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**DIVISION OF CONSUMER AFFAIRS
OFFICE OF THE DIRECTOR
Notice of Redoption
Uniform Regulations
Redoption: N.J.A.C. 13:45C**

Authority: N.J.S.A. 5:8-30.2, 45:1-17.b, and 52:17B-122.
Authorized By: Cari Fais, Acting Director, Division of Consumer Affairs.
Effective Date: September 9, 2024.
New Expiration Date: September 9, 2031.

Take notice that pursuant to N.J.S.A. 52:14B-5.1, the rules at N.J.A.C. 13:45C were scheduled to expire on November 21, 2024. The rules concern uniform regulations applicable to licensees, permittees, certificate holders, and registrants of the Division of Consumer Affairs (Division), any professional and occupational licensing board or committee located within the Division, and the Legalized Games of Chance Control Commission.

Subchapter 1 outlines the rules applicable to licensees', permittees', certificate holders', and registrants' duty to cooperate and to comply with board orders. Subchapter 2 establishes standards for requests for waivers from regulatory requirements. Subchapter 3 contains rules concerning the use of performance-based outcomes assessments when resolving alleged violations. Subchapter 4 establishes that discrimination, harassment, or retaliatory conduct by licensees, permittees, certificate holders, and registrants constitute professional or occupational misconduct. Such misconduct is subject to discipline by the relevant licensing boards and committees.

The Director of the Division has reviewed the rules and has determined them to be necessary, reasonable, and proper for the purpose for which they were originally promulgated, as required pursuant to Executive Order No. 66 (1978). Therefore, pursuant to N.J.S.A. 5:8-30.2, 45:1-17.b, and 52:17B-122, and in accordance with N.J.S.A. 52:14B-5.1.c(1), these rules are readopted and shall continue in effect for a seven-year period.

(b)

**DIVISION OF CONSUMER AFFAIRS
OFFICE OF THE DIRECTOR
Notice of Redoption
Health Care Professional Reporting Responsibility
Redoption: N.J.A.C. 13:45E**

Authority: N.J.S.A. 45:1-33, specifically 45:1-41.
Authorized By: Cari Fais, Acting Director, Division of Consumer Affairs.
Effective Date: September 9, 2024.
New Expiration Date: September 9, 2031.

Take notice that pursuant to N.J.S.A. 52:14B-5.1, the rules at N.J.A.C. 13:45E were scheduled to expire on November 21, 2024. The rules implement the Health Care Professional Responsibility and Reporting Enhancement Act, N.J.S.A. 45:1-33 et seq.

Subchapter 1 outlines the purpose of the rules. Subchapter 2 sets forth definitions. Subchapter 3 establishes requirements for notification to the Clearing House Coordinator. Subchapter 4 establishes requirements for notification to a health care professional by a health care entity. Subchapter 5 contains rules concerning reports to the Clearing House Coordinator. Subchapter 6 establishes requirements for the disclosure of information to a health care entity. Subchapter 7 concerns confidentiality. Subchapter 8 concerns records. N.J.A.C. 13:45E Appendix sets forth the Health Care Professional Responsibility and Reporting Enhancement Act Reporting Form.

The Director of the Division of Consumer Affairs has reviewed the rules and has determined them to be necessary, reasonable, and proper for

the purpose for which they were originally promulgated, as required by Executive Order No. 66 (1978). Therefore, pursuant to N.J.S.A. 45:1-33, specifically 45:1-41, and in accordance with N.J.S.A. 52:14B-5.1.c(1), these rules are readopted and shall continue in effect for a seven-year period.

(c)

**DIVISION OF CONSUMER AFFAIRS
OFFICE OF THE DIRECTOR
Notice of Redoption
Disposition of Consumer Complaints
Redoption: N.J.A.C. 13:45G**

Authority: N.J.S.A. 45:1-18, specifically 45:1-18.3.
Authorized By: Cari Fais, Acting Director, Division of Consumer Affairs.
Effective Date: September 9, 2024.
New Expiration Date: September 9, 2031.

