company supports engagement, outreach and education to residents, community groups and subscribers.

Response to Staff question for stakeholders 24:

The Company defers comment on this topic.

25) Other Rules

Issue: What other rules of the Pilot should the Board include in the Permanent Program?

Stakeholder feedback: N/A

Staff recommendation: Staff recommends that rules of the Pilot that are not addressed elsewhere in this Straw Proposal should be generally adopted in the Permanent Program. Draft rules are included.

Staff question for stakeholders 25: The Pilot rules included an option "to test new models for low-income community solar projects including, but not limited to, ownership of community solar assets by low-income subscribers." Should the Permanent Program explore any such alternative ownership models?

Response:

The Company recommends Board Staff consider that community solar assets cannot provide any supply side product offerings such as participating in reserve markets while operating as a load reduction resource on the demand side of the energy accounting equation providing energy reduction services directly to retail customers.

Response to Staff question for stakeholders 25:

JCP&L believes Board Staff should not preclude any alternative ownership model options. If the Permanent Program were to explore and/or adopt alternative ownership models, JCP&L recommends flexibility to gather the information necessary as part of, and subsequent to, this proposal for further review. JCP&L further recommends all new requirements be implemented within a specified period of time from the effective date of adoption of the revised rules to provide adequate time for systemic, information technology, and other modifications to be implemented. As Board Staff does not yet know the dates for publication in the New Jersey Register and subsequent final adoption of the rules, it is better to use a period of time from adoption of the rules rather than a date certain for final implementation.

26) Pilot Program

Issue: What rules of the Pilot should the Board modify?

Stakeholder feedback: N/A

Staff recommendation: Staff recommends that the projects already participating in or approved to participate in the Pilot should implement utility consolidated billing after a transition period. Staff also recommends incorporating the updated provisions regarding project marketing, elimination of the maximum number of subscribers to a project, banking and use of unallocated and excess bill credits, and LMI income verification standards. Amendments to N.J.A.C 14:8-9 are not included in the draft rule proposal below but provisions of the proposed N.J.A.C. 14:8-13 that will also apply to the Pilot will be included in the final rule proposal for consistency where appropriate.

Staff question for stakeholders 26: Which other provisions of the Permanent Program should or should not also apply to the Pilot?

Response:

The Permanent Program should strive to better align the retail and corresponding wholesale impacts of participating in a community solar offering. For example, Advance Metering Infrastructure ("AMI") will require upload of customer data to wholesale markets in times the customer premise is consuming energy and producing excess in the hours where each occur – especially for physical net metering, but also in the coordination of community net metering. This means the effects of net metering operations will be realized in the hours and days for which they occur.

However, it is the expectation that on the retail side, customers may carry excess generation, realized as financial bill credits for a year or longer – disrupting the linkage between retail and wholesale cash flows.

The effects of the carry forward of bill credits should be explored further as part of workshops to facilitate discovery and understanding of all energy accounting and cash flows as discussed in more in the Company's Response to parameter No. 27, below.

Response to Staff question for stakeholders 26:

The Company refers to its recommendations and proposed modifications stated herein in response to this Straw Proposal regarding the Permanent Program.

27) Energy accounting

Issue: How should community solar energy generation be accounted for?

Stakeholder feedback: N/A

Staff recommendation: Staff notes that when a community solar facility generates electricity, it is delivered directly to the distribution grid. While the amount of this energy is metered at its point of interconnection, its production is not directly compensated; rather, compensation is indirect as the customer pays a subscription fee to the community solar facility and the EDC provides bill credits to the customer. Staff wishes to ensure that as the CSEP grows, this energy is appropriately accounted for between generating facilities, the grid, subscribers, BGS providers, and EDCs in order to reduce costs for ratepayers.

Staff question for stakeholders 27: How should electricity produced by community solar facilities be measured and compensated to reduce unaccounted for energy?

Response:

JCP&L appreciates the opportunity to provide feedback on what is likely one of the more complicated matters in making sure dollars move and the energy accounting is kept in such a way to ensure unaccounted for energy ("UFE") is not impacted.

There are several ways this can be accomplished. However, all will require careful consideration to understand all impacts and develop needs for investments in systems and processes to realize expected outcomes.

