May 15, 2023

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

Re: I/M/O the Community Solar Energy Program, Dkt. No. QO22030153
Staff Straw Proposal for the Permanent Community Solar Energy Program

Dear Board Secretary:

Please accept this letter as CS Energy, LLC's ("CS Energy") comments on the Staff Straw Proposal for the Permanent Community Solar Energy Program ("CSEP").

By way of background, CS Energy is a leading integrated energy company that develops, designs, and builds optimized projects in the solar, storage and emerging energy industries. CS Energy, based in Edison, NJ, has been a leader in the New Jersey solar industry for 16 years and specializes in developing and constructing solar projects on underutilized properties such as landfills, brownfields, and other contaminated sites, including mine-scarred land. CS Energy has three (3) community solar projects in late-stage development that are designed to utilize landfills or mine-scarred land:

- The Eagles Solar I and II projects are located at the Berkeley Township Landfill in Berkeley, New Jersey. The proposed solar facility development includes the installation of two co-located 5 MWdc solar arrays on the former landfill area contingent on the closure of the landfill. The Berkeley Township Landfill is located within the New Jersey Pinelands, was awarded community solar in PY2, and is currently under construction.

- The Tabernacle Sand Solar project is located on the former Haas Sand and Gravel Pit located in the Township of Tabernacle, Burlington County, and is recognized by the EPA as a brownfield and located within the New Jersey Pinelands. The property is currently vacant. CS Energy is proposing to install a 3.54 MWdc solar array to participate in the community solar program.

- The Somerville Pioneer Solar I and II projects are located on the Somerville Landfill in Somerville, New Jersey. CS Energy's affiliate, Hathaway Solar, entered into a redevelopment agreement with the Borough of Somerville which includes both

the closure of the landfill and the construction of two (2) 5 MWdc solar facilities that will provide the Borough's residents solar electricity. These projects are focused on providing renewable energy to low and moderate income ("LMI") residents within the Somerville community.

In addition to the late-stage projects mentioned above, CS Energy currently has a significant pipeline of development-stage projects proposed to be sited on landfills, brownfields, or mined scarred lands, building on our long history of developing and building these types of projects – we have constructed over 220MW of landfill and brownfield solar projects throughout our history, 118MW of which are located in New Jersey, and including the 4MW Linden Hawk Rise Landfill Solar project which was part of New Jersey's PY1 Community Solar Program.

CS Energy's comments are driven by our experience developing and building landfill community solar projects in New Jersey's Community Solar Pilot Program, understanding of the CSEP and New Jersey's objectives, and long history of developing and constructing landfill and brownfield solar projects, and are guided by the following principles:

1. All projects that participate in the CSEP have the same cost to the rate-payers regardless of how much it costs to develop and build them (i.e. landfill, brownfield, rooftop, carport, and other eligible projects all receive the same ADI from the Successor Program).

2. Projects sited on landfills, brownfields, and municipally owned land create more value to the public than projects located on other sites. Landfills and brownfields involve environmental cleanup, remediation, and rehabilitation of contaminated land – cleaning these sites up creates significant incremental public value. Additionally, all three types of these sites generate incremental revenues to local municipalities either through higher property tax payments, or, for municipally owned sites, incremental rent paid directly to the municipalities.

3. The public benefits and additional value generated by projects sited on landfills, brownfields, and municipally owned sites generally comes at a higher development and construction cost than, say, a rooftop community solar project (although all project types cost ratepayers the same amount). In order for developers to justify the incremental cost and risk associated with developing and building these projects, developers require certainty that the project will gain entry into CSEP.

4. Maintaining consistency with the Pilot program is also critically important. Landfill, brownfield, and municipal projects have long development cycles – many have been under development for several years and are in late-stage development. Developers and municipalities relied on precedent set by the Community Solar Pilot program to make investment decisions on these project – specifically related to co-location and siting criteria, and any material deviations from Pilot program rules will cause good projects to

fail. Continuing the Pilot Program practice of allowing co-location of landfill projects and ensuring consistent siting criteria are both great examples of the consistency the development community needs.

5. The ongoing PJM Interconnection Queue Reform will delay newly originated Landfill and Brownfield sites from participating in the CSI until 2030. Community Solar presents a great opportunity for these projects to come online earlier, particularly if co-location is allowed, as it was during the Pilot program.