Take notice that pursuant to N.J.S.A. 52:14B-5.1, the rules at N.J.A.C. 13:45G were scheduled to expire on November 21, 2024. The rules implement P.L. 2010, c. 17, which requires that a final disposition of a consumer complaint filed with a board or committee, the Director, through the Attorney General, or the Attorney General, be rendered within 120 days of the filing of the complaint, subject to certain events that toll the 120-day period.

Subchapter 1 establishes requirements for the disposition of consumer complaints. The rules in the subchapter set forth the purpose and scope of the chapter, definitions used in the chapter, the 120-day period for final disposition of a complaint, and standards for tolling this timeframe. The rules also provide standards for perfecting a consumer complaint and reporting to the Attorney General.

The Director of the Division of Consumer Affairs has reviewed the rules and has determined them to be necessary, reasonable, and proper for the purpose for which they were originally promulgated, as required by Executive Order No. 66 (1978). Therefore, pursuant to N.J.S.A. 45:1-18, specifically 45:1-18.3, and in accordance with N.J.S.A. 52:14B-5.1.c(1), these rules are readopted and shall continue in effect for a seven-year period.

PUBLIC UTILITIES

(d)

**BOARD OF PUBLIC UTILITIES
Community Solar Energy Program
Adopted Amendments: N.J.A.C. 14:8-9.1, 9.2, 9.3,
9.6 through 9.11, 11.5, and 11.7
Adopted New Rules: N.J.A.C. 14:8-9.3 and 9.5
Adopted Repeal: N.J.A.C. 14:8-9.4**

Proposed: September 18, 2023, at 55 N.J.R. 1985(a) (see also 55 N.J.R. 2048(a)).
Adopted: September 4, 2024, by the New Jersey Board of Public Utilities, Christine Guhl-Sadovy, President, Dr. Zenon Christodoulou, Ph.D. and Michael Bange, Commissioners.
Filed: September 4, 2024, as R.2024 d.094, **with non-substantial changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3) and **with proposed N.J.A.C. 14:8-9.5(d)3 and 4, 9.5(e), (g), and (h), 9.6(l)2 and 4, 9.7(b), 11.2, and 11.5(d)2ii and iii not adopted, but still pending.**
Authority: N.J.S.A. 48:3-87.11, 48:3-115, and 48:3-116.
BPU Docket Number: QX23070434.

Effective Date: October 7, 2024.
Expiration Date: February 27, 2026.

Summary of Public Comments and Agency Responses:

The Board of Public Utilities (Board) received written comments from Arcadia Power; Atlantic City Electric (ACE); Coalition for Community Solar Access and Solar Energy Industries Association (CCSA-SEIA); CS Energy; Gabel Associates; Good Energy; Modern Renewables/Bromley Community Solar (Modern Renewables/Bromley); NAACP NJ State Conference; NAIOP New Jersey; New Jersey Division of Rate Counsel (RC); Prologis; Public Service Electric and Gas Company (PSE&G); and Solar Landscape.

General Comments

1. COMMENT: The commenter commends the Board's efforts in addressing both resiliency and the expansion of renewable energy within the State, while recognizing the complexity of challenges the energy sector faces. (Good Energy)

RESPONSE: The Board thanks Good Energy for its comment.

2. COMMENT: The commenter notes that significant resources are required for marketing of community solar subscribers and suggests that the Board's expertise is needed for guidance to facilitate the understanding of community solar, to identify and increase participation of low- and moderate-income (LMI) subscribers, and to help in targeting efforts to reach and sign up LMI subscribers. Board guidance and expertise would maximize benefits to the community and provide more efficient resource use for program participants. (Modern Renewables/Bromley)

RESPONSE: The Board agrees with the commenter that customer awareness and education are important factors in the success of the Community Solar Energy Program (CSEP). The Board does not believe the rules are the appropriate medium by which such information should be disseminated but intends to continue to expand its efforts to provide information to the public about its clean energy programs.

