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**Christine Guhl-Sadovy**  
**President**

Mary-Anna Holden  
Commissioner

Dr. Zenon Christodoulou  
Commissioner

Marian Abdou  
Commissioner

October 11, 2023

RE: IN THE MATTER OF THE COMMUNITY SOLAR ENERGY PROGRAM  
DOCKET NO. QO22030153

**Agenda Date: August 16, 2023 – Agenda Item: 8F**

TO THE SERVICE LIST:

Please be advised that this letter serves as a correction to, and reissuance of, the New Jersey Board of Public Utilities' ("Board") August 16, 2023 Order Launching the Community Solar Energy Program issued in the above-referenced matter.

Page 24 of the Order contains a typographical error whereby the unit for the amount of escrow to be posted by projects within one year of conditional registration is incorrectly listed as "\$40.00 per MW capacity" and should read "\$40.00 per kW capacity" (emphasis added). Consequently, the redistributed Order now notes the corrected escrow value of "\$40.00 per kW capacity." This is the only change to the issued Order, which will be redistributed to the parties of record and the attached service list.

This correspondence will be distributed to the parties of record and the attached service list.

Sincerely,

A handwritten signature in black ink, appearing to read "Sherri L. Golden".

Sherri L. Golden  
Secretary of the Board



Agenda Date: 8/16/23  
Agenda Item: 8F

**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
**44 South Clinton Avenue, 1<sup>st</sup> Floor**  
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CLEAN ENERGY

IN THE MATTER OF THE COMMUNITY SOLAR )  
ENERGY PROGRAM )  
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 ) DOCKET NO. QO22030153

Party of Record:

**Brian O. Lipman, Esq.**, Director, New Jersey Division of Rate Counsel

BY THE BOARD:<sup>1</sup>

By this Order, in conjunction with rulemaking in a related docket, the New Jersey Board of Public Utilities (“Board” or “BPU”) establishes the Community Solar Energy Program (“CSEP” or “Program”). The CSEP will be open to qualifying community solar energy projects with a capacity no greater than 5 megawatts (“MW”).

**BACKGROUND**

On May 23, 2018, [P.L.2018, c.17](#) (“Clean Energy Act” or “CEA,” formerly A3723/S2314) was signed into law. The law directed the Board to engage in rulemaking to implement a Community Solar Energy Pilot (“Pilot”) Program within 210 days following enactment of the CEA.<sup>2</sup> The law further directed the Board to convert the Pilot Program into a permanent program within 36 months after the adoption of rules and regulations establishing the Pilot Program.<sup>3</sup>

Community solar enables utility customers to participate in a solar energy project that is remotely located from their properties and receive a credit on their utility bill for their participation in a community solar energy project. Community solar therefore enables access to clean energy for utility customers currently unable to place clean energy generation directly on their own properties. The BPU developed the Pilot Program with a particular focus of ensuring that low- to moderate-income (“LMI”) customers can access community solar and that community solar

<sup>1</sup> Commissioner Abdou recused herself due to a potential conflict of interest and as such took no part in the discussion or deliberation of this matter.

<sup>2</sup> N.J.S.A. 48:3-87.11(a).

<sup>3</sup> N.J.S.A. 48:3-87.11(f).

development is pursued without materially compromising the preservation of open space or protected lands in New Jersey.

The Board adopted rules for the Pilot Program on January 17, 2019, which were published in the New Jersey Register on February 19, 2019.<sup>4</sup> The application period for the first program year ("PY1") of the Pilot Program opened on April 9, 2019, and closed on September 9, 2019. The Board received 252 applications representing approximately 652 MW of capacity. On December 20, 2019, the Board conditionally approved 45 projects with 78 MW of capacity to participate in PY1.<sup>5</sup> Of these, 20 projects totaling 44 MW of capacity have reached commercial operation.

On October 2, 2020, the Board issued the Application Form for the second program year ("PY2") of the Pilot Program solicitation.<sup>6</sup> Applications for PY2 were due on February 5, 2021. The Board received 412 applications representing approximately 804 MW of capacity. On October 28, 2021, the Board conditionally approved 105 projects with 165 MW of capacity.<sup>7</sup> As of July 30, 2023, nine projects with 5.8 MW have been completed. The remaining PY2 projects have a completion deadline of November 2023.

The completed projects are currently serving more than 6,300 New Jersey subscribers. The subscribers have received over \$7.7 million in bill credits with a net savings of more than \$1.5 million since the start of the Pilot Program through April 2022.

All 150 projects selected for the Pilot Program were LMI projects, meaning at least 51% of capacity was reserved for LMI households and affordable housing providers. Furthermore, all projects were planned to be located on rooftops, parking canopies, landfills, or brownfields.

In the same order making the PY2 awards, the Board also waived its rules authorizing capacity for a third program year and directed Staff to conduct stakeholder proceedings and recommend establishment of rules for a permanent program.

The Pilot Program provided necessary experience in implementing community solar in New Jersey and laid the groundwork for the development and implementation of a permanent, full-scale CSEP in conformance with the Clean Energy Act.<sup>8</sup> On several occasions, Board Staff ("Staff") solicited stakeholder feedback on the Pilot Program and potential changes to incorporate in the Program. On April 11, 2019, the Board issued a request for comment on the implementation of consolidated billing and Government Energy Aggregation for community solar and held a stakeholder meeting on April 23, 2019.<sup>9</sup> The Board issued a request for comment on the lessons

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<sup>4</sup> 51 N.J.R. 232(a)

<sup>5</sup> [In re the Community Solar Energy Pilot Program](#), BPU Docket No. QO18060646 et al., Order dated December 20, 2019.

<sup>6</sup> [In re the Community Solar Energy Pilot Program; In re the Community Solar Energy Pilot Program Year 2 Application Form and Process](#), BPU Docket Nos. QO18060646 and QO20080556, Order dated October 2, 2020.

<sup>7</sup> [In re the Community Solar Energy Pilot Program Year 2 Application Form and Process - Application Awards](#), BPU Docket Nos. QO20080556 and QO18060646, Order dated October 28, 2021)

<sup>8</sup> See N.J.S.A. 48:3-87.11(f).

<sup>9</sup> Board of Public Utilities, [New Jersey Community Solar Energy Program Stakeholder Meeting - April 23, 2019](#), BPU Docket No. QO18060646 (April 11, 2019).

learned from PY1 on July 9, 2020, and held a stakeholder meeting on July 27, 2020.<sup>10</sup> The Board issued a request for comment on consolidated billing on March 1, 2021, and held a stakeholder meeting jointly with the electric distribution companies (“EDCs”) on March 25, 2021.<sup>11</sup> On April 11, 2022, the Board issued a request for written comment on the design of the Program with comments due on May 6, 2022.<sup>12</sup>

On March 30, 2023, Staff released a Staff straw proposal regarding recommended parameters of the CSEP.<sup>13</sup> The straw proposal drew upon the Board’s experience with the Pilot Program, stakeholder responses to requests for comments, best practices identified from community solar programs in other U.S. states, and an analysis of the rules that currently apply to solar in New Jersey. Staff then hosted a stakeholder meeting on April 24, 2023, and comments were accepted until May 15, 2023. In addition, Staff hosted open office hours for all individual parties who requested them, and many took advantage of this opportunity.

The Board opened the Administratively Determined Incentive (“ADI”) Program, a component of the Successor Solar Incentive (“SuSI”) Program, on August 28, 2021.<sup>14</sup> The ADI Program is open to residential projects, certain net metered non-residential projects, and community solar projects.

### **STAFF RECOMMENDATIONS**

Staff has developed recommendations for the design of the CSEP based on experience from the Pilot Program and following extensive stakeholder feedback. Throughout development of the Program, Staff has drawn on the same general principles announced at the outset of the Solar Transition process.<sup>15</sup>

Of particular relevance are the following principles, further explained in the straw proposal:

1. Provide maximum benefit to ratepayers at the lowest cost
2. Support the continued growth of the solar industry
3. Meet the Governor’s goal of 50% Class I Renewable Energy Certificates (“RECs”) by 2030 and 100% clean energy by 2035
4. Provide insight and information to stakeholders through a transparent process
5. Comply fully with the statute, including the implications of the cost cap

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<sup>10</sup> Board of Public Utilities, [New Jersey Community Solar Energy Pilot Program Program Year 1 Lessons Learned Request for Comments and Stakeholder Meeting Notice](#), BPU Docket No. QO18060646 (July 9, 2020).

<sup>11</sup> Board of Public Utilities, [New Jersey Community Solar Energy Pilot Program Consolidated Billing of Subscriber Fees Request for Comments and Stakeholder Meeting Notice](#), BPU Docket No. QO18060646 (March 11, 2021).

<sup>12</sup> Board of Public Utilities, [Request for Comments, In the Matter of the Community Solar Energy Program](#), BPU Docket No. QO18060646 (April 11, 2022).

<sup>13</sup> Board of Public Utilities, [Notice: Community Solar Energy Program Staff straw proposal](#), BPU Docket No. QO22030153 (March 30, 2023).

<sup>14</sup> Board of Public Utilities, In re a Solar Successor Incentive Program Pursuant to P.L. 2018, C. 17, BPU No. QO19010068 (July 28, 2021).

<sup>15</sup> Board of Public Utilities, [Notice: New Jersey Solar Transition Staff straw proposal](#), BPU Docket No. QO19010068 (December 26, 2018).

The recommendations are grouped by topic, following the same structure as laid out in the straw proposal.

Summaries of all stakeholder comments, and Staff responses thereto, are provided in Appendix A.

### **Project Size and Co-Location of Projects**

#### *Straw Proposal and Stakeholder Comments*

In the straw proposal, Staff recommended that projects be limited to a maximum of 5 MW, and that co-location not be permitted. Co-location was proposed to be 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.

While some commenters supported Staff's recommendations in the straw proposal, several commenters argued for the allowance of co-location regardless of size, for project sizes of up to 10 MW and greater than 5 MW, and for qualified projects under the Pilot Program. Rationales provided to support co-location included economies of scale and efficient use of available space.

#### *Staff Recommendations*

The Clean Energy Act limits the capacity of each community solar project to 5 MW.<sup>16</sup> Thus, to maintain compliance with the statute, for project size, Staff recommends retaining the capacity limit for community solar projects at 5 MW, measured as the sum of the nameplate capacity in direct current rating of all photovoltaic panels comprising the community solar facility. 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. As such, Staff recommends applying the ADI Program's restrictions on co-location to community solar projects. Staff further recommends that the Board allow the co-location of a community solar project with a net metered project if they serve separate customers. Finally, Staff recommends community solar facilities not be considered co-located if they are located on rooftops of separate buildings on different properties with different beneficial owners. Examples of this were identified in the Pilot Program, 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.

With respect to the Pilot Program rules that established definitions of "community solar facility" and "co-location" at N.J.A.C. 14:8-9.2, Staff recommends the Board retain "community solar facility" and remove "co-location," but also revise the definition of "co-location" at N.J.A.C. 14:8-11.2 to clarify eligibility for a solar facility in the Program. Staff recommends revising the definition of "co-location" at N.J.A.C. 14:8-11.2 to "siting two or more SuSI-eligible solar facilities on the same property or on contiguous properties, such that the individual facilities are eligible for a higher incentive value or different program than they would be if they were combined into one single facility. In the case of net metered projects, SuSI-eligible solar facilities shall not be deemed co-located if they serve separate net metering customers as defined at N.J.A.C. 14:8-4. A community solar facility and a net metered facility are not deemed co-located if they serve separate customers."

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<sup>16</sup> N.J.S.A. 48:3-87.11(f)(1).

For projects previously conditionally approved in the Pilot Program and reapplying in the Program (see Capacity allocation section), Staff recommends the prohibition on co-location be waived.

### **Siting Requirements**

#### *Straw Proposal and Stakeholder Comments*

Staff's recommendation in the straw proposal was based on the experience of the Pilot Program, where only projects located on preferred land uses were approved. The Board received a variety of comments on siting requirements.

Generally, developers and subscriber organizations were split on either supporting the straw proposal or disagreeing with it. The dissenting comments by some developers focused on allowing specific categories of ground-mount projects and a concern that the requirements were too restrictive. However, most other commenters supported the straw proposal, but offered a myriad of options for improvement and clarifications, such as including requirements to follow the New Jersey Department of Environmental Protection's ("NJDEP's") siting tools, allowing for NJDEP oversight of project siting determinations, and clarifying the definition of floating solar. Some commenters expressed the desire to expand siting criteria to include land zoned as industrial and commercial, owned by public entities and non-profit organizations, and used for resource extraction/mining. Comments also suggested allowing for aggregation on commercial rooftops in urban areas and including provisions for warehouses and projects in overburdened communities. A few commenters recommended the inclusion of dual-use/agrivoltaic projects in the CSEP.

#### *Staff Recommendations*

Staff recommends that the Board maintain the siting requirements outlined in the straw proposal, which are to only permit community solar projects on the following site types:

- Rooftops
- Carports and canopies over impervious surfaces
- Contaminated sites and landfills
- Bodies of water that have little to no established floral and faunal resources (i.e., floating solar), such as water treatment reservoirs and dredge ponds

For contaminated sites and landfills, Staff recommends using the new definition of "contaminated site or landfill" included in the Solar Act of 2021. As part of the new definition, Staff notes that this definition 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, and they are 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.

In line with provisions in the Competitive Solar Incentive ("CSI") Program, Staff recommends that projects sited on contaminated sites and landfills be required to be designed to prevent onsite erosion and protect offsite areas from erosion and flooding. Specifically, projects would be subject to the New Jersey Soil Erosion and Sediment Control Act (N.J.S.A. 4:24-39 et seq.), its

implementing rules at N.J.A.C. 2:90, and NJDEP's Stormwater Management Rules under N.J.A.C. 7:8. As part of the development of a comprehensive siting plan, facilities would need to assess existing drainage conditions, and identify any areas where surface runoff currently exists or where proposed grades will create surface runoff concentration. Drip lines for the panels would need to be protected against scour. These projects would also be required to satisfy all NJDEP regulatory compliance obligations, complete a post-construction NJDEP compliance form, and receive a post-construction certification prior to applying for permission to operate.

At this time, Staff does not recommend allowing dual-use projects on farmland to participate in the CSEP. The Board anticipates opening the Dual-Use Solar Energy Pilot Program for these projects in the near future.

### **Capacity Allocation**

#### *Straw Proposal and Stakeholder Comments*

In the straw proposal, Staff recommended the Program have an annual capacity of no less than 150 MW and that at least 225 MW be allocated in Energy Year ("EY") 2024 and EY2025 to account for a later than anticipated opening of the Program. Staff also recommended in the straw proposal that the Board reserve the right to reallocate any unallocated capacity in the Program to future years.

Comments received on the straw proposal were supportive of Staff's recommendations for increasing the overall program capacity and allowing unawarded permanent program capacity rollover. Many commenters advocated for there to be a program capacity of 300 MW or more for the first few years of the Program.

#### *Staff Recommendations*

The Solar Act of 2021 states that the new SuSI 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.<sup>17</sup> The experience of the Pilot Program showed a tremendous market response and overall interest in developing community solar projects. In both Pilot Program years, applications significantly exceeded the capacity available. The Pilot Program 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. There was no PY3 solicitation, as had been envisioned in the original design of the Pilot Program. In addition, 150 MW was assigned to community solar in the EY2022 and EY2023 ADI Program MW Block allocations, which was not filled as the Program had not launched.

Staff recommends that the Program's 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. Pursuant to the Solar Act of 2021, the annual capacity should be set at no less than 150 MW and the cumulative capacity made available within the first five years of the ADI Program (i.e., no later than August 27, 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 therefore recommends opening a 225 MW capacity block for EY2024. For subsequent energy year capacity allocation, Staff recommends at least 225 MW in EY2025 and at least 150 MW in EY2026 and beyond to

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<sup>17</sup> N.J.S.A. 48:3-116(a).

meet statutory requirements and anticipated demand.

As in the Pilot Program, 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 Program implementation.

Staff does not recommend rolling over scrubbed capacity from the Pilot Program to the CSEP. Staff does, however, recommend that projects that were conditionally approved to participate in the Pilot Program, 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. Conditionally approved Pilot Program projects seeking to roll over into the CSEP must meet all applicable requirements of participation in the Program, other than the capacity limits. Such projects must also commit to a guaranteed bill credit discount consistent with that indicated in their Pilot Program application in order to be exempt from capacity limits. Staff expects that Pilot Program projects will be well positioned to reapply to the Program.

### **Capacity Segmentation**

#### *Straw Proposal and Stakeholder Comments*

The straw proposal recommended the continuation of EDC block allocations in proportion to retail electric sales, and for developers to have the ability to subscribe customers anywhere within their project's EDC territory.