6. Developing and building on landfills and brownfields in NJ has become increasingly complicated and costly. The Subsection (t) program was a great success and deployed 275 MW of landfill solar projects across 32 sites. Despite the success, there is still an enormous opportunity to redevelop landfills and brownfields into productive solar facilities. NJDEP's published landfill data shows that New Jersey has 850 landfills and *only 137 of those sites are capped and are in NJDEP's post-closure status.* Given the large market opportunity and the value proposition for the public, the Board should be doing everything possible to enable the successful redevelopment of these sites.

Project Size and Co-Location of Projects

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

Recommendation

CS Energy recommends the BPU permit co-location of up to two 5MW projects on a single site for those projects sited on brownfields and landfills without requiring a waiver from the BPU.

Introduction

Landfill and brownfield projects provide significant incremental public benefits at no added incremental cost to ratepayers (when compared to other types of community solar projects), and they often require the economies of scale inherent with co-location to be economically viable. Supporting co-location of two 5MW projects on landfill and brownfield sites is a good policy decision because it supports the redevelopment of landfills and brownfields (which has been a priority of the New Jersey solar programs since its inception). Consistency with the Community Solar Pilot Program is also a critical concern here. The BPU allocated several Pilot program awards to co-located landfill projects, and these projects would not be economically viable unless they were co-located. Developers made investment decisions based upon precedent the BPU set during the Pilot program, and it's important for the BPU to remain consistent on this topic to maintain the integrity of the solar program.

Spreading costs over larger project

The added cost and time required to develop and construct landfill and brownfield projects is significant, and, in many cases, it only makes financial sense if economies of scale can be achieved through permitting the largest solar facility possible on a given site. The draft rules recommend that landfill / brownfield sites obtain "approved site mitigation plan" and certification from the DEP that the project is a brownfield and that the site has received "approval for proper closure of the landfill and contaminated site remediation". The level of effort to obtain this maturity requirement for participating projects is significantly different for landfill and brownfield projects, and in many cases these projects will require economy of scale complete such a task.

Rooftop community solar projects often do not need zoning variances or planning board approvals and only require building permits to comply with the CSEP permitting maturity requirements – this generally takes just a few months to complete. In contrast, a landfill or brownfield projects must go through an extensive, complex, and costly permitting process to comply with the CSEP requirements that can take one to two years to complete. The costs to obtain the maturity requirements for landfill and brownfield sites is significant because these projects must comply with NJDEP's site remediation standards, which includes performing detailed site assessments, site investigations, and a comprehensive remedial investigation. This investigation work is necessary in order to diagnose the size and breadth of the potential remediation, and it is often a significant undertaking. For example, it took Somerville Borough several years of investigation, at significant cost, to fully evaluate the scope of the required landfill closure at their municipal owned landfill before they could even begin the permitting process. Once the brownfield or landfill site has been sufficiently evaluated and a remedial action plan has been assembled, a developer can prepare and apply for all required permits, which is also a significant effort. In addition to the site remediation permitting process, the developer will need to obtain additional permits including, but not limited to, planning board approval, zoning variances, NJDEP Land Use Protection (wetlands, flood hazard area, stormwater etc.) approvals, division of fish and wild life, air permits, and soil conservation districts approvals, among other, to fully satisfy the project maturity requirements for the CSEP. Simply put, Landfill solar projects require significant permitting efforts above and beyond rooftop projects.

Additionally, beyond the permitting efforts, landfill and brownfield projects are more expensive to construct for two reasons. First, these projects often require some amount of site remediation or landfill capping work prior to the solar projects being built. This upfront remediation work can cost millions of dollars. Second, the cost to construct a landfill solar system is significantly higher than a traditional ground mount solar system or a rooftop system because the solar construction activities cannot interfere with the landfill cap, requiring specialized and expensive construction measures.

To the extent that the CSEP were to restrict CS Energy to a total of 5 MW on each landfill, many projects sited on landfills and brownfields could not afford to pay for the costs of remediation, preventing the projects from moving forward. This outcome is not in the interest of any parties involved and would prevent the region from accessing the significant public benefits of remediating these sites.