3. COMMENT: The commenter supports the establishment of the permanent CSEP and provides the role commercial real estate owners can play in combating climate change by providing project siting opportunities. The commenter recommends increasing the annual capacity block allocations to at least 500 megawatts (MW) to support solar development and meet the State's clean energy goals. (NAIOP New Jersey)

RESPONSE: The Board thanks the commenter for its support and notes that the rules allow the Board to set capacity allocations by Board Order. The Board will take the commenter's recommendation into account, along with statutory requirements and costs to ratepayers, when it next opens megawatt blocks.

4. COMMENT: The commenter supports the inclusion at N.J.A.C. 14:8-9.6(l) in the Board's rulemaking, which will allow projects to conduct automatic enrollment and benefit LMI customers and emphasizes the sound legal basis on which the inclusion was made. (NAACP NJ State Conference)

RESPONSE: The Board thanks NAACP NJ State Conference for its support.

SUBCHAPTER 9. COMMUNITY SOLAR ENERGY PROGRAM

N.J.A.C. 14:8-9.2 Definitions

5. COMMENT: The commenter suggests modifications to the definition of "guaranteed bill credit discount" that would describe how subscriber savings would be calculated, using "the value of the bill credits received by the customer net of subscription fees" as the numerator and "the customer's bills attributable to an amount of electric usage" as the denominator. (RC)

RESPONSE: The Board disagrees with the commenter's proposed language, which is not consistent with how the bill credit discount rate is determined. The Board intends the bill credit discount to be calculated as the intended net consumer savings as the numerator and the dollar amount of bill credits applied, as provided by the electric distribution companies (EDCs) to represent the energy generated by a project and allocated to the subscriber's bill, as the denominator. While a customer's bills may vary

due to different electric rate charges above or below certain consumption thresholds, the bill credit is a fixed value and easier to plan for.

N.J.A.C. 14:8-9.3 Community Solar Energy Program Registration Process

6. COMMENT: The commenter agrees with the Board's decision to move away from the Pilot Program's scoring rubric with multiple factors but asserts that there should be a competitive solicitation process using the guaranteed bill credit discount as the deciding criterion in all cases, not only to be used as a tiebreaker in the event of oversubscription during an initial registration period. The commenter recommends that all projects should compete, noting that benefits to subscribers will not be maximized without an incentive for developers to "sharpen their pencils" and compete because competition is the best method absent direct regulatory review of developers' books. The commenter notes that the current rulemaking allows developers to "wait and see" if there is an oversubscription and then decide whether to submit an application that will not be subject to competitive selection. (RC)

RESPONSE: The Board agrees that competition should be an important element of project approval and believes that the adopted format adequately uses competition to select the projects that offer the highest bill credit discounts. Even in a purely competitive solicitation process, if there are not enough projects to fill a capacity block, then all projects would be approved regardless of the guaranteed bill credit discounts offered. The Board does not see a substantive difference between its adopted process and the commenter's recommendation.

7. COMMENT: The commenter does not support the requirement at N.J.A.C. 14:8-9.3(e) for applicants to post a bond with the Board upon conditional registration, as the commenter considers this an added cost to the project. The commenter also does not support the forfeiture of the bond if the commercial operation deadline is not met, noting this provision is unfairly punitive because the fragility of supply chains may cause delays outside of the applicant's control. (Modern Renewables/Bromley)

RESPONSE: The Board believes that it is important that the capacity it allocates for the CSEP is constructed to serve New Jersey residents and to meet the State's clean energy goals in a timely manner. The requirement to post escrow for projects that have registered in the CSEP is to prevent speculative applications that may use the limited allocated capacity without being built when other project developers are also seeking to apply for the capacity. The program provides an opportunity for a six-month extension should a project face delays.

8. COMMENT: The commenter recommends against use of a bill credit discount rate as a tiebreaker if a capacity block is fully subscribed during an initial registration period because the commenter does not anticipate this method will be necessary given the initial capacity allocation was released on November 15, 2023; it may create a more complicated administrative process and lead to speculation by applicants, and it may be biased against more expensive development. The commenter instead suggests using project maturity milestones, such as receipt of interconnection approval. (CCSA-SEIA)

RESPONSE: The Board disagrees with the commenter's stated drawbacks to the project selection methods, noting that the first capacity allocation has gone smoothly without administrative difficulty, that the escrow requirement is intended to prevent speculation, and that subscribers benefit when lower-cost projects that can offer greater discounts receive priority.

