



INDEPENDENCE SOLAR

1008 Astoria Blvd, Suite E
Cherry Hill, NJ 08003

May 15, 2023

To: New Jersey Board of Public Utilities
44 S Clinton Ave.
Trenton, NJ 08625
Attention: Sawyer Morgan

Re: Comments in Response to Docket No: Q022030153, Community Solar Energy Program

To the Board of Public Utilities (“BPU”):

Independence Solar respectfully submits the opportunity to provide written comments in response to the request associated with Staff Straw proposal for the permanent Community Solar Energy Program, pursuant to P.L. 2018, c.17 of the Clean Energy Act.

As an awardee of four (4) projects in the PY2 program that are currently under construction, we believe that our experience in not only bidding, but also on executing NJ Community Solar projects allows us to provide informed perspective on the implementation of Community Solar in NJ.

We thank the Board for their hard work to create a long-term, permanent Community Solar program and your consideration of our comments below.

Best,

Keith Peltzman
President

A) Overview Comments

1. Tiebreaker Tranching

The various preferred siting criteria (contaminated/brownfield, landfills, rooftops) do not have equal cost structures to develop, construct and operate. Contaminated and landfill sites have significantly more upfront development costs (environmental studies, soil testing, site plan reviews and legal work) and more stakeholder input. In order to be economically viable, it is necessary that these projects accrue greater ongoing income vs rooftop projects. These types of projects are eligible for the same ADI levels, so brownfield/landfill sites would need additional income from the value of the electricity. Thus, the proposed tiebreaker based in % of subscriber discount inherently disfavors brownfield/landfill sites and in the event that the tiebreaker method is necessary, it makes it unlikely that any brownfield/landfill sites would be selected.

We believe that the BPU seeks to encourage a diversity of project locations and more specifically, would like to incentivize the re-use of brownfield/landfill sites. Therefore, in the event that the tiebreaker becomes necessary, we recommend that the BPU set aside a minimum % (a tranche) reserved for brownfield/landfill sites. These sites would compete amongst themselves only until the tranche is filled. They would then be able to compete amongst projects in the general population of all projects submitted.

2. Project Maturity Requirement: Non-Ministerial Permits

The minimum project maturity requirements require receipt of all non-ministerial permits (e.g zoning variances, planning board authorization, Pinelands Commission approval). This makes sense to ensure that awarded projects are capable of completion. In many cases, there may be other non-substantive and minor non-ministerial reviews that are necessary, but not critical to project viability (e.g., soil reviews, special overlay districts, etc). These approvals are not critical and not likely to impact project viability. These administrative reviews can be time-consuming and expensive, creating a burden both on the developer and on smaller public agencies. If the projects are not ultimately awarded a Community Solar capacity, this could be a significant waste of resources.

Therefore, we simply request that the BPU offer greater clarity around ministerial vs. non-ministerial permits. In addition, we would suggest that the BPU carve out and not require non-ministerial permits or reviews that are not critical to project viability.

3. Project Maturity Requirement: Community Engagement Plan

It seems reasonable that a Community Solar project should have support from the local community. Local support achieves the objectives of all stakeholders. However, as currently set forth in the Staff Straw Proposal, the requirement for a Community Engagement Plan is subjective and does not ensure the desired benefit to local stakeholders. The requirement to draft a plan does not translate into required outcomes or metrics. In addition, many developers partner with subscriber organizations to acquire subscribers. In most cases, the subscriber organization partner is responsible for written and educational language to market the project. Sometimes subscriber organizations market community solar broadly without mention of specific projects and then later allocate subscribers to the project that best fits.

Finally, we believe that this requirement leaves too much subjective discretion to the Board. It is hard to envision a scenario in which the Board could objectively reject an applicant's Community Engagement Plan. The project maturity requirements are now already significant and already effectively screen for projects capable of completion. The requirement for a Community Engagement Plan does not create further certainty around project viability, nor ensure local stakeholder input. This requirement simply consumes additional BPU resources and will slow the approval process.

Therefore, we recommend that the BPU eliminate the Community Engagement Plan as a project maturity requirement. Alternately, the BPU might refine this requirement to make for a more objective criteria that does not leave the BPU in a position to subjectively determine compliance.

4. Developer Caps

During the review of the Pilot Year programs for Community Solar, the BPU did consider and seek input around the concept of “developer caps” limiting the amount of Community Solar awards that could be awarded to a single developer or entity. This limitation is not uncommon in other state solar programs. The goal is to avoid industry monopolization and to foster a diverse base of solar project developers capable of understanding and delivering on community solar projects. Ultimately, the BPU choose not to adopt a developer cap. The Pilot Year programs did see an anomalous concentration of awards granted to only 3-4 developers.