If there are concerns that the CSEP will be inundated with co-located projects, they are misplaced. The Pilot program, which awarded community solar allocations to over 150 projects. has just two examples of successfully developed co-located landfill solar projects as shown in **Table 2.** CS Energy developed and is currently constructing Eagles Solar I and Eagles Solar II, and we can say with certainty that the projects would not have been financially viable without being able to co-locate them on the same site. Had the project instead bid into the CSI program as a single 10MW project, the REC prices would have been substantially higher than the TREC incentive for which the projects are eligible in PY2 of the Pilot.

Table 2. Successful Pilot Program Co-located Community Solar Projects

Docket No.	Project Name	MWdc	Landfill Name
QO21020243	BEMS Community Solar West	5	BEMS Landfill
QO21020286	BEMS Community Solar East	5	BEMS Landfill
QO21020437	Eagles Solar I	5	Berkeley TWP Landfill
QO21020439	Eagles Solar II	5	Berkeley TWP Landfill

Many landfill and brownfield sites in New Jersey cannot accommodate more than 5MW of solar capacity because of existing site constraints. For example, our PY1 Linden Hawk Rise Solar Community Solar project is sited on a landfill that is approximately 50 acres, but the solar could only be placed on 12 acres due to the site conditions. Of those sites that can accommodate more than 5MW of solar capacity, we recommend the Board provide as many opportunities for these projects to be built as possible at the lowest possible cost to ratepayers. Many of these larger landfill and brownfield projects will participate in the CSI program, which includes a set-aside for landfill and brownfield sites. We expect that projects that are 10MW and larger, have relatively low remediation costs, and have access to FERC jurisdictional interconnection lines (requiring the project to go through the PJM process) will participate in the CSI program and will bid competitive REC prices into that program, providing good value to ratepayers. Simply put, developers will maximize the amount of available land for solar development on a given site, especially in a space constrained state like New Jersey. If a developer is able to fit 15MW or 20MW of solar capacity on a single landfill or brownfield site, they will pursue a 15MW or 20MW project via the CSI program instead of underutilizing the site and developing a smaller 5MW or 10MW community solar project. Even a landfill or brownfield site that can accommodate 10MW of solar may opt to pursue a CSI award instead of community solar due to interconnection constraints (i.e., sites that do not have adequate distribution interconnection capacity but do have adequate transmission or sub-transmission interconnection capacity would opt to pursue the CSI program).

On the other hand, there are a subset of landfills and brownfields sites that can accommodate up to 10MW of solar capacity and have higher remediation costs or site preparation costs. If these projects bid into the CSI program, many of them would require REC prices higher than the $90/MWh REC value available to community solar projects, making them a bad deal for ratepayers. Instead, it will be better for ratepayers if these projects participate as two 5MW community solar projects, enabling them to take advantage of the higher retail bill credits (as opposed to the lower wholesale power prices available to CSI projects, which are typically $60 - $100/MWh lower than community solar retail bill credit) available to community solar while capping the cost to ratepayers at a $90/MWh REC value. Additionally, landfill and brownfield sites are typically municipally owned, meaning that any rent payments made to the property owner to host the community solar project are going towards the municipality, who then can provide additional public services.

Given the public value of capping landfills and brownfields with solar and the Pilot program precedent for co-locating two 5MW solar projects on these sites, it is sensible policy to provide multiple avenues for landfill and brownfield projects to be done at the cheapest possible cost to ratepayers. Some of these landfill and brownfield projects will be great fits for the CSI program, whereas others will be better as community solar projects. The Pilot program has enabled several high value co-located community solar projects that would be otherwise have been uneconomic, and we urge the Board to maintain this sensible approach to landfill solar going forward in the CSEP.

Interconnection Reform

Unrelated to the siting of a co-located project, allowing co-location is good policy considering the PJM Queue Reform and NJ's aggressive energy goals. This is because PJM's ongoing Interconnection Process Reform has essentially stopped the interconnection process for newly originated projects. This will prevent newly originated projects from being studied in the interconnection process until roughly 2027, which means they likely will not be able to achieve COD until 2030[1] or later. This means that many good projects that have met the siting criteria set by the CSEP and are greater than 5MW will have no way to participate in a New Jersey solar program until the PJM queue reform has been resolved. NJ has ambitious renewables goals to achieve by 2035, and we must create opportunities for projects to be built across various programs in order to achieve these goals.

