State of New Jersey
Governor Philip D. Murphy
Lt. Governor Sheila Y. Oliver

Board of Public Utilities
www.nj.gov/bpu/

Joseph L. Fiordaliso
President

Mary-Anna Holden
Dianne Solomon
Bob Gordon
Dr. Zenon Christodoulou
Commissioners

NOTICE[1]

IN THE MATTER OF
THE COMMUNITY SOLAR ENERGY PROGRAM

Docket No. QO22030153

Pursuant to the Open Public Meetings Act, N.J.S.A. 10:4-6 et seq., Staff of the New Jersey Board of Public Utilities ("Staff") hereby gives notice and invites all interested parties and members of the public to participate in virtual stakeholder meetings to discuss the Staff Straw Proposal for the permanent Community Solar Energy Program, pursuant to P.L. 2018, c.17 of the Clean Energy Act.

In addition to discussion of Staff's recommendations, this Notice contains a redline version of proposed regulatory text that amends N.J.A.C. 14:8-1.2, 14:8-11.5, and 14:8-11.7 and proposes new provisions at 14:8-13. For the redline sections, currently effective language proposed to be changed is shown in brackets, and the bold portion represents the proposed new language.

The draft text is provided to spur stakeholder comment and to allow all parties to provide input on New Jersey's permanent community solar program in a collaborative fashion. To the extent that stakeholders have feedback on particular provisions, Staff welcomes stakeholders to propose alternative or amended regulatory text, as well as comments on explanatory sections, particularly those with Staff questions. Proposals that represent the consensus position of multiple stakeholders or stakeholder segments are welcome. Once initial stakeholder comments on the proposed redline are received and incorporated as necessary, Staff anticipates making a recommendation for the permanent program to the Board.

Background

Pursuant to the Clean Energy Act,[2] the Board is converting the Community Solar Energy Pilot Program (Pilot) to a permanent program. The Board conducted solicitations for the Pilot in 2019 and 2021. The experience gained in these solicitations has laid the groundwork for the development and implementation of a full-scale program. P.L. 2021, c. 169 (Solar Act of 2021) directs the Board to aim to provide incentives to at least 150 MW per year as part of the SREC-II Program, and the permanent Community Solar Energy Program serves as part of Governor Murphey's goal of 100% clean electricity by 2035, balances ratepayer impacts, and supports a thriving and stable solar industry.

[1] Not a paid legal advertisement.
[2] N.J.S.A. 48:3-87.11(f).

Stakeholder Workshop

Staff will be holding a virtual stakeholder workshop to discuss the Straw Proposal.

COMMUNITY SOLAR ENERGY PROGRAM VIRTUAL STAKEHOLDER MEETING	
DATE:	Monday, April 24, 2023
TIME:	1:00 PM
REGISTER:	https://us06web.zoom.us/webinar/register/WN_VKiUbb5XRymT1dD-Jxki2g
TOPIC:	This meeting will discuss the proposed structure of the Community Solar Energy Program.

Please note that the meetings will be conducted via Zoom. You must register for each stakeholder meeting prior to attending, using the links provided above. Stakeholders and members of the public are invited to participate and may express their views. In order to encourage full participation, please submit any requests for needed accommodations, such as interpreters and/or listening assistance, 48 hours prior to the above meeting to the Board Secretary at board.secretary@bpu.nj.gov.

If you want to reserve a speaking opportunity, please register at least 48 hours before the start of the meeting and indicate your request to speak during the online registration process. After registering, you will receive a confirmation email containing information about joining the meeting and information about checking your system requirements in advance of the meeting. Stakeholders should check their access devices in advance of the meeting as to ensure that they will properly connect.

The deadline for written comments on this matter is 5 p.m. EDT on May 15, 2023. Members of the public may file written comments after any of the meetings, regardless of whether they participate in the meetings. Please submit comments directly to Docket No. QO22030153 using the "Post Comments" button on the Board's Public Document Search tool. Comments are considered public documents for purposes of the State's Open Public Records Act and any confidential information should be submitted in accordance with the procedures set forth in N.J.A.C. 14:1-12.3. Written comments may also be submitted to:

Secretary of the Board
44 South Clinton Ave., 1st Floor
PO Box 350
Trenton, NJ 08625-0350
Phone: 609-292-1599
Email: board.secretary@bpu.nj.gov

Please direct all questions about this matter to Sawyer Morgan at sawyer.morgan@bpu.nj.gov.

Staff looks forward to receiving and reviewing stakeholder comments. Thank you for your interest in New Jersey's solar program.

Sherri Golden
Sherri L. Golden
Secretary of the Board

Dated: March 30, 2023

Community Solar Energy Program

Staff Straw Proposal

1. Introduction

I. Background

On May 23, 2018, P.L.2018, c.17 (the "Clean Energy Act", formerly A3723/S2314) was signed into law. The law directed the New Jersey Board of Public Utilities ("BPU" or "Board") to engage in rulemaking to implement a Community Solar Energy Pilot Program ("Pilot") within 210 days. The law directed the Board to convert the Pilot to a permanent program within 36 months after the adoption of rules and regulations establishing the Pilot.

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 with a particular focus of ensuring that low- and moderate-income ("LMI") customers can access community solar and that community solar development is pursued without materially compromising the preservation of open space or protected lands in New Jersey.

The Pilot rules were adopted on January 17, 2019. The application period for the first Pilot program year ("PY1") opened on April 9, 2019, and closed on September 9, 2019. The Board conditionally approved 45 projects with 78 megawatts of capacity to participate in PY1 on December 20, 2019.[3] Of these, 20 projects totaling 44 MW of capacity have reached commercial operation.

Applications for the second Pilot program year ("PY2") were due on February 5, 2021. The Board conditionally approved 105 projects with 165 MW of capacity on October 28, 2021.[4] As of February 28, 2023, five projects with 3.7 MW have been completed. The remaining PY2 projects have a completion deadline of November 2023.

The completed projects are currently serving more than 6,000 New Jersey subscribers. The subscribers have received over $6 million in bill credits with a net savings of more than $1 million since the start of the Pilot through February 2022.

All 150 projects selected for the Pilot were LMI-access 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.

[3] In re the Community Solar Energy Pilot Program, BPU Docket No. QO18060646 et al., December 20, 2019.
[4] In re: the Community Solar Energy Pilot Program Year 2 Application Form and Process - Application Awards, BPU Docket Nos. QO20080556 and QO18060646, October 28, 2021.

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 provided necessary experience in implementing community solar in New Jersey and laid the groundwork for the development and implementation of a permanent, full-scale Community Solar Energy Program ("CSEP") in conformance with the Clean Energy Act.[5] Board Staff has on several occasions solicited stakeholder feedback on the Pilot and potential changes to incorporate in the Permanent 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. The Board issued a request for comment on the lessons learned from PY1 on July 9, 2020, and held a stakeholder meeting on July 27, 2020. The Board issued a request for comment on consolidated billing on March 1, 2021, and held a stakeholder meeting jointly with the electric distribution utility companies ("EDCs") on March 25, 2021. On April 11, 2022, the Board issued a request for written comment on the design of the Permanent Program in April 2022 and comments were due on May 6, 2022.[6]

This Straw Proposal presents Board Staff's recommendations for a permanent community solar program in New Jersey and is subject to modification, including modifications based on input from the stakeholder process. It draws upon the Board's experience with the Pilot, 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. This Straw Proposal discusses Staff's recommendations for ways in which the rules of the Permanent Program may differ from, or remain similar to, the rules of the Pilot. This Straw Proposal, as well as all stakeholder comments and responses, will inform Staff's recommendations on the establishment of the permanent New Jersey Community Solar Energy Program.

II. Community Solar Transition Principles

In developing recommendations on the design of the permanent Community Solar Energy Program, Staff has drawn on the same general principles announced at the outset of the Solar Transition process.[7] Of particular relevance to this straw proposal are the following principles:

1. Provide maximum benefit to ratepayers at the lowest cost

Community solar provides societal benefits not only in the form of electricity generation free of carbon emissions and air pollutants and economic growth fueled by local job creation, but also in allowing residents across the State to participate in the Solar Transition regardless of their physical or financial ability to install solar panels at their own residence. Ratepayers who subscribe to community solar, including LMI residents, may receive benefits in the form of savings on electricity. The incentives available to projects in the Community Solar Energy Program are funded by New Jersey electric ratepayers. As such, prudence requires that these funds be used as efficiently as is practicable. The proposed CSEP should therefore aim to ensure that the cost of the incentive is as minimal as necessary to encourage competition and support the industry.

[5] See N.J.S.A. 48:3-87.11(f).
[6] Request for Comments, In the Matter of the Community Solar Energy Program (April 11, 2022),
[7] Board of Public Utilities, Notice: New Jersey Solar Transition Staff Straw Proposal, BPU No. QO19010068 (Dec. 26, 2018),

In addition, a long-term, durable incentive structure that reduces regulatory uncertainty will lower financing costs and thereby help to protect the ratepayers' interests.

2. Support the continued growth of the solar industry

New Jersey has supported the development of a robust and sustainable market for renewable energy and community solar through its Pilot and other solar programs. The solar industry employs an estimated 6,237 New Jerseyans, supporting both the local and national solar industries.[8] The Pilot provided for the expansion of several solar companies in New Jersey, resulting in the creation of many jobs across the State. The permanent CSEP aims to ensure that New Jersey's community solar industry continues to thrive. The CSEP set out in this proposal is designed to facilitate these goals by incentivizing community solar; aiming to achieve at least 150 MW of community solar installations annually, which is equal to 20% of the total of at least 750 MW of new solar per year in the Successor Solar Incentive Program.

3. Meet the Governor's goal of 50% Class I Renewable Energy Certificates ("RECs") by 2030 and 100% clean energy by 2035

State law requires load serving entities to purchase RECs to match 50% of New Jersey total electricity consumption by 2030,[9] and Governor Murphy has declared that it is the policy of the State to reach 100% clean energy by 2035.[10] The solar incentivized by the SuSI Program is one of the key pillars of meeting Governor Murphy's goal of 100% clean electricity by 2035. The permanent Community Solar Energy Program will provide incentives for at least 150 MW of new solar in New Jersey per year, and thus forms a critical element in pursuing New Jersey's least-cost path to 100% clean energy by 2035.

4. Provide insight and information to stakeholders through a transparent process

This CSEP Straw represents the next step in a long series of stakeholder engagements on the development of New Jersey's long-term solar incentive program. By putting this document out for comment and continuing its broad outreach strategy to interested stakeholders, the Board welcomes continued engagement and feedback from the public in a transparent manner. This Straw will be the subject of conversation at a stakeholder work session and a written comment period before Staff presents recommendations for the Board to consider in adopting and implementing the permanent Community Solar Energy Program.

5. Comply fully with the statute, including the implications of the cost cap

As discussed above, it is important that ratepayer funds be used prudently and efficiently. 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% of total electricity payments in the State for energy years 2019 through 2021, and no more than 7% of the total paid in subsequent energy years.[11] In compliance with this mandate, this CSEP Straw seeks to maintain incentives that

[8] Interstate Renewable Energy Council, National Solar Jobs Census 2021, irecusa.org at 17 (July 2022), https://irecusa.org/wp-content/uploads/2022/10/National-Solar-Jobs-Census-2021.pdf
[9] N.J.S.A. 48:3-87(d)(2)
[10] Executive Order No. 315. February 15, 2023. https://nj.gov/infobank/eo/056murphy/pdf/EO-315.pdf
[11] N.J.S.A. 48:3-87(d)(2).

allows the total solar program to remain within the statutory cost cap considerations, the calculations for which were detailed in the Solar Successor Program Order.[12]

III. Structure of the Straw Proposal

This Straw Proposal consists of two parts:

1. Proposed CSEP structure, which provide a narrative detailing the important parameters for the Program. Here the Straw describes the rationale for the recommendations, including Pilot Program experiences and previous stakeholder feedback. The stakeholder feedback summarizes the responses to the April 2022 request for comments.

2. Draft rule proposal, which includes a new subchapter for the CSEP and amendments of existing rules, with changes shown in markup.

Stakeholders are expressly invited to provide feedback on both the narrative and the draft rule proposal. Feedback on the narrative is encouraged to be structured in response to numbered parameters, which include some questions to which responses are specifically requested. If a stakeholder wishes to comment on a matter that is included in the draft rule proposal, comments in the form of draft rule language are encouraged, but not required.

2. Proposed Community Solar Energy Program parameters

I. Program Eligibility

1) Project size and co-location of projects

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

Stakeholder feedback: N/A

Staff recommendation: The Clean Energy Act of 2018 states that each community solar project is limited to a capacity of 5 MW. 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. Staff therefore recommends that the Board not permit co-location of community solar projects, 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. Staff notes that N.J.A.C. 14:8-11.4 permits an entity to file a petition with the Board for special dispensation to engage in co-location of facilities, and Staff would propose this approach be applied here. In evaluating such a petition, Staff recommends looking at whether the co-located solar projects are under common ownership or control or

[12] In re a Solar Successor Incentive Program Pursuant to P.L. 2018, c. 17. BPU Docket No. QO20020184 (July 28, 2021). https://njcleanenergy.com/files/file/TI%20Program/FY22/8A%20ORDER%20Successor%20Solar%20Incentive.pdf

whether the proposed systems are owned by financially unrelated entities. Larger projects are encouraged to apply for the Competitive Solar Incentive Program.

Staff recommends that the Board allow the co-location of a community solar project with a net metered project. Examples of this were identified in the Pilot, 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.

2) Project siting

Issue: What land use restrictions and limitations, if any, should apply to the siting of community solar projects? While Section 6 of the Solar Act of 2021 does not establish siting standards for Community Solar projects, should the Board adopt standards comparable to those in the Board's proposed solar siting rules[13] for community solar facilities? What should those standards look like?