Commenters to the straw were in favor of EDC block allocations for both program capacity allocations and geographic restrictions. Some commenters noted that further division by project type would create an overly complicated basis for awards. Trade associations and coalitions supported the ability for projects to subscribe customers residing EDC-wide because it prioritizes cost-effective subscriptions across the State. The majority of developers and subscriber organizations advocated for the removal of geographic limitations. One developer, Solar Landscape, recommended that geographic limitations be evaluated for project tiebreakers to incentivize substantial engagement where the projects located, and avoid the continuation of environmental justice issues. Several commenters agreed with the idea that robust community engagement plans would address concerns that were posed in the straw proposal regarding geographic limitations.

#### *Staff Recommendations*

The Pilot Program divided available capacity among the four EDCs based on their average respective percentages of in-State retail electric sales. 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 the Public Service Electric and Gas Company ("PSE&G") and Jersey Central Power & Light Company ("JCP&L") service territories have operational projects, though several projects are under development in the Atlantic City Electric Company ("ACE") and Rockland Electric Company ("RECO") service territories. Staff believes that this same policy rationale carries over into the Program, and therefore recommends that the Board maintain its capacity segmentation by EDC service territory. For a total available

capacity of 225 MW, Staff recommends allocations of 27 MW for ACE, 65 MW for JCP&L, 129 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 Program, 40 percent of the program capacity was reserved for projects defined as LMI. For the Program, Staff recommends that all projects be limited to those with at least 51 percent LMI customers, therefore eliminating the need for a dedicated LMI carve-out.

Staff recommends eliminating consideration of the geographic distance between a new project in the Program and its subscribers. A new project would therefore be permitted to enroll 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 areas 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 does not recommend creating tranches within program allocation for different project siting because further segmentation would allocate funding less efficiently and may deprioritize projects with greater benefits for subscribers.

## **Project Ownership**

### *Straw Proposal and Stakeholder Comments*

In the straw proposal, Staff recommended that the Board adopt similar qualifications and ownership restrictions for solar developers participating in the Program as were implemented in the Pilot Program, and not allow EDCs to develop, own, or operate projects.

Similar to feedback previously received from stakeholders, comments submitted to the Board regarding ownership of community solar projects were split, with some developers and other commenters supporting the straw proposal of not permitting EDCs to develop, own, or operate community solar projects. However, the EDCs contended they should have the ability to develop, own, and operate community solar projects given their unique situation to better serve LMI customers and use the revenue to the benefit of their customers. PSE&G asserted that the State needs "all hands on deck" in order to meet its ambitious clean energy goals. Other commenters recommended the Board consider adopting standards for EDCs if they are allowed to own and operate community solar projects, developer caps on the amount of community solar projects allowed, and the ability for any non-regulated entity or local community to own and operate a community solar project.

### *Staff Recommendations*

In light of comments received, Staff recommends that commercial non-regulated affiliates of EDCs be allowed to own projects under the same requirements and standards as other community solar developers. Such projects owned by EDC affiliates would not be eligible for any cost recovery other than through the mechanisms likewise afforded to other community solar developers and would therefore compete on an equal basis with other commercial parties. Staff

continues to recommend that the State's four EDCs not be permitted to develop, own, or operate community solar projects, which would not impact the EDCs' responsibilities relating to interconnection and billing management for these projects. Staff believes there will be sufficient interest in the CSEP to meet the State's goals.

Staff continues to recommend the definitions from the Pilot Program rules pertaining to ownership under N.J.A.C. 14:8-9.2, namely "community solar owner" and "community solar site owner" or "site owner," be retained and implemented for the Program.

### **Application Process and Project Selection**

#### *Straw Proposal and Stakeholder Comments*

In the straw proposal, Staff recommended that community solar projects be allowed to register in the CSEP on a first-come, first-served ("FCFS") basis. This approach contrasts with the project selection process used in the two Pilot Program years, which relied on a competitive solicitation process, with awards being provided to projects that achieve the highest cumulative score on a number of criteria.

As discussed in the straw proposal, the experience in the Pilot Program indicated that a large number of applicants could meet stringent criteria. In fact, all awarded projects obtained the highest possible score for both LMI access and preferred siting, and they provided a high level of guaranteed bill savings as well as flexible subscriber terms. The success of the Pilot Program has inspired confidence that sufficient capacity of high-quality community solar projects can be developed in New Jersey. Therefore, Staff recommended stringent eligibility criteria that would be applicable to all projects wishing to register into the CSEP. Upfront application of these criteria means that relatively few differentiating factors remain that would inform scoring in a competitive solicitation. In addition, the competitively scored applications have proven difficult to administer. As a result, Staff recommended the FCFS process as the primary means of project selection.

Since the Board has not accepted community solar projects into its program since 2021, it is expected that a relatively large number of projects may seek registration immediately upon the CSEP opening. A pure FCFS approach could result in applications being selected or denied based on very small differences in the time submitted, which would be undesirable. For this reason, Staff proposed a tiebreaker approach in the straw proposal, which would go into effect if the capacity registered in the first ten business days of opening the Program exceeds the target for any of the EDC block allocations. In an EDC block where the capacity target would be exceeded, projects would be selected based on the minimum subscriber bill credit discount to which a developer would commit.

Stakeholders overwhelmingly agreed with the rationale and FCFS approach. Only Mike Winka and InClimate argued for retaining the competitively scored approach of the Pilot Program, while the New Jersey Division of Rate Counsel ("Rate Counsel") believed that the FCFS approach should be replaced by a selection process where bill savings are the primary selection criteria for all community solar projects.

On the other hand, many stakeholders expressed concern with the proposed tiebreaker method, although several supported the proposal. A number of commenters thought that the tiebreaker approach would lead to high levels of competition, which could result in projects submitting speculative commitments for bill savings, and a high failure rate. Several commenters suggested a straight FCFS approach, waiting lists, or using interconnection approval, community

engagement, or workforce development as a tiebreaker. Some solar developers argued for giving preference to landfills and contaminated sites or creating a separate tranche for these projects. Incline noted that the tiebreaker approach could lead to clusters of projects, particularly from the same developer, at the same discount rate. Finally, several commenters argued for using only guaranteed bill savings for LMI subscribers as a tiebreaker.

Another group of commenters argued for a deposit requirement, generally at the level of \$25,000 - \$50,000 per MW, to ensure that only viable projects register in the Program. Some commenters suggested to provide exceptions to this requirement for publicly- or community-owned projects.

#### *Staff Recommendations*

After consideration of all factors and comments, Staff continues to recommend awarding incentives based on the FCFS principle. In addition, if the capacity registered in the first 10 business days of opening the Program exceeds the target for any of the EDC block allocations, a tiebreaker will go into effect, based on the guaranteed minimum bill credit discount a developer commits to offer to all subscribers.

Staff recommends that the SuSI rules for registration be applied to CSEP registrants. After the initial registration period, the SuSI program registration manager would, as per N.J.A.C. 14:8-11.5, notify registrants whether the registration package is complete, incomplete, or deficient. Registrations that are deemed incomplete due to a minor deficiency, as defined at N.J.A.C. 14:8-11(f)(1), would be notified and granted seven business days to cure the deficiency. Registrations that are deemed ineligible, incomplete, have a major deficiency as defined at N.J.A.C. 14:8-11(f)(2), or fail to correct minor deficiencies within the time allowed, would be rejected, and the registration would be cancelled.

#### **Maturity Requirements and Other Eligibility Criteria**

##### *Straw Proposal and Stakeholder Comments*

As a complement to the FCFS method of allowing projects into the CSEP, Staff recommended fairly stringent requirements in terms of both eligibility and maturity. These eligibility requirements consisted of:

- 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 NJDEP 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.

Stakeholders generally agreed with relatively stringent maturity requirements. Many entities expressed concern about the requirement for an executed interconnection study for projects 1 MW or larger, since EDCs have not been processing interconnection applications for community solar projects without a permanent program in place. Several stakeholders referred to the pending grid modernization proceedings for potential solutions, including hosting capacity maps and Pre-Application Verification and Evaluation process.

All EDCs argued against processing interconnection applications for projects before a selection by the Board, citing the inefficiency of studying projects that would ultimately not be selected.

Several developers argued for requiring only proof of application for permits instead of receipt. Others asked for clarification of the permitting requirements, noting that "non-ministerial permits" lacks specificity.

Multiple stakeholders, including the Mid-Atlantic Solar and Storage Association and several developers recommended that the Board establish an escrow requirement to prevent speculative projects from registering. These stakeholders recommended amounts between \$20,000 and \$50,000 per MW capacity.

#### *Staff Recommendations*

Staff considered all feedback, as well as the experience from the Pilot Program, and concludes that, in order for New Jersey to meet its clean energy goals, it is essential that more CSEP projects reach commercial operation compared to the Pilot Program. Staff therefore remains steadfast in its thinking that it is necessary to impose stringent maturity requirements.

To alleviate concerns of unviable projects, Staff recommends that the Board require the applicant to post escrow with the Board in an amount of \$40.00 per kilowatt of DC nameplate capacity of the facility. Public entities and community-based organizations, which must be entities registered under section 501(c)(3) of the Internal Revenue Code, would be exempted from this requirement subject to Staff approval. The escrow amount would be reimbursed to the applicant in full upon receipt of permission to operate ("PTO") and submission of a post-construction certification package, pursuant to N.J.A.C. 14:8-11.5(j). The escrow amount shall be forfeited to the State if the facility does not commence commercial operation before the conditional registration expires. Staff recommends that, for projects awarded in EY 2024, evidence of escrow is due one year after a project receives a notice of conditional registration. Specific requirements will be posted on the New Jersey Clean Energy Program website.

Staff understands the EDCs' concern about processing interconnection applications, but at the same time recognizes that interconnection and associated costs and timelines constitute one of the largest sources of uncertainty for a community solar project. Staff therefore continues to recommend that community solar will be subject to the same interconnection requirements as other projects in the ADI Program. Staff further recommends that the Board revisit this requirement upon changes to the interconnection process resulting from the grid modernization proceedings.

Based on stakeholder feedback and further review of permitting timelines, Staff is revising its recommendations concerning permitting requirements. Since site control is universally necessary

for the required permit applications, Staff no longer recommends a specific site control requirement.

Staff recommends that projects wishing to register in the CSEP submit the following in a registration package to the SuSI Program registration manager:

1. A site plan certified by a licensed professional engineer;
2. For facilities sized up to one MW, evidence of having submitted to the relevant EDC an Attachment A to an Interconnection Application and Agreement signed by the installer;
3. For facilities sized one MW or greater, written authorization from the EDC providing conditional approval to construct and a Milestone Reporting Form;
4. Evidence of applications for all discretionary land use approvals and entitlements applicable to the project, such as municipal zoning permit or municipal site plan approval, county site plan approval, soil conservation district approval, and Pinelands Commission or Highlands Commission approval, with a signed list of all permits for which the applicant will apply;
5. A Community Engagement and Subscriber Acquisition plan, as specified in the specific section of this Order;
6. A guaranteed bill credit discount to be offered to subscribers; and
7. For projects on a contaminated site or landfill, an estimated size of the area designated as a "contaminated site" or "properly closed sanitary landfill", a completed New Jersey Department of Environmental Protection permit readiness checklist, and a completed Contaminated Sites and Landfills Eligibility Verification Form, which will be posted on the Clean Energy Program website.

### **Community Engagement**

#### *Straw Proposal and Stakeholder Comments*

As written in the straw proposal, the community engagement plan includes a list of requirements developers must fulfill to prove they are engaging the community in which the project will be built.

The inclusion of a plan for community engagement and subscriber acquisition a project maturity requirement was widely supported by commenters to the straw proposal. Commenters commended Staff for taking greater steps to prioritize localized benefits and community feedback in the lifecycle of community solar projects. Developers and community advocacy groups provided constructive feedback to the straw proposal to help Staff shape the community engagement plan to be more objective in how projects will guarantee the materialization of community benefits. The most recommended requirements were letters of municipal and/or mayoral support, explanations of how community feedback will be incorporated, and evidence of collaboration with community-based organizations.

#### *Staff Recommendations*

Staff believes that engagement and outreach by community solar project developers to both residents in the communities where projects are located and any potential subscribers across each EDC service territory 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. Subscriber organizations should conduct marketing campaigns that target LMI and underserved communities and provide a general education about solar power and specific information about their respective projects. Educational campaigns through

advertisements and collaboration with community organizations are valuable methods to promote community solar energy and to raise greater awareness about New Jersey's clean energy transition. Staff encourages subscriber organizations to utilize demographic information of the communities from which they intend to acquire subscribers so they can provide translated marketing materials in the languages spoken in the area.

Staff seeks to ensure that, under a FCFS selection process, awarded projects will continue to engage community groups and subscribers. Staff therefore recommends that projects be required to submit a Community Engagement and Subscriber Acquisition 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 service territory. Staff agrees with commenters that the Community Engagement and Subscriber Acquisition Plan must consist of objective criteria for applicants and recommends the following list of requirements for the Community Engagement and Subscriber Acquisition Plan:

- Letter(s) of support from the municipal council and/or mayor of the municipality in which the project will be located
- Evidence of any partnerships with community-based organizations and/or a narrative of the developers experience with community engagement activities
- Subscriber acquisition plan with a registered subscriber organization
- List of results, effects, or consequences that will occur from carrying out the Project's Community Engagement and Subscriber Acquisition Plan
- Point(s) of contact responsible for maintaining community relationships
- Sample of written language and educational content to be used for project marketing
- Schedule to solicit community feedback and plan to incorporate feedback to continually improve engagement
- Proof of a relationship with a Subscriber Organization that is registered with the BPU
- Summary of customer segments to be targeted (e.g., geographic, socioeconomic, linguistic, and community affiliation)

### **LMI Access: Subscribers and Verification**

#### *Straw Proposal and Stakeholder Comments*

The CSEP offers an important opportunity to provide access to affordable solar energy for LMI customers. The Pilot Program defined low-income households as having an adjusted gross income at or below 200 percent of the Federal poverty level. Moderate-income households are defined as those with a total gross annual household income in excess of 200 percent of the Federal poverty level, but less than 80 percent of the area median income, as determined by annual United States Department of Housing and Urban Development ("HUD") income limits. Additionally, qualified affordable housing providers may be considered LMI subscribers in the Program if they demonstrate that they will pass specific, substantial, identifiable and quantifiable long-term benefits to their residents or tenants and submit a signed affidavit of such to the Board.

The Pilot Program initially reserved 40 percent of program capacity for projects that reserved 51 percent of subscriptions for LMI customers. Due to the overwhelming enthusiasm for the program and the competitive selection process, all 150 selected projects as well as most non-selected projects in both pilot years guaranteed 51 percent LMI subscription. Staff believes that the requirement of a minimum of 51 percent 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.

Stakeholders broadly agree that the 51 percent minimum of LMI subscribers should be maintained, with comments from MSSIA and Michael Winka encouraging an increase in the percent of LMI subscribers served over time. Conversely, NRG Energy expressed doubt at maintaining the 51 percent LMI subscriber level as projects are subscribed and encourages the Board to reevaluate subscription rates after a certain threshold is met.

Staff noted that 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 aligning with this standard as it makes additional discounts available to a large swathe of New Jersey's most vulnerable citizens while the state program also sets one of the highest low- and moderate-income carve-outs in the country.

Commenters supported multiple avenues for LMI subscriber verification including self-attestation and suggested additions to the expanded list of qualifying support programs from the Pilot Program. Four commenters suggested allowing the use of census tracts identifying overburdened communities to verify LMI subscribers. Commenters were divided on the mandated use of a third-party subscriber organization for LMI verification and record-keeping; several developers and trade association groups were opposed while other developers, Rate Counsel, and community advocacy groups were in favor. Several commenters supported the Board auditing projects to confirm the LMI subscription minimums. 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.

Many commenters expressed concern about Staff's proposal to require re-verification of LMI status, claiming that this would pose an undue burden.

#### *Staff Recommendations*

Staff recommends that the definition of LMI subscribers eligible for participation in the Program remain consistent with the definitions given in the Pilot Program rules. Staff recommends that all projects be required to serve a minimum of 51 percent LMI subscribers, as measured by capacity subscribed, and that a community solar project may not accept participation by a non-LMI subscriber if doing so would cause LMI participation to fall below 51 percent, consistent with the Pilot Program rules. Staff recommends that projects with subscriptions that drop to less than 51 percent LMI capacity subscribed or reserved shall provide the Board with written notification within 30 days of the occurrence with details on a plan to meet the standard.

Staff recommends that LMI subscribers be provided with several avenues to show income eligibility so that verification is not a burden on the subscriber. Documents which can be accepted by the subscriber organization as proof of LMI status include evidence of participation in all programs that were previously referenced in the Pilot Program, with the addition of Medicaid; Supplemental Security Income; Social Security Disability Insurance; Special Supplemental Nutrition Program for Women, Infants, and Children; Temporary Assistance for Needy Families; and the Low-Income Household Water Assistance Program. Staff additionally recommends that LMI customers may choose to self-attest that their household income is less than 80 percent of the area median income. Staff recommends that a standard self-attestation form shall be used

by all subscriber organizations and made available on the New Jersey Clean Energy Program website.

