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## **NOTICE<sup>1</sup>**

**Docket No. QO18060646**

### **New Jersey Community Solar Energy Pilot Program**

#### **Program Year 1 Lessons Learned**

#### **Request for Comments and Stakeholder Meeting Notice**

**Joseph L. Fiordaliso**  
President

Mary-Anna Holden  
Commissioner

Dianne Solomon  
Commissioner

Upendra Chivukula  
Commissioner

Bob Gordon  
Commissioner

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 ("NJBP" or "Board") invites all interested parties and members of the public to participate in a virtual stakeholder meeting to discuss the Community Solar Energy Pilot Program ("Pilot Program"). A description of the meeting and instructions on how to participate are provided below.

#### **Background**

On January 17, 2019, pursuant to the Clean Energy Act of 2018, the Board adopted rules establishing the Pilot Program. The rules were finalized and published in the New Jersey Register on February 19, 2019. The three-year Pilot Program is designed to provide the necessary experience and to lay the groundwork for the development and implementation of a full-scale Community Solar Energy Program.

On March 29, 2019, the Board approved and released the Program Year 1 ("PY1") Application Form. The Application Period opened on April 9, 2019 at 9:00 a.m. and closed on September 9, 2019 at 5:00 p.m. The Application Form was divided into four sections: Section A concerning the Application Form requirements, instructions, terms and conditions; Section B concerning community solar project description; Section C concerning required certifications; and Section D concerning appendices, including the evaluation rubric used to score applications.

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<sup>1</sup>Not a Paid Legal Advertisement

The Board received 252 applications by the deadline, representing almost 652 MWdc. Of these applications:

- 232 applications were for low- and moderate-income (“LMI”) projects (defined at N.J.A.C. 14:8-9.8(b) as projects committing at least 51% of project capacity to low- and moderate-income subscribers);
- 112 applications were sited on rooftops;
- 54 applications were sited on landfills, brownfields, areas of historic fill, or parking canopies; and
- 75 applications were for projects sited in part or in whole on farmland.

On December 20, 2019, the Board granted conditional approval to 45 community solar projects. All approved projects are LMI projects; 30 projects are sited on rooftops, 9 are sited on landfills, 6 projects are sited in part or in whole on parking canopies, brownfields, and a former sand and gravel site.

### **Stakeholder Engagement**

Continuing the dialogue with stakeholders on solar topics is important for Board staff. Due to public health and safety concerns, this meeting will be conducted via a webinar on:

**Date:** Monday, July 27, 2020

**Time:** 10:00 a.m. – 3:00 p.m.

The meeting will open with a brief presentation by Board Staff summarizing “lessons learned” from PY1 of the Pilot Program. The meeting will then be opened to comments from members of the public on each of the four main topics described in the Request for Comments below. A lunch break will be included. The preliminary schedule is as follows:

10:00 a.m. – 12:00pm

- Opening remarks and staff presentation
- Stakeholder comments: Topic 1 – Equity and the Inclusion of Low- and Moderate-Income Households

12:00 p.m. – 1:00p.m.

- Lunch Break

1:00 p.m. – 3:00p.m.

- Stakeholder comments: Topics 2, 3, and 4 – Program Years 1 and 2 Applications, Forms, and Process

To ensure available space and the security of the process, please register for the meeting no later than **12:00 p.m. (noon) on Friday, July 24, 2020** via the following link. If you wish to speak, please identify yourself as a speaker when registering, and indicate which topic(s) you intend to speak on. Speakers that register will be called first.

Registration link: <https://attendee.gotowebinar.com/register/7422139302080834316>.

After registering, you will receive a confirmation email containing information about joining the webinar and checking your system requirements. We encourage all webinar attendees to check their systems in advance of the meeting to ensure a smooth connection on the day of the meeting.