9. COMMENT: The commenter recommends that the megawatt block capacity limits not apply to co-located projects located on contaminated sites and landfills that applied in the community solar pilot program (Pilot Program) that meet the eligibility requirements but did not receive awards, noting that co-located projects on contaminated sites and landfills have been unfairly impacted by the Board's rule change to remove the ability to co-locate projects. The commenter also recommends permitting projects sited on sand and gravel pits that applied to the Pilot Program be permitted to register in the program. Additionally, the commenter suggests the Board grant entrance to the program for such "legacy" projects irrespective of the megawatt block capacity limits upon approval of their respective co-location waivers. (CS Energy)

RESPONSE: The Board exempted projects that were awarded capacity in the Pilot Program, but did not reach completion before their deadlines,

from the capacity limits in the CSEP because it had previously expressed a desire to provide a smooth transition for projects in the Transition Incentive Program, which did not have opportunities for extension, to the Successor Solar Incentive (SuSI) Program. The Board declines to extend this exemption to projects that were not previously awarded capacity. The Board addresses co-location of projects on landfills, as well as the sand and gravel pits, in the Notice of Proposed Substantial Changes Upon Adoption, published elsewhere in this issue of the New Jersey Register.

N.J.A.C. 14:8-9.5 Community Solar Energy Program Eligibility

10. COMMENT: The commenter generally supports the eligibility requirements reflected in this section, noting, however, that projects on the permitted siting types are more likely to be more expensive than other site types, therefore, increasing required subsidies or reducing subscriber benefits. The commenter further notes strictly limiting permanent CSEP projects to certain siting types remains at odds with the goal of providing maximum ratepayer benefit at the lowest cost. The commenter recommends instead adopting the siting criteria used for the Competitive Solar Incentive (CSI) Program, including the siting type and maximum county occupancy on unreserved land containing prime agricultural soils and soils of Statewide importance, with the suggestion that the Board modify the restrictions so that community solar projects do not count against either the 2.5 percent Statewide limit or the five percent county limit. The commenter further recommends that community solar projects be prohibited on prime agricultural soils and soils of Statewide importance. (RC)

RESPONSE: The Board notes that the CSI Program and its siting standards were designed for larger projects, which may require more significant land than the smaller projects permitted in the CSEP. The Board believes that its rules appropriately balance the goals of reducing ratepayer costs and approving projects with preferred siting and that subscribers will be able to receive substantial benefits from projects on rooftops, canopies, contaminated sites and landfills, and certain bodies of water. The Board notes that the cited cost estimates from 2013 no longer accurately represent the relative costs of solar installations in New Jersey. The Board believes there is adequate interest in the CSEP from projects on preferred site types such that expansion to the CSI siting standards is not necessary.

11. COMMENT: The commenter notes that proposed N.J.A.C. 14:8-9.5(f), regarding consideration of projects as connected to the distribution system is unnecessary in the context of the SuSI Program and recommends deleting the provision. (RC)

RESPONSE: The Board agrees with the commenter that the provision is not relevant and has removed it upon adoption. N.J.A.C. 14:8-11.4(e) states that "Facilities seeking eligibility to participate in the ADI Program must be connected to the distribution or transmission system owned or operated by a New Jersey electric distribution company," which sufficiently covers the intent of the provision.

N.J.A.C. 14:8-9.6 Subscription Requirements

12. COMMENT: The commenter asks if a solar project asset could be allocated 50 percent to a municipality under automatic enrollment terms and 50 percent under non-automatic enrollment terms. (Good Energy)

RESPONSE: The Board notes that the rules do not restrict a project that automatically enrolls subscribers from also subscribing customers using traditional subscription practices. A project that automatically enrolls subscribers must meet the 80 percent LMI requirement, regardless of what percentage of the project is subscribed using the automatic enrollment method. The Board added clarification at N.J.A.C. 14:8-9.6(l)7i that residential and affordable housing customers may be automatically subscribed.