Staff continues to recommend that a subscriber be required to requalify as LMI at the time of the subscription, if the subscriber moves to a new utility account, and on the fifth anniversary of the subscription. Staff has weighed the additional burden of recertification, which would only apply to subscribers who do not qualify on the basis of location, against the need to maintain integrity of the program, and thinks that limited recertification as proposed is a reasonable compromise. Staff further recommends that, if a subscriber no longer qualifies as low- or moderate-income at the time of reverification, that the subscriber may not be removed from the community solar project, but that the subscription organization must focus on subscribing new LMI customers, alert the Board of any deficiency, and follow their plan for regaining 51 percent LMI status.

Staff further recommends that if a project does not meet or maintain LMI subscriber requirements on an annual basis, the project owner may be subject to financial penalties, including but not limited to the loss of bill credit value for the portion of the subscriber base that does not meet the LMI targets and a change in the project's Solar Renewable Energy Certificate-II ("SREC-II") incentive value. The Board would examine the magnitude of the shortfall, the diligence with which the shortfall is being remedied after notice, and any other factors as the Board may deem relevant to determine the appropriate penalty.

### **Affordable/Multi-Family Housing**

#### *Straw Proposal and Stakeholder Comments*

In the straw proposal, Staff recommended requiring that master-metered housing providers be required to pass on 75 percent of the electricity bill savings to residents in the form of direct payments at least once per year. The housing provider would be able to retain 25 percent of the bill savings to provide general benefits to the residents.

Several commenters voiced support for ensuring that residents of master-metered housing are able to access a direct financial benefit from community solar. However, some commenters, including community groups and housing advocates, noted concerns of administrative burden for the housing provider, risk of affecting funding from the Department of Housing and Urban Development and risk that direct payments would be considered income for the purposes of affordable housing eligibility.

#### *Staff Recommendations*

While Staff believes that the financial benefits of participating in community solar should flow to residents of master-metered housing just as they do to those having a utility account, Staff shares the commenters' concerns regarding potential effects of providing direct cash payments to residents. Therefore, Staff recommends maintaining the Pilot Program's requirement that in cases of master-metered buildings, the account holder will be required to provide to the project's subscriber organization an affidavit that will be made available to the Board affirming that specific, identifiable, sufficient, and quantifiable benefits of the community solar subscription are being passed through to the tenants. These benefits may include direct payments or a rate abatement but may also include indirect benefits such as facility upgrades and resident services, provided that they be identified and quantified in the affidavit.

### **Bill Credit Value and Banking**

### *Straw Proposal and Stakeholder Comments*

In the straw proposal, Staff recommended that the bill credit calculation from the Pilot Program be maintained in the Program for residential customers and commercial customers other than affordable housing providers. For affordable housing providers, Staff recommended that demand charges be included in credit rates and 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.

Staff recommended that subscribers be allowed to select an annualized period other than the default based on the start of the subscription, at the end of which excess credits would be paid at the avoided cost of wholesale power. Staff also recommended that projects may bank unallocated credits for up to 12 months and allocate such credits to new or existing subscribers for 24 months after the start of commercial operation.

EDCs commented that demand charges should not be included in the bill credit calculation because individualized calculations for different customers would be administratively burdensome and credits may exceed the bill amount. The EDCs indicated support for continuing the method used in the Pilot Program.

Some commenters expressed preference for a rolling banking of unallocated credits, based on the date of generation, noting concerns with subscriber churn. Some developers sought better and faster reporting of subscriber account and allocation information from the EDCs. With regards to excess credits allocated to subscribers, some commenters suggested allowing indefinite banking, with banked credits returned to the project to be reallocated when an account or subscription is closed.

### *Staff Recommendations*

Staff recommends that the bill credit be calculated based upon supply and delivery charges but exclude non-bypassable charges or demand charges for most subscribers. Because it is desirable that residents of affordable multi-family housing with master meters also be ensured access to community solar, Staff recommends that, for master-metered affordable housing buildings, serviced with a master meter on commercial rates, the bill credit shall be calculated inclusive of demand charges. Staff recommends that each EDC calculate a bill credit value for master-metered affordable housing buildings using an average based upon demand charges paid by all multi-family housing units billed on a commercial rate schedule served by the EDC over the previous energy year divided by the kilowatt-hours used by such units over the previous energy year. Subscriber organizations will need to provide a certification to the EDCs indicating which subscribers qualify as affordable housing and the credit must be calculated based on supply, delivery, and demand charges.

Staff recommends that the procedures for unallocated generation credits and for excess subscriber credits as described in the straw proposal be adopted in the CSEP. For subscribers, Staff recommends that 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. The annualized period would begin on the day a subscriber first earns a community solar bill credit based on the delivery of energy. A subscriber would be allowed to select a different date as the

start of the subscriber's annualized period and to submit this selection to the EDC at any time. A subscriber organization would also be allowed to set an annualized period on behalf of a project's subscribers which is likely to minimize subscribers' excess net bill credits. Staff believes this method, which is similar to the method of carrying over generation of a net-metered facility, is appropriate for compensating community solar allocation.

Staff recommends that the subscriber's subscription size shall be resized if a subscriber receives net excess credits for two consecutive years. 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.

For project operators, Staff recommends that 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. Unallocated generation subsequent to 24 months after the start of commercial operation shall also be compensated at the EDC's avoided cost of wholesale power. Staff believes that two (2) 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, which may pose additional costs on EDCs and ratepayers.

Staff further recommends that the EDCs be required to notify the relevant subscriber organization within 10 days of the termination or suspension of a subscriber's EDC account for any reason.

### **Consolidated Billing**

#### *Straw Proposal and Stakeholder Comments*

In the Straw, Staff recommended that the EDCs be required to implement consolidated billing, in which subscribers would receive only one bill that includes both the utility bill with applied discounts and the subscription fee to be remitted to the community solar project. EDCs would be required to implement consolidated billing by June 1, 2024, and all projects would be required to use it for billing customers. Staff also recommended permitting the EDCs to charge an administration fee of up to one percent of the subscription fee.

Stakeholders were uniformly in support of the implementation of consolidated billing, as it would reduce complexities for subscribers and subscriber organizations. The EDCs commented that they would be able to enable consolidated billing, consistent with the joint filing in 2021, but that they would not be able to implement it by the deadline in the straw proposal. JCP&L suggested a minimum timeframe of one year. The EDCs further commented that costs must be able to be recovered in a full and timely manner, regardless of an administration fee to be charged. On the other hand, Rate Counsel objected to any additional costs being put onto ratepayers.

Several commenters indicated that they support the availability of consolidated billing but want individual subscribers to be allowed to opt out of participation. Factors cited include the additional costs of consolidated billing, and the clarity of paying specific recipients separately. These factors were specifically mentioned for larger, mostly commercial subscribers. While most commenters supported utility consolidated billing, some expressed support for the option of third-party billing.

#### *Staff Recommendations*

Staff has received feedback from subscriber organizations and customers indicating that many customers would prefer to have a single bill to pay for both their electricity services and community solar subscription. Receiving separate bills from the utility and the subscriber organization can result in confusion, decreased transparency, and increased risk of non-payment. As indicated in the straw proposal, Staff recommends requiring the EDCs to implement consolidated billing for community solar, but recommends a deadline of January 1, 2025. 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 continues to recommend that consolidated billing be handled solely by the EDCs and that third-party consolidated billing other than through a third-party energy supplier not be permitted. Most 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 further believes auditing of billing practices and subscriber savings is more easily facilitated with utility consolidated billing.

Staff recommends requiring that all projects serving residential subscribers participate in consolidated billing, as all residential subscribers should be provided its benefits, with uniformity for the customer experience, program messaging, and information sharing. While all residential customers shall receive consolidated billing, subscriber organizations may identify commercial customers, which may be separately billed, since some commercial customers may require separate bills for accounting purposes.

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 allows different savings rates for different subscribers, and subscriber organizations should be able to assign each customer an individual rate, if needed.

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 that subscriber organizations should follow to share subscriber and financial information necessary for allocating bill credits and transmitting payments. The EDCs would be permitted to design the bill format and how subscription fees appear to customers, provided that relevant savings be clearly identified and that the community solar project, the subscriber organization, and its contact information appear on the bill.

Implementation of consolidated billing will impose a cost on the EDCs for upgrades of billing systems and administration. Staff continues to recommend allowing the EDCs to impose a utility fee no greater than one percent of the value of the subscription fee. Based on experience in other jurisdictions, this amount should be sufficient in the majority of cases to cover most, if not all, of the EDCs' development and implementation costs, but not a significant burden on projects, who would no longer be required to pay payment processing fees and incur the risk of non-payment.

The EDCs would also be permitted to recover prudently incurred uncompensated costs in a full and timely manner. The subscription fee would be considered an electric energy charge that is eligible for normal energy collection activity and regulatory treatment.

Staff also recommends that projects participating in the Pilot also be required to use consolidated billing. Projects would be given one year to transition customers to this system after it is implemented. Existing outstanding subscription fees would not be allowed to be transferred to consolidated billing.

Finally, 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. The working group shall work to ensure effective implementation of consolidated billing and methods to transmit subscriber allocation lists and other relevant data.

### **Interconnection/Distribution System**

#### *Straw Proposal and Stakeholder Comments*

The straw proposal included the recommendation to adopt the standards from the Pilot Program into the CSEP, which required that all projects meet codes, standards, and licensing requirements that were applicable when the project was constructed. Staff further referenced the current grid modernization efforts, and the intent to align the CSEP with the outcome of these proceedings.

Stakeholders largely supported Staff's recommendations. Several stakeholders mentioned the proposal for hosting capacity maps in the grid modernization proceedings as an important facilitator for community solar development. PSE&G commented that the Board should require EDCs to process interconnection applications in the order they are received, starting on a date to be determined by the Board, and should allow EDCs to disregard interconnection applications received prior to this date to prevent gamesmanship.

#### *Staff Recommendations*

Staff recommends adopting the standards from the Pilot Program into the CSEP and that all projects shall meet follow EDCs' normal interconnection procedures.

Staff recommends that EDCs be required to process interconnection applications for potential CSEP projects in the order in which they are received. However, Staff sees no benefit in requiring new submissions for interconnection requests by allowing EDCs to disregard prior applications. Staff therefore recommends that EDCs process both previously submitted and new applications for CSEP projects in the order which they were received.

Staff notes the grid modernization proceedings have proposed expanded rules regarding hosting capacity maps.

### **ADI Program Registration and SREC-II Price**

#### *Straw Proposal and Stakeholder Comments*

The straw proposal recommended that CSEP projects be simultaneously and automatically

registered with the ADI Program, upon review of application materials and acceptance of registration within the community solar program, and that the incentives awarded for CSEP projects remain tied to the incentives of the ADI Program. The straw also provided for CSEP projects to have 18 months from the issuance of a notice of conditional registration to the commercial operation deadline.

Commenters mostly supported the combined registration. Two commenters, MSSIA and CEP Renewables, asked for projects sited on landfills and contaminated sites to receive up to 24 months for completion.

The straw proposal provided that SREC-IIs awarded to community solar projects would be reflected in a single capacity block within the ADI Program, and that further differentiation of SREC-II values by location or EDC territory would be unnecessary. Several commenters proposed adders to the SREC-II incentive level, set at \$90 in the Straw, for projects in overburdened communities or on contaminated sites and landfills. Rate Counsel opposed higher SREC-II values, seeing the Pilot Program value as sufficient to incentivize projects. Commenters in general urged the Board to be careful in modifying SREC-II value based on additional federal incentives, because several adders to the investment tax credit are projected to have limited qualification.

#### *Staff Recommendations*

Staff recommends that there be a single registration for the CSEP and the ADI Program. Staff further recommends that the Board waive its existing ADI Program rules for project registration of community solar projects, and that community solar projects be subject to the maturity standards laid out in this Board Order instead. Finally, Staff recommends that the Board waive its existing SuSI Rules and instead require that community solar facilities other than those located on contaminated sites or landfills receive an 18-month expiration date to the conditional registration, while community solar projects on contaminated sites and landfills receive 24 months after confirmation of eligibility by the NJDEP to reach operation.

Staff recommends that SREC-IIs will be available for qualifying CSEP projects, all of which are LMI projects, for period of 15 years, pursuant to N.J.A.C. 14:8-11. Staff recommends that the SREC-II value be set at \$90/MWh for all projects, eliminating the non-LMI incentive of the Pilot Program. Staff recommends that the Board retain the ability to adjust the incentive value in response to provision of federal tax credits. Staff further recommends that projects will not receive public entity adders for community solar projects.

#### **Subscriber Standards**

##### *Straw Proposal and Stakeholder Comments*

The Pilot Program provided that each community solar project would have a set maximum number of 250 subscribers, and a minimum of 10 subscribers. The straw proposed removing the maximum, which commenters were supportive of, with only one commenter proposing that both the minimum and the maximum subscriber numbers were unnecessary and restrictive.

Staff received positive feedback on the proposed change in the straw that community solar projects would be allowed to subscribe participants anywhere within the EDC service territory in which the project is located. Industry groups, EDCs, and developers saw the Pilot Program requirement to live in the same or adjacent municipality as the project as too restrictive; expanding

this geographic distance to the EDC territory provides more choice. Staff considered that increasing the geographic distance of subscribers to projects would provide opportunities for all residents of the State to not only participate but have a greater choice in selecting a project. In particular, rural residents otherwise distant from a project site would have more community solar options. Subscribers could also benefit from increased competition within service areas and higher bill credits offered to attract subscribers.

#### *Staff Recommendations*

Staff recommends that all community solar projects no longer have a maximum number of participating subscribers. Staff believes that community solar provides an important opportunity for residents of apartments, small homes, and those who have low electricity demands – characteristics that would make a building less suitable for a net-metered project. Staff considers that a maximum subscriber limit may unnecessarily restrict access to community solar projects for such low-demand subscribers who should be encouraged to participate. However, Staff recommends maintaining the minimum subscriber number of 10 subscribers except for community solar projects sited on the property of, and delivering benefits to, multi-family buildings. Staff maintains the recommendation that no single subscriber may subscribe to more than 40 percent of the project's energy production.

Staff recommends that subscribers to a new community solar project in CSEP may be subscribed from anywhere within its EDC territory, providing maximum choice and driving competitive discounts.

### **Consumer Protection**

#### *Straw Proposal and Stakeholder Comments*

Staff received feedback in overall support of the consumer protection rule changes proposed in the straw proposal, regarding no cancellation fees for subscribers who terminate their subscription and a guaranteed 10 percent bill credit for subscribers. Staff received additional comments from Rate Counsel and developers that there should be more regulation on advertising materials and techniques to foster customer education of the CSEP and improve access to information about individual projects. Suggested improvements were requiring developer websites to be more user-friendly to acquire project specifics and requiring subscriber organizations to translate project marketing materials in various languages, catered to the demographics of each outreach area.

#### *Staff Recommendations*

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. Based on experience with the Pilot Program, Staff recommends that projects must state a guaranteed bill credit discount of no less than 15 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 recommends that projects transitioning from the Pilot Program must also offer a discount of at least the value identified in their Pilot Program application in order to receive an exemption from the capacity limitations.

Staff recommends maintaining the consumer protection measures from the Pilot Program and adding additional measures. 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 recommends the Board require information about the community solar projects which a subscriber organization is marketing, including project name, capacity, address, areas served, and projected or actual commercial operation date, be prominently located on their websites.

Staff further intends to provide additional educational information such as sample contracts on the New Jersey Clean Energy Program website. Regarding additional requirements for marketing material, Staff found it more appropriate to address the translation of marketing material under the required Community Engagement and Subscriber Acquisition Plan.

### **Automatic Enrollment**

#### *Straw Proposal and Stakeholder Comments*

In the straw proposal, Staff recommended allowing projects to subscribe customers under an automatic enrollment or "opt-out" program, in which a municipality could own and operate a community solar project or serve as its subscriber organization and select residential customers to be automatically subscribed to the project. Those customers would subsequently be able to decline to participate. Staff proposed that automatic enrollment may be implemented after consolidated billing is implemented to ensure subscribers receive a single bill. Automatic enrollment may facilitate access to community solar for low-income residents.

Many stakeholders, especially project developers, commented that they were supportive of an automatic enrollment model, but some recommended an initial pilot implementation, restrictions on the location of projects relative to the municipality served, and guidelines for how municipal partnerships are formed and customers are selected. Some community organizations expressed concern that automatic enrollment could reduce certain benefits for low-income communities.

#### *Staff Recommendations*

Staff sees many advantages to allowing automatic enrollment in certain cases, including the ability of reaching the most vulnerable residents, who would rarely actively enroll. However, automatic enrollment can only work after consolidated billing has been implemented. Staff therefore defers making any recommendations on automatic enrollment until a later date.