### **Request for Comments**

***The Board is seeking stakeholder feedback to build upon the solicitation and implementation of the Community Solar Energy Pilot Program, Program Year 1. For all questions below, the Board welcomes both feedback on what went well in Program Year 1, and recommendations for potential improvements in Program Years 2 and 3.***

Members of the public may file written comments with the Secretary of the Board via email in PDF or Word format to [board.secretary@bpu.nj.gov](mailto:board.secretary@bpu.nj.gov). Please use the subject line "Community Solar PY1 Comments" when submitting. Commenters may also electronically file comments through the Board's External Access Portal after obtaining a MyNewJersey Portal ID. Once you establish a MyNewJersey account, you will need an authorization code, which you can request by emailing NJBPU's IT Helpdesk at [ITHELPDESK@bpu.nj.gov](mailto:ITHELPDESK@bpu.nj.gov). More detailed instructions for e-Filing can be found [here](#). Please note that these comments may be considered "public documents" for purposes of the State's Open Public Records Act. Stakeholders may identify information that they wish to keep confidential by submitting them in accordance with the confidentiality procedures set forth in [N.J.A.C. 14:1-12.3](#).

All written comments must be received **on or before 10:00 a.m. on Monday, August 10, 2020**.

**The questions below include references to the PY1 Application Form, which can be found [here](#), and to the Pilot Program rules, which can be found [here](#).**

**Please direct all questions to [communitysolar@njcleanenergy.com](mailto:communitysolar@njcleanenergy.com).**

Staff looks forward to receiving and reviewing stakeholder comments.

### **Topic 1: Equity and the Inclusion of Low- and Moderate-Income Households**

*The Board endeavors to ensure that all residents of New Jersey, regardless of household type, structure, or personal finance, can participate in and benefit from the state's clean energy resources. To that end, the Pilot Program rules mandate that at least 40% of the Pilot Program annual capacity be reserved for LMI projects. By definition, developers with LMI projects commit at least 51% of project capacity to low- and moderate-income subscribers. Staff seeks recommendations on how to facilitate this inclusion and reduce barriers to entry.*

**Question 1:** How can the Board ease the process by which developers validate LMI status when enrolling subscribers?

- a) Should the Board consider amending the current rules regarding LMI subscriber verification, as defined at N.J.A.C. 14:8-9.8? If yes, how? For reference, please see Appendix 1 for selected excerpts of the relevant section of the rules.

- b) Please include a discussion of the following verification metrics, with examples from other states where applicable:
- a. LMI income affidavit;
  - b. verification by census tract; and
  - c. other means of encouraging and supporting LMI community solar participation.

Question 2: Current rules mandate that developers use the “opt-in” model for subscriber enrollment, in which a subscriber must affirm a community solar subscription with a wet or electronic signature. This is distinguished from the “opt-out” model, in which a subscriber is enrolled without affirmative consent, and given the option to unsubscribe (i.e., opt out) from the community solar subscription.

Based on experience with Program Year 1, as well as the successes or failures in other states, please provide feedback on the efficacy of the “opt-in” model, or, in the alternative, on the benefits and risks of the “opt-out” model for subscriber enrollment. In particular, please discuss:

*Opt-in Model:*

- a) From your perspective as a developer, subscriber, community organization, third-party entity, etc., please describe your experience using the “opt-in” model in Program Year 1. What challenges did you encounter? What, if anything, would you change about the process? Please specifically identify whether you are working on a community solar project approved in Program Year 1.
- b) Are there examples of other states that have been particularly successful or unsuccessful using an “opt-in” model for community solar? What has made them successful or unsuccessful?

*Opt-out Model:*

- c) What would be the advantages and risks of implementing opt-out for community solar? Is an opt-out model the best approach to facilitating low- and moderate-income subscriber enrollment?
- d) What consumer protection measures would need to be established in order to implement an opt-out mechanism for community solar?
- e) In what ways could an opt-out model of community solar subscriber enrollment be similar to, and different from, the model currently implemented under Government Energy Aggregation in New Jersey?
- f) Are there examples of other states successfully using an “opt-out” model for community solar? If so, what makes them successful?

Question 3: How can the Board leverage existing programs (e.g. Comfort Partners, USF, etc.) to facilitate enrollment of LMI customers in community solar?

Question 4: How can the Board leverage, or partner with, community organizations or others to facilitate equitable inclusion of community solar subscribers, including education, marketing, and enrollment?

