



May 15, 2023

Office of the Secretary
New Jersey Board of Public Utilities
44 South Clinton Avenue, 1st Floor
PO Box 350
Trenton, NJ 08625-0350

**Re: Written Comments
Permanent Community Solar Energy Program Straw Proposal
Docket No. QO22030153**

Dear Secretary:

Distributed Solar Development, LLC (“DSD”) is pleased to offer the below comments in connection with the straw proposal for the permanent Community Solar Energy Program released by the Staff of the New Jersey Board Public Utilities (“Staff”) on March 30, 2023 (the “**Community Solar Straw Proposal**”).

DSD has developed hundreds of solar and clean energy projects across the United States, including in New Jersey, where DSD remains an active participant in the State’s thriving solar industry. DSD commends the Board and Staff on its commitment to a green energy future and appreciates the opportunity to provide comments to the Community Solar Straw Proposal.

The Coalition for Community Solar Access (“CCSA”) and the Solar Energy Industries Association (“SEIA”) have submitted joint written comments in response to the Community Solar Straw Proposal and DSD shares many of the positions put forth by our industry colleagues. Therefore, DSD offers only brief comments below to elaborate on several positions in the CCSA/SEIA written comments and references CCSA/SEIA full comments for more details.

1. Tiebreaker Mechanism in the Community Solar Straw Proposal

The tiebreaker mechanism contemplated in the Community Solar Straw Proposal (1) will potentially create a “race to the bottom,” with infeasible projects clogging an already busy queue, and (2) inadvertently disadvantage carport and canopy systems over impervious surfaces, systems on contaminated sites and landfills, and floating solar.

DSD is concerned that the tiebreaker mechanism will either incentivize inflated guaranteed bill credit discounts which later render projects infeasible or will exclude otherwise feasible and desirable

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projects because of guaranteed discounts that are too low. These projects will take up positions in the queue, occupying time that could be spent on reviewing feasible projects that offer reasonable discounts.

The Board is likely familiar with this narrative from other commenters, but to perhaps present the concern differently, the flaw in the tiebreaker mechanism stems from (1) the assumption that the capacity blocks allocated to each electric distribution company (“EDC”) will be oversubscribed (in other words, the tiebreaker mechanism will almost certainly be used), (2) the assumption that most developers bidding into New Jersey’s permanent community solar program will assume from the outset that the tiebreaker mechanism will be utilized, and (3) the fact that the tiebreaker assesses projects along just one dimension—the amount of the guaranteed bill credit discount.

On the one hand, this structure creates a strong incentive for developers to promise projects with inflated savings rates that either barely meet other desirable project requirements (the proportion of low- and moderate-income subscribers, for example) or are unlikely to be completed if underlying project proforma assumptions (*i.e.*, project costs, investment tax credit levels, etc.) change even modestly, or both. On the other hand, projects with too *low* a guaranteed bill credit discount will be occupying the interconnection queue with the hope of receiving approval only to have their project ultimately rejected in the tiebreaker. The time that an ultimately failed project spends in an EDC’s queue could have been devoted to moving feasible projects with reasonable discount rates to completion.

This is presumably part of the reason for Staff’s decision to include baseline project maturity requirements at the stage of project eligibility: *any* project bidding into the program must demonstrate certain threshold indicia of feasibility. DSD recognizes that this is a reasonable solution but would like to bring out a couple of concerns— first, with the administration of the tiebreaker, and second, with a possibly unforeseen prioritization of project type (to be taken up in Section (b) below).

a. Project Interconnection Requirements

DSD supports the proposition in the CCSA/SEIA comments that a high interconnection prerequisite should be required for a project to be awarded capacity in the permanent Community Solar Energy Program and that interconnection prerequisite should be completion of the final applicable interconnection process step - be it a completed study, signed interconnection agreement, or other milestone - short of commencing project construction. Furthermore, DSD proposes that in the case of a tiebreaker scenario, the Board should rank projects based on those that earliest completed such final interconnection process step.