[1] When you consider time to study the project, obtain an interconnection service agreement (ISA), execute the ISA, obtain final permits, source supply chain, perform interconnection network upgrades, and build the solar project.

Waiver Process

Further, there are strong policy considerations of encouraging community solar, particularly serving LMI customers, on underutilized or unutilized lands such as landfills. Having to petition the board on a case-by-case basis for waivers to the co-location rule significantly increases the level of risk to developers, increases the administrative burden for the Board and BPU Staff, and will greatly discourage investment into projects that would only be feasible as two co-located 5 MWdc projects. Instead, co-location should mirror pilot program rules for consistency purposes.

If it is ultimately decided that a waiver is required for co-location in the permanent program, for the reasons outlined above, CS Energy strongly requests the BPU should consider waivers for co-location on the basis of **the project's merits** such as incremental public benefit provided by co-location and municipal involvement. Projects should be required to demonstrate that they will be separately metered, financed, and operated. Common ownership is not necessarily relevant as long as the projects are legally, operationally, and financially separated such that they have the potential to be owned/controlled by separate entities in the future.

Conclusion

As supported above, co-location on landfills and brownfields sites is a wise policy decision for the BPU. The projects are incrementally more valuable than other projects because of the public benefits associated with rehabilitating and redeveloping land with history of contamination or landfills. Landfill and brownfield projects receive the same incentive as other community solar projects while they are considerably more complicated, time consuming, and costly to develop. By allowing co-location on landfills and brownfields sites, the developer may spread remedial investigation and remedial action costs over a larger project and not requiring a specific waiver for co-location will encourage developers to take on these more challenging sites, which will ultimately result in more landfill and brownfield development.

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 rules for community solar facilities? What should those standards look like?

Recommendation #1 – Proposed inclusion of contaminated unpreserved farmland as an eligible site.

Recommendation

CS Energy requests that the Board include unpreserved farmland that qualifies as a contaminated site in the solar siting eligibility requirements.

Introduction

CS Energy applauds the Board's emphasis on ensuring that solar is not allowed to be developed on preserved farmland and open space. In a highly populated and dense state like New Jersey, our open spaces and agricultural land are extremely important and should be protected.

CS Energy strongly believes that the eligibility requirements should include unpreserved farmland, subject to local land use restrictions and meets the definition of contaminated site. We've encountered several farm properties that were planned for residential development only to learn that the soil was full of pesticides and other chemicals associated with the farm operation such that it was not suitable for human occupancy without expensive soil remediation. Properties with these characteristics are typically better suited for commercial/industrial uses, which don't have the same soil standards as residential uses. We have successfully developed solar sites in other states on properties with similar characteristics. Solar is considered the most beneficial use given its minimal disturbances sub-surface coupled with extensive erosion controls – both of which would prevent such contaminants from migrating off-site or leaching into groundwater. These sites should be permitted to participate in the community solar program on the basis that they should be considered brownfields.

Beneficial Land Use for Contaminated Land

There is no restriction in the Solar Act of 2021, P.L. 2021, c. 169 that restricts solar projects on unpreserved farmland. The Solar Act of 2021 prohibits, among other things, "prime agricultural soils and soils of statewide importance, as identified by the United States Department of Agriculture's Natural Resource Conservation Service, which are located in Agricultural Development Areas certified by the State Agriculture Development Committee …." Solar Act of 2021 Section 6(c)(7)(emphasis added). Thus, if the farmland is not a preserved farmland and has extensive, historic pesticide use or other chemical discharge, there should be no restriction for the development of solar projects on the farmland, especially if the land is not otherwise developable considering the contaminants in the soil.

It is good public policy to enable contaminated unpreserved farmland to be redeveloped into solar projects. These properties could otherwise be redeveloped into other commercial or industrial uses, many of which have significantly higher impacts on the surrounding community and the environment. In contrast, community solar projects have virtually no environmental impacts, do not require new septic or other public services, and would minimize soil disturbance instead of extensive removal or treatment of the topsoil required for other types of

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developments. Given the positive environmental attributes on developing community solar on unpreserved farmland with extensive, historic pesticide use, there simply is no reason to preclude these projects from participation in the CSEP.