The most straightforward, intuitive and least impactful way to incorporate community solar into the retail billing paradigms and energy accounting mathematics with keeping an eye to minimizing impacts to UFE is to operate community solar projects on the supply side of the energy accounting equation and continue to have load operate on the demand side of the energy accounting equation. Thus, community solar projects would go through the PJM Queue and become a wholesale generator. Under this scenario, the Community Solar provider would become a wholesale Load Serving Entity (LSE) and serve customers as a TPS using a combination of the solar energy from the community solar installation supplemented and grid power where needed to supply the load of customers under contract with the Community Solar provider. All cash flows (PJM wholesale, retail billing) would in totality be managed only by the Community Solar provider and energy accounting would follow already established practices.

However, it is apparent the community solar efforts are headed toward a much more complicated paradigm by managing the retail billing and energy accounting only on the demand side of the energy accounting equation (i.e., solar as a retail load reduction resource). With this in mind, JCP&L recommends Board Staff consider the following, including, but not limited to, ensure all parties are on firm ground and have an understanding of what occurs with this approach:

- Load associated with BGS Supply and billing determinants utilized for retail billing service;
- Load associated with TPS Supply and billing determinants utilized for retail billing service;
- Transparency of what is billed to retail customers for solar energy from Community Solar providers, TPS charges and EDC charges;
- Alignment and coordination of retail billing revenues and wholesale market costs;
- Customer data protections in light of increased transfer of data required to enable the level of coordination required to operate community solar entirely on the demand side of the energy accounting equation;
- Proper coordination of recovery mechanisms associated with purchase power for non-shopping customers; and
- Carry forward of bill credits disruption timely alignment of wholesale costs and retail revenues and impacts should be well understood.

A further consideration is the workflows required to deliver expected results to all stakeholders must be 100% automated and involve little to no human intervention due to the complexity and amount of data required to keep all retail and wholesale money flows aligned and transparent for all parties. This level of automation is not only relegated to what the EDCs will have to provide, it is also on the part of TPS, BGS and the community solar providers to ensure all are on the same page at any one point in time and are able to shadow calculate PJM bills, retail bills, etc. without interference from missing or confusing data or information to do so.

Additionally, such complicated approaches create an increased need for training. As such, TPS, BGS, Customers and community solar providers will require training regarding how this approach will work.

Therefore, JCP&L highly recommends the BPU commence dedicated technical workshops on energy accounting and cash flows to first work through the mathematics of the energy accounting equation and retail/wholesale billings so that all parties can begin to design systems, develop costs estimates, etc. from agreed upon data processing requirements. It is from these cost estimates the EDCs could manage cost recovery for these efforts.

Response to Staff question for stakeholders 27:

See the Company's response to parameter no. 27, above.

3. Draft Rule Proposal

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

JCP&L highlights the following areas of the New Subchapter in the Draft Community Solar Program Rules for emphasis of recommended modifications.

§ 14:8-13.2 Definitions

"Guaranteed bill credit discount": The Company recommends modifying this definition noting it is not clear what "bill credit discount" refers to. JCP&L seeks further clarification from Board Staff of whether "bill credit discount" represents guaranteed savings or minimum bill savings based on the difference between the retail rate from an EDC and bill credit, or otherwise.

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

Section (c)c.: With respect to megawatt block not receiving enough complete registrations to meet its capacity limit, JCP&L seeks further clarification from Board Staff if the megawatt block the segment is never becomes fully subscribed. JCP&L supports addition of language in this section that will specify whether a registration portal remains open indefinitely until such time as it receives its last registration or will the portal close at some point and proceed with tranches offered.

Section (c)f.: JCP&L does not support the requirement that EDCs not be allowed "to develop, own, or operate community solar project the beyond billing and other responsibilities set forth in this subchapter." JCP&L believes that Staff's recommendation is inconsistent with the legislative intent of the 2018 Clean Energy Act ("CEA"), which explicitly requires the Board to establish rules and regulations for EDC ownership of CSEP projects that are part of the Permanent Program.[13] The language of the CEA makes clear that the Permanent Program should not include a restriction on utility ownership of community solar projects. JCP&L believes that to ensure that the community solar program continues to expand and thrive, the Board should not preclude any ownership and operation options.

