



June 24, 2024

Sherri L. Golden  
Secretary of the Board  
New Jersey Board of Public Utilities  
44 South Clinton Ave., 1st Floor  
PO Box 350  
Trenton, NJ 08625-0350

**RE: Docket No. QO23090679 In the Matter of the Dual-Use Solar Energy Pilot Program**

Dear Secretary Golden:

BlueWave appreciates the opportunity to respond to the preliminary draft rule for the Dual-Use Solar Energy Pilot Program (Pilot), released by the Board of Public Utilities (Board) on June 10, 2024. The draft rule is an important step towards the launch of a successful Pilot that will advance New Jersey's clean energy goals, empower and protect its farming community, and preserve our working lands for generations to come. We thank the Board and the New Jersey Department of Agriculture (NJDA) for its hard work on this draft rule and all of the State's clean energy programs.

BlueWave's mission is to protect our planet by transforming access to renewable energy. As a pioneering renewable energy company that develops and owns solar and battery storage projects, BlueWave is developing several gigawatts of solar and battery storage projects throughout the United States to implement a new standard of development that centers sustainability, conservation, and agriculture. We are also proud to be a certified B Corp, recognized by B Labs as "Best in the World" in Governance.

BlueWave applauds the Board for considerable effort to improve the draft rule since its original conception as a straw proposal in November 2023. Stakeholders are thankful to the Board for incorporating many of our comments into this updated proposal. In particular, we are encouraged to see a more reasonable definition for each project's control area, recognition that participation in the State's farmland assessment program is sufficient for ongoing program qualification, and a clear process for updating and enforcing compliance within the Construction, Operations, Monitoring, and Project Research Plan (COMPR).

Unfortunately, several aspects of the draft rule continue to cause grave concern. In alignment with comments submitted by other stakeholders in this proceeding, including the solar trades, farming and research community, and other dual-use and community solar developers, BlueWave respectfully provides the following feedback for consideration as the Board finalizes its rules for the Pilot.

**Community solar participation is fundamental to the success of the Pilot**

Stakeholders remain frustrated that the Board continues to view dual-use projects as ineligible to serve community solar subscribers, especially given the near-unanimous agreement that this is a make-or-break issue for the Pilot. There is currently no pathway for dual-use projects under

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5MW to participate in the Pilot, and it is unfathomable that the Board would encourage such an outcome. Interconnection constraints, average farm size, and siting and design considerations are all driving the development of community-scale projects throughout the state. Small family farms are the bedrock of New Jersey's agricultural economy, and they deserve the opportunity to benefit from the innovation and financial stability that dual-use provides.

We strongly encourage the Board to enable participation for distributed generation and community-scale projects in the Pilot. The Board has the power to create an allowance or waiver for projects sited on agricultural land that incorporate dual-use to be an acceptable use within the Community Solar Energy Program (CSEP) or Remote Net Metering (RNM). Such a clarification would mean that dual-use is an acceptable land use under the CSEP or RNM, and that any capacity awarded under the Pilot would be in addition to any capacity block limitations within the umbrella of the ADI Program.

As other commenters have described, the uncertainty of timing and pricing within the Board's CSI Program is not appropriate for compensating small-scale projects within the first few years of a pilot program. Projects under 5MW that require higher incremental costs to incorporate dual-use practices will be unable to compete against large, utility-scale bids. By allowing Pilot projects to serve community solar subscribers, and thus distribute the benefits of clean energy and electricity savings to low- and moderate-income residents, the Board can retain its authority to manage ratepayer costs within the Pilot itself. Pilot applicants will be able to provide more reasonable and accurate cost estimates with the revenue certainty of a subscriber model.

We share the Board's goal of creating a meaningful Pilot that showcases the depth and breadth of dual-use practices that can be deployed for the benefit of all New Jerseyans. Without a pathway for community-scale projects to participate, however, such an outcome is simply impossible. Projects that have been delayed since the passage of the Pilot's enabling legislation in 2021 cannot wait another year for the Board to correct a failed solicitation in Pilot Year 1. BlueWave, along with other stakeholders in this proceeding, implores the Board to set the Pilot on a successful path from the beginning.