Conclusion

Accordingly, CS Energy requests that the Board amend the eligibility requirements to include unpreserved farmland that qualifies as a contaminated site.

Recommendation #2 – Proposed inclusion industrial and commercially zoned land as an eligible site.

Recommendation

CS Energy recommends that the board allows industrial or commercially zoned land to qualify in the solar siting criteria.

Introduction

New Jersey has many industrial or commercially zoned land that would benefit from solar development without jeopardizing open space, preserved farmland, or other cultural or environmentally important land. By allowing community solar projects to be developed on commercial and industrial zoned properties, the Board will ensure a more even distribution of community solar projects across the state instead of a concentration of community solar sites where there are large rooftops or contaminated sites. Using industrial or commercially zoned land for solar development can have many advantages over other uses. Unlike other commercial and industrial uses, solar facilities are decommissioned after their useful life and the land can be returned to its prior use. This is in contrast to other commercial and industrial uses, which are irreversible developments involving surfaced lots and buildings. Local municipalities have zoning laws for a reason, and if a municipality has zoned a property such that solar is a permitted use and the property is commercially or industrially zoned (and it not open-space or otherwise preserved), we do not think it's appropriate for the Board to overrule zoning choices made by the municipalities.

CS Energy recommends that the board consider allowing industrial or commercially zoned properties to participate in the community solar program, provided that the solar facility complies with all other applicable zoning laws. It's important to remember that solar facilities are a temporary use of the land and can be decommissioned after their useful life, leaving the land available for its existing use. Allowing solar development on these zoned properties can help promote efficient land use by complying with local municipal zoning regulations.

Recommendation #3 – Proposal for Mine Scarred Land

Recommendation

CS Energy recommends that the Board include mine scarred land in the permanent program because it was included in the "highest preference" category for siting evaluation criteria inclusion in the Pilot Program – the CSEP should be consistent with the Pilot program on this point.

Introduction

The proposed eligibility requirements for the CSEP do not specifically include mine-scarred lands. It should be noted that the Board's October 28, 2021 order approving community solar projects in Program Year 2 of the Community Solar Pilot Program included mines within the highest preference for the siting evaluation criteria. See I/M/O the Community Solar Energy Pilot Program, I/M/O the Community Solar Energy Pilot Program Year 2 Application Form and Process – Application Awards, Dkt Nos. QO18060646, QO20080556 ("PY2 Order") at 4.

Mine Scarred Land is Considered a Brownfield

In addition, mine-scarred land, which is included in the EPA's definition of a Brownfield, may not be considered 'contaminated' but often comes with remediation plans that require significant work be done in order to get the property ready for redevelopment.[2] For example, the Haas Mining Pit, a site under development by CS Energy, must undergo remediation in the form of regrading, stabilization, and restoration before the site can be redeveloped as a community solar project and is on the EPA's Brownfield List. Mine-scarred lands are defined as lands, associated waters, and surrounding watersheds where extraction, beneficiation, or processing ore and minerals (including coal) has occurred. [3] Mine-scarred lands are typically vacant and underutilized, thus also meeting the definition of a "brownfield" and recognized by the EPA as brownfields. The Board should reconfirm that mine-scarred lands are included as eligible sites rather than having to obtain a waiver, as proposed in this section.

Mine Scarred Land in the Pilot Program

[2] Public Law 107-118 (H.R. 2869): "Small Business Liability Relief and Brownfields Revitalization Act"

[3] EPA Brownfields Mine-Scarred Lands Initiative, 2004.

While there were not a significant number of projects submitted to the Pilot Program located on mine-scarred land, several were submitted, and one was awarded. By including them as a preferred siting location in PY2, the BPU signaled to the industry that these sites were to be included in future years of the program, triggering many companies to bring these types of projects into their development portfolios. Now, there are many of these sites under development intending to become community solar projects. These locations are often unsuitable for larger grid tied projects due to size and proximity to large enough transmission lines, leaving these sites without a program to be admitted to if the Board does not include them in the Permanent Program.