Question 5: What are the challenges specific to ensuring that low- and moderate-income households in master-meter buildings can become community solar subscribers?

- a) How common are these type of master metered apartments?
- b) Please describe the feasibility of reforming rates to ensure customers in master metered buildings receive community solar credits equivalent to those of single-family households.
- c) Please address any unintended consequences of this type of rate reform?
- d) What measures should the Board consider to alleviate these challenges?

Question 6: What additional suggestions do you have to facilitate inclusion of LMI households?

**Topic 2: Program Year 1 Application Form and Application Process**

*For reference, please refer to the [PY1 Application Form](#) when responding to questions in Topic 2 specific to the application process.*

Question 7: Please provide feedback on the process of submitting an Application. In particular, please discuss:

- a) Length of the application period: should the PY2 application period be longer, shorter, or equal to the 5-month application period in PY1?
- b) Should the Board implement a process for submitting an application via an online application form? If it is not possible to establish an online application process, how can the Board improve the process for submitting a hard copy application?

Question 8: Please provide feedback on Section A of the PY1 Application Form (Application Form requirements, instructions, terms and conditions). Were the instructions sufficiently clear?

Question 9: Please provide feedback on Section B of the PY1 Application Form (community solar project description). In particular, please discuss:

- a) Were certain questions unclear?
- b) Should certain questions in the PY1 Application Form be omitted from the PY2 Application Form? Why would you recommend excluding them?
- c) Should certain questions that were not asked in the PY1 Application Form be included in the PY2 Application Form? What would you recommend, and why?

Question 10: Please provide feedback on Section D of the PY1 Application Form (certifications).

Question 11: Please provide feedback on Appendix A: Product Offering Questionnaire from the PY1 Application Form.

- a) Did this questionnaire accurately reflect the diversity of possible community solar product offerings?

- b) Should any changes be made to this questionnaire?

Question 12: Please provide feedback on Appendix B: Required Attachments Checklist from the PY1 Application Form.

- a) Was the Appendix B checklist helpful to completing the Application Form?
- b) Should the Board modify the list of attachments required in PY2?
- c) Are there certain required attachments for which the Board should provide further instructions and/or a standard template?

Question 13: Please provide feedback on Appendix C: Evaluation Criteria from the PY1 Application Form. In particular, please discuss:

- a) Was Appendix C useful to Applicants in creating their applications?
- b) Should the Board modify the evaluation criteria for PY2? For example, should the Board give more or less weight to certain evaluation criteria in PY2?
- c) Are there criteria that were not considered in PY1 that should be considered in PY2? If yes, how would the Board evaluate, score, and verify these criteria?
- d) Please address whether the Board should consider awarding more potential points for projects proposing to serve more than 51% LMI customers and how such scoring would work.

### **Topic 3: Program Year 2 Application Process**

Question 14: The PY1 capacity was 75 MW(dc). Pursuant to N.J.A.C. 14:8-9.4(b), the PY2 capacity must be at least 75 MW(dc), but could be more. Staff is considering recommending that the Board increase capacity in PY2 to 100 MW(dc), and to 125 MW(dc) for PY3, with the intention of soliciting annually for 150 MW(dc) in the permanent program. Please comment on this proposed plan.

Question 15: The 45 applications granted conditional approval in PY1 represented 17 unique applicants. Should the Board consider limiting the number of applications that are submitted by a single developer, or limit the number of applications by a single developer that will be conditionally approved?

Question 16: For ground-mount projects, please provide feedback on the DEP Permit Coordination checklist process.

Question 17: The PY1 Application Form made certain sections optional for government entities. Did this facilitate applications by government entities? Should the Board consider a fully separate carve-out and application process for government entities?

### **Topic 4: Other**

Question 18: Should the Board consider amending the Pilot Program rules to require that community solar subscriptions guarantee savings compared to the subscriber's electric bill

without community solar, as an added consumer protection measure, particularly given that all awarded projects already committed to doing so in the PY1 applications?