One one hand, this concentration might achieve a desired goal of minimizing program cost. However, this squelching off broad-based participation can be dangerous. This monopolization limits the development of know-how and expertise across a broad spectrum of developers. It continues to reinforce concentration by discouraging smaller, local developers from pursuing one-off projects and stymies creative new approaches from emerging. Further, it discourages municipalities, non-profit and other local community groups from pursuing community solar projects on their own. If this monopolization continues, then the BPU could be reliant on only a few experienced community solar developers.

Therefore, we recommend that the BPU re-consider a developer cap. This need not be set so low to negate fair competition. It can be set as an upward bound to limit monopolization by any one party. This would achieve the BPU’s goals of fostering a broad and informed base of project developers.

B) Independence Solar Response to Staff Questions

1) Project size and co-location of projects

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

No comment

2) Project siting

Issue: What land use restrictions and limitations, if any, should apply to the siting of community solar projects? While Section 6 of the Solar Act of 2021 does not establish siting standards for Community Solar projects, should the Board adopt standards comparable to those in the Board’s proposed solar siting rules¹³ for community solar facilities? What should those standards look like?

No comment, we support the Board’s project siting requirements as-is.

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)?

We recommend that the Board increase project capacity to 300 MW per year for the next two years. This would allow for the acceptance of projects from the existing backlog from the Pilot Year programs and the gap since the Pilot Year 2 program. This increase would achieve the Board’s goals and could eliminate the challenges that accompany oversubscribed programs.

Further, we would recommend that the Board consider a roll-out of capacity during the first year. The industry has not had much time to meet the new Project Maturity Requirements, especially utility interconnection approval. This ongoing roll-out would allow projects more time to obtain all requirements and also facilitate a more continually schedule of project completions. This might also help manage internal resources on a constrained Staff.

4. Program Capacity Segmentation

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)?

No comment, we support as-is.

5) Qualifications for Project Ownership

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

No comment, we support as-is with the Board restriction on EDC ownership. We believe that EDC ownership reinforces our concerns regarding industry monopolization and the benefits of a diverse base of solar developers throughout NJ.

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?

No comment, we support as-is.

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?

No comment, we support as-is including the more limited requirement for projects < 1 MW to submit for interconnection approval only.

We do express concern that the EDC's are now overwhelmed with interconnection applications. We share concern that this process almost de facto gives the EDC interconnection departments the ability to determine which projects will move forward. We would look for ways to communicate with the EDC's and for the EDC's to offer more transparency around the interconnection process – including prioritization, backlog and timing to review.

8) Other project eligibility criteria

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

No comment, we support as-is.

9) Definition of LMI subscriber

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

No comment, we support as-is including the importance of self-attestation.

10) LMI participation

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

No comment, we support as-is.

11) LMI Income verification standards

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

No comment, we support as-is including the importance of self-attestation.

12) Participation by affordable housing providers

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

No comment

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

Under 14:8-13:8 (b), the EDC should not be able to credit less volume than the generation metered at their full value.

14) Bill credit banking/excess bill credits

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

We recommend that for a period of 12 months following the reading of metered generation, that all bill credits retain their value whether applied to subscribers or unapplied and banked. Upon delivery of metered generation, the project has created the value desired by the BPU and public policy. We do not see a basis to dilute this value. The BPU needs to consider churn in allowing bill credits to retain full retail value for at least 12 months and to be applied to new or replacement subscribers .

15) Consolidated billing

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

No comment

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?

We recommend more feedback and transparency mandated from the EDC around the interconnection application process as in 7) above.

17) Distribution system support

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

No comment

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?

We only recommend that the ADI program and its website have the resources to handle an influx of applications from accepted Community Solar projects.

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?

The Board may want to consider adders for locating projects in certain targeted tranches – such as overburdened communities and otherwise undevelopable sites such as brownfields and landfills. If the Board wants to encourage these locations as a matter of public policy, then there may need to be enhanced incentives to offset additional costs.

20) Number of subscribers

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

No comment

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?

No, this should not be a requirement. The Board should also consider lifting this requirement for any project that was awarded in the Pilot Programs. This has been a challenge and is a barrier to successful project completion.

22) Consumer protection

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

No comment

23) Automatic enrollment

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

Yes and the Board should consider removing the requirement to re-certify LMI eligibility. This is burdensome and does not achieve targeted public policy.

24) Community engagement

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

As above, we recommend that the tangible benefits of this requirement may be minimal and we recommend removal or adjustment of this requirement.

25) Other Rules

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

No comment

26) Pilot Program

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

As stated in 21) above, the Board should consider lifting the requirement for subscribers to live in the same or adjacent municipality or county as their projects. This has been a challenge and is a barrier to successful project completion.

27) Energy accounting

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

No comment