Opportunity Available

There are nearly one thousand surficial mining sites in New Jersey, meaning there is tremendous land resource available for community solar projects if mining sites became eligible to participate in the CSEP. While not all of these sites will be suitable for development as a community solar project, many of them are viable candidates. For example, if we assume that only 20% of the sites are suitable for Community Solar projects at 3 MWdc per project, NJ would be missing out on 600 MWdc of potential Community Solar on land that is otherwise unusable. As mentioned previously, most of these sites are in remote locations where access to large transmission lines is unavailable, leaving the project to generate electricity to the local EDC's distribution lines as a community solar project. Similar to landfills and contaminated sites, the State has a unique opportunity to use Community Solar to facilitate the remediation and revitalization of mine scarred land.

Floating Solar

We found it unusual that Staff included man-made bodies of water that have little-to-no established floral or faunal resources (floating solar) as an allowed site under the permanent program but excluded mined scarred lands. The floating solar sites described in the draft rules are typically found in former mining pits that have been filled with water. While CS Energy recognizes and appreciates that the board included floating solar, it does not make sense for the Board to include mine scarred land only on the condition that it is filled with water. CS Energy recommends including all mine scarred lands in the CSEP as it did in the Pilot Program.

Conclusion

As mentioned previously, landfill and brownfield (including mine scarred land) development projects have incremental added benefits from the site remediation and redevelopment of land that is otherwise unsuitable for development. Mine scarred land is an ideal siting location for solar projects, especially in the Pineland's where there is not significant land resource available for solar development. There is a clear public interest and history of BPU support to redevelop

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these otherwise unusable sites into solar, in addition to making the definition consistent with the pilot program.

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)?

Recommendation:

We support comments made by NJSEC

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)?

Recommendation:
CS Energy is in alignment with the comments submitted by NJ SEC for this question. Qualifications for Project Ownership

Qualifications for Project Ownership

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

Recommendation:

CS Energy is in alignment with the comments submitted by NJ SEC for this question.

Application Process and Project Selection

Issue: 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?

Recommendation

We recommend that landfills, brownfields, and publicly owned sites be excluded from a tie breaker and be granted entry into the CSEP program if they meet all other eligibility criteria.

CS Energy additionally recommends that a lottery be used to determine what projects are accepted into the CSEP.

Introduction

For reasons mentioned throughout our stakeholder comments, landfill, brownfield, and publicly owned sites are unique and offer significant incremental value to the public compared to other types of projects. However, these projects take longer and are more expensive to develop and construct, and therefore it is appropriate to provide developers more certainty of outcome to incentivize them to take the risks required for the public the realize the project benefits. The Board can provide the certainty required for these projects by exempting them from the tie-breaker process if the CSEP is oversubscribed, assuming they meet all other eligibility criteria.

We also believe that a lottery system is the fairest "tie-breaker" process for allocating awards into the CSEP program if the solicitation is oversubscribed. The Board proposed to resolve oversubscribed solicitations by stack ranking projects based on bill credit discounts and selecting projects with the highest discounts until the program is fully subscribed. The Board's proposed tie-breaker process creates large uncertainties in the "market price" for community solar bill credits, making it difficult for investors to underwrite projects and limiting the ability for projects to secure financing for their projects.

Exclusion for Landfill Brownfield Projects

As mentioned earlier, landfill and brownfield projects require a higher degree of certainty to justify the investment required to meet the maturity requirements, and they offer significant added public value through environmental remediation, increased property taxes, and, in the case of municipally owned sites, generate new revenue for municipalities.

By excluding these important projects from the tie-breaker process, the BPU can provide the required degree of certainty to these types of projects, which will spur more development, ultimately transferring more value created by the CSEP program to the public through environmental uplift of the area, property taxes, and rent payments going to the municipality. Excluding landfills, brownfields, and municipally owned sites from the tie breaker process is an

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obvious policy win across the board and will help balance the scales between rooftop and landfill CSEP projects

Financing Issue

All projects require development capital and construction capital for the project to be built. In order to raise this financing, developers rely on financial pro-formas that forecast the cost of the system, revenues of the system, and operational expense of the system to make a return on the investment.