### **Other**

#### *Straw Proposal and Stakeholder Comments*

Within the straw proposal, Staff recommended that rules of the Pilot Program that were not addressed elsewhere in the straw proposal should be generally maintained in the Program, such as general reporting requirements for approved projects. Staff posed the question whether to explore alternative ownership models, per an option in the rules for the Pilot Program to test new models for low-income community solar projects. One commenter responded to this question in support of allowing the Program to explore new models as long as ownership models outside of the Pilot Program rules would still be permitted and subscriber ownership would not become a requirement. Additional recommendations included the Board to work with HUD to develop projects and to include workforce development, either as part of a community solar project or

independently.

#### *Staff Recommendations*

Staff recommends that the Board adopt the Pilot Program rules that were established under N.J.A.C. 14:8-9.11 for reporting requirements within the Program, and additionally require the EDCs to submit to the Board updated calculations of the bill credit within 30 days of new electricity rates which affect the value of the bill credit taking effect.

#### **DISCUSSION AND FINDINGS**

New Jersey's solar programs have created a thriving industry, and the Board has strongly supported the development of community solar as a way to enable access to solar for New Jerseyans who do not have the ability to benefit from solar on their own rooftop. The Pilot Program showed a tremendous market response and resulted in an installed and pipeline capacity of over 200 MW. New Jersey already has one of the largest marketplaces for community solar in the country, and the Board is committed to maintaining our State's position as a marketplace leader, while at the same time taking steps to control ratepayer costs. In compliance with the Clean Energy Act and subsequent legislation, and in recognition of the Board's own commitment to ensuring both the continued growth of the solar industry and affordability of incentives for ratepayers, this is the right moment to establish a permanent Program for community solar in New Jersey.

The Board also recognizes the significant benefits associated with the expansion of local, distributed, renewable, non-polluting sources of energy. In addition to the reduction of emissions that contribute to climate change, there is the reduction of air pollutants and the associated health benefits, increased resilience in the form of distributed generation, and the economic growth fueled by local job creation. Community solar further ensures that households that have been unable to install their own solar panels can take part in the clean energy transition and receive the economic benefits of doing so.

The Board has carefully reviewed the extensive record created during the implementation of the Pilot Program and the development of its transition to a permanent program. The various stakeholders who participated in this proceeding have brought considerable dedication and passion to the process of expanding this solar market. That dedication is reflected in the extensive record that forms the basis for the actions taken today. The Board commends and thanks all stakeholders for their active participation in this proceeding. Public participation is invaluable to the Board's decision-making process, and each contribution made in a public meeting or in written comments has helped inform the Board's conclusions.

The Board **HEREBY FINDS** that the Pilot Program has successfully launched a sector of the solar industry in New Jersey that allows residents across the state to take part in the clean energy transition. More than two dozen community solar projects are already providing energy bill savings to subscribers, more than half of which are low- to moderate-income, and almost one hundred more will come online in the coming months. The Board **HEREBY FINDS** that the Pilot Program should be converted into a permanent program to continue the growth of this solar mechanism. Pursuant to the Clean Energy Act of 2018, the Board **HEREBY ORDERS** the establishment of a CSEP. The Board **ORDERS** that solar incentives, in the form of NJ SREC-IIs, be provided to eligible projects registered in the CSEP and ADI Program, and that the value of each SREC-II be established as recommended by Staff in the body of this Order.

The Board **HEREBY ORDERS** that the CSEP be open to community solar projects at or below 5 MW which are located on rooftops; carports and canopies over impervious surfaces; contaminated sites and landfills; and bodies of water that have little to no established floral and faunal resources (i.e., floating solar), such as water treatment reservoirs and dredge ponds.

The Board **HEREBY ORDERS** that there be a market segment for community solar projects in the ADI Program and that there be four MW blocks totaling 225 MW for EY 2024: 27 MW for ACE, 65 MW for JCP&L, 129 MW for PSE&G, and 4 MW for RECO service territories. The Board will set new CSEP capacity blocks before the start of each energy year as part of capacity block allocations within the ADI Program.

The Board **HEREBY ORDERS** that the CSEP be open to qualifying community solar projects starting November 15, 2023. The Board **FURTHER ORDERS** the SuSI Program registration manager to accept new registrations for each MW block on a first-come, first-served basis until the MW block for that market segment is fully subscribed, i.e., 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. The Board **FURTHER ORDERS** that the registration portal be open to all applicants for an initial period until 23:59:59 on November 28, 2023, and if a MW block is oversubscribed, registrations be accepted in the order of highest guaranteed bill credit discount, which shall be a minimum of 15 percent, until the MW block is fully subscribed. Additionally, the Board **ORDERS** that projects which the Board previously approved in the Pilot Program, but which did not reach commercial operation, are permitted to register in the CSEP and ADI Program irrespective of MW block capacity limits, provided that all CSEP and ADI Program requirements are met. Such projects' capacities will also not count toward the megawatt block capacity limits. The Board **HEREBY WAIVES** its rules at N.J.A.C. 14:8-11.4(f) for projects which the Board previously approved in the Pilot Program.

The Board **HEREBY WAIVES** its rules at N.J.A.C. 14:8-11.5(d) for community solar projects and **HEREBY ORDERS** that projects wishing to apply to the CSEP submit a complete CSEP registration package to the SuSI Program registration manager and receive a notice of conditional registration prior to beginning construction on the facility, and that they post an escrow of \$40.00 per kW capacity within one year of conditional registration. For community solar facilities located on a contaminated site or landfill, the Board **HEREBY WAIVES** its rules at N.J.A.C. 14:8-11.5(g)(3)(ii) and **HEREBY ORDERS** that such projects have an expiration date on the 24-month anniversary of a registrant's verification of eligibility by NJDEP.

The Board **HEREBY ORDERS** that all community solar projects reserve 51 percent of their capacity for LMI subscribers and that projects with less than 51 percent LMI capacity subscribed or reserved shall provide the Board with written notification within 30 days with details on a plan to meet the standard. The Board **FURTHER ORDERS** that in addition to the methods already established, eligibility of LMI subscribers may be determined with proof of participation in Medicaid; Supplemental Security Income; Social Security Disability Insurance; Special Supplemental Nutrition Program for Women, Infants, and Children; Temporary Assistance for Needy Families; and the Low Income Household Water Assistance Program; as well as by self-attestation of household income being less than 80 percent of the area median income, as recorded by a standard self-attestation form. The Board **FURTHER ORDERS** that LMI subscriber qualification be determined upon execution of the subscription agreement or contract, when a subscriber moves to a new utility account, and on every fifth anniversary of the subscription.

The Board **HEREBY ORDERS** that for affordable multi-family housing which measures electricity usage with a master meter and is billed on a commercial rate class, the value of the bill credit

shall be set at the current pre-Sales and Use Tax retail rate, inclusive of supply, delivery, and average demand charges. The Board **FURTHER ORDERS** the EDCs to submit to the Board updated calculations of the bill credit within 30 days of the effective date of this Order and of the effective date of new electricity rates which affect the value of the bill credit taking effect.

The Board **HEREBY WAIVES** the rule at N.J.A.C. 14:8-9.6(c) regarding the maximum number of subscribers to a community solar project.

The Board **HEREBY WAIVES** its rules at N.J.A.C. 14:8-9.7(h) and **HEREBY ORDERS** that community solar projects shall have 24 months from the date of commercial operation to distribute banked community solar bill credits to the projects' subscribers. The Board **DIRECTS** the EDCs to notify the relevant subscriber organization within 10 days of the termination or suspension of a subscriber's EDC account for any reason.

The Board **HEREBY ORDERS** the EDCs to implement a method of consolidated billing by January 1, 2025, whereby subscribers would receive a bill discount and their subscription fee would be paid via their utility bills. The Board **FURTHER ORDERS** that subscriber organizations use consolidated billing for all residential subscribers.

The Board **HEREBY ORDERS** that the EDCs shall, subject to review and approval by the Board, be entitled to full cost recovery for any prudently incurred incremental costs for implementation, compliance, and administration of the Program in accordance with N.J.S.A. 48:3-87.11(e).

The Board **HEREBY ORDERS** the establishment of a community solar billing working group, which shall have representatives from the Board, the EDCs, subscriber organizations, community solar developers, and other stakeholders to develop improvements in the billing process and exchange of information.

The Board **HEREBY ORDERS** the EDCs to efficiently process interconnection applications for potential CSEP projects in the order in which they are received, including those received prior to the effective date of this Order.

The Board **HEREBY ORDERS** subscriber organizations post information about the community solar projects which they are marketing, including project name, capacity, address, areas served, and projected or actual commercial operation date, prominently on their websites.

The Board **HEREBY DIRECTS** Staff and the SuSI Program registration manager to develop and post online all program documents and resources that shall be necessary for registration of qualified projects in the CSEP and operation of the CSEP, including but not limited to a Contaminated Sites and Landfills Eligibility Verification Form, self-attestation form, and post-construction NJDEP compliance form.

Finally, the Board **HEREBY APPROVES** all recommendations made by Staff above and **HEREBY DENIES** any conflicting stakeholder comments.

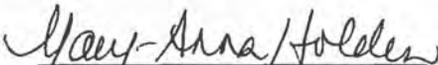
The effective date of this Order is August 23, 2023.

DATED: August 16, 2023

BOARD OF PUBLIC UTILITIES  
BY:



\_\_\_\_\_  
JOSEPH L. FIORDALISO  
PRESIDENT



\_\_\_\_\_  
MARY-ANNA HOLDEN  
COMMISSIONER

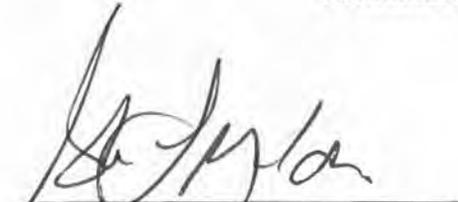


\_\_\_\_\_  
DR. ZENON CHRISTODOULOU  
COMMISSIONER



\_\_\_\_\_  
CHRISTINE GUHL-SADOVY  
COMMISSIONER

ATTEST:



\_\_\_\_\_  
SHERRI L. GOLDEN  
SECRETARY

IN THE MATTER OF THE COMMUNITY SOLAR ENERGY PROGRAM  
DOCKET NO. QO22030153

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**APPENDIX A: STAKEHOLDER COMMENTS AND RESPONSES**

The Board received 61 written comments on the CSEP straw proposal published on March 30, 2023, Docket No. QO22030153.

Comments were received from:

1. New Jersey Division of Rate Counsel ("Rate Counsel")

Electric Distribution Companies ("EDCs")

2. Public Service Electric and Gas Company ("PSE&G")
3. Jersey Central Power & Light Company ("JCP&L")
4. Atlantic City Electric Company ("ACE")
5. Rockland Electric Company (RECO)

Trade Associations

6. Coalition for Community Solar Access and Solar Energy Industries Association ("CCSA/SEIA")
7. Mid-Atlantic Solar and Storage Industries Association ("MSSIA")
8. New Jersey Solar Energy Coalition ("NJSEC")
9. Vote Solar

Solar Developers / Subscriber Organizations / Industry

10. AC Power
11. Altus
12. Ampion
13. Arcadia
14. Associated Energy Developers
15. Blue Wave
16. Bromley Community Solar
17. CEP Renewables
18. Citrine
19. Coast Energy
20. CS Energy
21. DSD
22. Dimension Renewable Energy
23. Ecogy Energy
24. G&S Solar
25. Green Street Power Partners
26. Independence Solar
27. Kendall Sustainable Infrastructure
28. Nexamp
29. NJ Solar Power
30. NRG
31. Perch Energy
32. Powerflex
33. Power Market
34. RIC Energy
35. Solar Landscape
36. Sunwealth Power
37. Sustainergy

- 38. Tattleaux
- 39. Vanguard Energy Partners

Public Entities

- 40. Millville Housing Authority
- 41. North Jersey District Water Supply Commission ("NJDWSC")
- 42. New Jersey State League of Municipalities
- 43. Secaucus Housing Authority
- 44. Borough of Somerville
- 45. Borough of Woodbine

Community Organizations and Advocacy Groups

- 46. Association of New Jersey Environmental Commissions
- 47. Edison Job Corps Center
- 48. Environment New Jersey
- 49. Isles
- 50. Jewish Renaissance Foundation ("JRF")
- 51. League of Conservation Voters ("LCV")
- 52. NJ Progressive Equitable Energy Coalition ("NJPEEC")
- 53. Natural Resources Defense Council ("NRDC")
- 54. Project Live
- 55. Supportive Housing Association
- 56. Sustainable Jersey City

Other

- 57. Michael Winka (individual)
- 58. InClime
- 59. New Jersey Sustainable Business Council
- 60. Gabel Associates
- 61. Robert Erickson (individual)

Stakeholder comments are grouped by topic, largely following the layout of recommendations in the straw proposal. Staff has attempted to include the substance of many of the relevant comments into the summaries below as a courtesy to commenters. Comments raised in multiple sections are addressed once.

**Project Size and Co-location of Projects**

In the straw proposal, this topic was covered under Program Eligibility, parameter 1.

**Comment:** JCP&L and Rate Counsel supported Staff's recommendations. Rate Counsel noted there was no need to allow co-location of Community Solar and net-metered projects, but if this arrangement is allowed, then limit the combined capacity to 5 MW. The League of Conservation Voters supported the co-location of community solar and net metered projects with the caveat that projects sized greater than 5 MW should not receive SREC-II incentives under the Community Solar program.

**Response:** Staff thanks the commenters for their support and thoughts.

**Comment:** Several commenters, including CCSA/SEIA, MSSIA, NJSEC, AC Power, CEP Renewables, CS Energy, Nexamp, NJDWSC, the Borough of Somerville, and the Borough of

Woodbine, commented that co-location should be allowed. Rationales provided to support co-location included economies of scale and efficient use of available space. Specific project sizes recommended for eligible co-location were up to 10 MW, greater than 5 MW, and those projects approved under the Pilot Program. Nexamp and the North Jersey District Water Supply Commission commented that co-location should be allowed for at least the projects approved under the Pilot Program. Some commenters argued for co-location on landfill and brownfield sites due to those projects being the most at risk in economic viability.

**Response:** Staff appreciates the thoughtful comments. Staff recommends the Board retain the maximum project size of 5 MW in alignment with the limit prescribed under the Act but allow the co-location of a community solar project with a net metered project if they serve separate customers. Staff also recommends the Board repeal the definition of 'co-location' from the Pilot Program rules but revise the definition of 'co-location' under the SuSI rules at N.J.A.C. 14:8-11.2 to clarify program eligibility for a solar facility in the Program. Pursuant to N.J.A.C. 14:8-11.4, an entity can file a petition with the Board for special dispensation to engage in co-location of facilities.

**Comment:** A few commenters made recommendations on the Board's waiver and petition process for co-location. MSSIA recommended including criteria for petitions within the Program, if co-located projects could only be allowed by petition. CS Energy recommended removing the Board's waiver requirement for co-located projects due to the increased risks to developers and administrative burden associated with the petition process. If the Board continues to require waivers, CS Energy suggested for waivers to be evaluated based on the project's merits and demonstration of the co-located projects being separately metered and financed. NJDWSC commented that waivers should be allowed if they can demonstrate substantial community benefits, if the maximum project size remains 5 MW.

**Response:** Staff appreciates commenters' input. Staff notes its recommendation to repeal N.J.A.C. 14:8-9.4(j), which was the provision under the Pilot Program to permit co-location subject to Board review and approval through the application process and rely upon the SuSI rules at N.J.A.C. 14:8-11.4 and the Board's rules at N.J.A.C. 14:1-1.2(b) for filing a petition with the Board for a waiver.

### **Project Siting**

In the straw proposal, this topic was covered under Program Eligibility, parameter 2.

**Comment:** Several commenters, including JCP&L, Coast Energy, Ecogy Energy, Independence Solar, Nexamp, NRDC, NJDWSC, and Robert Erickson, supported the siting criteria in the straw proposal, with some commenters supplying clarifying points and recommendations. These additional recommendations to improve upon the straw proposal included requirements to follow NJDEP's siting tools and allow for NJDEP oversight of project siting determinations. MSSIA, Nexamp, and NJDWSC recommended that the definition of floating solar be clarified.

**Response:** Staff thanks the commenters for their support and feedback. The Solar Act of 2021 mandated the Board consult with the NJDEP through the development of siting regulations for larger solar facilities. The Board has consulted with the NJDEP on siting community solar facilities and will continue to do so to support the broader goals of the Act to provide net health benefits and climate change mitigation benefits. Staff agrees with clarifying the definition of floating solar and is recommending revisions to generalize the location on a 'body of water' with examples such as water treatment reservoirs and dredge ponds.