§ 14:8-13.5 Subscription requirements

Section (f): This section references a minimum capacity set-aside for LMI subscribers that projects must maintain throughout the life of a project. JCP&L supports addition of language in this section that should make clear the affect to a project if it does not meet and/or maintain the required threshold.

Section (h): JCP&L supports addition of language in this section as follows, "Community solar projects may have subscribers anywhere in the EDC service territory to which ~~**they**~~ **the subscribers and the Community Solar Facility** are interconnected." (emphasis added).

Section (j): JCP&L recommends that all new requirements be implemented within a specified period of time from the effective date of adoption of the revised rules to provide adequate time for systemic, information technology, and other modifications to be implemented. As Board Staff does not yet know the dates for publication in the New Jersey Register and subsequent final adoption of the rules, it is better to use a period of time from adoption of the rules rather than a date certain for final implementation.

[13] N.J.S.A. 48:3-87.11(f) (stating "The board shall adopt rules and regulations for the permanent program that set forth standards for projects owned by electric public utilities…").

Section (j)5.: The reference in this section to an "guaranteed savings" should make clear whether subscribers can be directly guaranteed a specified savings rate or in the alternative, the Company suggests "guaranteed savings" be made a defined term.

Section (j)6.iii.: JCP&L supports this subsection relating to "no retroactive adjustments except for billing errors". The Company believes this to be an important provision that should remain unchanged. Manual effort on community solar accounts is disproportionately large and this provision seemingly serves to lessen these efforts.

§ 14:8-13.6 Community solar billing

Section (a): JCP&L objects to this section. The Company believes the distribution system should receive compensation for use because of the increased stress the distribution system is placed under arising from this concept.

Section (q): JCP&L recommends that all new requirements be implemented within a specified period of time from the effective date of adoption of the revised rules, not a date specified before the Board knows when the rule changes will receive final publication in the New Jersey Register, as the proposed rules are currently written. JCP&L further recommends this timeframe should be expanded to be a minimum of one year from the effective date of the rules.

Section (q)7.: JCP&L supports addition of language in this section as follows, "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. **Any costs associated with implementation of this subchapter that are not fully covered by the administrative fee shall be recovered by the utility via the Societal Benefits Charge […]**" (emphasis added).

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

Section (f): This section references LMI subscriber requirements that projects must meet or maintain on an annualized basis. JCP&L supports addition of language in this section that should make clear how long non-compliance by a project is allowed to perpetuate and the result of non-compliance, including termination of a project.

§ 14:8-13.8 Cost recovery and EDC responsibilities

Section (a): JCP&L supports addition of language in this section as follows, "Electric distribution companies shall, subject to review and approval by the Board, be entitled to full **and timely** cost recovery for any incremental costs incurred in implementation, compliance, and administration of the Program**, including bill credits,** 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." (emphasis added).

§ 14:8-13.9 Consumer protection

Section (b)3.vi: JCP&L recommends the enrollment period used by the Subscriber Organization should take into account the rescission period. This provision should not imply an obligation on

behalf of the utility to rebill IF a customer should enroll before the monthly submission deadline and rescind AFTER the deadline has closed.

DRAFT COMMUNITY SOLAR ENERGY PROGRAM RULES

MARKUP OF PROPOSED CHANGES TO

NEW JERSEY ADMINISTRATIVE CODE

JCP&L highlights the following areas of the Markup of Proposed Changes to New Jersey Administrative Code for emphasis of recommended modifications.

"Interconnection agreement" Definition: The Company recommends modifying this definition in accordance with the definition as proposed in the Board's grid modernization proceedings. [14] By way of further response, see JCP&L's Comments in the Grid Modernization proceeding, which are incorporated herein by reference thereto.

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

Section (d)9.iv: The Company recommends modifying this section noting it is not clear what "bill credit discount" refers to. JCP&L seeks further clarification from Board Staff of whether "bill credit discount" represents guaranteed savings or minimum bill savings based on the difference between the retail rate from an EDC and bill credit, or otherwise.

§ 14:8-11.7 - Market segment megawatt blocks

Section (b)6.: JCP&L supports addition of language in this section as follows, "[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** based upon percentage of EDC retail sales**.**" (emphasis in the original, emphasis added).

[14] *In the Matter of Modernizing New Jersey's Interconnection Rules, Processes and Metrics*, Docket No. QO21010085, JCP&L Comments dated April 24, 2023.