Predictability of solar projects is one of the drivers of how our industry has been able to reduce system costs. The industry has developed complex energy models that can accurately predict the amount of electricity that will be produced by the system over its useful life, we negotiate long term leases with known rent payments over 30 years, and we implement various other best practices to ensure the system performs in a predictable manner. With this predictability we are able gather much more competitive financing, which ultimately brings the cost to build the system down and, in the context of the CSEP, allows projects to offer competitive bill credit discounts to community solar subscribers. Using bill credit discount rankings as the tie-breaker process would cause project revenues to be highly unpredictable and would seriously damage a project's ability to obtain cost-effective financing. Importantly, this issue also significantly impacts legacy projects that are already operating.

For example, many of the projects awarded in PY1 offered a 10-20% discount to subscribers and also did not require long term contracts with the project. We believe that the consumer protection components of the CSEP are important – subscribers should not be locked into a deal for a long term, and they should not be required to pay sign-up or cancellation fees. These consumer protection requirements both protect the consumer and make it easier for developers to acquire subscribers, thereby lowering costs to recover lost accounts through attrition. However, the proposed tie breaker process creates a race to the bottom, where the projects offering the steepest bill credit discounts will essentially set the market for discounts across the entire industry (including projects that are in operation), because consumers would be willing to terminate their existing contract. In the proposed tie breaker process, this PY1 project may be faced with projects offering 30% discounts or more and will lose their subscriber base to a better offering. Which would have lasting impacts and potentially bankrupt the project.

The proposed bill credit stack ranking process is well intended, and higher bill credits are better for the consumer. However, by using bill credits as the tie breaking mechanism, it places too much emphasis on the bill credit value that will create unintended "race-to-the-bottom" scenarios that will ultimately harm the overall community solar sector.

Conclusion

The discount-based tie breaker is potentially very damaging to industry and should be approached with caution. Instead, a lottery tiebreaker is more appropriate and fairer. In either case, projects that are developed on landfills, brownfields, and publicly owned sites should be excluded from the tie-breaker process.

Minimum project maturity requirements

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

Recommendation

CS Energy is agreeable to the proposed maturity requirements, with three clarifications.

a) Until all EDCs have developed a standard and transparent interconnection process for community solar projects, the interconnection eligibility standards for the CSEP should be consistent with the Pilot program – developers should be required to confirm there is sufficient hosting capacity for a proposed site.

b) We would like to highlight that the landfill and brownfield projects have a much higher bar to achieve project maturity requirements when compared to rooftop projects.

c) Landfill & Brownfield projects may not be able to be completed in the 18 months, and the Board should allow 24 months with 6-month extensions for landfill and brownfield projects to the extent the projects are showing material progress towards completion.

Introduction

We believe that only allowing mature projects to enter into the CSEP is good policy making, but there are limitations in implementing these rules across all project types that may participate in the CSEP.

Interconnection

Executed EDC interconnection study for projects over 1 MW is not feasible until the EDCs develop a standard and transparent interconnection process for community solar projects. Currently, EDCs are not accepting applications for Community Solar projects because the official rules of the program have not been officially established. Depending on when the Board opens the first solicitation of the permanent program, no projects will qualify, or some could unfairly miss the solicitation window from delays at the EDC level. CS Energy recommends waiving this rule and using the method established by the Pilot Program of confirming adequate interconnection capacity as advertised by the EDCs on their publicly available hosting capacity maps or pre-

application study until such time that a standardized and transparent interconnection process is established across all EDCs.

Unbalanced Requirements Across Project Types

As established above and throughout our comments, landfill and brownfield projects take longer to develop and are riskier and more expensive to develop and construct. The project maturity requirements outlined in the straw proposal heavily favor rooftop projects, many of which need only site control and a building permit to proceed. In contrast, Landfills and brownfields require several complex discretionary permits including DEP approval through SRP program or through the Division of Solid and Hazardous Waste, local planning board approvals, Pinelands Commission approvals, Soil Conservation District approvals, and occasionally NJDEP Land Use approvals if there are protected resources on site.

This further supports our arguments throughout to allow landfill and brownfield projects to be exempt from tie breakers, to be allowed to co-locate two 5MW projects on a single site, and to be allowed additional time for development and construction to the extent the projects are making material progress towards completion. Policies like these suggestions and others we have made help to balance the scales in the CSEP program and ensure the community solar program represents a broad spectrum of high value projects throughout the State.