Stakeholder feedback: All stakeholder feedback received on this question supports the continued use of land-use and siting restrictions set in the Pilot. Specifically, the development of community solar projects on preferred sites (rooftops, parking lots, floating solar, brownfields, areas of historic fill, or properly closed sanitary landfill facilities). There was consensus that development of community solar should be prohibited in forests, preserved farmland, and green acres properties. Some stakeholders also voiced that dual-use projects should qualify as community solar, potentially in addition to the annual 150MW awarded capacity. [Question 4]

In the matter of extending Section 6 siting standards established in the Solar Act of 2021, there were conflicting responses on whether it should apply to community solar. Those in favor of the extension believe that it would avoid conflicting local rules and provide consistency to siting standards. Others were against the extension because of potential delays in project development.

Staff recommendation: The Pilot's scoring criteria included up to 20 points for higher preference siting, and the competitive application process resulted in all selected projects and most non-selected projects being located on such sites. Therefore, Staff believes all projects should be located on preferred sites. Staff does not see adequate reason to establish a preference among these site types and would allow all projects on permitted sites to apply to the Permanent Program equally.

Staff therefore recommends that the Board only permit community solar projects on the following site types:

- Rooftops
- Carports and canopies over impervious surfaces
- Contaminated sites and landfills

[13] Board of Public Utilities, Siting Rules for Grid Supply and Large Net Metered Solar Facilities (December 7 2022). https://nj.gov/bpu/pdf/rules/SITING%20RULES%20FOR%20GRID%20SUPPLY%20AND%20LARGE%20NET%20METERED%20SOLAR%20FACILITIES%20(Notice%20of%20Proposal)%20Disclaimer.pdf

- Man-made bodies of water that have little-to-no established floral and faunal resources (i.e., floating solar)

These site types conform with the ADI market segment of Net Metered Non-Residential projects located on Rooftops, Carports, Canopies, and Floating Solar, and with the CSI tranche for Contaminated Sites and Landfills.

For contaminated sites and landfills, Staff recommends updating the definition of "brownfields, areas of historic fill, or properly closed sanitary landfill" to conform to the new definition of "contaminated site or landfill" included in the Solar Act of 2021. As part of the new definition, Staff notes that it 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, be 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.

Since the permitted site types do not include farmland or other greenfield sites, the restrictions established in sections 6(c) and 6(e) of the Solar Act of 2021 pertaining to CSI-eligible facilities, and identified in the Board's order dated December 7, 2022,[14] are not applicable here and do not need to be specifically incorporated.

At this time, Staff does not recommend allowing dual-use sites on farmland to participate in the community solar program. The Dual-Use Solar Energy Pilot Program[15] may permit participation of community solar projects in the future; in that case capacity allocation and project selection will be dependent on the design of the dual-use program. If projects in the Dual-Use Solar Energy Pilot Program are permitted to be community solar projects, then it is Staff's recommendation that they must also follow both relevant CSEP and Dual-Use Solar Energy Pilot Program rules.

Projects sited on contaminated sites and landfills would be required to be designed to prevent onsite erosion and protect offsite areas from erosion and flooding. These projects would also be required to satisfy all NJDEP regulatory compliance obligations and receive a post-construction certification prior to applying for permission to operate. If part or all of the property on which the proposed Community Solar project would be located would also qualify as forested land as defined in proposed N.J.A.C. 14:8-12.2 and 14:8-12.3(b), then Staff recommends that the project will need to obtain a waiver from the Board following the process described in proposed N.J.A.C. 14:8-12.6.

II. Program capacity

3) Overall program capacity

Issue: What should be the annual Permanent Program capacity? Should the annual Permanent Program capacity limit account for potential project "scrub" (i.e., planned projects that do not reach commercial operation)?

[14] In re the Competitive Solar Incentive ("CSI") Program Pursuant to P.L. 2021, C. 169, BPU Docket No. QO21101186, December 7, 2022. https://njcleanenergy.com/files/file/BPU/2022/12-7-22-8C.pdf.
[15] N.J.S.A. 48:3-87.13. https://pub.njleg.gov/bills/2020/PL21/170_.PDF

Stakeholder feedback: The majority of stakeholders believe that the Permanent Program should award at least 150 MW per Energy Year ("EY") and rollover any "scrubbed" or unused capacity/funds from one EY to the next. Some stakeholders also requested that the first permanent program capacity block to be increased to 300 MW, accounting for the lost capacity from a third Pilot program year. [Question 1]

Staff discussion and recommendations: The Solar Act of 2021 states that the new Successor Solar Incentive 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.[16] Additionally, several observations can be drawn from the Pilot:

- First, it is important to highlight the tremendous market response and overall interest in developing community solar projects. The Board received 252 applications representing approximately 652 MW in PY1 and 412 applications representing approximately 804 MW in PY2. In both program years, this significantly exceeded the capacity available. The Pilot 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.
- Second, as indicated in the summary of the Pilot above, only 44 MW of the 78 MW conditionally approved to participate in PY1 have reached PTO.
- Finally, as several stakeholders pointed out, there was no PY3 solicitation, as had been envisioned in the original design of the Pilot. In addition, 150 MW had been assigned to community solar in the EY2022 Administratively Determined Incentive ("ADI") Program MW Block allocations, which was not filled as the permanent program had not launched.

Staff recommends that the Permanent Program 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. Staff recommends that, pursuant to the Solar Act of 2021, the annual capacity be set at no less than 150 MW and the cumulative capacity for energy years 2022 to 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 recommends allocating at least 225 MW each in EY24 and EY25 and at least 150 in EY26 and beyond to meet statutory requirements and anticipated demand.

As in the Pilot, 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 the program implementation. Staff still recommends that the Board take actual and anticipated project scrub into account when setting annual capacity allocations.

Staff does not recommend rolling over scrubbed capacity from the Pilot to the CSEP. Staff does, however, recommend that projects that were conditionally approved to participate in the Pilot, 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. However, any

[16] See N.J.S.A. 48:3-116(a).

conditionally approved Pilot projects seeking to rollover into the CSEP would still need to meet all applicable requirements of participation in the program, other than the capacity limits.

4) Program Capacity Segmentation

Issue: Should the CSEP capacity be divided into separate blocks, and if yes, how? (e.g., by EDC service territory? By project type or size)?

Stakeholder feedback: The majority of stakeholders recommend the continuation of EDC block allocations in proportion to retail electric sales. Further division by project type is viewed to be overly complicated. [Question 2]

Staff recommendation: The Pilot divided available capacity among the four EDCs based on their average respective percentages of in-State retail electric sales (hereinafter referred to as "capacity blocks"). 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 PSE&G and JCP&L service territories have projects currently operational, though several projects are under development in the ACE and RECO service territories. Staff believes that this same policy rationale carries over into the Permanent Program, and therefore recommends that the Board maintain its capacity segmentation by EDC service territory. For a total available capacity of 225 MW, this would represent approximately 28 MW for ACE, 65 MW for JCP&L, 128 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, 40% of the program capacity was reserved for projects defined as LMI. For the Permanent Program, Staff recommends that all projects be limited to those with at least 51%LMI customers, therefore eliminating the need for a dedicated LMI carve-out (see recommendation 10).

5) Qualifications for Project Ownership

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

Stakeholder feedback: Several developers noted opposition to EDC ownership and operation of community solar projects. Conversely, EDCs request allowing their ownership of community solar projects, claiming that allowing EDC ownership will lead to a more competitive market and better serve LMI residents since they already have relationships with those customers. [Question 3]

Staff recommendation: Staff recommends that the Board adopt similar qualifications and ownership restrictions for solar developers participating in the Permanent Program as were implemented in the Pilot. Specifically, Staff recommends that the EDCs not be permitted to develop, own, or operate community solar projects (this does not, of course, impact the EDCs' responsibilities relating to interconnection and billing management for these projects). Staff believes that it is unnecessary to allow the EDCs to own community solar generation assets, given

the experience of the Pilot 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 Permanent Program would be best served with the EDCs continuing to work closely with Staff to ensure the success of the program as a whole.

II. Application Process and Project Selection

6) Application Process and Project Selection

Issue: How should projects be selected for participation in the Permanent Program? Should the Board consider creating a waitlist for non-selected projects?

Stakeholder feedback: In discussing this question, stakeholders have broadly coalesced around two ideas for how projects should be selected in the Permanent Program. Option 1 is to continue to select projects via a competitive solicitation process, either as it was implemented in the Pilot or as a variation thereof. Option 2 is to run the program as a first-come, first-served process where projects can reserve capacity in the order in which they apply, so long as they meet the minimum qualifications set by the Board. [Questions 7 and 8]

Staff recommendation: The decision as to how to select projects for participation in the Permanent Program has a cascading effect on many of the other elements of program design: under a competitive solicitation, most of the policy preferences regarding project design (e.g., LMI inclusion, siting preferences, community engagement, etc.) are identified as part of the evaluation criteria. Under a first-come, first-served process, the Board will need to decide which of these policy preferences to keep by making them requirements for applying to the Permanent Program.

Option 1, the competitive solicitation process, was employed twice during the Pilot. Its main advantage is that it enables the Board to identify policy preferences and then leaves it to the developer to decide how to design their project. This led to a great diversity in the applications received, with many developers deploying innovative community-centered components in order to differentiate their projects.

The primary disadvantage of the competitive solicitation is that it is a complicated process. Staff brought recommendations for the award of PY2 projects to the Board almost nine months after the application window had closed. In that time, a small number of projects withdrew from consideration, citing an inability to maintain site leases. Although the PY2 review was made easier by an online-only application process, the administrative completeness review and the scoring of each application remained a highly time-intensive, manual process. In conversations with Staff, some developers also expressed frustration with the low likelihood of individual projects being selected, caused by the high degree of competitiveness.

Furthermore, while this competitive process saw a variety of applicants and selected projects, the high competition meant that many important policy preferences were uniformly met by awardees, such as all projects being LMI projects, having higher preference siting, and providing guaranteed

savings and flexible terms. The high scores among all selected projects indicate that it is likely that a sufficient number of projects will be able to meet these preferences as a minimum requirement in the CSEP.

Staff therefore recommends Option 2, a first-come, first-served participation process within the ADI Program, combined with high requirements for project quality and maturity. With strict prerequisites for application (see recommendation 7), the potential pool of applicants will be limited to those that are considered to be most beneficial from a policy perspective and are most mature and able to make progress toward completion soon after awarding. All projects would be required to meet certain criteria, as described below, to ensure key policy preferences are met.

Further, an open enrollment process fairly allows for a diversity of projects to participate without being constrained by a scoring process that may favor certain types of project elements or developers. This procedure is more sustainable for a permanent program and limits the administrative burden associated with a competitive solicitation process.

In the proposed process, developers would submit project information and documentation to the Board's Successor Solar Incentive program administrator after the opening of the portal to community solar projects. The program administrator would then review the application for completeness and eligibility. Projects would be reviewed and accepted into the program in the order in which they applied, until the program capacity has been reached.

To prevent the need for applications to be rushed to submission upon the opening of the registration portal, Staff recommends that a tiebreaker process may be employed if capacity blocks are filled quickly. In that case, all projects submitted within the first ten business days of the registration period will be reviewed for completeness and eligibility. As part of the registration process, projects will be asked to submit a minimum guaranteed bill credit savings rate that they would offer to subscribers. In the event that any EDC capacity block is oversubscribed, all complete and eligible applications will be ranked by the offered savings rate. The projects with the highest offered savings rates will be granted conditional approval for participation in the Permanent Program. Projects not selected will have the opportunity to reapply during the next application period.

Staff recommends that the Board retain the ability to adjust selection procedures in response to the rate of applications received and the implementation of interconnection modernization procedures.

Staff question for stakeholders 6: Please comment on the proposed process for project registration. Do you believe using bill discount offering is an appropriate method to select projects, should there be more applicants than capacity available?

7) Minimum project maturity requirements

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

Stakeholder feedback: Stakeholders largely agree that there should be increased minimum maturity requirements including proof of site control, having received or applied for non-ministerial permits, proof of interconnection viability, layout design, a subscription plan/organization, and an

application fee. Few stakeholders proposed the inclusion of interconnection applications as a minimum maturity requirement, but stakeholders who recommended against it note that it should be required after Board approval of projects to not waste efforts on rejected proposals. [Question 9]

Staff recommendation: Among the projects selected in PY1, only 44% of projects representing 56% of capacity reached commercial operation by the expiration date of their conditional approval. Staff recommends that the Board increase the minimum maturity requirements required prior to application to ensure that awards are given to projects with high likelihood of commercial operation within the allotted time. These standards should be more consistent with the similar non-residential segment of the ADI Program. Non-viable projects should be discouraged from applying and taking up program capacity. Staff recommends that the Board set several requirements for conditional acceptance into the Permanent Program:

- 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 DEP 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.

The experience in the Pilot showed that making awards prior to the receipt of an interconnection study can result in delays as projects wait for its completion and possible negotiation and determination of project viability. Aligning the community solar maturity requirements with those of the non-residential segment of the ADI Program would ensure that this step required for project feasibility would be finished before capacity is reserved for them. Although the requirement for a full interconnection study and executed interconnection agreement for projects 1 MW or greater may lengthen the EDCs' interconnection queues and the community solar development cycle, Staff believes that it is appropriate to require completion of this step because it is important for identifying which projects are most viable. As part of this transition, Staff envisions requiring the EDCs to open their interconnection processes to proposed community solar projects and process those interconnection requests prior to the project applying to the CSEP. Projects interested in pursuing both community solar and non-community solar interconnection options should submit separate interconnection requests.

The ongoing grid modernization proceeding is proposing the Pre-Application Verification/Evaluation ("PAVE") process, in which the EDC would be required to provide to applicants an initial assessment of circuit hosting capacity, upgrade requirements, and

interconnection cost range for the project's size and location. Staff considers it desirable that the EDCs implement this process as soon as possible so that community solar projects may use it to gauge project viability before requesting a full study. The proposed grid modernization rules are intended to help expedite the interconnection approval process.