**Comment:** Several commenters, including Rate Counsel, Associated Energy Developers, CEP Renewables, Citrine, Tattleux, the League of Conservation Voters, and Vanguard Energy Partners, either disagreed with the siting criteria or had concerns with the straw proposal. A majority of these comments focused on allowing ground-mount projects and voiced the concern that the requirements were too restrictive. Rate Counsel recommended the Board adopt siting criteria consistent with the restrictions in the CSI Program, except that Community Solar projects should be prohibited on prime agricultural soils and soils of Statewide importance. The League of Conservation Voters was concerned with language differentiating types of developed and impervious surfaces and urged the Board to consider appropriate remediation of contaminated sites and landfills as preferential deciding factors in the case of a tie.

**Response:** Staff appreciates the thoughtful comments. Staff disagrees with allowing ground-mount projects in the community solar program and with the notion that the requirements would be too restrictive. Based on the experience from the Pilot Program, in which only preferred siting projects were selected, Staff does not think that the inclusion of ground-mount projects is needed to achieve the State's clean energy goals.

With respect to Rate Counsel's recommendation, Staff agrees with the intent to be protective of preserving open space and protecting environmentally sensitive and valuable lands, as contemplated by the Solar Act of 2021 and CEA. However, the Solar Act of 2021 provides very specific restrictions for siting CSI-eligible solar facilities, which are essentially unchanged in the Board's design of the CSI Program. The law did not apply these same restrictions to community solar. Staff notes that the scale of community solar projects is particularly well suited to both larger scale rooftops and smaller contaminated sites and landfills where there is insufficient existing load on site, and that New Jersey has many of such sites that are universally deemed preferential for solar development.

As a result, Staff is recommending a narrow scope of siting criteria and copies of applications for all discretionary land use approvals, which includes approvals from the Pinelands Commission or Highlands Commission, for eligibility into the Program.

Regarding differentiation of types of developed and impervious surfaces, Staff does not see adequate reason to express a preference among the permitted siting types because all such sites will not impact open space. Staff addressed tiebreaker preferences in the section on project application.

**Comment:** Several commenters, including NJDWSC, Vote Solar, CEP Renewables, CS Energy, NJSEC, Nexamp, Sustainergy, Tattleux, Environment New Jersey, and Michael Winka, expressed the need for the siting criteria to be expanded. These recommendations included adding siting preferences for land zoned as industrial and commercial, owned by public entities and non-profit organizations, and used for resource extraction/mining. Suggestions were also made to allow for greenfield development on non-preserved sites and aggregation on commercial rooftops in urban areas as well as to include provisions for warehouses and projects in overburdened communities.

**Response:** Staff appreciates the suggestions to expand the siting criteria. In response to the suggestion made to allow for greenfield development on non-preserved sites, Staff reiterates its response to a previous comment on siting criteria that the CEA mandated the Board to establish standards to limit the land use impact of community solar projects and does not agree with this suggestion. In response to the recommendations made on adding siting preferences for land zoned as industrial and commercial, owned by public entities and non-profit organizations, and

used for resource extraction/mining, Staff relies upon lessons learned and its experience from the Pilot Program to retain the siting preferences per the straw proposal.

**Comment:** BlueWave, CCSA/SEIA, and Vanguard Energy Partners commented on supporting dual-use (agrivoltaics) projects for inclusion in the Program.

**Response:** At this time, Staff does not recommend allowing dual-use sites on farmland to participate in the CSEP. It is anticipated that the Board will open the Dual-Use Solar Energy Pilot Program for projects on these sites in the near future.

**Comment:** InClimate urged the Board to clarify "contiguous" and consider a simple ban on contiguous projects with the same "beneficial ownership", similar to rules passed in other states for projects on contiguous properties.

**Response:** Staff thanks InClimate for its feedback. For clarification of "contiguous," the Board relies upon the definition of "on-site generation facility" pursuant to its rules at N.J.A.C. 14:8-1.2. Within this definition, contiguous means "geographically located next to each other but may be otherwise separated by an easement, public thoroughfare, or transportation or utility-owned right-of-way." To address the other portion of the comment on clarifying the rules between project ownership and project location, Staff refers the commenter to its responses on comments made on co-location.

### **Overall Program Capacity**

In the straw proposal, this topic was covered under Program Capacity, parameter 3

**Comment:** Several commenters, CCSA/SEIA, NJSEC, AC Power, CS Energy, Independence Solar, and Kendall Sustainable Infrastructure, recommended that the annual capacity for EY24 and EY25 be increased to 300MW due to the 2-year pause in community solar awards and the anticipated demand for project development when the program opens.

Vote Solar and the Jewish Renaissance Foundation recommend the program remove a capacity cap. Vote Solar believes an uncapped program would help eliminate the technical issues posed by capacity blocks, such as a need for a tie-breaker system. Ecogy Energy encouraged the Board to lean into having flexibility built into the program for increasing capacity. Robert Erickson also recommended no limitation on the amount of annual awarded community solar capacity to allow the sector to rapidly expand.

NJ Solar Power opposed the annual capacity increase for the Program because they believe community solar is destroying the residential segment of the solar market.

Commenters who supported Staff's proposal to increase capacity to 225 MW then return to an annual award capacity of 150MW after EY25 were Rate Counsel, CEP Renewables, Coast Energy, and New Jersey Sustainable Business Council.

**Response:** Staff appreciates the input and considers the proposed increase for a period of two years, in combination with new allocation at the start of the energy year, a reasonable way to allow for accelerated development in the earlier years of the program while fulfilling the statutory mandate.

**Comment:** Powerflex, MSSIA, Solar Landscape, and Gabel Associates all sought clarity on how the Program would meet the 750 MW by EY26 goal set in the Solar Act of 2021. MSSIA supported setting a minimum annual capacity, however, recommended adding 74 MW above 750 MW for EY22 through EY26 to allow for more projects to come online and meet the State's goal. Solar Landscape and Gabel Associates recommended amending the rules to add the cumulative 300MW of unawarded capacity from EY22 and EY23 into EY24 through EY26.

**Response:** Staff notes that the Solar Act of 2021 specifies the goal of 750 MW in the five years following the Board's opening of the SuSI Program. The SuSI Program opened to new registrations on August 28, 2021, which means that the 5-year period expires on August 27, 2026, which is well into EY 2027. Staff's proposal therefore meets the goal set in the statute.

**Comment:** JCP&L, CCSA/SEIA, Dimension Renewable Energy, RIC Energy, and NJPEEC found that the rollover of unallocated and scrubbed capacity from one energy year of the permanent program to the next to be appropriate. JCP&L supported Staff's recommendation to not roll over scrubbed capacity from the Pilot Program and believes any carried-over capacity should not be reallocated. Rate Counsel cautioned Staff to utilize conservative assumptions for any rolled over scrub capacity.

Ecogy Energy strongly disagreed with Staff's proposal for reallocating capacity from projects that failed to reach commercial operation. Alternatively, Ecogy Energy recommends reallocating unused capacity by submission timestamps for a waitlist and a ranked point system. If capacity becomes available, projects with the most points will be re-entered into the CSEP.

Blue Wave recommended that any rolled over capacity should be from the dual-use pilot program, to avoid double-counting and maintain ratepayer-savings. In general, Blue Wave believes there should be greater integration of the two programs as a critical path for their success.

**Response:** Staff thanks the commenters for their input. Staff has recommended the Board take unallocated and scrubbed capacity into account when setting annual capacity blocks, but maintaining a waitlist would be administratively burdensome and prevent entry of projects which may offer greater subscriber savings. Dual-use projects will be addressed in the Dual Use Pilot Program.

**Comments:** CEP Renewables recommended program capacity to be split into two tranches, equally divided between (1) rooftops and (2) contaminated sites, carports and floating solar.

**Response:** Staff declines to make this split capacity recommendation, since it would result in further subdivision of some already small utility-territory based segments. Staff further notes that in the Pilot Program there were considerably more rooftop projects than contaminated sites and does not find it necessary to set maxima or minima or a fixed ratio between them.

**Comment:** Some commenters proposed alternative methods for awarding program capacity each program year. Vote Solar and JRF recommended that Staff award program capacity on a quarterly basis, rather than annually, to allow conditionally approved projects to apply again without waiting an entire year. Independence Solar recommended that the Board consider a roll-out of award capacity within the first year to allow developers the opportunity to meet maturity requirements, namely interconnection. Additionally, Kendall Sustainable Infrastructure suggested that there should be a limit to how much overall award capacity each developer be given in an EY.

**Response:** Staff appreciates all stakeholders' input. Since the CSEP would be opened to new registrations midway through the energy year, additional capacity would be made available at the start of the new energy year, on June 1, 2025, which would offer previously unsuccessful developers a chance to apply again in this initial period. However, development cycles of community solar projects generally well exceed a year, and Staff considers the yearly capacity allocations, in line with other segments in ADI, to be adequate.

### **Program Capacity Segmentation**

In the straw proposal, this topic was covered under Program Capacity, parameter 4 and Community Solar Subscribers, parameter 21.

**Comment:** JCP&L, RECO, Independence Solar, Kendall Sustainable Infrastructure, and League of Conservation Voters commented their agreement with Staff's straw proposal to allocate program capacity among EDCs, based on each EDC's percentage of in-State electric sales. MSSIA generally agreed with Staff's proposal but believes geographic distance for project subscriptions should be revisited over time for feasibility.

Four commenters recommended that the Board adopt further capacity divisions that would even out the playing field for community solar projects located on different sites and built to different scales.

AC Power recommended a 40MW carve out for projects sited on brownfields and landfills.

Ecogy Energy recommended each EDC block also be subdivided by siting preferences and for there to be a 25 percent maximum capacity for a single developer to prevent monopolization of the program awards.

Sunwealth Power recommended a separate tranche for projects less than 1 MW so the program is not only awarding large projects.

Mike Winka recommended one tranche for large virtual net metered grid supply projects that operate like Community Solar greater than 5 MW, and one tranche for projects less than 5 MW.

Rate Counsel's comments warned that segmentation can lead to inefficiencies, higher costs, and increases in program risk because awarded capacity will be tied up in projects that cannot materialize.

**Response:** Because of the billing and payment structure under the CSEP, utility customers can only subscribe to community solar projects that are located in the same utility territory. Providing opportunity to all New Jersey LMI residents necessitates developing community solar projects in all utility territories. Staff agrees with Rate Counsel's rationale for limiting and therefore does not recommend further segmentation.

**Comment:** NJSEC's comments, which were supported by CS Energy, recommended Staff consider using the number of LMI-eligible customers to better segment capacity allocation across the State, as opposed to percent retail sales by EDC. Tatleaux made a similar recommendation and stated that it is their experience that LMI project sites, which are prioritized in the program, are not concentrated in the EDC territories with the largest retail sales percentage.

**Response:** Staff notes that LMI populations are located throughout the State and, depending on

the region, more or less concentrated. To provide opportunity to all for subscription to a community solar project, Staff believes that the segmentation by retail sales is a reasonable compromise. Based on experience in the Pilot Program, Staff does not agree with commenter that there are insufficient project sites available in any of the EDC territories.

**Comment:** The League of Conservation Voters' comments recognize the merit in locating projects in or adjacent to communities they will serve. However, the LCV asserted that other recommendations in Staff's proposal will address those concerns outside of creating additional project segments and limitations on geographic distance.

**Response:** Staff thanks the commenter for its support.

**Comment:** Coast Energy recommended the Board to allow for the transfer of excess capacity in each EDC block to another, only if the EDC with a filled capacity block has viable projects waiting in its queue.

**Response:** Staff thanks the commenter for its suggestion and notes that the Board may modify capacity allocations under the current SuSI rules.

### **Qualifications for Project Ownership**

In the straw proposal, this topic was covered under Program Eligibility, parameter 5.

**Comment:** ACE, JCP&L, PSE&G, and RECO commented that EDCs should be allowed to own community solar projects. ACE, JCP&L, and PSE&G stated that excluding EDCs is not consistent with the CEA. RECO similarly commented that the CEA provides direction on allowing EDCs to participate in the program. If EDCs are allowed to participate, Rate Counsel recommended the Board adopt standards to ensure costs and risks are not borne by ratepayers, assure EDCs do not have an unfair competitive advantage, and require EDCs to be subject to competitive bidding.

**Response:** Staff thanks commenters for their feedback. Staff re-evaluated EDC ownership for the Program and disagrees with the approach of permitting EDCs to own, develop, and operate community solar projects. Staff continues to support its recommendations made in the straw proposal.

To reiterate, Staff believes that it is unnecessary to allow the EDCs to own community solar generation assets, given the experience of the Pilot Program 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 Program would be best served with the EDCs continuing to work closely with Staff to ensure the success of the program as a whole. Finally, commercial affiliates of EDCs are allowed to develop, own and operate community solar projects on an equal basis to other developers.

**Comment:** NJSEC suggested that the Board allow ownership to any non-regulated entity including EDC non-regulated subsidiaries. CS Energy supported this comment.

**Response:** Staff thanks the commenters for the suggestion. Staff agrees with the intent and notes that, under the proposal, commercial EDC affiliates may own projects on an equal basis with other community solar developers. Such projects owned by EDC affiliates would not be eligible for any cost recovery other than through the mechanisms likewise afforded to other community solar developers.

**Comment:** Ampion, Ecology Energy, Kendall Sustainable Infrastructure, Independence Solar, and Michael Winka supported Staff's recommendations in the straw proposal to not allow EDCs to own, develop, or operate community solar projects.

**Response:** Staff thanks the commenters for their support.

**Comment:** Citrine and Independence Solar recommended the Board adopt developer caps, such as limiting the number of awards or project size in MW to promote competition and avoid monopolization.

**Response:** Staff appreciates the intent of the recommendation but disagrees with implementing developer caps as they could hinder rather than promote competition, which could have unintended consequences in the market and on individual businesses.

**Comment:** Isles suggested that projects should be owned by local communities and the Jewish Renaissance Foundation recommended the Board place more emphasis on and implement a preference for community-owned projects.

**Response:** Staff thanks the commenters for their feedback. Staff and the Board have long recognized and understood the importance that local communities and community-based organizations play into the success of a community solar program. Thus, Staff continues to recommend the definitions from the Pilot Program pertaining to ownership, namely "community solar owner" and "community solar site owner" or "site owner," be implemented for the Program. These definitions do not restrict a local community or community-based organization from owning a community solar project. Recognizing that community-based organizations may face challenges in financing such requirement, Staff is proposing to exempt these from the new escrow requirement.

### **Application Process and Project Selection**

In the straw proposal, this topic was covered under Application Process and Project Selection, parameter 6.

**Comment:** Rate Counsel noted that selecting based on highest bill saving would maximize benefits to LMI subscribers and believes that bill savings should be the primary selection criteria for all CSEP projects. Rate Counsel strongly disagreed with the proposal to eliminate competition entirely from the selection process.

Rate Counsel believes the potential issues with overstating energy savings and the inability to verify such savings afterward could be solved by (1) bidders being required to certify via affidavit their proposed energy savings, and (2) BPU could periodically audit a sample of selected projects to assure savings and take steps to address projects that failed to deliver their proposed benefits.

Rate Counsel recommended there to be no waitlist for non-selected projects because it would undermine developer incentives to propose projects that provide the most benefit to subscribers.

**Response:** Staff thanks Rate Counsel for its support and agrees with the rationale for its comments. Staff is not recommending changing the program into a purely competitive structure at this time and thinks that, with the proposed process, a variety of projects will still be able to participate.

**Comment:** 27 commenters from all segments of stakeholders expressed support for the FCFS approach recommended in the straw proposal. Most commenters did express concern about the proposed tie-breaker approach, arguing that this could lead to unfeasible bill discount commitments and high project failure rates. DSD, Nexamp, NJDWSC suggested using the date of interconnection approval as a tiebreaker instead. AC Power, Sustainable Jersey City, Isles, Environment New Jersey, the Association of NJ Environmental Commissions, Solar Landscape, and Ecogy Energy suggested using community benefits or engagement as a selection criterion. Altus suggested ancillary benefits, other measures of project maturity, or a simple lottery as a tiebreaker.

**Response:** Staff appreciates the support for its proposal and is proposing to implement an escrow requirement to discourage speculative projects.

**Comment:** InClimate asserted that the market will generally offer the same bill discounts, so that the tie-breaker approach could lead to clustering of projects with a large number from the same developer. The commenter recommended that the Board retain the points-based scoring system used in the Pilot Program and outsource the evaluation to a program administrator to reduce processing time. Mike Winka also recommended retaining the competitive scoring process.

**Response:** Staff appreciates commenters' suggestions but notes that the recommendation for FCFS served is primarily driven by the realization that there has been sufficient interest in the program to allow for stringent project quality requirements including LMI participation, siting, and maturity. Moving these parameters from evaluated criteria to requirements for all projects leaves far fewer, and potentially more subjective or less significant, criteria subject to evaluation.