13. COMMENT: The commenter requests clarification of the word "temporary" as it relates to the ownership of an automatic enrollment project and asks if a local government is not required to take ownership at any time, so long as the local government serves as the subscriber organization or contracts with a third party to fulfill the subscriber organization role. (Good Energy)

RESPONSE: The Board confirms that, if the local government serves as the subscriber organization or contracts with a third party to fulfill the subscriber organization role, the local government is not required to own the automatic enrollment project. Local governments will not be required

to take ownership, so long as they serve as the subscriber organization or contract with a third party to fill that role.

14. COMMENT: The commenter asks if it is the intent of the Board that local governments use a public procurement process and recommends the proposed rules clarify that local governments may choose to subcontract the performance of utilizing "project subscribers" and "advisory services." The commenter also asks if advisor services must be publicly procured. (Good Energy)

RESPONSE: The Board notes that the rules permit local governments to use a public procurement process to contract with a community solar project or advisory services if they do not intend to do such activities themselves. Local governments are permitted to subcontract the performance of utilizing project subscribers or advisory services; the rules do not prohibit these practices. The rules also do not alter any requirements that a local government must conform to in contracting for services.

15. COMMENT: The commenter recommends the full removal of the local government auto-enrollment section of the rulemaking arguing: 1) opt-in community solar is the most cost-effective way to preserve affirmative choice to enroll in a community solar project; 2) allowing local government automatic enrollment will result in a ratepayer-funded windfall profit for developers but present less value to the State through education; 3) municipalities could size subscriptions at minimal levels, resulting in negligible utility bill savings for subscribers; 4) local government automatic enrollment would lead to discriminatory customer access; 5) there is uncertainty as to how government energy aggregation (GEA) entities or municipalities will settle customer enrollment in community solar projects in cases if a customer is already subscribed to a different project; 6) other jurisdictions have declined to permit local government auto-enrollment; and 7) billing, crediting, and broader consumer protections need to be fully addressed before an opt-out program can be properly implemented because automatic enrollment will remove subscriber organizations from the market. (Arcadia Power)

RESPONSE: The Board thanks the commenter for raising these specific concerns regarding enabling community solar projects to automatically enroll subscribers and the role of community solar subscriber organizations. However, the Board declines to remove the provisions for automatic enrollment. In response to the commenter's enumerated concerns: 1) The Board disagrees that automatic enrollment infringes on customer choice to enroll in community solar projects because the rules require that all subscribers be notified of their automatic subscription, given ample time to opt out of the project, and informed that other enrollment options exist. 2) The Board appreciates the commenter's emphasis on educational investment for community solar enrollment; however, the Board believes that municipalities are well suited to educate their own constituents on the community solar project they are enrolling them in. 3) Automatic enrollment projects must include a method of subscriber selection in their applications, and the Board will have oversight on potential irregularities. The rules also allow sharing of customer usage data to ensure appropriately sized subscriptions for projects and savings for customers. 4) The Board disagrees that automatic enrollment leads to discriminatory access or that GEA entities have an unfair advantage implementing automatic enrollment because all automatic enrollment projects must subscribe or reserve 80 percent of their capacity to LMI households. The Board also proposes the ability to limit the capacity or number of projects that may become automatic enrollment projects or partner with a municipality in the Notice of Proposed Substantial Changes Upon Adoption, published elsewhere in this issue of the New Jersey Register. 5) The rules require municipalities to notify selected subscribers both 90 days and 30 days before a subscription is set to begin, providing a window for customers to opt out of enrollment to prevent such confusion and the usurping of project choice. 6) The Board believes the implementation of automatic enrollment will expand the reach of the CSEP to serve New Jersey's most underserved populations who may not know about community solar or would be less likely to subscribe to the program on their own using traditional subscription methods. The Board's program is intended to be similar to a New York utility's Expanded Solar For All program that automatically enrolls low-income electric customers in its existing Energy Affordability Program, and the Board intends to model automatic

enrollment as part of a Statewide program. 7) The Board agrees with the commenter and is forming a working group to address billing and crediting methods, as well as consumer protections that will guide the automatic enrollment tranche of CSEP. The rule requires consolidated billing to be implemented before automatic enrollment can take effect. Subscriber organizations will still be involved in subscriber acquisition for opt-in projects and can be hired to assist municipalities with enrolling customers.