Some stakeholders have recommended an application fee or escrow requirement, which would force developers to further invest financially in their application. Staff believes that such a requirement could be useful to show good faith and project readiness; however, Staff is concerned that setting a high financial pre-requisite could act as a barrier to entry to projects proposed by public entities, community organizations, or small developers. Staff however recommends the Board retain the option to impose such a requirement on community solar projects in the future.

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?

8) Other project eligibility criteria

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

Stakeholder feedback: N/A

Staff recommendation: As in the Pilot, Staff recommends that the Board not allow existing projects (i.e., projects that have reached PTO) to convert to become a community solar project.

Staff also intends to continue allowing participation in the CSEP only by projects seeking to interconnect with the EDCs Atlantic City Electric, PSE&G, JCP&L, and Rockland Electric, pursuant to the Clean Energy Act of 2018, which restricts participation to projects interconnected to electric public utilities.

III. LMI access

9) Definition of LMI subscriber

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

Stakeholder feedback: N/A

Staff recommendation: Staff recommends that the Board adopt the same definitions of an LMI subscriber as were used in the Pilot. This defines a LMI household as having an adjusted gross income below 80 percent of the area median income, as determined by annual United States Department of Housing and Urban Development HUD income limits. Qualified affordable housing providers may also be considered LMI subscribers.

10) LMI participation

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

Stakeholder feedback: Stakeholders broadly believe the 51% minimum of LMI subscriber requirement should be maintained and there should be amendments to the income verification process utilized for subscribers in the Pilot, whether through self-attestation or using census tracts with 50% earning less than 55% of median income. 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. [Question 11]

Staff recommendation: Staff believes that providing access to solar energy projects for low- to moderate-income customers is an important component of the community solar program. In the Pilot, initially 40% of program capacity was reserved for projects which reserved 51% of space for LMI subscribers. The competitive solicitation process resulted in all 150 selected projects and most non-selected projects for both years being LMI projects. Staff believes the requirement of a minimum of 51% 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. Further, 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 not only aligning with this standard but also setting one of the highest low- and moderate-income carve-outs in the country. Therefore, Staff recommends that all projects be required to serve a minimum of 51% LMI subscribers, as measured by capacity subscribed.

11) LMI Income verification standards

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

Stakeholder feedback: Stakeholders have proposed several income verification methods including self-attestation, certain census tracts, pay stub submissions, and assistance program participation. The most favored option is a standardized self-attestation form for all subscribers. [Question 12]

Staff recommendation: Staff recommends expanding the Pilot's list of programs that may be used to verify a subscriber as LMI to include Medicaid, Supplemental Security Income (SSI), Supplemental Security Disability Insurance (SSDI), Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), and Temporary Assistance for Needy Families (TANF).

Staff also recommends allowing a subscriber to qualify as LMI by providing a written attestation that their gross household income is below 80% of area median income, as defined by HUD. Staff believes that potential community solar subscribers should not be dissuaded from participation by having to produce a tax return, EBT card, or other documentation of income. Individuals may feel uncomfortable providing this personal information to subscriber organizations, and there is concern about subscriber organizations retaining such data. Self-attestation was recommended by a variety of commenters, including many community advocates, to ensure inclusion of overburdened communities, since the people with the highest need are often the least able and/or willing to provide the evidence that would otherwise be required. On the other hand, there is concern that developers would falsely identify potential subscribers as LMI, in order to meet the Program's standards.

Staff recommends that the Board produce a standardized format for self-attestation, similar to the subscriber disclosure form, and that subscriber organizations would be required to present this form when contracting with customers. Staff also recommends requiring self-attestation to be done through a third-party platform or organization who would be responsible for maintaining records.

Staff recommends that the Board or its agents may conduct audits of subscriber lists to ensure compliance with the requirement that at least 51% of a project's capacity is allocated to LMI subscribers. Subscriber organizations would continue to be required to retain records of subscriber contracts, disclosure forms, proof of attestation of LMI eligibility, and generation allocation lists, which must be made available to Board or Board Staff upon request. In the case of noncompliance with the LMI subscriber minimum or other requirements, Staff recommends the Board have the authority to take enforcement actions, including but not limited to modification or revocation of a project's SREC-II incentive, both prospective or retroactive, and restrictions on the developer's or subscriber organization's future participation in the CSEP.

12) Participation by affordable housing providers

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

Stakeholder feedback: N/A

Staff recommendation: Staff believes that residents of master-metered housing should be able to access a direct financial benefit of participating in community solar just as those who have a utility account are able to. The Pilot standards were not specific enough to ensure residents have a tangible gain from the participation for the duration of the subscription. Staff recommends requiring that master-metered housing providers be required to pass on 75% of the electricity bill savings to residents in the form of direct payments at least once per year. Master-metered subscribers shall provide annually to the Board an affidavit that lists the names of residents and total benefits paid. The housing provider may retain 25% of the bill savings to provide general benefits to the residents.

Staff recommends allowing affordable housing providers to qualify as an LMI subscriber, provided that they submit an affidavit indicating that they will pass on 75% of the electricity bill savings to residents in the form of direct payments or rebates at least once per year.

Multifamily housing is proposed to be exempted from the 10-subscriber minimum if the project is located on-site.

Staff also seeks to ensure that residents retain eligibility for affordable housing when they receive community solar bill credits.

IV. Bill Credits

13) Value of the bill credit

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

Stakeholder feedback: Responses to this question varied among stakeholders. Developers are broadly concerned with the difference in bill credit values between residential and commercial/master-metered rates for subscribers and would like them to be adjusted in the Permanent Program. Their suggestions to do so would be to include demand and non-bypassable charges to master-metered bill credits. [Question 19]

EDC responses highlighted concerns with the recovery of excess credits and its carryover past generation time. Recommendations from EDCs include compensating net excess credits at the average wholesale hourly locational marginal price and basing bill credits on Basic Generation Service rates only, since there is use of distribution systems.

Staff recommendation: Staff recommends that the bill credit calculation from the Pilot be maintained in the Permanent Program for residential customers and commercial customers other than affordable housing providers. That is, the bill credit is applied to supply and delivery charges but not non-bypassable charges or demand charges. Residents of affordable multi-family housing with master meters should also be ensured access to community solar. Therefore, staff recommends that for master-metered affordable housing buildings, serviced with a master meter on commercial rates, the bill credit shall also apply to demand charges. Demand charge credit rates would 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. Subscriber organizations would be required to provide a certification to the EDCs indicating which subscribers qualify as affordable housing and should have the credit calculated based on supply, delivery, and demand charges.

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?

14) Bill credit banking/excess bill credits

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

Stakeholder feedback: The consensus among stakeholders is for EDCs to be the ones managing bill credits and remaining transparent with their methods of allocation – to subscribers on their monthly utility bills and to subscriber organizations for tracking purposes. Some commenters recommend that unallocated generation credits be banked for one year from month of generation rather than one year from commercial operation date. [Question 18]

Staff recommendation: For subscribers, Staff recommends 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. Staff recommends that the subscriber's subscription size shall be resized if a subscriber receives net excess credits for two consecutive years, rather than three. 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. Staff also recommends that subscribers or subscriber organizations may select an annualized period so that their use of banked credits is maximized.

For project operators, Staff recommends 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. Staff believes that two 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.

15) Consolidated billing

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

Stakeholder feedback: All responses to this question expressed support for implementing consolidated billing. Most stakeholders recommended utility consolidated billing using a net crediting model that reduces risks of default. A few recommended permitting third-party consolidated billing and making consolidated billing optional. [Question 20]

Developers recommended setting expectations for consistency, standards, and limitations for EDC implementation in the rules. EDC commenters referenced a joint report filled on May 28, 2021, detailing implementation options, including requesting an administration fee or cost recovery and rejecting third-party consolidated billing.

Staff recommendation: Staff believes that customers would be better served having only a single bill to pay for their electricity services. Receiving separate bills for electricity from the utility and for a community solar subscription from the developer can result in confusion, decreased transparency, and increased risk of non-payment. Staff therefore recommends requiring the EDCs to implement consolidated billing for community solar. 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 recommends that consolidated billing be handled solely by the EDCs and that third-party consolidated billing not be permitted. 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 also believes auditing of billing practices is more easily facilitated with utility consolidated billing.

Staff further recommends requiring all projects participate in consolidated billing, as all subscribers should be provided its benefits, with uniformity for the customer experience, program messaging, and information sharing.

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 also allows different savings rates for different subscribers.

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 subscriber organizations should follow to share subscriber and financial information necessary for allocating bill credits and transmitting payments.

Implementation of consolidated billing will impose a cost on the EDCs for upgrades of billing systems and administration. Staff recommends allowing the EDCs to impose a utility fee no greater than one percent of the value of the bill credit.

Staff also recommends that projects participating in the Pilot also be required to use consolidated billing. Projects would be given time to transition customers to this system after it is implemented. Existing outstanding subscription fees would not be allowed to be transferred to consolidated billing. Staff recommends that the EDCs be required to provide consolidated billing no later than June 1, 2024.

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.

V. Project Interconnection

16) Interconnection process

Issue: The CEA states that the CSEP rules and regulations shall "establish standards, fees, and uniform procedures for solar energy projects to be connected to the distribution system of an electric public utility" (N.J.S.A. 48:3-87.11(f)(11)). What changes, if any, should be made to the existing community solar interconnection standards and processes?

Stakeholder feedback: Several stakeholders expressed support for aspects of the Board's grid modernization proceedings, including standardization of interconnection fees, publication of EDCs' hosting capacity maps, and implementation of an interconnection pre-application review process. The Solar Energy Industries Association and some developers recommended that EDCs should accept interconnection applications and conduct studies prior to projects receiving awards, which would help ensure project completion. Other stakeholders were concerned that requiring interconnection before application would overwhelm the EDCs in their review process. Developers also indicated concerns with the need for transparency and faster studies by EDCs. The EDCs supported consistent fees and rules for projects. [Question 5]

Staff recommendation: Staff recommends that the standards in the Pilot be adopted in the Permanent Program and that all projects meet applicable codes and requirements. The Board is in the midst of grid modernization proceedings, and Staff believes the Permanent Program should align with its proposed changes. Staff believes that the process surrounding interconnection should be more transparent to developers, helping them have better indicators of project viability. The grid modernization proceedings include a Staff proposal for a standard interconnection

application fee that would be assessed based on a project's size. They would also direct the EDCs to ensure their capacity hosting maps are up to date and accurate, as well as to report how long they take to process Level 2 and Level 3 interconnection applications through each stage of the process. There will also be working groups that will advance recommendations on interconnection process improvements. However, Staff recommends that the EDCs be directed to immediately begin accepting applications for interconnection ahead of a project's application for participation in the Permanent Program.

17) Distribution system support

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

Stakeholder feedback: Commenters offered a wide variety of recommendations in response to this question. Measures given by multiple commenters include the establishment of an interconnection working group, encouragement or incentivization of battery storage, preference for projects sited near load or existing electric stations, and preference for siting that does not require system upgrades. [Question 6]

Staff recommendation: The substantial capacity of projects connecting to the distribution system in New Jersey has put strain on local circuits while also reducing the power needed to be delivered via the transmission system. The Board's grid modernization proceedings include recommendations for reform of the interconnection process to support the distribution system. Staff intends for these reforms to be applicable to distributed solar in general and does not make further recommendations specific to community solar.

Battery storage can provide benefits to the grid such as peak shifting and flexibility to enable the development of renewable energy sources. Staff does not recommend incorporating energy storage preferences or requirements into the community solar Permanent Program but encourages participation in the Board's proceedings on energy storage. Community solar projects may benefit from participation in the proposed Storage Incentive Program.

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?

VI. ADI Program

18) ADI Program registration

Issue: Should the Board consider any changes to the coordination between community solar project awards and the process for registering for the ADI Program?

Stakeholder feedback: Several commenters recommended automatic enrollment in the ADI Program upon acceptance as a community solar project and that both programs should have the same capacity limit. One commenter suggested keeping registration for the incentive separate to allow for flexibility of the timeline. [Question 10]

Staff recommendation: Staff views the awarding of a community solar project as tied to the awarding of incentives in the ADI Program. A project that has been accepted to participate in the CSEP should not be stranded without an incentive, so awards in both programs should be coordinated and streamlined. Staff intends for developers to register their projects in the ADI Portal. Upon review of application materials and acceptance into the Permanent Program, projects would be simultaneously and automatically conditionally registered in the ADI Program and eligible for incentives upon commercial operation. Staff recommends that approval to participate in the community solar program shall be for the same 18-month period as established at N.J.A.C 14:8-11.5(g)(3)(ii), which will begin upon issuance of a notice of conditional registration by Board staff or the Successor Solar Incentive Program registration manager.

19) SREC-II values

Issue: The Solar Act of 2021 allows the Board to consider "the economic and demographic characteristics of the area served by the facility, including whether it is located in an overburdened community" in the assignment of an SREC-II value.[17] How should the Board address this criterion? What should the value of the ADI Program incentive be?

Stakeholder feedback: Stakeholders broadly agree that benefits from community solar projects should be made available to those in overburdened communities. Many stakeholders wish to see a continued preference for lower income communities in the Permanent Program's awarded project capacity. [Question 2]

Staff recommendation: Staff believes that all community solar projects should serve LMI households and communities and therefore recommends all projects serve a minimum of 51% LMI households (see recommendation 10). The ADI Program should have a single overall capacity block with an incentive that reflects this parameter. Staff believes further differentiation of SREC-II values by the location of the facility is unnecessary, should they serve a majority of LMI customers. Staff does not recommend differentiation by EDC territory.

Staff recommends maintaining the current ADI Program incentive of $90/MWh for LMI community solar projects, which would apply for all projects, and the non-LMI incentive would not be applicable.

Staff questions for stakeholders 19: The IRS has released an initial guidance document[18] for the ITC 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?