**Comment:** CS Energy, GS Solar, and Independence Solar argued for exempting landfill projects from the tiebreaker, or creating a specific tranche or tranches for them, arguing that landfill projects are more expensive to develop.

**Response:** Staff has analyzed available data on costs of solar development for landfill/contaminated sites as well as rooftops in New Jersey and has found a large spread within the categories, as well as considerable overlap. In the Pilot Program, both types of projects participated, and landfill projects tended to be larger than rooftop projects, providing increased economies of scale. Staff therefore does not agree that landfill projects necessarily need more preferential treatment in terms of financials but will continue to monitor participation of different market segments.

**Comment:** InClimate commented that 10 days is insufficient to work through initial kinks in a new process and suggests a period of two months plus a cure period for minor discrepancies.

**Response:** Staff agrees with commenter to offer a cure period for minor discrepancies, as defined in the rules 14:8-11.5(f). However, Staff thinks that, after a notification period, the initial 10 business days is sufficient for applicants to submit their registration package, after which any issues can be addressed.

### **Minimum Project Maturity Requirements**

In the straw proposal, this topic was covered under Application Process and Project Selection, parameter 7.

*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?*

**Comment:** Rate Counsel recommended that the Board adopt maturity requirements consistent with the ADI and CSI Programs.

**Response:** Staff thanks Rate Counsel for its support for integrating the maturity requirements.

**Comment:** CCSA/SEIA and Nexamp commented that the interconnection requirement should be the same, regardless of the size of the project

**Response:** Staff notes that the rationale for the different requirements is that larger projects tend have longer study timelines and higher interconnection costs, which are more likely to make them unviable. Staff also notes that a similar bifurcated interconnection requirement has been in place for the ADI Program, which has worked well.

**Comment:** NJSEC commented that the requirements are confusing as written and that a fully executed interconnection agreement would not show further viability if an executed study is required.

**Response:** Staff thanks the commenter for the input and has clarified the interconnection requirement.

**Comment:** MSSIA and Coast Energy recommend that the requirement for non-ministerial permits be removed and that evidence of permit submission be required instead. Independence Solar noted that some non-ministerial permits are minor and not critical (soil review, special overlay districts) and won't affect viability. The commenter recommended that the Board provide more clarity on which permits are non-ministerial or required. The latter comment was echoed by InClimate.

**Response:** After review of project development and permitting timelines, Staff agrees that evidence of submission of applications for all discretionary land use approvals and entitlements applicable to the project is a more appropriate requirement.

**Comment:** CEP Renewables recommends that project maturity for non-rooftop projects could be demonstrated if the project:

- has made an application for interconnection agreement with EDC;
- has applied for all non-ministerial permits;
- can demonstrate having had a meeting with DEP permit coordination;
- can produce a concept plan signed by a licensed PE;
- can produce a signed and sealed survey of the property;
- include a proposed project schedule signed by PE demonstrating project can be installed on time.

**Response:** Staff thanks the commenter for the detailed input and has adopted the recommendation of requiring permit applications and a site plan.

**Comment:** CCSA/SEIA, Solar Landscape, LCV, Sustainable Jersey and NJ League of Municipalities all recommended a substantial escrow as an additional requirement to ensure non-viable projects will be discouraged to participate.

**Response:** Staff agrees with commenters and is recommending an escrow requirement of \$40,000 per MW capacity. Public entities and registered 510(c)(3) organizations, subject to certification by Staff as a community-based organization, would be exempt from the escrow requirement.

### **LMI Definition**

In the straw proposal, this topic was covered under LMI Access, parameter 9.

**Comment:** JCP&L, Rate Counsel, NJSEC (supported by CS Energy), and Ecogy Energy supported Staff's recommendations to retain the definition of an LMI subscriber from the Pilot Program, which includes qualified affordable housing providers.

**Response:** Staff thanks the commenters for their support.

### **LMI Participation**

In the straw proposal, this topic was covered under LMI Access, parameter 10.

**Comment:** JCP&L, Rate Counsel, Bromley Community Solar, Ecogy Energy, agreed the requirement of at least 51 percent LMI subscribers, as measured by capacity, should be maintained. Ecogy Energy also added support for the alignment of LMI participation standards with the federal Inflation Reduction Act that provides for an adder to the solar investment tax credit 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.

**Response:** Staff thanks the commenters for their support.

**Comment:** PSE&G commented that EDCs should be allowed to leverage their existing relationships with currently underserved customers. Furthermore, PSE&G offered to partner with the Board, State, cities, and municipalities, and others to help LMI customers achieve savings and access other utility services.

**Response:** Staff appreciates the support and offer of assistance to help LMI customers. Staff welcomes and encourages PSE&G, and other EDCs, to work with the Board, and other entities as stated, on community engagement for the CSEP.

**Comment:** MSSIA and Michael Winka encouraged an increase in the percent of LMI subscribers served over time. NRG expressed doubt at maintaining the 51 percent LMI subscriber level as projects are subscribed and encourages the Board to reevaluate subscription rates after a certain threshold is met.

**Response:** In the Pilot Program, the competitive solicitation process resulted in all 150 selected

projects and most non-selected projects for both years being LMI projects. As such, Staff believes the requirement of a minimum of 51 percent 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.

**Comment:** NJSEC, supported by CS Energy, expressed concerns with how LMI participation requirements relate to the tiebreaker, specifically that LMI churn will result as developers compete on highest discounts.

**Response:** Staff appreciates the input from commenters and refers them to Staff's responses to comments on the tiebreaker process under the section on *Application Process and Project Selection*.

**Comment:** Solar Landscape provided suggestions on the draft rule language for LMI participation in the straw proposal. Specifically, Solar Landscape recommended the rule text should read to indicate that 51 percent of project capacity needs to be reserved for LMI subscribers throughout the qualified life of the project. Additionally, the commenter suggested the rule should prohibit allocating any of the 51 percent project capacity to non-LMI subscribers during the life of the project. Finally, the commenter explained that a project should not be able to use the permissible banking window in the first 24 months of project operation or thereafter for a project experiencing any LMI attrition.

**Response:** Staff appreciates the thoughtful feedback from the commenter. Staff agrees that the rule should be clarified to state that 51 percent must be subscribed or reserved for LMI subscribers, consistent with the prohibition on accepting participation by a non-LMI subscriber if doing so would result in LMI participation to fall below 51 percent of the project capacity. With respect to limiting banking as a compliance mechanism, Staff recommends that the Board would examine the magnitude of the shortfall, the diligence with which the shortfall is being remedied after notice, and any other factors as the Board may deem relevant to determine the appropriate penalty. Staff refers the commenter to Staff's responses on additional comments for banking under the sections for *Bill Credit Value* and *Banking/Excess Credits*.

**Comment:** Tattleaux expressed concern that LMI participation at a minimum of 51 percent for a project will not be achievable with Staff's reliance upon its recommendations for a project Subscriber Acquisition Plan and Community Engagement Plan.

**Response:** Staff appreciates the commenter's feedback and refers the commenter to Staff's responses to comments on the Subscriber Acquisition and Community Engagement Plans under the section on *Community Engagement*. As explained previously in this section, Staff is relying upon its experience from the Pilot Program that demonstrated all selected projects and most non-selected projects for both years were LMI projects. Thus, Staff continues to recommend that a 51 percent minimum subscription rate be required, in addition to a requirement that a community solar project would not be allowed to accept participation by a non-LMI subscriber if doing so would cause LMI participation to fall below 51 percent, consistent with the Pilot rules. Finally, Staff recommends that projects with subscriptions that drop to less than 51 percent LMI capacity subscribed or reserved would be required to provide the Board with written notification within 30 days with details on a plan to meet the standard.

**Comment:** The Supportive Housing Association commented that the Board should revert to the Pilot Program rules for demonstrating LMI eligibility for affordable housing participation.

**Response:** Staff agrees on the intent of the comment to retain LMI eligibility for affordable housing providers in the CSEP and refers the commenter to the section on *Affordable Housing* for additional responses on this topic.

**Comment:** Robert Erickson made a comment to suggest that LMI customers quickly garner cost and health benefits from community solar.

**Response:** Staff thanks the commenter for its support for community solar.

### **LMI Verification**

In the straw proposal, this topic was covered under LMI Access parameter 11.

**Comment:** Vote Solar, MSSIA, NJSEC (supported by CS Energy), Ampion, Arcadia, Bromley Community Solar, Dimension Renewable Energy, Ecogy Energy, Kendall Sustainable Infrastructure, Perch Energy, PowerMarket, League of Conservation Voters, NJ Progressive Equitable Energy Coalition, and NRDC supported multiple avenues for LMI subscriber verification including self-attestation and suggested additions to the expanded list of qualifying support programs from the Pilot Program. NRG, NRDC, League of Conservation Voters, and PowerMarket suggested allowing the use of census tracts identifying overburdened communities to verify LMI subscribers.

**Response:** Staff appreciates the support and suggestions from commenters. Staff evaluated various avenues for proof of income eligibility and recommends that LMI subscribers be provided with several avenues to show income eligibility, such that verification is not an undue burden on the subscriber. Documents which can be accepted by the subscriber organization as proof of LMI status would include evidence of participation in all programs that were previously referenced in the Pilot, with the addition of Medicaid; Supplemental Security Income; Social Security Disability Insurance; Special Supplemental Nutrition Program for Women, Infants, and Children; Temporary Assistance for Needy Families; and the Low-Income Household Water Assistance Program. Staff additionally recommends that LMI customers may choose to self-attest that their household income is less than 80 percent of the area median income, as determined by data from the U.S. HUD rather than determined by census tracts. To assist with the administrative process, Staff also recommends that a standard self-attestation form be used by all subscriber organizations and made available on New Jersey's Clean Energy website.

**Comment:** NJSEC suggested that the Program rules exempt the discount on a customer's utility bill as income in order to maintain Universal Service Fund ("USF") eligibility.

**Response:** Staff appreciates the insightful suggestion. For the purposes of New Jersey's Low-Income Home Energy Assistance Program and USF programs, a discount received through a community solar subscription will not be counted as income and participants would remain eligible for assistance.

**Comment:** RIC Energy commented that a self-attestation form should be exempted from perjury penalties.

**Response:** Staff does not intend for this form to be completed under oath.

**Comment:** CCSA/SEIA, Independence Solar, and Solar Landscape opposed the requirement that subscribers reverify LMI eligibility.

**Response:** Staff continues to recommend that a subscriber be required to requalify as LMI at the time of the subscription, if the subscriber moves to a new utility account, and on the fifth anniversary of the subscription. Staff has weighed the additional burden of recertification, which would only apply to subscribers who do not qualify on the basis of location, against the need to maintain integrity of the program, and thinks that limited recertification as proposed is a reasonable compromise. Staff does not intend for subscribers that do not maintain eligibility to be disenrolled, but for future subscribers to fill any shortcoming of the 51% requirement.

**Comment:** CCSA/SEIA, Ampion, Bromley Community Solar, and Dimension Renewable Energy were opposed to mandating the use of a third-party subscriber organization for LMI verification and record-keeping.

**Response:** Staff agrees that it may not be necessary for a third party to maintain records, but Staff believes independent verification of meeting LMI standards will be necessary.

**Comment:** Rate Counsel, Ecogy Energy, Kendall Sustainable Infrastructure, Perch Energy, and League of Conservation Voters were in favor of mandating the use of a third-party subscriber organization for LMI verification and record-keeping.

**Response:** Staff thanks commenters for their support.

**Comment:** Kendall Sustainable Infrastructure, Sunwealth Power, and Dimension Renewable Energy supported the Board auditing projects to confirm the LMI subscription minimums.

**Response:** Staff thanks commenters for their support.

**Comment:** Independence Solar, Solar Landscape, and CCSA/SEIA expressed concern about Staff's proposal to require re-verification of LMI status, claiming that this would pose an undue burden. Solar Landscape provided specific comments on draft rule language in the straw proposal stating that a qualification requirement at the time of the subscription agreement, when a subscriber moves to a new utility account, and on every fifth anniversary of the subscription [drafted as potential N.J.A.C. 14:8-13.7(d)3] could cause projects to violate a requirement of the minimum LMI subscription rate of 51 percent [drafted as potential N.J.A.C. 14:8-13.5(f)]. Solar Landscape further commented that penalties for not meeting or maintaining LMI subscriber requirements [drafted as potential N.J.A.C. 14:8-13.7(f)] may cause problems for project financing.

**Response:** Staff thanks commenters for their input. Staff has weighed the additional burden of recertification, which would only apply to subscribers who do not qualify on the basis of location, against the need to maintain integrity of the program, and thinks that limited recertification as proposed is a reasonable compromise. Staff does not intend for subscribers to be removed if they fail to requalify, but for new enrollees to help reach the LMI requirement. To maintain compliance with the CSEP and maintain its credibility and integrity, Staff continues to recommend potential incentive reduction. This compliance mechanism encourages project owners and subscriber organizations to maintain accurate information about their subscribers, thereby protecting both the consumer and ratepayer.

### **Participation by Affordable Housing Providers**

In the straw proposal, this topic was covered under LMI Access, parameter 12.

**Comment:** Ampion, Ecogy Energy, and Sustainergy were supportive of the inclusion of master-metered affordable housing.

**Response:** Staff thanks the commenters for their support.

**Comment:** NJSEC & CS Energy critiqued that the straw does not offer financial incentive to attract affordable housing providers.

**Response:** Staff has recommended changes to the calculation of bill credits specifically applicable to affordable housing, and expects that these changes will make participation more attractive to affordable housing providers.

**Comment:** Multiple commenters, including CCSA/SEIA, Ampion, Perch Energy, Sustainergy, Solar Landscape, Project Live, Secaucus Housing Authority, and Supportive Housing Associated commented that passing savings on to residents through direct payments would be unfeasible because of the added administrative burden. Commenters also expressed the concern that these direct payments could negatively affect affordable housing providers' or residents' alternate subsidies. LCV suggested offering a choice that communities/residents can vote upon, including the option to use the energy utility savings for facility upgrades.

**Response:** Based on these comments, Staff is recommending that the Board maintain the requirement from the Pilot on passing on savings to affordable housing residents and require an affidavit from the housing provider.

### **Value of the Bill Credit**

In the straw proposal, this topic was covered under Bill Credits, parameter 13.

*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?*

**Comment:** PSE&G, JCP&L, ACE, and Rate Counsel suggested excluding demand charges in master-metered buildings and retaining methodology used in Pilot Program. If demand charges are included, credits may exceed the bill and cause administrative issues and cost-shifting. PSE&G suggested subscribers to receive credit based on the residential RS rate class. ACE opposed having different bill calculations for different customers. Rate Counsel did not believe the proposed change was necessary.

**Response:** Stakeholder feedback received since 2022 has indicated that the current bill credit calculations are too low for affordable housing to be an attractive customer for community solar projects. Based on the feedback, Staff now instead recommends that an average demand charge be used for master-metered affordable housing subscribers instead of individualized calculations in order to reduce the administrative burden. The change from the Pilot Program is intended to meet the legislative mandate for access by residential customers in multifamily housing.

**Comment:** MSSIA suggested an extension of five years for the duration of the bill credit calculation, as industry lease agreements are usually 25 years.

**Response:** Staff thanks the commenter for their input. Staff believes the 20-year duration of the bill credit calculation is appropriate in the context of the Board's incentive programs.

**Comment:** Ecology Energy and Sustainability supported the inclusion of demand charges for master-metered affordable housing and suggested the same be done for commercial customers. Perch Energy and Solar Landscape also supported the inclusion of demand charges, though Solar Landscape, Project Live, the Supportive Housing Association, and the Millville Housing Authority indicated that this bill credit calculation may still be too low.

**Response:** Staff thanks the commenters for their input and believes the increased bill credit values should flow primarily to households, particularly LMI subscribers and affordable housing. Staff notes the bill credit for master-metered affordable housing would include all of demand, supply, and delivery charges, and could therefore offset most of the electricity bill.

**Comment:** PSE&G requested clarification on the minimum 10 percent discount. Commenter suggested that if the discount is 10 percent of the community solar credit, which excludes non-bypassable charges, then 14:8-13.6(q)(4) should be revised to match Staff's description on page 24 in the straw and the net crediting example filed by the EDCs in the EDC's May 2021 Consolidated Billing Report.

**Response:** Staff has clarified descriptions of the guaranteed bill credit discount with consistent terminology in the rules. The minimum discount applies to the amount of the applied bill credit.

**Comment:** PSE&G believes that 13.8(a) and 13.6(q)(7) contradict each other. Commenter agreed with 13.8(a) and indicated that imposing a cap on a specific cost category will only serve to delay and degrade this part of the program.

**Response:** Staff disagrees with commenter that the two provisions contradict each other. The proposed provision under 13.6(q)(7) of the straw constitutes an authorization by the Board to charge a fee for the implementation of consolidated billing, and therefore satisfies proposed 13.8(a). EDCs would be allowed to recover incremental costs pursuant to N.J.S.A. 48:3-87.11(e).