Staff’s vision to require that EDCs open interconnection review to community solar projects prior to submission of the community solar program application is certainly a welcome one (though DSD notes that this remains only a vision if it does not appear in the amendments to the New Jersey Administrative

Code outlined in the Community Solar Straw Proposal). Staff has additionally proposed a demarcation between projects that are 1MW or larger and projects that are smaller than 1MW, with the former requiring an executed interconnection study with the EDC and the latter requiring submission of a Part I Interconnection Agreement. DSD proposes that, for all projects, the Board should select as the minimum prerequisite to be awarded capacity the milestone that is furthest along in the interconnection process for projects of a given size and, for purposes of any tiebreaker scenario, select the projects that achieved such milestone earliest. Ideally, the timing for completion of such milestone would be date and time stamped in some manner. This process would provide for a tiebreaker that would be fully objective and avoid the negative secondary effects of using bill credit discounts.

b. Inadvertent Prioritization of Project Types

The tiebreaker mechanism inadvertently creates a hierarchy of community solar projects based on project type. In particular, all else equal, rooftop projects will receive an advantage over carport and canopy systems over impervious surfaces, systems on contaminated sites and landfills, and floating solar.

DSD develops numerous types of solar projects in New Jersey and believes that all project types should be on equal footing entering the community solar application process. However, if capacity is oversubscribed and projects are assessed in the tiebreaker solely based on the minimum guaranteed bill credit, projects that are more expensive to entitle and construct, and that have longer lead times, will be systematically disadvantaged. That is because these projects will logically be able to offer a smaller guaranteed bill credit than rooftop projects, which will often be comparatively faster to entitle and cheaper to construct.

This again emerges out of the tiebreaker mechanism's singular focus on bill credit discount, which fails to consider other important policy considerations. For example, there are additional front-end costs to entitle landfill projects, potentially leading to lower guaranteed bill credit discounts. However, such projects also result in the transformation of otherwise unusable space into useful renewable energy projects and often benefit a governmental owner of the associated landfill through lease payments and associated negotiated benefits.

The Board should therefore adopt a structure that deemphasizes bill credit discount in the tiebreaker. The use of timing for completion of the final applicable interconnection milestone as discussed in Section (a) above, for example, would be a neutral tiebreaker across project types.

2. Community Engagement Requirements

DSD recognizes the importance of engaging with local communities and subscribers across EDC territories. The delivery of a community solar project requires continued interaction and cooperation with

stakeholders to ensure project siting requirements are met and sufficient low- and moderate-income (LMI) subscribers are enrolled.

However, DSD proposes that the requirements to be included in a community engagement plan be objective and that applicants be permitted to self-certify whether their community engagement plan satisfies the applicable requirements. This will allow for a clear and easily administrable process, which logically follows in a first come, first served program. Applicants could simply check that they have engaged with local communities in the siting of their projects and that they have a plan for meeting the minimum 51% LMI requirement, without the submission of a detailed narrative that would be difficult to objectively assess.

In addition, DSD is concerned that the actions to be reflected in the community engagement plan as presently contemplated in the Community Solar Straw Proposal are limited to specific actions of a “developer and subscriber organization.” DSD believes it likely that developers will enlist any number of parties to connect a project with individual residents and community-based organizations. Accordingly, DSD respectfully suggests that the definition of community engagement plan in the Community Solar Straw Proposal be revised as follows (additions in [brackets] and deletions in ~~strikethrough~~):

“Community engagement plan” means a plan which details specific actions a developer[,]
~~and~~ subscriber organization[, and/or other members of the project team] will take to connect a project with individual residents and community based organizations representing residents.

DSD believes that the above revision would clearly establish that a developer is not limited with whom it may partner to satisfy the applicable community engagement plan requirements.

DSD once again thanks the Board and Staff for the opportunity to provide comments in response to the Community Solar Straw Proposal and looks forward to its continued participation in New Jersey’s green energy future.

Sincerely,
Eric Pollock
Chief Commercial Officer
Distributed Solar Development, LLC