[17] N.J.S.A. 48:3-116(c)(3). https://pub.njleg.gov/bills/2020/PL21/169_.PDF

[18] Treasury and IRS provide guidance on energy projects for low-income communities. IRS. February 13, 2023. https://www.irs.gov/newsroom/treasury-and-irs-provide-guidance-on-energy-projects-for-low-income-communities.

VII. Community Solar Subscribers

20) Number of subscribers

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

Stakeholder feedback: The majority of stakeholders suggest the removal of, or at least an increase in, the maximum number of subscribers. A few comments suggested modifying the minimum to accommodate large housing or business customers, such as a minimum of 1 subscriber per MW. [Question 15]

Staff recommendation: The Pilot set a minimum of 10 subscribers to each project and a maximum of 250 subscribers per MW of installed capacity. Staff believes that community solar should have a character of supporting many customers and recommends maintaining the 10-subscriber minimum. Staff recognizes that there may be interest in smaller projects that support multi-unit housing. Therefore, Staff recommends maintaining the exemption of this requirement for multi-family buildings.

Staff believes community solar is an important program for residents of apartments, small homes, and LMI customers who have low electricity demand. In some cases, such as highly efficient buildings and vacation homes, even if the rooftop can accommodate a solar installation, the low energy usage will make the building less suitable for a net-metered project. Although subscriber organizations may find it easier to recruit a large anchor subscriber and a smaller number of subscribers with greater average demand, Staff finds that the maximum subscriber limit may unnecessarily restrict community solar access to such low-demand subscribers who should be encouraged to participate. By Board Order dated June 9, 2021,[19] the Board waived the maximum subscribers rule for a petitioning community solar project because this rule may decrease solar accessibility to New Jersey electric utility customers. Staff therefore recommends removing the maximum number of participating subscribers to each project.

Staff recommends maintaining the requirement that no single subscriber may subscribe to more than 40% of a project's energy production.

21) Geographic distance between project and subscribers

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

Stakeholder feedback: The majority of stakeholders advocate for projects to be able to subscribe across a singular EDC territory. [Question 14]

Staff recommendation: Staff recommends that consideration of the geographic distance between a project and its subscribers be eliminated. A project would therefore be permitted to subscribe 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

[19] In re the Community Solar Energy Pilot Program, BPU Docket No. QO18060646 (August 7, 2019). https://njcleanenergy.com/files/file/CommunitySolar/Community%20Solar%20bill%20credit%20Board%20Order%20revised%208-7-19-8C.pdf

greater choice in selecting a project. Residents located in rural areas or 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 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?

22) Consumer protection

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

Stakeholder feedback: Commenters suggested the addition of a customer help line with a phone number available in the contract, conducting spot checks of marketing materials, providing sample contracts, guaranteeing a discount, and disallowing termination fees. [Question 16]

Staff recommendation: Staff recommends maintaining the current consumer protection measures and adding additional measures. 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. Projects must state a guaranteed bill credit discount of no less than 10 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 also recommends that customers may not be charged a termination fee for ending their subscription with appropriate notice by the next billing cycle.

Staff would also require that marketing materials clearly identify the specific community solar project or projects being advertised, including the project's capacity, address, and actual or expected in-service date. Staff further intends to provide additional educational information such as sample contracts on the Clean Energy Program website. The Board may also elect to develop a sample contract that may be used for project subscriptions, in addition to the disclosure form.

23) Automatic enrollment

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

Stakeholder feedback: Several commenters support automatic enrollment, stating it could prioritize broader subscription of LMI communities and reduce subscriber churn and marketing costs. Some noted that this process would need to include transparency for selecting customers and data privacy provisions. Other commenters, including the Coalition for Community Solar Access and SEIA, recommended further study of this process and waiting until consolidated billing is implemented. Some were concerned about requiring municipal ownership and the potential lack of customer education and engagement. [Question 17]

Staff recommendation: Under an automatic enrollment or "opt-out" program, a municipality could own and operate a community solar project or serve as its subscriber organization and select residential customers to be subscribed to the project. Those customers would subsequently be able to decline to participate. Staff believes that automatic enrollment would be a useful tool to facilitate customer acquisition and reach potential subscribers, particularly LMI customers. Staff also sees challenges with respect to accurately identifying and verifying eligible low- and moderate-income residents, fairly determining whom to automatically enroll, and allocating appropriate subscription sizes for each customer while maintaining data privacy. It is also important that customers receive a single bill and are well informed about the community solar program to which they would be subscribed. Staff therefore recommends permitting automatic enrollment with standards similar to those set in the rules proposed in 2020,[20] but automatic enrollment may not be implemented until after consolidated billing has been implemented, which should be no later than May 1, 2024. At least 80 percent of subscribers to an automatic enrollment project must be LMI subscribers. Staff believes the benefits of easier enrollment of low-income residents are substantial and that eligible projects in both the Pilot and Permanent Program should be able to make use of these processes.

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?

VIII. Other

24) Community engagement

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

Stakeholder feedback: Some community organizations commented that the selection process should promote competition for community partnerships. Local groups say they have received financial and other support from solar companies and that they have helped their members and communities subscribe to community solar projects.

Staff recommendation: Staff believes that engagement and outreach by community solar projects to both residents in the communities where projects are located and any potential subscribers across each EDC 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, and subscriber organizations should conduct marketing campaigns that target LMI and underserved communities and provide education about solar power generally and their projects in particular. Educational campaigns through advertisements and collaboration with community organizations are valuable methods to promote community solar energy.

The Pilot provided points for community and environmental justice engagement that encouraged partnerships and agreements with municipalities and local community organizations. However, Staff found these criteria to be variable and their significance potentially subjective, without a clear

[20] New Jersey Register, Community Solar Energy Pilot Program Rules Proposed Amendments: N.J.A.C. 14:8-9.2, 9.4, and 9.8 (November 16, 2020) https://njcleanenergy.com/files/file/CommunitySolar/PRN%202020-109%20(52%20N_J_R_%202041(a)).pdf

indication of the degree to which letters of support and other evidence of consultation represent wider impact, improved customer experience, or a superior project. Staff still seeks to ensure that, under a first-come, first-served selection process, awarded projects will continue to engage community groups and subscribers. Staff therefore recommends that projects be required to submit a Community Engagement 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 area. Required elements for a Community Engagement Plan would include:

- Description of partner community organizations or how they will be identified
- Statement of the philosophy the project will operate under to promote community benefits
- List of desired outcomes for community engagement
- Point(s) of contact responsible for maintaining community relationships
- Sample of written language and educational content to be used for project marketing
- Plan to incorporate data and community feedback to continually improve engagement

Staff question for stakeholders 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?

25) Other Rules

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

Stakeholder feedback: N/A

Staff recommendation: Staff recommends that rules of the Pilot that are not addressed elsewhere in this Straw Proposal should be generally adopted in the Permanent Program. Draft rules are included.

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?

26) Pilot Program

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

Stakeholder feedback: N/A

Staff recommendation: Staff recommends that the projects already participating in or approved to participate in the Pilot should implement utility consolidated billing after a transition period. Staff also recommends incorporating the updated provisions regarding project marketing, elimination of the maximum number of subscribers to a project, banking and use of unallocated and excess bill credits, and LMI income verification standards. Amendments to N.J.A.C 14:8-9 are not included in the draft rule proposal below but provisions of the proposed N.J.A.C. 14:8-13 that will also apply to the Pilot will be included in the final rule proposal for consistency where appropriate.

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

27) Energy accounting

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

Stakeholder feedback: N/A

Staff recommendation: Staff notes that when a community solar facility generates electricity, it is delivered directly to the distribution grid. While the amount of this energy is metered at its point of interconnection, its production is not directly compensated; rather, compensation is indirect as the customer pays a subscription fee to the community solar facility and the EDC provides bill credits to the customer. Staff wishes to ensure that as the CSEP grows, this energy is appropriately accounted for between generating facilities, the grid, subscribers, BGS providers, and EDCs in order to reduce costs for ratepayers.

Staff question for stakeholders 27: How should electricity produced by community solar facilities be measured and compensated to reduce unaccounted for energy?

3. Draft Rule Proposal

DRAFT COMMUNITY SOLAR ENERGY PROGRAM RULES

NEW JERSEY ADMINISTRATIVE CODE: NEW SUBCHAPTER 14:8-13

§ 14:8-13.1 Purpose and scope

This subchapter sets forth the rules for the establishment of a Community Solar Energy Program, in accordance with N.J.S.A. 48:3-87.11(f).

§ 14:8-13.2 Definitions

For the purposes of this subchapter, the following words and terms shall have the following meanings, unless the context clearly indicates otherwise.

"Affordable housing" means housing that meets the definition of "affordable" as set forth in N.J.A.C. 5:80-26.2.

"Affordable housing provider" means any person or entity that owns, operates, or manages affordable housing units.

“Affordable multi-family housing” means an affordable housing building which is master metered and contains at least two units, all of which are affordable housing.

"Bill credit" means the credit placed on community solar subscribers' utility bills by their EDC, calculated according to the bill credit value as established in this subchapter.

“Community engagement plan” means a plan which details specific actions a developer and subscriber organization will take to connect a project with individual residents and community-based organizations representing residents.

"Community solar developer" or "developer" means an entity that is duly authorized to do business in the State of New Jersey and constructs or contracts for the construction of a community solar facility within the State of New Jersey.

"Community Solar Energy Program", “CSEP” or “Program” means the program established in this subchapter.

"Community solar facility" means the physical equipment, including, but not limited to, panels, inverters, racking, and balance of system, which constitutes a solar facility used for community solar, with a nameplate capacity in direct current (DC) rating not to exceed five MW.

"Community solar operator" means the entity in charge of the day-to-day oversight, safety, and control of the community solar project. The community solar operator may or may not have an ownership stake in the community solar project.

"Community solar owner" means the entity that legally and financially controls the community solar project. The "community solar owner" can be distinguished from the "community solar site owner."

"Community solar project," "community solar pilot project," or "project" means to a community solar project approved by the Board for participation in the program or pilot program, including, but not limited to, the community solar facility, project participants, and subscribers.

"Community solar site owner" or "site owner" means the entity that legally and financially owns the real property on which the community solar facility exists.

"Community solar subscriber organization" or "subscriber organization" means the entity, duly registered with the Board that works to acquire original subscribers for the community solar project and/or acquires replacement subscribers over the lifetime of the community solar project and/or manages subscriptions for a community solar project. The community solar subscriber organization may or may not be, in whole, in part, or not at all, organized by the community solar developer, community solar owner, or community solar operator.

"Community solar subscriber" or "subscriber" means any person or entity who participates in a community solar project by means of the purchase or payment for a portion of the capacity and/or energy produced by a community solar facility. One electric meter denotes one subscriber.

"Community solar subscription" or "subscription" means an agreement to participate in a community solar project, by which the subscriber receives a bill credit for a portion of the community solar capacity and/or energy produced by a community solar facility. A subscription may be measured as capacity in kW and/or energy in kWh, ownership of a panel or panels in a community solar facility, ownership of a share of a community solar project, or a fixed and/or variable monthly payment to the project operator.

“Consolidated billing” means the practice of incorporating the community solar subscription fee directly on a subscriber’s utility bill.

“Guaranteed bill credit discount” means the minimum savings that a project’s subscribers shall receive on their electricity bill, expressed as a percentage of the bill credits applied with respect to a subscriber’s subscription size. The guaranteed bill credit discount shall be no less than 10 percent of the bill credits applied.

"Historic annual usage" means the average amount of electricity supplied by an EDC to the customer over the most recent 12-month period.

“LMI community solar project” means a community solar project in which a minimum of 51 percent of project capacity is subscribed by low- and moderate-income subscribers.

“Local government entity” or “local government” for purposes of the Program means a New Jersey municipal government, including boroughs, towns, townships, cities, and villages, or a New Jersey county government.

"Low- to Moderate-Income subscriber" or "LMI subscriber" means a community solar subscriber that meets the definition of a low- or moderate-income household pursuant to this chapter. It may also mean an entity that qualifies as an affordable housing provider, pursuant to N.J.A.C. 14:8-9.8(a)2.

"Low- to moderate-income household" means a household with a total gross annual household income less than 80 percent of the area median income, as determined by annual HUD income limits set by the United States Department of Housing and Urban Development.

“Municipal community solar automatic enrollment project” or “automatic enrollment project” means a community solar project, owned and operated by a local government entity, or a project for which a local government entity serves as its subscriber organization, in which subscribers are automatically enrolled in the community solar project, provided that the customer may elect to opt-out of enrollment at any time.

“Subscriber” means a retail customer at a single retail meter, including master-metered accounts, that subscribes to participate in the Community Solar Energy Program through a subscriber organization.

“Subscriber acquisition plan” means a document that describes how a community solar project will acquire LMI subscribers and non-LMI subscribers, which may include marketing plans, marketing materials, and partnerships with municipalities and organizations. The subscriber acquisition plan must identify a registered subscriber organization that may carry out the plan.

"Telemarketing sales call" or "Telemarketing" means a telephone call made by a community solar subscriber organization to a potential subscriber as part of a plan, program, or campaign to encourage them to sign a community solar subscription. A telephone call made to an existing subscriber for the sole purpose of collecting on accounts or following up on contractual obligations shall not be deemed a telemarketing sales call. A telephone call made in response to an express written, electronic, or telephonic request of a customer shall not be deemed a telemarketing sales call.

"Unsolicited advertisement" means any advertising claims of the commercial availability or quality of services provided by a community solar subscriber organization, which is transmitted to a potential subscriber without that customer's prior express invitation or permission.

§ 14:8-13.3 Community Solar Energy Program eligibility

(a) The CSEP is open to community solar projects with a capacity of five MW or less measured as the sum of the nameplate capacity in DC rating of all PV panels comprising the community solar facility.