Question 19: Should the Board consider amending the construction timelines and extension policies at N.J.A.C. 14:8-9.3(c)? If yes, how? Currently, applicants have 6 months to start construction, and 12 months to become fully operational, with an unlimited number of possible extensions (so long as projects can demonstrate continued progress). Excerpts of the relevant section of the rules are provided in Appendix 1 below.

Question 20: Should the Board consider restricting the 10-subscriber minimum exemption at N.J.A.C. 14:8-9.6(d) to only buildings that serve low- and moderate-income residents? Currently, the exemption applies to all multi-family buildings which have a community solar system located on-site. Excerpts of the relevant section of the rules are provided in Appendix 1 below.

Question 21: How is the Pilot Program impacted by the ongoing transition in solar incentives from the Transition Incentive Program to the Successor Program?

Question 22: A number of resources are available to prospective community solar applicants, including a [Frequently Asked Questions](#) page, EDC hosting capacity maps, and the Department of Environmental Protection [Community Solar PV Siting Tool](#).

- a) What other resources do you believe the Board should provide to facilitate community solar development in New Jersey?
- b) Should the Board provide technical assistance grants for the development of community solar projects? If yes, to whom and under what conditions?

Question 23: How can Staff otherwise support community solar developers and subscribers to ensure success?

Question 24: Please provide comments on issues associated with the Pilot Program not specifically addressed in the questions above.

### **Appendix 1: Selected excerpts from the Community Solar Energy Pilot Program rules**

N.J.A.C. 14:8-9.8(a)

- (a) A low- and moderate-income subscriber for the purposes of this subchapter is as follows:
1. A low-income household or a moderate-income household.
  2. Affordable housing providers may also qualify as an LMI subscriber for the purposes of a community solar project. In order to do so, they must:
    - i. Demonstrate in their application to the Board and sign an affidavit that they are passing along specific, substantial, identifiable, and quantifiable long-term benefits to their residents/tenants; and
    - ii. Sign and submit to the Board, an affidavit indicating that they will pass along said specific, substantial, identifiable, and quantifiable long-term benefits to their residents/tenants.

N.J.A.C. 14:8-9.8(d)

(d) The following LMI eligibility criteria shall be applied:

1. If the community solar pilot project is sited on government-owned property, and is serving LMI subscribers living on that property, the government site owner may provide a sworn statement that those community solar pilot project subscribers are considered LMI for the purposes of the Pilot Program.

2. In all other cases, subscribers must be individually qualified as LMI for the purposes of the Pilot 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, and/or Lifeline Utility Assistance Program; or

ii. A copy of the first and second page of the subscriber's three previous years' Federal income tax returns. The second page must be signed if self-prepared. The returns shall be submitted directly to the subscriber organization, along with a sworn statement that the information contained within the tax returns is true and accurate. Tax returns are to be treated as confidential under all applicable Federal and State laws. For subscribers that are not required to file, a non-filing verification letter from the IRS would need to be provided.

3. Qualification of a household as low-income or moderate-income is required only once per subscription, at the time of execution of the subscription agreement or contract.

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.

N.J.A.C. 14:8-9.3(c)7

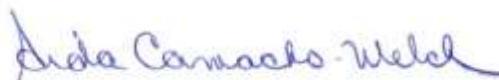
7. Approved projects are expected to begin construction within six months of their approval by the Board. Board staff may approve one or more two-month extensions if substantial progress is shown towards beginning construction within the initial six month-period, as determined upon review by Board staff based on the specific circumstances of the project.

N.J.A.C. 14:8-9.3(c)8

8. Approved projects are expected to become fully operational (up to and including having subscribers receive bill credits for their subscription to the project) within 12 months of their approval by the Board. Board staff may approve one or more six-month extensions if substantial progress is demonstrated towards becoming fully operational within the initial 12-month period, as determined upon review by Board staff based on the specific circumstances of the project.

N.J.A.C. 14:8-9.6(d)

(d) Multi-family buildings with a community solar project sited on their property are exempt from the 10-subscriber minimum, so long as they demonstrate in their application that the project is intended to provide specific, identifiable, and quantifiable benefits to the households residing in said buildings.



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Aida Camacho-Welch  
Secretary of the Board

Dated: July 9, 2020