Time to Build

While 18 months from award to placed-in-service should generally be achievable for landfill and brownfield sites it may not work for all projects, and we believe these types of projects should receive special consideration

For example, a site requiring landfill closure may take 12 months to complete the cap, which would count towards the commercial operation deadline. Another example is time of year restrictions that sometimes occur with land development if there is an endangered species present on site.

Therefore, we believe that a 24-month requirement is more appropriate for landfills and brownfields, especially ones needing remediation, and we also believe it's appropriate for the Board to consider extensions in the deadline to the extent the projects are making material progress towards completion.

Conclusion

We generally support the project maturity requirements proposed in the Straw, but we believe that the interconnection maturity requirement needs to match the Pilot program until a robust community solar interconnection process has been promulgated by the EDCs. We also believe it's important the Board recognize the importance of landfill and brownfield projects in the

advancement of New Jersey's solar goals and that these projects are provided the necessary support required to be successful.

Other project eligibility requirements

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

We do not have any comments to this question.

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?

CS Energy is in alignment with the comments submitted by NJ SEC for this question

Definition of LMI subscriber

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

Recommendation:

CS Energy is in alignment with the comments submitted by NJ SEC for this question.

LMI participation

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

Recommendation:

CS Energy is in alignment with the comments submitted by NJ SEC for this question.

LMI Income verification standards

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

Recommendation:

CS Energy is in alignment with the comments submitted by NJ SEC for this question.

Participation by affordable housing providers

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

Recommendation:

CS Energy is in alignment with the comments submitted by NJ SEC for this question.

Value of the bill credit

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

No comment

Bill credit banking/excess bill credits

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

Recommendation:

CS Energy is in alignment with the comments submitted by NJ SEC for this question.

Consolidated billing

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

Recommendation:

CS Energy is in alignment with the comments submitted by NJ SEC for this question.

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?

Recommendation:

CS Energy is in alignment with the comments submitted by NJ SEC for this question.

Distribution system support

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

Recommendation:

CS Energy is in alignment with the comments submitted by NJ SEC for this question.

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?

Recommendation:

CS Energy is in alignment with the comments submitted by NJ SEC for this question.

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. How should the Board address this criterion? What should the value of the ADI Program incentive be?

Recommendation:

CS Energy is in alignment with the comments submitted by NJ SEC for this question.

Number of subscribers

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

Recommendation:

CS Energy is in alignment with the comments submitted by NJ SEC for this question.

Geographic distance between project and subscribers

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

Recommendation:

CS Energy is in alignment with the comments submitted by NJ SEC for this question.

Consumer protection

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

Recommendation:

CS Energy is in alignment with the comments submitted by NJ SEC for this question.

Automatic enrollment

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

Recommendation:

CS Energy is in alignment with the comments submitted by NJ SEC for this question.

Community engagement

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

Recommendation:

CS Energy is in alignment with the comments submitted by NJ SEC for this question.

Other Rules

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

N/A

Pilot Program

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

N/A

Energy accounting

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

N/A

In addition to our comments provided above, please find the attached support letter from Somerville Borough who is in support of our suggestions on co-location of sites.

Respectfully submitted,

John Ervin
VP of Development
CS Energy

Borough of Somerville

Mayor: Dennis Sullivan

Council President: RanD Pitts **Clerk Administrator:** Kevin Sluka
Borough Council: Granville Brady ♦ Tom Mitchell ♦ Gina Stravic
Roger A. Vroom III ♦ Fred Wied V

5/15/23

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

Re: I/M/O the Community Solar Energy Program, Dkt. No. QO22030153
Staff Straw Proposal for the Permanent Community Solar Energy Program

Dear Board Secretary:

This letter is in support to the CS Energy comments relating to the Staff Straw Proposal for the Community Solar program.

The Borough of Somerville solicited proposals prior to the round two pilot program. We then entered into an agreement with CS Energy to specify and install a community solar installation in accordance with the pilot program requirements.

As you can appreciate considerable time and effort has been put into this program, including the Borough securing funds to close the former landfill to allow this to proceed.

We believe that your staff has suggested that the program should not allow what is called co-location; we find that this will not allow this project to proceed as a 10mw project as designed.

We ask that you consider this letter od support with the understanding that the project as designed will bring nothing but positive benefits to the borough of Somerville and the LMI residents of the surrounding areas.

Sincerely

Dennis Sullivan
Mayor

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