(b) The CSEP is open only to new facilities that have not commenced commercial operation prior to conditional registration, unless the Board grants a waiver in response to a petition. A planned facility which has been conditionally awarded an incentive in the Successor Solar Incentive Program may not qualify until its initial conditional registration expiration date has passed.

(c) Community solar facilities that meet the requirements of this subsection are eligible to register under the ADI Program pursuant to N.J.A.C. 14:8-11.4. Community solar projects may receive SREC-IIs or Class I RECs, as applicable.

(d) Unless modified by Board Order or granted a waiver by the Board, Community solar projects may be located on:

1. a rooftop;
2. a carport or canopy over impervious surfaces;
3. a contaminated site or landfill, where the associated disturbed areas constitute a maximum of ten percent of the total area dedicated to solar development, and which excludes farmland; or
4. a body of water that has little to no established floral and faunal resources, such as water treatment reservoirs and sand and gravel pit ponds.

(e) Community solar projects shall be considered connected to the distribution system.

§ 14:8-13.4 Community Solar Energy Program registration process

(a) All forms and instructions regarding the CSEP registration process shall be found on the Board's New Jersey Clean Energy Program website at www.njcleanenergy.com. Facilities seeking eligibility for the CSEP shall submit a complete registration package to the Board, or its designee, to the Successor Solar Incentive Program in accordance with Board rules at N.J.A.C. 14:8-11.5, except as specified in this subsection, and Board orders.

(b) Registration packages submitted to the CSEP and ADI Program shall be reviewed by the SuSI Program registration manager on a first-come, first-served basis, except as described in (d) below.

(c) For each program solicitation, Board staff shall initiate an application process pursuant to the Clean Energy Act as follows:

a. Board staff shall open an initial registration period for the Program for a length of time determined by Staff at the start of each energy year.

b. Following the end of the initial registration period, Board staff shall review the submissions for each community solar megawatt block set by Board order pursuant to N.J.A.C. 14:8-11.7(b) and determine if applications for a megawatt block would cause it to reach its capacity.

c. If a megawatt block has not received enough complete registrations to meet its capacity limit, all complete and eligible registrants shall be conditionally accepted into the Program and the megawatt block shall remain open to registrations until the segment is fully subscribed. A megawatt 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 segment to exceed the capacity allocation for said segment.

d. If the complete registrations for a megawatt block exceed the capacity limit for that megawatt block, projects will be reviewed and accepted in the order of their stated guaranteed bill credit discount, beginning with the registrant with the greatest guaranteed bill credit discount, until the allocated segment capacity for that year is fully subscribed.

e. The Board may modify the procedure for project selection in case of over-registration by Board Order.

f. EDCs are not allowed to develop, own, or operate community solar projects beyond the billing and other responsibilities set forth in this subchapter.

(d) Projects previously approved for participation in the Community Solar Energy Pilot Program under N.J.A.C. 14:8-9.3(c), but which did not reach commercial operation, shall be permitted to register in the CSEP and ADI Program irrespective of megawatt block capacity limits, provided that all CSEP and ADI Program requirements are met.

§ 14:8-13.5 Subscription requirements

(a) All subscription requirements pertaining to the program apply to both the original subscription and to all subsequent subscriptions enacted throughout the qualified life of a project, unless expressly determined otherwise by rule or Board Order.

(b) The minimum number of participating subscribers for each community solar project is 10 subscribers; provided that community solar projects sited on the property of multi-family buildings are exempt from the 10-subscriber minimum, where a multi-family building has three or more independent resident housing units, as per N.J.S.A. 55:13A-3(k) and the 2015 New Jersey International Building Code definition for Residential Group R-2.

(c) There is no maximum number of participating subscribers for each community solar project.

(d) A community solar project shall not subscribe more than 100 percent of the output of the community solar facility at the project's nameplate capacity in DC rating.

(e) A subscriber organization may contract with customers placed on a waitlist for a community solar project, to be subscribed upon availability of capacity. The subscriber organization shall notify the customer and confirm a customer's eligibility upon activation of a waitlisted subscription.

(f) All community solar projects must have a minimum of 51 percent of project capacity subscribed by LMI subscribers throughout the qualified life of the project.

(g) All rate classes except lighting customers are eligible for participation in a community solar project.

(h) Community solar projects may have subscribers anywhere in the EDC service territory to which they are interconnected.

(i) The following requirements regarding subscribers apply:

1. Community solar project subscriptions shall not exceed 100 percent of the subscriber's historic annual usage, excluding net-metered generation, available at the time of the application. In cases where a 12-month history is not available, the community solar subscriber organization shall estimate, in a commercially reasonable manner, a subscriber's load based on available history or projections.
2. No single subscriber may subscribe to more than 40 percent of a community solar project's total annual net energy.
3. Subscriptions are portable, provided that the subscriber remains within the original EDC service territory. Appropriate notice of the change in residence and/or location must be provided to the EDC and subscriber organization, no later than 30 days after the effective date of the change in residence and/or location.
4. Subscriptions may be canceled by subscribers as specified in their subscription agreements. Subscribers may not sell or transfer a subscription to another party other than the project owner or community solar subscriber organization.
5. A subscriber may not participate in more than one community solar project. It is the responsibility of the subscriber organization to verify that their subscribers are not already subscribed to another community solar project.
6. In cases of master-metered buildings, the account holder of the master meter is allowed to subscribe to community solar subscriptions on behalf of their tenants. The account holder of the master meter will be required to provide to the project's subscriber organization an affidavit that specific, identifiable, sufficient, and quantifiable benefits of the community solar subscription are being passed

through to the tenants. Seventy-five percent of the financial benefits of the community solar subscription shall be provided to residents in the form of direct payments or rebates. Nothing in this subsection prohibits the account holder of the master meter from signing a separate subscription for the separately metered building common areas.

7. When an EDC account is terminated or suspended for any reason, the EDC must notify the subscriber organization of the change.

(j) No later than starting January 1, 2025, a local government may submit a registration for a municipal community solar automatic enrollment project that requests an exemption from the provisions at N.J.A.C. 14:8-13.9(b)(1)(i), which mandate subscriber enrollment through affirmative consent of the subscriber. Unless explicitly stated otherwise, an automatic enrollment project shall be subject to all of the rules of the CSEP, as well as to the following conditions:

1. Any registration for an automatic enrollment project must include a municipal ordinance or resolution authorizing the project and application. A copy of the ordinance or resolution shall be presented to the Board as part of the registration;
2. A registration accepted into the CSEP or Pilot Program submitted by a local government entity may provide a resolution or ordinance within one year after adoption of the rule;
3. The automatic enrollment project shall be owned and operated by the local government or served by the local government as its subscriber organization for the duration of the project life. Ownership and operation shall nonetheless permit a period of temporary third-party tax credit investor ownership or ownership of the solar panels and related equipment by a third party in order to maximize the financeability of the automatic enrollment project, subject to appropriate contractual provisions that maintain the local government entity's ultimate control of subscriptions for the automatic enrollment project;
4. The local government may utilize a public procurement to contract for the third-party design, financing, ownership, construction, operation, and/or maintenance of the automatic enrollment project, as well as for the enrollment and management of project subscribers. Any such contractor, consultant, or other government designee shall execute a confidentiality agreement with the local government entity and provide guarantees of compliance with this subchapter, including the rules relating to consumer privacy and protection under N.J.A.C 14:8-13.9. Any public procurement shall comply with all applicable laws;
5. An automatic enrollment project may not subscribe customers unless the project is billed via consolidated billing and provides guaranteed savings to customers;
6. The local government shall be responsible for identifying the customers that will be automatically enrolled for participation in the automatic enrollment project, subject to the following criteria:
    i. The local government may subscribe residential customers and affordable housing providers. At least eighty percent of subscribers shall be LMI subscribers. Subscribers may not also be net-metering customer-generators;
    ii. All customers selected to be automatically enrolled as subscribers to the automatic enrollment project shall be within the geographic boundaries of

the local government that owns the community solar project or serves as the subscriber organization of the project;

iii. Subscribers shall be allowed to decline or opt out from their participation in the automatic enrollment project at any time. If a participating customer opts out of an automatic enrollment project, the solar credit shall be eliminated on a prospective basis in new billing months with no retroactive adjustments except for billing errors;

iv. Opt-out requests may be submitted either in writing or online through a designated website designed and maintained by the local government or its designee. The records of opt-out requests shall be accessible for viewing on an ongoing basis by Board staff; and

v. All customer personal information provided to a subscriber organization shall be deemed confidential and is exempt from the public disclosure requirements of the Open Public Records Act, N.J.S.A. 47:1A-1 et seq. Such information shall not be used, sold, or disseminated by any person for any purpose other than the facilitation of the automatic enrollment project.

7. Subscribers may not be charged a fee for their enrollment in the automatic enrollment project or any exit fees or penalties for opting out from the automatic enrollment project. All fees or modification thereof must be approved by the Board through a petition submitted no less than 120 days prior to their proposed implementation;

8. The local government, or its designee, if applicable, selected through the public procurement process set forth in this subchapter shall provide written notice by the United States Postal Service to selected subscribers of their enrollment in the community solar project no less than 90 days before the subscribers receive their first bill credits for participating in the automatic enrollment project. Another written notice shall be sent as a reminder of their enrollment no later than 30 days before the subscribers receive their first bill credits for participating in the automatic enrollment project. A draft of the notice and envelope, as well as any subsequent revisions, shall be submitted to the Board and Rate Counsel for comments, revisions, and approval at least 60 days prior to their intended use. The notice shall be sent to prospective subscribers in both English and Spanish and be made available in other languages upon request. The notice shall include the following:

   i. A statement that the local government is establishing an automatic enrollment project. The statement shall include a clear definition of community solar, the date on which the automatic enrollment project was approved by municipal resolution or ordinance, and the date on which the automatic enrollment project was registered with the Board;

   ii. A statement that the prospective subscriber has the right to opt out of the automatic enrollment project at any time, but that if no opt out is received, the prospective subscriber will be enrolled in the automatic enrollment project;

   iii. A specific written statement of the consolidated billing procedures of the automatic enrollment project. The statement shall explicitly state that enrolled subscribers will receive, and be expected to pay, a bill separate

from their utility bill for the cost of their participation in the automatic enrollment project, unless or until community solar consolidated billing is enacted;

iv. A statement that subscribers may opt out from their participation in the automatic enrollment project at any time, and detailed instructions on how to submit an opt-out request;

v. The estimated start date of their enrollment in the automatic enrollment project;

vi. A contact name, phone number, and email address for subscriber inquiries and complaints managed by the local government or their designee; and

vii. A Community Solar Energy Program Automatic Enrollment Summary and Disclosure Form that summarizes all relevant opt-out project provisions.

9. The local government shall provide a contact name, phone number, email address, and website portal for subscribers to submit inquiries or complaints. This information shall figure prominently on the local government website, as well as the website of any contracted subscriber organization;
10. An automatic enrollment project may suspend or cancel a subscription in the event of suspension or cancellation of an EDC account.
11. In the event that an automatic enrollment project is found to be in material violation of any applicable rule, the Board may immediately and permanently cancel the automatic enrollment project's exemption at N.J.A.C. 14:8-9.10(b)1, after notice and failure to remedy the violation. In the event of such cancelation, the automatic enrollment project shall be prohibited from employing opt out subscriber enrollment for the remainder of the automatic enrollment project's life. All subscribers wishing to continue their enrollment in the automatic enrollment project shall be required to affirmatively consent to their re-enrollment pursuant to N.J.A.C. 14:8-9.10(b)1; and
12. The EDCs shall take necessary steps to facilitate local government access to the historic billing usage of customers, point of delivery identification number, if applicable, and other information required by the EDC to subscribe customers in an automatic enrollment project upon satisfactory evidence that the automatic enrollment project is duly authorized by a local government ordinance or resolution, as appropriate, and by the Board. The EDCs shall provide this information for all residential customers in the municipality, at the option of the local government, to facilitate the customer identification and enrollment process by the local government. This local government access shall be for the purposes of identifying and enrolling customers and determining subscribers' historic annual usage, in order to appropriately size subscribers' community solar subscriptions in compliance with N.J.A.C. 14:8-9.6(f)1. The local government shall indemnify the EDC for any breach of customer information. The EDCs shall facilitate customer enrollment, opt-out, and consolidated billing.

§ 14:8-13.6 Community solar billing

(a) The value of the bill credit shall be set at the current pre-Sales and Use Tax retail rate, inclusive of supply and delivery charges, except as provided in (b) below.

(b) 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 retail rate, inclusive of supply, delivery, and demand charges. The bill credit shall be calculated with demand charges pro-rated to the subscriber's electricity usage using the subscriber's average demand charges and average electricity usage over the previous energy year.

(c) After payment of a subscription fee, subscribers shall receive the project's guaranteed bill credit discount, as identified in the project's registration, respective to the capacity to which they are subscribed. The net bill savings shall be no less than 10% of the calculated bill credit.

(d) The calculation of the value of the bill credit shall remain in conformance with the retail rate, as determined in (a) above and shall remain in effect for the life of the project, defined as no more than 20 years from the date of commercial operation of the project or the period until the project is decommissioned, whichever comes first.

(e) The credit may not be applied to non-bypassable charges. Non-bypassable charges are the Societal Benefits Charge, established at N.J.S.A 48:3-60; the Market Transition Charge, established at N.J.S.A 48:3-61; the Transition Bond Charge, established at N.J.S.A. 48:3-62; the Zero Emissions Certificate, established at N.J.S.A. 48:3-87.5; and any other applicable charges as defined by the Board.

(f) An annualized period shall be established for each subscriber.