### **Banking / Excess Bill Credits**

In the straw proposal, this topic was covered under Bill Credits, parameter 14.

**Comment:** ACE commented that excess generation bill credits should be compensated at their value after 12 months and that it would be difficult to track the rate at the time of generation.

**Response:** Staff thanks the commenter and notes that unallocated generation would only be tracked or banked for up to 24 months after start of a project's commercial operation.

**Comment:** JCP&L recommended technical workshops to understand the complete impacts to the energy accounting equation and cash flows of parties.

**Response:** Staff believes this topic could be addressed by the billing working group.

**Comment:** PSE&G requested clarification on how EDCs are to address unallocated generation after 24 months.

**Response:** Staff recommends that after 24 months, unallocated generation be compensated at the EDC's avoided cost of wholesale power.

**Comment:** RECO commented that it supports customer selection of an annualized period, but projects should not be allowed to choose the annualized period, but only from PTO.

**Response:** Staff believes that subscriber organizations may have better insight into what annualized period may maximize usage of a subscriber's allocated bill credits, so it is appropriate for them to have the option to set this for a subscriber.

**Comment:** Rate Counsel commented that it supports Staff's recommendation.

**Response:** Staff thanks Rate Counsel for its support.

**Comment:** CCSA, Perch Energy, Nexamp, and Sustainergy agreed with the straw proposal that subscriber organizations should be able to set the period.

**Response:** Staff thanks the commenters for their support.

**Comment:** CCSA, MSSIA, NJSEC, Arcadia, CS Energy, Ecogy Energy, Independence Solar, Kendall Sustainable Infrastructure, Nexamp, Perch Energy, Solar Landscape, and Sustainergy recommended that bill credits retain full value and may be rolled over for longer than 12 months. Some also noted that subscriber churn must be appropriately reconciled.

**Response:** Staff believes that it is the subscriber organizations' responsibility to maintain fully subscribed projects and that extension of banking beyond an initial period will lead to excessive administrative costs at the EDCs and result in greater costs to ratepayers. In order to address the churn concern, Staff recommends that EDCs be required to inform subscriber organizations within 10 days when a customer account is closed or suspended so that replacement subscribers may be added.

**Comment:** Nexamp commented in support of a billing working group and that there should be specific reporting requirements for EDCs.

**Response:** Staff has recommended that EDCs must provide subscriber organizations with certain customer information including the value and number of credits allocated and the number of banked credits.

**Comment:** Dimension Renewable Energy commented that excess credits not used by a subscriber should be returned to the subscriber organization to reallocate.

**Response:** Staff thanks the commenter for the input and believes that if a subscriber has excess credits, the subscription should be resized, which will lead to appropriate allocation of capacity.

### **Consolidated Billing**

In the straw proposal, this topic was covered under Bill Credits, parameter 15.

**Comment:** ACE, JCP&L, PSE&G, RECO, and Rate Counsel expressed support for utility consolidated billing but stated that the proposed deadline for implementation was sooner than they would be able to update their systems for it. JCP&L recommended a timeline of at least one year. The EDCs also noted that they should be permitted full and timely recovery of all costs related to billing if the 1 percent permitted fee is insufficient to cover costs.

**Response:** Staff thanks the commenters for the input. Staff has recommended that consolidated billing be implemented by a deadline of January 1, 2025, rather than its initial recommendation of May 1, 2024. Staff also notes that the allowance of full and timely cost recovery of prudently incurred costs that was in the Pilot Program is maintained in the recommendations.

**Comment:** CCSA, Ampion, Arcadia, Ecogy Energy, Nexamp, and NRG recommended that consolidated billing not be required for all projects and that there be the option for third-party billing.

**Response:** Staff believes utility consolidated billing for all projects would result in a reliable and consistent subscriber experience and be the most efficient method of implementation in the framework of the overall program. This would also ensure efficient review of the savings realized by subscribers. Staff has recommended allowing dual billing for non-residential customers.

**Comment:** MSSIA, Bromley Community Solar, and Kendall Sustainable Infrastructure voiced the opinion that a 1 percent administrative fee is too high.

**Response:** Staff believes that the cost of administering consolidated billing should be borne primarily by project owners rather than ratepayers at large and that 1 percent of bill credits, which is in line with practice in New York, is a reasonable amount for bearing the administration and risk of billing processes.

**Comment:** Vote Solar, Sunwealth Power, Environment New Jersey, and Isles commented that the EDCs should be penalized for delays in implementing consolidated billing or in providing payments to projects.

**Response:** Staff understands that issues may arise regarding consolidated billing but intends to recommend that the Board to address them if and when they are not resolved through the billing working group.

**Comment:** PSE&G noted that the straw did not address the issue of uncollected revenue and seeks clarification on the subscriber fee, recommending that the fee would be considered an electric energy charge which would be eligible for all normal energy collection activity and regulatory treatment. Commenter stated that this method would protect ratepayers and be consistent with how consolidated billing works for customers billed by PSE&G for supply from a 3rd party supplier).

**Response:** Staff agrees with commenter and has recommended that the Board consider the subscriber fee collected through consolidated billing an electric energy charge.

**Comment:** PSE&G commented that a priority of the proposed billing working group should be a standardized, administrable process that is more streamlined with stronger controls, similar to 3rd party supplier billing.

**Response:** Staff thanks the commenter for the input and intends to work with all EDCs on the planning of the billing working group.

### **Interconnection Process**

In the straw proposal, this topic was covered under Project Interconnection, parameter 16.

**Comment:** PSE&G and RECO both requested that the Board specify that EDCs should process permanent CSEP applications (including the performance of an interconnection study) in the order in which they are received by the EDC. PSE&G further requested that the Board clarify a future set date by which applications may be submitted, given that developers already have submitted over 100 applications. PSE&G also recommended that EDCs be allowed to disregard applications submitted prior to this date.

**Response:** Staff agrees with PSE&G that EDCs should process interconnection study requests in the order received but does not think that EDCs should disregard already submitted applications, since this will just lead to duplication of effort.

**Comment:** Reco recommended that the Board allow for recovery of costs associated with addressing applications.

**Response:** Staff recommends that EDCs continue to process interconnection requests for community solar projects following normal procedures, including application fees and treatment of costs.

**Comment:** NJSEC commented that for the first two energy years when capacity will be allocated, there should be further coordination around interconnection processes to avoid that EDCs arbitrarily determine eligibility for CSEP. CEP Renewables voiced similar concerns.

**Response:** Based on EDC input, Staff is recommending that EDCs be required to process interconnection studies in the order they are received.

### **Distribution System**

In the straw proposal, this topic was covered under Project Interconnection, parameter 17.

*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?*

**Comment:** Rate Counsel recommended that Staff retain the Pilot Program requirement that EDCs make available and update hosting capacity maps.

**Response:** Staff agrees with the sentiment expressed by commenter, but notes that requirements proposed under the Grid Modernization proceedings will address hosting capacity maps more comprehensively.

**Comment:** JCP&L supported Staff's proposal that energy storage developers may not participate in the New Jersey Storage Incentive Program ("NJSIP") and CSI at the same time. However, JCP&L argued that there needs to be flexibility for developers to choose which program is best for them. JCP&L recommended that projects not selected for one program may apply for another.

**Response:** Staff agrees that projects that are eligible to participate in both CSEP / NJSIP and CSI, can choose which one they want to participate, and notes that, unless already registered in another program, which implies selection in both cases, projects can freely make the choice.

**Comment:** RECO, Dimension Renewable Energy, and Ecogy Energy agreed that the CSEP should not include storage in the program. Dimension Renewable Energy added that the inclusion should wait on interconnection and CA lead.

**Response:** Staff thanks the commenters for their support.

**Comment:** MSSIA recommended that the Board create interconnection working groups that focus on the topics of batteries substation, reactive power, ramp-rate control by forecast, and advanced method and technologies pilots. NJSEC, supported by CS Energy, recommended that the Board fund EDC rate-based grid modernization to assist in accommodating the capacity additions sought by improved distribution systems and other New Jersey solar programs.

**Response:** Staff notes that these topics are addressed in the context of the Grid Modernization proceedings.

**Comment:** Powerflex encouraged a preference for Battery Energy Storage Systems ("BESS") in the CSEP and requested solar plus storage projects can simultaneously receive CSEP and NJSIP benefits.

**Response:** Staff defers comments on this topic to the NJSIP proceedings.

### **Registration**

In the straw proposal, this topic was covered under ADI Program: Registration, parameter 18.

**Comment:** Rate Counsel, MMSIA, NJSEC (supported by CS Energy), and Ecogy Energy generally supported the combined registration.

**Response:** Staff thanks the commenters for their support.

**Comment:** Michael Winka commented that there should be no grid supply project approvals awarded under the ADI Program. The commenter further recommended that only community solar subscription projects be allowed as part of the ADI Program and opt in all customers in the USF/Lifeline programs as subscription customers into the CSEP.

**Response:** Staff agrees and points to the Solar Act of 2021, the intent of which was for the Board to create separate incentive programs for small solar facilities, specified as community solar and net metered facilities less than 5 MW in size, and for grid supply solar facilities and net metered solar facilities greater than 5 MW in size (large solar facilities). By definition under the statute, a "grid supply solar facility" does not include a community solar facility (C.48:3-51).

**Comment:** MSSIA and CEP Renewables asked for projects sited on landfills and contaminated sites to receive up to 24 months for completion.

**Response:** Staff agrees with the commenters and recommends community solar projects on contaminated sites and landfills receive 24 months after confirmation of eligibility to reach operation.

**Comment:** NJSEC, supported by CS Energy, requested to not make any additional changes between community solar project awards and the ADI Program registration process.

**Response:** On principle, Staff disagrees with the commenters and believes rule/program changes are necessary when there is a discrepancy or substantial matter to resolve with requirements. Believing that doing so would result in improvements to the program, Staff recommends that the Board waive its existing ADI Program rules for project registration of community solar projects, and that community solar projects be subject to the requirements and maturity standards laid out in this Board Order instead.

### **SREC-II Value**

In the straw proposal, this topic was covered under ADI Program: SREC-II Value, parameter 19.

*Staff questions for stakeholders 19: The IRS has released an initial guidance document for the ITC [Investment Tax Credit] 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?*

**Comment:** PowerFlex recommended setting the SREC-II value to \$120/MWh due to high administrative costs for subscribers and even higher costs for LMI subscribers.

**Response:** The incentives available to projects in the CSEP are funded by New Jersey electric ratepayers. As such, prudence requires that these funds be used as efficiently as is practicable. The Clean Energy Act codifies this priority by setting a cost cap on the expenditures that may be made to incentivize renewable energy: no more than 9 percent of total electricity payments in the State for energy years 2019 through 2021, and no more than 7 percent of the total paid in subsequent energy years.<sup>18</sup> In compliance with this mandate, the CSEP seeks to maintain incentives that allows the total solar program to remain within the statutory cost cap considerations. Accordingly, on March 6, 2023, the Board established new incentive levels for eligible solar facilities seeking to participate in the ADI Program but did not change the SREC-II incentive level for community solar.<sup>19</sup> The Board's determination was based on an analysis of market performance under current incentive levels, an update to the financial modeling of market segments, and stakeholder input. Furthermore, based on upon the Board's determination from May 10, 2023, that Staff's calculations accurately reflected the variables affecting the total paid

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<sup>18</sup> N.J.S.A. 48:3-87(d)(2).

<sup>19</sup> In re a Solar Successor Incentive Program Pursuant to P.L.2021, c.169, BPU No. QO20020184, Order dated March 6, 2023.

for electricity in New Jersey and the cost of the Cost Cap-Applicable Programs, the cap was not exceeded in EY 2022, and the cap was not forecasted to be exceeded in EY 2023 or EY 2024, Staff does not recommend any changes to the incentive level of \$90/MWh.<sup>20</sup> Staff further believes the ADI Program should have a single incentive level for all community solar projects, and the non-LMI incentive level would not be applicable.

**Comment:** Coast Energy proposed an adder of \$10-\$20 to incentivize brownfield siting, as well as the same adder for carports and canopies to assist with rising costs and increase competitiveness. Independence Solar also proposed adders to the SREC-II incentive level, but with no specified amounts, for projects on contaminated sites and landfills.

**Response:** Staff has studied available cost data from New Jersey projects and sees considerable overlap in cost ranges between projects on the built environment and projects on contaminated sites, which does not justify an adder. Staff recognizes that carports and canopies are more expensive to build. However, all types of siting on built environment are equally preferable from a ratepayer perspective, since solar there does not add to pressure on farmland and open space. Additional benefits from building solar on canopies generally flow to the site owner, and Staff therefore thinks that any additional costs should be borne by this party.

**Comment:** NJSEC, supported by CS Energy, recommended that overburdened communities should receive the same 20 percent adder as public and government facilities. Independence Solar also proposed adders to the SREC-II incentive level, but with no specified amounts, for projects in overburdened communities.

**Response:** Staff recommends that the ADI Program should have a single overall capacity block, but the Board retain the ability to adjust the incentive value in response to provision of federal tax credits. Staff further recommends that projects not receive public entity adders for community solar projects. Staff believes further differentiation of SREC-II values by the location of the facility is unnecessary, since all serve a majority of LMI customers, as the proposed minimum requirement reserves 51 percent of capacity for LMI subscribers.

**Comment:** Blue Wave recommended that dual-use projects be allowed to participate in the program and receive an incentive from the ADI Program as well as an adder for dual-use.

**Response:** At this time, Staff does not recommend allowing dual-use sites on farmland to participate in the CSEP. Staff anticipates that the Board will [open the Dual-Use Solar Energy Pilot Program for these projects](#) in the near future.

**Comment:** Rate Counsel opposed higher SREC-II values, seeing the Pilot Program value as sufficient to incentivize projects, but also recommended the Board consider lowering the incentive level. Ecogy Energy supported maintaining the existing incentive of \$90 per MWh and Michael Winka recommended the Board consider lowering the incentive level.

**Response:** Staff thanks the commenters for their feedback. Staff continues to recommend maintaining the current ADI Program incentive of \$90/MWh for LMI community solar projects, which would apply for all projects, noting that the non-LMI incentive would not be applicable.

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<sup>20</sup> In re a Solar Successor Incentive Program Pursuant to P.L.2021, c.169, BPU Nos. QO20020184 and QO23040206, Order dated May 10, 2023.

**Comment:** In general, CCSA/SEIA, MSSIA, PowerFlex, and RIC Energy urged the Board to be careful in modifying the SREC-II value based on additional federal incentives, because several adders to the investment tax credit are projected to have limited qualification.

**Response:** Staff appreciates feedback from the commenters and recommends no changes at this time, but that the Board retain the ability to adjust the incentive value in response to provision of federal tax credits.

**Comment:** Tattleaux recommended that the SREC-II value should align with federal incentives such that it should be modified to reflect if projects may or may not qualify for ITC adders.

**Response:** Staff appreciates feedback from the commenter and recommends the Board retain the ability to adjust the incentive value in response to provision of federal tax credits.

**Comment:** InClimate cautioned the Board regarding potential gaming of the incentive programs whereby projects may receive higher SREC-II values under the CSEP than they would have received under the CSI Program.

**Response:** Staff appreciates the thoughtful feedback. Staff notes that eligibility criteria for CSI and CSEP overlap, but are not the same, since projects larger than 5 MW can only participate in the CSI Program.

### **Number of Subscribers**

In the straw proposal, this topic was covered under Community Solar Subscribers, parameter 20.

**Comment:** Ecogy Energy supported Staff's straw proposal and Rate Counsel did not object to the proposed modifications. RECO supports the programs removal of the 250 subscriber cap.

**Response:** Staff thanks the commenters for their support.

**Comment:** JCP&L supported having a subscriber minimum for projects to prevent the potential abuse of private solar installations that call themselves subscribers. However, commenter disagreed with the subscriber exemption for multi-family buildings, since it would provide 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. If this exemption is allowed, commenter recommended requiring the multi-family housing site to demonstrate that it would be impossible to install solar generation at the housing site.

**Response:** Staff does not share commenter's concern that multi-family buildings would widely abuse the CSEP to create a virtual net metering construct, since the bill credit potential, even with inclusion of demand charges, would generally be significantly lower for such a project than for community solar projects serving residential subscribers. Moreover, the exemption is only available for projects located on the property of the building. However, Staff plans to monitor this issue going forward.

**Comment:** PSE&G and RECO recommended the program not allow customers to participate in both community solar and net metering projects.

**Response:** Staff does not intend to prohibit such dual participation and notes that net metering and community solar credits may not exceed a customer's total usage.

**Comment:** NJSEC, supported by CS Energy, recommended that the Board abandon any minimum or maximum number of subscribers to a project because it is an unnecessary restriction and requirement.