## **EDCs must process interconnection applications for dual-use projects**

Stakeholders reiterate their concern that dual-use projects are still unable to receive any information about project viability or necessary distribution system upgrades from the utilities. Without the ability to progress past the interconnection application, dual-use projects cannot demonstrate any level of maturity or provide estimates as to project costs. This dynamic will further hamstring the Pilot application process and accuracy of incentive levels. We urge the Board to direct the EDCs to begin processing interconnection applications for dual-use projects as soon as possible.

## **Project control area requirements can be improved**

BlueWave recognizes the huge strides that have been made in adapting the Pilot's proposed control area requirements since the November 2023 straw proposal. We greatly appreciate the Board and NJDA for its responsiveness and consideration of stakeholder feedback on this issue. In alignment with other stakeholders, we provide a further recommendation to more precisely fine-tune the requirement based on project size. To accommodate smaller parcels and farming

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operations, we suggest that the 3-acre cap on control area be maintained, but a minimum of 0.5 acre be added. A general rule of 10-15% control area per project could be implemented within these minimum and maximum requirements, while aligning with current research standards discussed by Rutgers' Agrivoltaic Program, the American Farmland Trust, and other experts.

## **The Board should transparently evaluate and score applications**

Stakeholders continue to raise questions about the process by which the Board will award Pilot projects. Despite a clear list of maturity requirements and project information in the draft rule, there remain vague elements within the application criteria that leave room for subjectivity and inequal treatment across all applications. For example, words like “robustness” and “impacts to farmland” can be interpreted many different ways. Applicants would benefit from a clear rubric or points system that demonstrates exactly how price and non-price terms will be scored and weighted by the Board. A transparent and straightforward process is beneficial to all parties participating in the implementation of a successful Pilot.

## **Clearly defined roles and responsibilities are necessary**

It will be difficult for Pilot applicants to accurately estimate costs related to research without explicit guidance about who is doing what, and with what equipment. Even if much of the ongoing monitoring and data collection is done by a third-party consultant or public research institution, the extensive list of requirements in the draft rule still burdens a farmer with much of the coordination and access work necessary to facilitate the research. Specifically, the below recommendations would increase clarity and ease of administration related to this issue:

- The definition of “Farmer” in 14:8-13.2 is not explicitly necessary for this draft rule. If the Board wishes to define the term, we urge development of an expanded definition that would also allow nonprofit organizations to serve in this role.
- The requirement in 14:8-13.13(g)3 specifies that “the landowner is responsible for notifying the Board of any changes...” Stakeholders suggest that any and all update requests to the COMPR should be submitted and managed through the project owner, in order to alleviate any burden on the farmer or landowner.
- The draft rule lacks clarity around reporting requirements after the 3-year research commitment. Stakeholders understand that the project owner will be responsible for submitting Form FA-1, which demonstrates enrollment in the New Jersey farmland tax assessment program, on an annual basis. While we believe this constitutes continued qualification under the Pilot, the draft rule suggests that additional reporting may be required.

## **The Pilot application process should promote financeable projects**

BlueWave submits the following recommendations to ensure the Pilot's application requirements and process do not undermine project financeability.

- In alignment with other solar programs in New Jersey and throughout the country, a Pilot applicant should be able to demonstrate any form of site control. This could include a lease, lease option, or other agreement. It is unlikely that most developers, farmers, and/or landowners would be comfortable signing a long-term (longer than one year) agreement without surety of an incentive qualification.
- The Board should allow portions of the application materials and a project's COMPR to be redacted or deemed confidential before being publicly posted according to the Board's

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current practices. Stakeholders want to ensure that no individual or company financial or proprietary information is jeopardized through participation in the Pilot.

- The definition of “Dual-Use Solar Energy Project” in 14:8-1.2 includes the stipulation that projects are “located on unpreserved farmland,” even though the draft rules accurately describe that certain protected lands may participate when complying with research requirements. The Board should review this definition to ensure it does not supersede participation by otherwise compliant projects.

BlueWave reiterates its thanks to the Board, NJDA, and Rutgers for their hard work in developing the draft rule. We remain committed to collaborating with the many stakeholders invested in the Pilot to ensure its successful launch after much anticipation. We hope the Board will thoughtfully consider the recommendations in these comments with this shared goal in mind. Dual-use represents a win-win-win opportunity for New Jersey’s farming community, residents, small businesses, public entities, and all those invested in reaching the State’s clean energy goals. Please do not hesitate to reach out to us with any questions or concerns.

Sincerely,

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