1. The default annualized period shall begin on the day a subscriber first earns a community solar bill credit based on the delivery of energy.
2. The annualized period shall continue for a period of 12 months, until the subscription ends, the subscriber's EDC account is closed, or different annual period is selected and accepted, whichever occurs earlier.
3. The EDC shall offer each subscriber one opportunity to select a different monthly billing period as the start of the subscriber's annualized period.
4. In the case of an automatic enrollment project, the project's subscriber organization shall determine and set an annualized period for all subscribers which is likely to minimize subscribers' excess net bill credits.
5. A subscriber may submit their annualized period selection to the EDC at any time. However, an EDC is not required to accept a customer-generator selection of an annualized period that begins before the first full day of the first monthly billing period after the submittal of the selection.
6. If any subscriber has been participating for one monthly billing period or more before it submits its annualized period selection, the following shall apply:
    i. If the subscriber has been participating for more than 12 monthly billing periods, the time between the selection submittal and the end of the subscriber's most recently ended annualized period shall be treated as one annualized period; and
    ii. If the subscriber has been participating for fewer than 12 monthly billing periods, the time between the first day of the first full monthly billing period after the subscriber's subscription began and the selection submittal shall be treated as one annualized period.

(g) Credits shall carry over from monthly billing period to monthly billing period, with the balance of credits accumulating until the earlier of:
    1. The end of the annualized period;
    2. The closure of the subscriber's EDC account; or
    3. The end of the subscriber's community solar subscription.

(h) At the end of the annualized period and/or when a subscriber's EDC account is closed and/or at the end of the subscriber's community solar subscription, any excess net bill credits greater than the sum of all appropriate billable charges shall be compensated at the EDC's avoided cost of wholesale power, as defined at 14:8-4.2. The excess compensation must be returned to the subscriber by bill credit, wire transfer, or check.

(i) If a subscriber receives net excess credits for each of the two previous consecutive years, the subscriber organization must resize the subscriber's subscription size to ensure it does not exceed 100 percent of historic annual usage, calculated over the past 12 months, available at the time of the reassessment.

(j) Any generation delivered to the grid that has not been allocated to a subscriber may be banked by the project operator in a dedicated project EDC account for up to 12 months from the date of commercial operation. The banked credits may be distributed by the project operator to any new or existing subscriber during that 12-month period or the subsequent 12-month period, in conformance with subscription requirements set forth in N.J.A.C. 14:8-13.5. At the end of the 24-month period, any remaining generation credits shall be compensated at the EDC's avoided cost of wholesale power, as defined at 14:8-4.2.

(k) Subscribers must have an active EDC account within the EDC service territory of the community solar project to which they are subscribed.

(l) Subscribers must agree to a remote read smart meter upon EDC request, purchased and installed at EDC cost.

(m) EDCs must make appropriate data available through the U.S. Department of Energy's Green Button Connect My Data, subject to appropriate privacy protections, or alternative method directed by Board Order if Green Button capabilities are not available or are insufficient.

(n) Subscriber organizations shall send to the relevant EDC, via the method determined in N.J.A.C. 14:8-9.7(n) or another standardized process for sharing subscriber information, a list of subscribers to the project with all appropriate subscriber information, no later than 60 days prior to the first monthly billing period for the community solar project. Additionally, subscriber organizations shall send an updated list to the EDC once per month, following the same method.

(o) The billing process shall be administered by the EDCs, who shall apply the community solar bill credit to subscribers' utility bills in proportion to each subscriber's share of the community solar project as indicated on the most recent list received from the subscriber organization.
    1. The method of application of the bill credit (whether as a dollar credit and/or a kWh credit) shall be the same for all community solar projects in the EDC service territory; and
    2. The community solar bill credit shall be specifically identified as the community solar bill credit in a separate line on the subscribers' utility bills.

(p) The EDCs shall inform subscriber organization of the bill credit applied to each subscriber's bill, measured in both kWh and dollar amounts.

(q) No later than May 1, 2024, the EDCs shall develop and implement a method for the consolidated billing of a subscriber's utility bill that includes both the applied bill credit and a subscription fee to be paid to the community solar project owner. The consolidated billing shall incorporate a net crediting model, and the following provisions shall apply:
    1. All projects shall bill customers via utility consolidated billing.
    2. The subscriber organization shall include in its data transmission to the EDC the savings rate for each subscriber. All subscribers shall be billed using consolidated billing.
    3. Subscribers are not required to have the same savings rate, but the savings rate must be a minimum of 10%.
    4. The savings rate shall be applied to each subscriber's bill in accordance with the bill credit applied against the initial billed amount. The subscription fee shall be the applied bill credit minus the amount discounted by the savings rate.
    5. The bill must clearly indicate the value of the bill credit discount and label it as being part of the community solar subscription.
    6. The EDC shall remit to the project owners the subscription fee, less a utility administrative fee.
    7. The EDCs may charge subscriber organizations a utility administrative fee of no more than one percent of the subscription fees to cover the EDCs' costs of implementing and administering consolidated billing.
    8. Prior to implementation of consolidated billing, each EDC shall file with the Board a manual containing rules for a subscriber organization to implement consolidated billing and what processes a subscriber organization must follow to facilitate consolidated billing of their projects.

(r) The EDCs may synchronize the monthly billing period of subscribers and projects by modifying, with due written notice given, the monthly billing period for subscribers upon their first month of participation in the community solar project.

(s) The Board may modify standards to ensure billing accuracy and information sharing.

§ 14:8-13.7 Low- and moderate-income provisions

(a) A low- to moderate-income subscriber for the purposes of this subchapter is as follows:
    1. A qualified low- to moderate-income household; or
    2. A qualified affordable housing provider. In order to qualify as an LMI subscriber for the purposes of a community solar project, they must provide 75 percent of the financial benefits of the community solar subscription to residents in the form of direct payments.

(b) All projects in the Community Solar Energy Program shall be LMI community solar projects, unless granted a waiver by the Board.

(c) An LMI community solar project may not accept participation by a non-LMI subscriber if doing so would cause LMI participation in the project to fall below 51 percent of project capacity. If a project is less than 51 percent subscribed by LMI customers, the subscriber organization shall provide written notification to the Board within 30 days which details steps taken to ensure the standard is met.

(d) The following LMI eligibility criteria shall be applied:
    1. If the community solar project is sited on government-owned property and is serving LMI subscribers living on that property, the government site owner may provide an affidavit that those community solar pilot project subscribers are considered LMI for the purposes of the Program.
    2. In all other cases, subscribers must be individually qualified as LMI for the purposes of the program. The subscriber organization for each project shall receive and review proof of LMI eligibility for each LMI subscriber. Any of the following may be accepted by a subscriber organization as proof of LMI status for individual subscribers:
        i. Proof of participation in one or more of the following: LIHEAP, Universal Service Fund, Comfort Partners, Lifeline Utility Assistance Program, Payment Assistance for Gas and Electric, Section 8 Housing Choice Voucher Program, Supplemental Nutrition Assistance Program, the Lifeline program administered by the Universal Service Administrative Company, Supplemental Security Income, Social Security Disability Insurance, Special Supplemental Nutrition Program for Women, Infants, and Children, Temporary Assistance for Needy Families, or other low- or moderate-income local, State, or Federal programs, as may be added to this list by the Board by Board Order;
        ii. If the subscriber is a residential customer, proof that the subscriber's metered residence is in a census block group in which 80 percent or more of the households earn less than 80 percent of the area median income, as determined by data from the U.S. Department of Housing and Urban Development;
        iii. Self-attestation by the customer that their household income is less than 80 percent of the area median income, as determined by data from the U.S. Department of Housing and Urban Development, provided on a standard form to be approved by the Board and signed by the customer and recorded through an authorized administrator procured by the EDCs; or
        iv. An alternate form of income verification proposed through a petition by a subscriber organization and approved by the Board. The petition shall

include: a written description of the proposed income verification method; a complete description of how the method respects consumer privacy concerns; how the measures and safeguards established prevent fraud or misrepresentation by either the prospective subscriber or a subscriber organization; if the proposed methodology utilizes a statistical probability-based identification mechanism, how the method is reasonably expected to minimize incorrect eligibility determinations; and how the Board will be able to verify the income claims for accuracy. Alternatively, a subscriber organization may provide notice to Board staff of the entity's intent to utilize a verification mechanism that has already been approved by the Board. A subscriber organization may not utilize any alternate method of income verification until it has been approved by the Board.

3. Qualification of a household as low- to moderate-income is required at the time of execution of the subscription agreement, when a subscriber moves to a new utility account, and on every fifth anniversary of the subscription.
4. A community solar subscriber whose subscription has, for any reason, ended must re-submit a new application along with LMI qualifying criteria if applicable.

(e) Board staff or its agents may request information regarding subscriptions and subscriber status to ensure compliance with this subsection.

(f) If a project does not meet or maintain LMI subscriber requirements on an annualized basis, the project owner may be subject to financial penalties, including the bill credit value for the portion of the subscriber base that does not meet the LMI targets and a change in the project's SREC-II incentive value. The Board will 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.

§ 14:8-13.8 Cost recovery and EDC responsibilities

(a) Electric distribution companies shall, subject to review and approval by the Board, be entitled to full cost recovery for any incremental costs incurred in implementation, compliance, and administration of the Program in accordance with N.J.S.A. 48:3-87.11(e). EDCs may not set a separate fee or surcharge for community solar projects unless explicitly authorized to do so by the Board.

(b) The EDCs shall be responsible for measuring the metered production of energy by community solar projects, and for verifying that the community solar projects are producing an amount of energy that is greater than or equal to the amount of energy that is being credited to subscribers' bills.

(c) Community solar projects shall comply with all current and future applicable interconnection requirements applicable to each EDC, as set forth in N.J.A.C. 14:8-5, and EDCs shall process interconnection requests following normal procedures.

§ 14:8-13.9 Consumer protection

(a) Board staff shall develop a standard registration form for subscriber organizations. Subscriber organizations shall be required to complete and submit this form at least 30 days prior to first conducting community solar business operations in New Jersey. Failure to comply may result in a temporary or permanent prohibition from conducting business related to community solar in New Jersey. Subscriber organizations must submit the form only once, unless there is material change to the content of the registration form, at which time a new registration form must be submitted.

(b) Community solar subscriber organizations must comply with all applicable laws and rules governing advertising, marketing, and fair business practices, including, but not limited to, N.J.A.C. 13:45A-9, N.J.A.C. 13:45D, N.J.S.A. 56:8-2, and N.J.S.A. 48:3-85. Additionally, the following consumer protection measures shall apply to all subscriber organizations, and any agent, contractor, subcontractor, or affiliated person.

1. As to subscriptions, as follows:
    i. Unless affirmatively allowed under N.J.A.C. 14:8-13.6(q), a community solar subscriber may not be subscribed without their affirmative written consent, either via wet or electronic signature.
    ii. If a subscriber organization uses electronic methods to sign up, renew, or switch subscribers, the subscriber organization shall comply with the Uniform Electronic Transaction Act, N.J.S.A. 12A:12-1 through 26.
    iii. A subscriber organization may not add a new charge or make any other material change to the content of the contract or subscription without first obtaining affirmative written consent via wet or electronic signature from the subscriber, whether it be for a new service, existing service, or service option.
    iv. Customers must be notified in writing within 30 days if the subscriber organization managing their subscription has changed.
2. As to marketing, advertising, and solicitations, as follows:
    i. Subscriber organizations may market and advertise community solar projects. Under no circumstances can subscriber organizations, or any agent, contractor, subcontractor, or affiliated person knowingly make false or misleading marketing claims or suggestions, engage in marketing or advertising practices that are unfair, misleading, or deceptive, or in any way violate consumer protection laws and/or rules implemented or enforced by the New Jersey Division of Consumer Affairs.
    ii. Subscriber organizations shall provide information about the community solar projects which they are marketing in a prominent location on their websites, including projects' nameplate capacity, address, areas served, and projected or actual commercial operation date.
    iii. Subscriber organizations or any agent, contractor, subcontractor, or affiliated person must clearly identify themselves by the name of the subscriber organization, as registered with the Board. They may not falsely represent themselves as another party, including an EDC or a New Jersey government entity, such as the "New Jersey Board of Public Utilities" or the "New Jersey Clean Energy Program."
    iv. Subscriber organizations may not use high-pressure sales tactics, including, but not limited to, excessive number of communications,

whether in-person, by phone, e-mail, mail, and/or other forms of communications.

v. Subscriber organizations shall comply with all Federal Trade Commission telemarketing rules, including, but not limited to, the restriction on telemarketing between the hours of 9:00 P.M. and 8:00 A.M., Eastern Standard Time.

vi. Subscriber organizations must include in all advertisements, marketing, or sales materials, a toll-free or local telephone number and a link to a website through which customers can obtain further information regarding the subscriber organizations' product and/or services.

vii. Subscriber organizations are prohibited from contacting a potential subscriber by telephone for the purpose of making an unsolicited advertisement if the subscriber organization does not have an existing business relationship with the potential subscriber and the potential subscriber's telephone number appears on the no telemarketing call list established and maintained by the New Jersey Division of Consumer Affairs, pursuant to N.J.S.A. 56:8-127 or any successor statute, or the national do-not-call registry as maintained by the Federal Trade Commission. Any violation of this provision shall be forwarded to the Division of Consumer Affairs for further investigation.

viii. Subscriber organizations shall not contact, market to, or engage potential subscribers prior to registration with the Board under (a) above.