**Response:** Staff agrees with commenter that a maximum number of subscribers is unnecessary but maintains the recommendation of a minimum number to ensure the communal nature of the program be maintained.

**Comment:** Michael Winka recommended that a percentage of all projects be reserved for direct ownership.

**Response:** Staff appreciates the intent of the comment but notes that vulnerable populations specifically targeted with CSEP, often face considerable barriers to the type of ownership that commenter is suggesting, such that the construct would most likely mainly benefit other than LMI subscribers.

### **Geographic Distance Between Project and Subscribers**

In the straw proposal, this topic was covered under Community Solar Subscribers, parameter 21.

*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?*

**Comment:** Rate Counsel, RECO, AC Power, Ampion, Arcadia, Bromley Community Solar, CS Energy, Dimension renewable Energy, Ecogy Energy, NRG, PowerMarket, Sunwealth Power, and Gabel Associates agreed with Staff's recommendation for developers to subscribe customers across an EDC's territory. Many provided further commented that tighter geographic restrictions are unnecessary and opening subscriptions increases access to create a more equitable program.

MSSIA generally agreed with the straw proposal, but believed the issue needs to be revisited over time to see if more local concentration of subscribers is feasible.

**Response:** Staff thanks the commenters for their support and intends to monitor the distribution of projects and subscribers.

**Comment:** Independence Solar and Kendall Sustainable Infrastructure both recommended that the removal of geographic distance be applied to Pilot projects.

**Response:** Staff understands the commenters' concern but disagrees with the recommendation, since geographic proximity to subscribers was one of the evaluated criteria under the Pilot Program, and eliminating this after awards would raise fairness issues for projects who did not receive an award while not offering geographic proximity.

**Comment:** Ecogy Energy and Gabel Associates both supported the elimination of geographic restrictions in the Program and believe that emphasis for a robust community engagement plan

will address Staff's concerns for the Program to maintain a focus on local communities.

**Response:** Staff thanks the commenters for their support.

**Comment:** The League of Conservation Voters recommended that the Program include separate guardrails from geographic restrictions to ensure projects sited in predominantly LMI communities service 80 percent or more of the LMI community members. NJPEEC concurred that Staff should provide more guidance and recommended that the Board focus the program on communities with the highest LMI residents.

Sustainable Jersey City commented that without protections or provisions in place to ensure local communities, where projects are developed, have the first opportunity to subscribe will inadvertently hurt the Environmental Justice communities Community Solar was designed to uplift.

Michael Winka commented that there needs to be a link to the community in the community solar program and it is not correct to fully eliminate the geographic distance between the project and those receiving its benefits. Commenter recommended that the Board endorse and encourage a specific geographic link to a project that is best defined at a local government level.

**Response:** Staff appreciates the concerns expressed by commenters and believes that the requirement of a letter of support from the municipal government or mayor of the locality where the project is developed will serve to protect the interests of these communities.

**Comment:** Ecogy Energy suggests the addition of a workforce development aspect to project requirements.

**Response:** Staff recognizes that workforce development remains unaddressed in the CSEP, but notes that requirements in this area could be difficult to achieve for community-based organizations that only develop a single project. Staff therefore intends to work with stakeholders to address this issue through different mechanisms.

### **Consumer Protection**

In the straw proposal, this topic was covered under Community Solar Subscribers, parameter 22.

**Comment:** Rate Counsel, Altus, and Ampion commented suggestions for enhancing the Consumer Protection rule proposal to better regulate marketing materials shared by Community Solar project developers.

Rate Counsel believed that Staff should have a greater involvement in developing educational materials for the CSEP and expand the accessibility of those materials. Examples Rate Counsel recommended the Board enact are hosting workshops toward local community organizations to obtain input, having Customer Assistance staff available to answer questions, and providing educational material in various languages.

Altus recommended the Board require marketing information to be made publicly accessible on a webpage and have the webpage referenced on all marketing materials.

Ampion recommended that marketing materials be allowed to advertise flexibility in assigning potential subscribers to different projects, given that developers are working on multiple projects at a time.

**Response:** Staff appreciates comments that help enhance the consumer protection rules used to regulate a solar developer's interaction with established and potential customers. Staff found it more appropriate to provide guidance on any marketing practices in the community engagement and subscriber acquisition plan, rather than in the consumer protection standards.

**Comment:** MSSIA and Vote Solar recommended instituting a higher savings rate for low-income households, over time. MSSIA also recommended for the Program to maintain the Pilot Year 2 virtual requirement of greater than 20 percent bill savings for subscribers.

**Response:** Staff appreciates the comment but sees issues with enforcing the higher savings rate for low-income households and notes that the bifurcation would create additional administrative complexity.

**Comment:** Ampion urges Staff to remove a 10 percent guaranteed saving for large Commercial and Industrial customers. By allowing large anchors to receive a smaller discount, it is possible for a project to offer higher discounts to LMI customers.

**Response:** Based on the experience of the Pilot Program, Staff does not believe it is necessary to differentiate bill savings at this time.

**Comment:** Ampion supported a template subscriber agreement but believes it should be an option as opposed to mandatory for all subscriber organizations.

**Response:** Staff does not intend to mandate a certain subscriber agreement.

**Comment:** Robert Erickson commented on the potential security concerns he found with the current subscriber registration process. Robert Erikson recommends the Board to not allow EDCs to share usernames and passwords.

**Response:** Staff appreciates the comment which raises the attention of potential security concerns; however, EDCs are not authorized to share confidential information unless specifically authorized by legislation.

### **Automatic Enrollment**

In the straw proposal, this topic was covered under Community Solar Subscribers, parameter 23.

*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?*

**Comment:** PSE&G expressed concern about data privacy and administrative processes, namely that their provision of non-anonymized energy usage to municipalities may be prohibited by N.J.S.A. 48:3-85(b)(1).

**Response:** Staff agrees with the commenter that current legislation does not allow data necessary for automatic enrollment, to be shared, and has not included automatic enrollment in the recommendations to the Board.

**Comment:** CCSA stated that automatic enrollment needs more evaluation, with a concern that automatic enrollment projects should not monopolize capacity available. CCSA also recommended creation of working group and evaluation of cost differentials and customer selection.

**Response:** Staff agrees that the traditional model of community solar being open to all should be maintained but also believes that automatic enrollment may be an effective method to reach underserved New Jerseyans who may not otherwise subscribe to a community solar project.

**Comment:** MSSIA, NJSEC, Vote Solar, Ampion, Bromley Community Solar, CS Energy, Ecology Energy, Independence Solar, Nexamp, NRG, Solar Landscape, NJ Progressive Equitable Energy Coalition, Michael Winka, Gabel Associates, and Robert Erickson all expressed support for the automatic enrollment option. Some, including Ampion, Solar Landscape, Gabel Associates, and Michael Winka, commented on how municipalities should select subscribers.

**Response:** Staff appreciates the support for the proposal and will engage further on recommended subscriber identification and enrollment methods.

**Comment:** Arcadia, the Associated of New Jersey Environmental Commissions, and Environment New Jersey expressed opposition to the automatic enrollment model, indicating that it may affect community engagement and environmental justice.

**Response:** Staff believes that the requirement for a community engagement and subscriber acquisition plan will ensure that local communities continue to be addressed in the operation of a community solar project. Staff does not recommend automatic enrollment at this time.

**Comment:** CCSA, Arcadia, Solar Landscape, the Associated of New Jersey Environmental Commissions, and Environment New Jersey, Jewish Renaissance Foundation, and Sustainable Jersey City stated that automatic enrollment projects should be located in the same or neighboring municipality as the municipality enrolling the project.

**Response:** Staff understands the concern that unrestricted distance between a solar project and its municipality may result in inequitable access to such projects by overburdened communities. However, Staff notes that many municipalities have few sites that could host large community solar projects under the recommended preferred siting restrictions.

### **Community Engagement**

In the straw proposal, this topic was covered under Other, parameter 24.

*Staff questions for stakeholder 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?*

**Comment:** Many commenters recommended that the plan require letters of support from municipalities and mayors, require engagement with community-based organizations, and promote educational material on the Community Solar program.

**Response:** Staff agrees with the comments to require more objective criteria for the Community Engagement Plan and has incorporated many of the recommended materials to the permanent

proposal. Staff believes that the Community Engagement and Subscriber Acquisition Plan will continue to evolve to better hone the purpose and needs of the plan and will continue to seek input from stakeholders to improve the requirement.

**Comment:** MSSIA, Ecology Energy, League of Conservation Voters, and NJPEEC commented about how there was no workforce development plan written into the straw proposal and they would like it to be included into the Community Engagement Plan.

**Response:** Staff appreciates the comments on workforce development and recognizes the importance of a workforce development plan for New Jersey's solar industry. Staff declines, however, to recommend this as a mandatory aspect of the CSEP and intends to address a workforce development through a different mechanism.

**Comment:** Green Street Power Partners suggested that projects should provide information tools, such as fact sheets, Frequently Asked Questions, websites, postcard/mailers and drop-in events, and make them publicly available. Isles similarly recommended that organized events around clean energy technology could be used to address community concerns and determine best practices for engagement before and during construction.

**Response:** Staff appreciates the comments and will continue to work with stakeholders to improve distribution of information on community solar. Staff declines, however, to recommend making this a mandatory aspect of the CSEP.

**Comment:** Sunwealth Power recommended the Plan include a percent target of capacity to be filled by area residents.

**Response:** Staff appreciates the comment but sees no feasible method to enforce such capacity allocation, which would make it less meaningful.

**Comment:** NJ Sustainable Business Council and NJPEEC commented that the Program should maintain a version of a point system for evaluating community engagement plans. Solar Landscape and Environment New Jersey suggested that the community engagement plan could be used as a tiebreaker for project selection, if program capacity is filled quickly. Both approaches were described to incentivize developers to partner their projects with local communities and achieve greater commitments for community benefits.

**Response:** Staff appreciates the sentiments expressed by commenters but is concerned that community engagement is a topic that does not lend itself particularly well for point-based evaluations without adding substantial complexity, and resulting delays, to the evaluation process.

**Comment:** Bromley Community Solar and DSD recommended more flexibility in the community engagement plan to address specific needs of a project and its inhabited community. Program rules should encourage instead of mandate project collaboration with local community organizations. DSD recommended that applicants could self-certify whether their community engagement plan satisfies criteria for a community engagement plan.

**Response:** Staff appreciates the comments and believes that the proposed requirements for community engagement plans allow for sufficient flexibility while requiring an appropriate level of engagement.

**Comment:** LCV and New Jersey State League of Municipalities both recommend that the

Program incentivize engagement in environmental justice communities and limited-English proficient community members. LCV further recommends that project advertisements should be available in most commonly spoken languages in the project community.

**Response:** Staff appreciates the thoughtful suggestions and believes that engaging limited-English community members is important. Staff does not think that a requirement would be appropriate in all cases and plans to work with stakeholders to address this issue through other means.

### **Pilot Applicability**

In the straw proposal, this topic was covered under Other, parameter 26.

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

**Comment:** Ampion recommended implementing a transition period from the Pilot Program to a Permanent Program. Ampion, PSE&G, and PowerMarket made comments on how this transition could work, and Perch Energy requested clarification on when the changes under a permanent program would apply. Ampion stated to limit applicability of the new provisions to pilot projects such that their scores would not change. PSE&G suggested using a future date to confirm when these changes would apply and raised its concern for administering different rules for projects under the Pilot Program and permanent Program. PowerMarket suggested all Program provisions should be applied to pilot program projects.

**Response:** Staff appreciates the comments and recommends delaying effective dates of certain aspects of the rules as discussed under their respective sections.

**Comment:** Ampion, Bromley Community Solar, and LCV suggested to apply consolidated billing requirements to projects approved in the Pilot Program.

**Response:** Staff appreciates the comments. Staff recommends the billing working group, as described under the section on *Consolidated Billing*, be utilized to facilitate the timing of transition to utility consolidated billing and refers commenters to its complete responses in that section.

**Comment:** Perch Energy recommended to immediately eliminate the geographic distance requirement for subscribers to allow for more options and access for rural areas, and easier enrollment. If not, then the commenter stated the projects approved in the Pilot Program will be at a disadvantage with higher costs for churn replacement. Similarly, CCSA/SEIA supported EDC-wide subscriptions for projects approved in the Pilot Program.

**Response:** Staff appreciates the comments and refers the commenters to the *Geographic Distance* section for Staff's responses on this topic.

**Comment:** PowerFlex raised concerns with respect to the application process used in the Pilot Program, namely that it was complex and had an "overly subjective and non-transparent" approach.

**Response:** Staff appreciates the comments and refers the commenter to the *Application and Selection* section for Staff's responses on this topic.

**Comment:** LCV recommended to require projects approved in the Pilot Program to create a comparable community engagement plan (especially for those that have not yet come online).

**Response:** Staff appreciates the comments and refers the commenter to the *Community Engagement* section for Staff's responses on this topic.

### **Other Rules and Miscellaneous Comments**

In the straw proposal, this topic was covered under Other, parameter 25.

*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?*

**Comment:** Ecogy Energy supported allowing the Program to explore new models as long as ownership models outside of the Pilot Program rules were still permitted and subscriber ownership did not become a requirement.

**Response:** Staff appreciates the comment. After consideration of various ownership models, Staff continues to recommend the definitions from the Pilot Program rules pertaining to ownership under N.J.A.C. 14:8-9.2, namely "community solar owner" and "community solar site owner" or "site owner," be retained and implemented for the Program. Staff refers the commenter to the section on Project ownership for Staff's responses on this topic.

**Comment:** NJ Progressive Equitable Energy Coalition suggested the Board work with the U.S. HUD to develop projects to further safety, comfort, and quality of life for residents when a direct benefit is not feasible.

**Response:** Staff appreciates the comments. Staff consulted with HUD which informed Staff's recommendations on LMI requirements. Staff refers the commenter to the sections on *LMI Access: Subscribers and Verification Affordable/multi-family Housing* for Staff's responses on this topic.

**Comment:** MSSIA and Vote Solar recommended to include workforce development, either as part of the CSEP or independently. MSSIA also would like to see BPU identify and track grants made to existing entities and focus the workforce development aspects of community solar on the provisions of the federal Justice40 Initiative.

**Response:** Staff appreciates the comments. New Jersey's Energy Master Plan of 2019 directed the State to establish workforce training programs in order to expand the Clean Energy Innovation Economy.<sup>21</sup> In 2020, the Board established a separate Office of Clean Energy Equity ("OCEE") that oversees the equitable deployment of clean energy technologies and energy efficiency programs, ensuring access for all residents, including New Jersey's LMI communities. While Staff does not recommend that workforce development be a required component of the CSEP at this time, Staff continues to encourage and support workforce development as part of education and outreach efforts for a community solar project, and intends to continue engagement with

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<sup>21</sup> State of New Jersey. [2019 New Jersey Energy Master Plan: Pathway to 2050](#).

stakeholders on the topic.

**Comment:** Green Street Power Partners supported including net crediting similar to the State of New York as an optional component of the Program after substantial testing of it. The commenter suggested learning about the implementation of net crediting from New York.

**Response:** Staff appreciates the comment. In developing the proposed rules for the Program, Staff has examined and drawn from the experiences of the Pilot Program as well as community solar programs in other states, including New York, while crafting a program that reflects the goals and circumstances specific to New Jersey. Thus, where appropriate, the proposed rules draw upon industry standards and precedent within the framework of a New Jersey-specific program and existing New Jersey incentive programs. Staff refers the commenter to the section on *Consolidated Billing* for Staff's responses on this topic.

**Comment:** Michael Winka suggested to require municipalities to conduct outreach on community solar.

**Response:** Staff appreciates the comment. Staff refers the commenter to the section on *Community Engagement* for Staff's responses on this topic.

**Comment:** Robert Erickson suggested the Board establish regulations for a community solar provider to supply the normal consumption of electric energy and a mechanism for the provider make up for any shortfalls in energy production so it does not fall back to the customers. From the commenter's perspective, an EDC would need to make up for any shortfalls and would conceivably bill the community solar provider. Finally, the commenter recommended the Board devise a mechanism for how excess power would be sold to an EDC.

**Response:** Staff appreciates the comment and notes that the exact generation of a solar facility is inherently unknown and variable in response to weather conditions. A project's commitment is based on a share of solar generation and Staff does not believe that EDCs or project developers should be responsible for differences between expected and actual output.

**Comment:** InClima argued for the Board to select an administrator for project selection and auditing LMI with experience in these areas.

**Response:** Staff appreciates the comment. Staff cannot make a recommendation on this suggestion as the Board has a procurement process, which is separate from the rulemaking process, that is governed by the Department of Treasury.

**Comment:** Commenters, including Altus, Rate Counsel, Sunwealth Power, and Green Street Power Partners, generally agreed 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.

**Response:** Staff appreciates the input and will continue to work with stakeholders to improve public awareness of community solar.