3. As to community solar subscription contracts, as follows:

i. Contracts must contain a plain-language description of the subscription agreement, including effective date of the contract, duration of the contract, a clear description of the amount and terms of payment of the subscription fee and underlying calculations, a good-faith written estimate of the savings a subscriber will realize net of the subscription fee or payment per year (or other applicable period) and the assumptions underlying such estimate, a clear description of the billing arrangements, and a complete list of any other fees, including, but not limited to, any applicable fees, due date for payment, late payment fees and the number of days after which a late payment fee may be applied, and any interest charges. The contract must also contain the specific conditions under which such penalties and/or fees can be imposed.

ii. Contracts shall not include a fee for cancellation of a community solar subscription for residential subscribers. A cancelled subscription may continue to the next billing cycle, as appropriate.

iii. Prices, whether in a quote or a contract, must include disclaimers that:
   (1) Utility rates and projected savings are subject to change; and
   (2) The Board does not regulate the price of community solar subscriptions, nor does it guarantee projected savings beyond those provided in N.J.A.C 14:8-13.6.

iv. Under no circumstances shall the contract contain a statement or provision by which a subscriber waives any rights they have under New Jersey or Federal consumer protection laws, rules, and/or regulations. The contract also may not include provisions (sometimes referred to as

"material change notices") that permit the subscriber organization to change material terms of the contract without the subscriber's affirmative consent, unless the change is required by operation of law. "Material terms of a contract" include, but are not limited to, terms regarding the price, deliverability, or term of the contract.

v. The use of robo-signing is prohibited. Contracts must be signed either by a wet signature or by requiring the signer to take an affirmative action (at least a click) at each location in the document where the signatures and/or initials appear; if the signature is electronic, the software used must provide a digital certificate of the number of times each signature and set of initials was applied to the document.

vi. Subscribers will have a seven-calendar-day rescission period, during which they may cancel their contract with no penalty. This rescission period must be clearly communicated to subscribers in the original signed contract.

vii. Contracts must include a toll-free or local telephone number and email address through which subscribers can request information, address complaints, and cancel or renew their subscription consistent with the terms of their contract.

viii. Subscribers must receive, via electronic means and/or mail, a copy of the signed applicable contract and disclosure statement, no later than two calendar days after signing the contract and disclosure statement.

4. As to disclosure statements, as follows:
    i. Subscriber organizations must present to each community solar subscriber a disclosure statement designed by Board staff at the same time as their community solar subscription contract. Each subscriber must sign an acknowledgement that they have received and read the disclosure statement.
    ii. Disclosure statements are intended to provide subscribers with an accurate overview of the community solar subscription contract and shall include a plain-language summary of key provisions from said community solar subscription contract.
    iii. Disclosure statements must be made available to a subscriber in Spanish, upon request of the subscriber.
5. As to non-discrimination, as follows:
    i. Subscriber organizations may not discriminate against any customer on the basis of race, origin, gender, religion, sexual orientation, age, or engage in any other discriminatory practice.
    ii. Subscriber organizations must apply uniform income, security deposit, and credit standards when deciding whether to offer a subscription to customers within a given customer class (low-income, moderate-income, or other). The subscriber organization may, however, apply separate sets of uniform standards for the purpose of promoting participation by low- and moderate-income residential customers.
    iii. While a subscriber organization may market services on a geographic basis, they may not refuse to provide service to a customer based on the

economic character of a geographic area or the collective credit reputation of the area;

6. As to inquiry and remediation, as follows:
    i. Community solar developers, operators, owners, and/or subscriber organizations shall use good faith efforts to respond to and resolve all complaints promptly.
    ii. The Board may revoke a subscriber organization's registration, as set forth under (a) above, resulting in a temporary or permanent prohibition from conducting business related to community solar in New Jersey, if said subscriber organization has been found by the Board to have engaged in fraud, deception, misrepresentation, false promise or pretense, repeated acts of negligence, submissions of incorrect or incomplete data, significantly deficient service, sales, or commercial practices that are unethical, misleading, or illegal, or having been engaged in and/or having been convicted of any crime or offensive action involving moral turpitude or relating adversely to the entity's or person's business.
7. As to document retention, as follows:
    i. Signed community solar subscription contracts, disclosure forms, and acknowledgements, and the signed approval of any changes made to the original contract, must be kept by the subscriber organization for a minimum six years following the expiration of said contract, and be made available to the Board and Board staff upon request.
    ii. Proof of eligibility for LMI subscribers must be collected by the subscriber organization and be kept by the subscriber organization for a minimum of six years following the expiration of the contract with said subscriber and be made available to the Board and Board staff upon request.

§ 14:8-13.10 Reporting

(a) EDCs are required to submit monthly electronic reports to the Board on community solar project interconnections and energy production, within 30 days of the end of the calendar month being reported upon. The content of the reports shall include, but not be limited to:
    1. A list of community solar projects that submitted an interconnection application, including name, location, and proposed capacity;
    2. A list of community solar facilities interconnected over the previous month, including name, location, and capacity;
    3. The estimated kilowatt-hours supplied to the distribution system by community solar facilities over the previous month, and a description of the estimation methodology used;
    4. The total number of community solar subscribers and estimated total community solar bill credits distributed to community solar subscribers, over the previous month;
    5. The estimated "excess" kilowatt-hours, that is, estimated kilowatt hours produced by a community solar facility that were not allocated to a community solar subscriber; and
    6. The cumulative totals since the beginning of the pilot program. This shall include the total number of community solar interconnection applications received, total number of community solar facilities interconnected, total capacity of community solar facilities interconnected, estimated total kilowatt-hours supplied to the distribution system by community solar facilities, estimated total community solar bill credits distributed to community solar subscribers, and estimated total number of community solar subscribers.

(b) The EDCs shall 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.

(c) The Board must be notified, in writing, of any change to the project developer, owner, or operator in case of sale, transfer, contract modification, or other material change to the parties initially listed in the community solar application. Specifically:
    1. Within 30 days of a material change in control of the owner, such new beneficial owners are required to notify the Board of their individual and/or corporate names, tax ID, address, contact phone, and percent of ownership of the project.
    2. Within 30 days of a material change in the community solar project operator, such new project operator is required to notify the Board of their individual and/or corporate names, tax ID, address, and contact phone.
    3. The Board shall be kept apprised of all major project developments and milestones via written notification (e-mail or letter).

(d) Each EDC shall retain a record of the community solar project generation that was applied to each subscriber's bills for six years.

(e) Each community solar subscriber organization, and any successor, shall retain a record of all subscriber contracts, disclosure forms, LMI proof of eligibility, and generation allocation lists for at least six years from the date of their expiration. Each of these documents must be made available without delay upon request from the Board or Board staff.

DRAFT COMMUNITY SOLAR ENERGY PROGRAM RULES
MARKUP OF PROPOSED CHANGES TO
NEW JERSEY ADMINISTRATIVE CODE

§ 14:8-1.2 - Definitions

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise. Additional definitions that apply to this chapter can be found at 14:3-1.1 and 14:4-1.2.

"Advertising" has the same meaning as set forth in N.J.A.C. 14:4-1.2.

"Annual net energy" means the total amount of net energy produced by the community solar facility on an annual basis, measured at the EDC's meter.

"Annualized period" means a period of 12 consecutive monthly billing periods.

“Associated disturbed areas” means areas, which may not have been contaminated, but after considering tax and property records as well as historical land use, are or were the site of an accessory use to contaminated areas or landfills. Examples include access roads, lay-down areas and former building sites that were previously part of an industrial or landfill complex.

"Avoided cost of wholesale power" has the same meaning as set forth in N.J.A.C. 14:8-4.2.

"Basic generation service" or "BGS" has the same meaning as set forth in N.J.A.C. 14:4-1.2.

"Board" or "BPU" has the same meaning as set forth in N.J.A.C. 14:3-1.1.

"Brownfield" means any former or current commercial or industrial site that is currently vacant or underutilized and on which there has been, or there is suspected to have been, a discharge of a contaminant.

"Class I renewable energy" means electric energy produced from solar technologies, photovoltaic technologies, wind energy, fuel cells powered by renewable fuels, geothermal technologies, wave or tidal action, small scale hydropower facilities with a capacity of three megawatts or less and put into service after July 23, 2012, and/or methane gas from landfills or a biomass facility, provided that the biomass is cultivated and harvested in a sustainable manner. Types of Class I renewable energy that qualify for use in meeting the requirements of this subchapter are set forth at N.J.A.C. 14:8-2.5.

"Class II renewable energy" means electric energy produced by a hydro power facility that has a maximum design capacity of greater than 3 megawatts but less than 30 megawatts from all generating units combined or by a resource recovery facility, provided that such facility is located where retail competition is permitted and provided further that the Commissioner of Environmental Protection has determined that such facility meets the highest environmental standards and minimizes any impacts to the environment and local communities. Types of Class II renewable energy that qualify for use in meeting the requirements of this subchapter are set forth at N.J.A.C. 14:8-2.6.

"Clean Energy Act" means P.L. 2018, c.17, signed into law on May 23, 2018.

"Co-location" means 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 different program or higher incentive value than they would be if they were combined into one single facility. In the case of net metered projects, SuSI-eligible solar facilities are not deemed co-located if they serve separate net metering customers as defined at N.J.A.C. 14:8-4. In the case of community solar projects, SuSI-eligible solar facilities are not deemed co-located if they are located on rooftops of separate buildings on different properties. A community solar facility and a net metered facility are not deemed co-located if they serve separate customers.

"Community Solar Energy Pilot Program" or "Pilot Program" means the program established in N.J.A.C. 14:8-9.

"Connected to the distribution system" means, for a solar electric power generation facility, that the facility is:
1. Connected to a net metering customer's side of a meter, regardless of the voltage at which that customer connects to the electric grid;
2. An on-site generation facility;
3. Qualified for net metering aggregation;
4. Owned or operated by an electric public utility and approved by the Board;
5. Directly connected to the electric grid at 69 kilovolts or less, regardless of how an electric public utility classifies that portion of its electric grid, and is designated as "connected to the distribution system" by the Board pursuant to N.J.S.A. 48:3-87.q, r, or s; or
6. Certified by the Board, in consultation with the Department of Environmental Protection, as being located on a brownfield, an area of historic fill, or on a properly closed sanitary landfill facility.
Any solar electric power generation facility, other than that of a net metering customer on the customer's side of the meter, connected above 69 kilovolts shall not be considered connected to the distribution system.

"Contaminated site or landfill" has the same meaning as provided in N.J.S.A. 48:3-51.

"EDC" **or "electric distribution company"** means an electric public utility as defined in N.J.A.C. 14:3-1.1.

"EDC area" means the geographic area over which an electric distribution company has a privilege or franchise granted by the State or by any political subdivision of the State, in accordance with the provisions of N.J.S.A. 48:2-13 and -14.

"Electric distribution system" has the same meaning as set forth in N.J.A.C. 14:5-1.2.

"Farmland" means land actively devoted to agricultural or horticultural use that is valued, assessed, and taxed pursuant to the "Farmland Assessment Act of 1964," N.J.S.A. 54:4-23.1 at any time within the 10-year period prior to the effective date of the Solar Act.

"Final remediation document" has the same meaning as provided in N.J.S.A. 58:10-23.11b.

"Fossil fuel" means natural gas, petroleum, coal, or any form, of solid, liquid, or gaseous fuel derived from such material.

"Government entity" has the same meaning as set forth in N.J.S.A. 48:3-51.

"Green Acres preserved open space" means land classified as either "funded parkland" or "unfunded parkland" under N.J.A.C. 7:36, or land purchased by the State with "Green Acres funding" as defined at N.J.A.C. 7:36.

"Grid supply facility" means a solar electric power generating facility that is directly connected to the distribution system in the state that sells the electricity it generates at wholesale rates through PJM Interconnection or under wholesale bilateral contracts, but is not owned or operated by an electric utility and approved by the Board pursuant to N.J.S.A. 48:3-98.1.

"Historic fill" means non-indigenous material, no matter what date this material was emplaced on the site, used to raise the topographic elevation of a site, which were contaminated prior to emplacement and are in no way connected with the operations at the location of emplacement and which include, but are not limited to, construction debris, dredge spoils, incinerator residue, demolition debris, fly ash, and non-hazardous solid waste. "Historic fill" shall not include any material which is substantially chromate chemical waste or any other chemical production waste or waste from processing of metal or mineral ores, residues, slags, or tailings.

"Interconnection agreement" means an agreement between a generator and an EDC, which governs the connection of the generator facility to the electric distribution system, as well as the ongoing operation of the generator facility after it is connected to the system. An interconnection agreement shall follow the standard form agreement developed by the Board and available from each EDC.

"Megawatt" **or "MW"** means 1,000 kilowatts, measured in direct current (dc).

"Nameplate capacity" means the maximum rated output of an electric power generator under specific conditions designated by the manufacturer and usually indicated on a nameplate physically attached to the power production equipment.

"Net metering" means a system of metering and billing for electricity in which the supplier/provider and/or the EDC:

1. Credits a customer-generator at the full retail rate for each kilowatt-hour produced by a class I renewable energy system installed on the customer-generator's side of the electric revenue meter, up to the total amount of electricity used by that customer during an annualized period determined under 14:8-5.3; and

2. Compensates the customer-generator at the end of the annualized period determined under 14:8-5.3 for any remaining credits, at a rate equal to the supplier/provider's avoided cost of wholesale power.

"Net metering aggregation" means a procedure for calculating the combination of the annual energy usage for all facilities owned by a single customer where each customer is a State entity,

school district, county, county agency, county authority, municipality, municipal agency, or municipal authority, and which are served by a solar electric power generating facility in accordance with N.J.S.A. 48:3-87.e(4).

"NJDEP" means the New Jersey Department of Environmental Protection.

"On-site generation facility" means a Class I or Class II renewable generation facility and equipment and services appurtenant to electric sales by such facility to the end use customer located on the property or on property contiguous to the property on which the end user is located. An on-site generation facility shall not be considered a public utility. The property of the end use customer and the property on which the on-site generation facility is located shall be considered contiguous if they are geographically located next to each other but may be otherwise separated by an easement, public thoroughfare, or transportation or utility-owned right-of-way.

"Preserved farmland" means land from which a permanent development easement was conveyed and a deed of easement was recorded with the county clerk's office pursuant to N.J.S.A. 4:1C-11 to -48, land subject to a farmland preservation program agreement recorded with the county clerk's office pursuant to N.J.S.A. 4:1C-24, land from which development potential has been transferred pursuant to N.J.S.A. 40:55D-113 to -129 or 40:55D-137 to -163, or land conveyed or dedicated by agricultural restriction pursuant to N.J.S.A. 40:55D-39.1.

"Properly closed sanitary landfill facility" means a sanitary landfill facility, or a portion of a sanitary landfill facility, for which performance is complete with respect to all activities associated with the design, installation, purchase, or construction of all measures, structures, or equipment required by the Department of Environmental Protection, pursuant to law, in order to prevent, minimize, or monitor pollution or health hazards resulting from a sanitary landfill facility subsequent to the termination of operations at any portion thereof, including, but not necessarily limited to, the placement of earthen or vegetative cover, and the installation of methane gas vents or monitors and leachate monitoring wells or collection systems at the site of any sanitary landfill facility.

"Renewable energy" means class I renewable energy or class II renewable energy, as those terms are defined in this section.

"Residential customer" has the same meaning as set forth in N.J.A.C. 14:3-1.1.

"School district" means a local or regional school district established pursuant to chapter 8 or chapter 13 of Title 18A of the New Jersey Statutes, a county special services school district established pursuant to article 8 of chapter 46 of Title 18A of the New Jersey Statutes, a county vocational school district established pursuant to article 3 of chapter 54 of Title 18A of the New Jersey Statutes, or a district under full State intervention pursuant to N.J.S.A. 18A:7A-34 et seq.

"Site investigation" shall have the same meaning as provided in N.J.S.A. 54:10-23.11.b.

"Small scale hydropower facility" means a facility located within this State that is connected to the distribution system, and that meets the requirements of, and has been certified by, a

nationally recognized low-impact hydropower organization that has established low-impact hydropower certification criteria applicable to:
1. River flows;
2. Water quality;
3. Fish passage and protection;
4. Watershed protection;
5. Threatened and endangered species protection;
6. Cultural resource protection;
7. Recreation; and
8. Facilities recommended for removal.

"Societal benefits charge" or "SBC" means a charge imposed by an electric public utility, at a level determined by the Board, in accordance with 48:3-60.

"Solar electric generation" means creation of electricity using a system that employs solar radiation to produce energy that powers an electric generator. Solar electric generation includes technologies that utilize the photovoltaic effect. Solar electric generation is a type of class I renewable energy.

"Solar panel" or "PV panel" has the same meaning as set forth in P.L. 2018, c. 17.

"SREC-II" means a solar renewable energy certificate created for each megawatt-hour of energy produced by a qualifying electric power generation facility during the facility's qualification period.

"SREC Registration program" or "SRP" means an administrative process developed by the Board that requires filing with the Board documents detailing the size, location, interconnection plan, land use, and other project information as required by the Board for all proposed solar electric generation facilities seeking to create SRECs, including grid supply facilities seeking approval, designation, or certification as "connected to the distribution system."

"State entity" means a department, agency, or office of State government, a State university or college, or an authority created by the State.

"Supplier/provider" means an electric power supplier or a basic generation service provider, as these terms are defined at 14:4-1.2.

"TPS/BGS provider" means an electric power supplier or a basic generation service provider, as these terms are defined at 14:4-1.2.

§ 14:8-11.5 - Successor Solar Incentive Program registration process

(a) The SuSI Program registration process shall be developed by Board staff and the SuSI Program registration manager in compliance with Board rules and orders. All forms and instructions regarding the SuSI Program registration process shall be found on the Board's New Jersey Clean Energy Program website at www.njcleanenergy.com.

(b) For any facility seeking eligibility for the SuSI Program, the registrant shall submit a complete registration package to the Board, or its designee, in accordance with Board rules and orders and the instructions posted on the NJ Clean Energy Program website.

(c) Each completed registration package must be accompanied by the payment of a registration fee, the value of which will be determined by the Board through a Board order. The registration fee shall take effect one year from the opening of the SuSI Program; projects registering during the first year of the SuSI Program will be exempted from the registration fee.

(d) The registrant shall meet minimum facility maturity standards and provide all documentation required by Board rule or order as part of its initial registration package, including, but not limited to:

1. A contract between the primary installer or the third-party owner, as applicable, and the customer of record;
2. A site map;
3. A disclosure statement signed by the customer, the installer, and the third-party SREC-II owner, if applicable, available on the New Jersey Clean Energy Program website;
4. For net metered facilities, a utility bill showing the site host's name, address, and electric tariff, if applicable;
5. For facilities sized 25 kW or greater, electrical and building permits or documentation that applications for electrical and building permits have been submitted to the relevant municipality;
6. For [net metered] facilities sized 25 kW or greater, up to one MW, evidence of having submitted to the relevant EDC a Part 1 interconnection agreement signed by the customer-generator and the installer;
7. For [net metered] facilities sized one MW or greater, an executed Part 1 interconnection agreement and a Milestone Reporting Form;
8. For public entities seeking eligibility for the ADI public entity adder, if such an adder is established by the Board pursuant to N.J.A.C. 14:8-11.6(g), a letter on official stationery of the public agency under signature of a bona fide officer, elected official, or employee of the public entity attesting to the status of the public entity;
9. **For community solar facilities:**
    i. **All relevant non-ministerial permits including, but not limited to, zoning variances, planning board authorization, and Pinelands Commission approval;**
    ii. **A subscriber acquisition plan with a registered subscriber organization;**
    iii. **A community engagement plan;**
    iv. **A guaranteed bill credit discount to be offered to subscribers; and**
    v. **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 NJDEP permit readiness checklist, and certification by Board Staff that NJDEP has verified the site's eligibility.

(e) Registration packages submitted to the ADI Program shall be reviewed by the SuSI Program registration manager on a first-come, first-served basis.

(f) Board staff or the SuSI Program registration manager shall notify registrants whether the facility is eligible to participate in the program, and whether the initial registration package is complete, incomplete, or deficient. Registrations that are deemed incomplete due to a minor deficiency, as defined below, will be notified of the deficiency by the SuSI Program registration manager and granted seven business days to cure the deficiency. Registrations that are deemed ineligible, incomplete, have a major deficiency, as defined below, or fail to correct minor deficiencies within the time allowed, will be rejected, and the registration will be cancelled. If the registration is cancelled, the registrant may submit a new completed registration to the SuSI Program if the relevant capacity block established pursuant to N.J.A.C. 14:8-11.7remains open, or in a future capacity block.

1. Minor deficiencies include such items as an inconsistency between the signatures on different sections of the SuSI certification form; failure to complete one or more sections on the SuSI certification form; failure to label technologies or to indicate panels on the site map; a missing or incorrect premise address or missing installer information on the site map; submittal of an incorrect page of the utility bill; failure to enter complete equipment information in the online portal; an incomplete section or sections on the Milestone Reporting Form or disclosure form; or other similar clerical error.
2. Major deficiencies include such items as failure to upload the SuSI certification form to the SuSI portal or failure to include all signatures on that form; failure to upload the site map or utility bill to the SuSI portal; failure to upload the Milestone Reporting Form to the SuSI portal or to include all signatures; failure to upload the disclosure form to the SuSI portal or to include all signatures; and for net metered projects one megawatts or larger, failure to upload a fully executed Part I of the Interconnection Approval from the relevant EDC with the application.

(g) Registrants that submit a completed registration package or that cured all minor deficiencies in the time allowed, and that meet the eligibility and qualification requirements for a SuSI market segment pursuant to this subchapter, will be issued a notice of conditional registration by Board staff or the SuSI Program registration manager. The notice of the conditional registration shall:

1. Indicate for which market segment megawatt block the facility is eligible;
2. State that, if the solar facility is constructed as described in the initial registration package, Board staff or the SuSI Program registration manager will issue a New Jersey State Certification Number for the facility upon receiving a complete post-construction certification package, and if no waiver is granted, an inspection will be required necessary in accordance with the provisions at (j) below;
3. Include an expiration date occurring on:
    i. The one-year anniversary of the registrant's notice of conditional registration for net metered facilities;
    ii. The 18-month anniversary of a registrant's notice of conditional registration for community solar facilities; or

iii. The 24-month anniversary of a registrant's notice of conditional registration for projects granted conditional certification by the Board as part of the Contaminated Sites interim market segment established pursuant to N.J.A.C. 14:8-11.7(b)8; and

4. Include notice that the facility must receive permission to operate from the relevant EDC and submit a post-construction certification packet as set forth at (j) below prior to the expiration date indicated in the notice of the conditional registration; and
5. After issuance of the notice of conditional certification by the Board, construction of the solar facility as described in the initial registration package may begin.

(h) All registered facilities one MW or greater will be required to submit quarterly milestone reporting forms, on a standard form to be developed by the SuSI Program registration manager in coordination with Board staff. Timely submission of milestone reporting forms will be considered in cases of extension requests pursuant to (i) below.

(i) SuSI-eligible facilities that received a SuSI Program notice of conditional registration may request one six-month extension to their registration expiration date. Extension requests must be submitted to the SuSI Program registration manager on or before the expiration date noted in the notice of conditional registration. Any extension request shall be reviewed by the SuSI Program registration manager, in consultation with Board staff, on a case-by-case basis, based on consideration of extenuating circumstances for the delay in completing the facility, evidence that the facility has made progress towards completion, and the likelihood of timely and successful completion of the solar facility. For facilities one MW or greater, the SuSI Program registration manager shall also consider whether the registrant has submitted timely quarterly milestone reporting forms. If the extension is granted, the SuSI Program registration manager shall provide a new conditional registration expiration date, six months from the expiration of the original conditional registration.

(j) Following commencement of commercial operations, and prior to the expiration date provided in the notice of conditional registration, the registrant shall submit a post-construction certification package, through the Board's New Jersey Clean Energy Program website at www.njcleanenergy.com. The post-construction certification form and instructions will be found on the New Jersey Clean Energy Program website at www.njcleanenergy.com. If the post-construction certification package demonstrates that all program requirements have been met, and the facility either passes an inspection or receives an inspection waiver, Board staff shall assign a New Jersey State Certification Number to the solar facility for use in obtaining SREC-IIs from PJM-EIS GATS. The Certification Number will identify the facility's market segment, and associated incentive level, based on the completed facility size information certified in the post-construction certification package.

(k) If, after submittal of an initial registration package, an increase of up to 10 percent or 25 kWdc, whichever is smaller, in the solar electric generating facility's generating capacity is planned, the registrant shall notify Board staff following the instructions provided on the New Jersey Clean Energy Program website. Facilities shall not be permitted to increase their generating capacity by more than 10 percent or 25 kWdc, whichever is smaller. Notwithstanding a permissible increase pursuant to this subsection, no ADI-eligible facility will be permitted an increase in generating capacity that would expand the project beyond five MWdc.

(l) Solar electric generation facilities that have received a notice of conditional registration for SREC-IIs pursuant to (g) above shall retain eligibility to remain in the SuSI Program until the expiration or cancelation of the facility's SuSI registration. Any facility that does not commence commercial operation, within the time provided in its SuSI registration (that is, by the registration expiration date), or that commences commercial operation, but does not submit a post-construction certification package within the time provided in its SuSI registration (that is, by the registration expiration date), will no longer be eligible for the SuSI Program and its registration shall be canceled. A registrant may submit a new registration to the SuSI Program if capacity remains in the relevant megawatt capacity block as established at N.J.A.C. 14:8-11.7. Board staff and the SuSI Program registration manager shall treat the new registration package as if it were a first-time submittal, with no reference to the previous registration process. In the case of resubmittal of an expired registration, registrants will be exempt from the requirement at N.J.A.C. 14:8-11.4(b)prohibiting construction on the facility prior to submission of the registration and receipt of a notice of conditional registration.

§ 14:8-11.7 - Market segment megawatt blocks

(a) The Board shall set, through a Board order, an annual budget allocation for each of the market segments described at (b) below. The annual budget allocations shall ensure that total program spending remains in accordance with the cost cap established pursuant to P.L. 2018, c. 17, codified at N.J.S.A. 48:3-87(d)(2), and promote project diversity after considering the historic market share of each market segment. The Board may set annual budget allocations that are aggregated for multiple market segments.

(b) The Board shall allocate megawatt blocks to the following initial market segments in the ADI Program:

1. Net Metered Residential (all sizes);
2. Net Metered Non-Residential smaller than one MW, located on a rooftop, carport, canopy, or floating solar;
3. Net Metered Non-Residential one MW to five MW, located on a rooftop, carport, canopy, or floating solar;
4. Net Metered Non-Residential smaller than one MW, all ground mounted facilities;
5. Net Metered Non-Residential one MW to five MW, all ground mounted facilities; **and**
6. [LMI] Community Solar **(up to five MW)**, as defined in the [Community Solar Energy Pilot Program or] Community Solar Energy Program[, as relevant;]. **The Community Solar market segment may be divided into megawatt blocks for each EDC area.**
7. [Non-LMI Community Solar, as defined in the Community Solar Energy Pilot Program or Community Solar Energy Program, as relevant; and]
8. On an interim basis, contaminated sites, which is a market segment open only to facilities previously eligible for conditional certification pursuant to N.J.S.A. 48:3-87(t).

(c) The Board may adjust the market segments or create new market segments through a Board order to reflect changes in the solar market. In considering an adjustment, the Board shall include consideration of whether increased or decreased differentiation between market segments is necessary in light of the costs and revenues of different project types, administrative complexity, or the emergence of new technologies.

(d) Based on the annual budget allocation for each market segment established by the Board pursuant to (a) above, divided by a forecast of the estimated cost of NJ SREC-IIs from that market segment, the Board will establish, by Board order, an annual capacity megawatt block or quarterly capacity megawatt blocks for market segments. If the Board establishes quarterly megawatt blocks, unused capacity within a block will roll over from quarter to quarter within each given energy year. The Board may set capacity targets that are aggregated for multiple market segments.

(e) The SuSI Program registration manager shall accept new registration packages for a given market segment until the capacity block for that market segment is fully subscribed. When the capacity block for a given market segment is reached, the SuSI Program registration manager shall close the registration portal and stop accepting new registrations until the next capacity block is opened. 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.