16. COMMENT: The commenter recommends safeguards to ensure that the opt-in model is preserved, if the Board permits an opt-out model: 1) automatic enrollment projects should receive a reduced incentive amount that is commensurate with the value developers provide pursuant to local government automatic enrollment and that developers pursuing local government automatic enrollment not be permitted to access the SREC; 2) automatic enrollment should be capped at 20 percent of annual program capacity to level the playing field and ensure opt-in projects can operate; and 3) projects should be sited within the same municipality as their subscribers. The commenter, therefore, recommended that the Board adopt a proposed pilot before fully allowing an untested opt-out model. (Arcadia Power)

RESPONSE: The Board appreciates the commenter's recommendations and intends for the opt-in model of community solar to coexist with the automatic enrollment projects. The Board believes that a municipality's competitive solicitation for projects will result in the value saved by automatic enrollment reflected in a project's bill credit offering and ultimately passed on to the customers. SuSI Program rules require the SREC-II value be reset at least every three years, and the relevant costs of subscriber acquisition will be considered. The Board further believes that a dedicated pilot program is not necessary, and it may adjust the rules and procedures in response to the program roll-out and experience of automatic enrollment. The Board addresses the commenter's second recommendation in the Notice of Proposed Substantial Changes Upon Adoption, published elsewhere in this issue of the New Jersey Register.

17. COMMENT: The commenter recommends that EDCs should have an extended period of 30 days to notify subscriber organizations when an EDC account associated with a community solar project is terminated or suspended for any reason rather than the proposed 10 days, as the commenter's systems are not set up to accommodate this change because the subscription management team is notified through monthly allocation reports. (ACE)

RESPONSE: The Board recognizes the commenter's concerns about the feasibility of meeting this requirement and accepts its recommendation to allow 30 days to notify subscriber organizations of customer account closures or suspensions and has made the change upon adoption at N.J.A.C. 14:8-9.6(f)6.

18. COMMENT: The commenter opposes the addition of "excluding net-metered generation" at N.J.A.C. 14:8-9.6(f)1 and instead recommends adding language prohibiting customers with net-metered solar facilities from having community solar subscriptions. (RC)

RESPONSE: The Board does not intend to prevent customers who participate in net metering from participating in community solar. In many instances, a building may be able to support some net-metered solar power, but its electric usage may be greater than the installation's generation due to building shape or shading restrictions, purchase of an electric car, building electrification, etc. In these cases, community solar may be available to support clean energy for the remaining usage.

19. COMMENT: The commenter does not object to the requirement at N.J.A.C. 14:8-9.6(j) that all CSEP projects serve a minimum of 51 percent LMI subscribers, as measured by the capacity subscribed. (Modern Renewables/Bromley)

RESPONSE: The Board thanks the commenter for their support.

20. COMMENT: The commenter agrees with the provision at N.J.A.C. 14:8-9.6(k) that subscribers to a project may be located anywhere within the EDC service territory. The commenter requests that existing community solar projects approved during the Pilot Program also be allowed to serve the larger geographic areas without respect to the application requirements and without the need for a petition to the Board in which good cause must be established. (Modern Renewables/Bromley)

RESPONSE: The Board declines to waive the geographic restrictions set for pilot projects because this criterion in the scoring of project

applications was a key differentiator in project ranking. To retroactively remove this scoring criterion-based requirement for all pilot projects would have changed the resulting project approvals in both Pilot Year 1 and Pilot Year 2 and would be unfair to projects that were not selected on this basis.

21. COMMENT: The commenters recommend that projects be located within a local government's geographic boundary to prevent them from monopolizing participation opportunities and benefit local governments through localized project development and economic activity. (CCSA-SEIA)

22. COMMENT: The commenter recommends projects be located within or close to a local government's geographic boundary and that the requirement at N.J.A.C. 14:8-9.6(1)4 be revised to enroll "within one mile of the boundary of the associated local government," as this would keep benefits local and maintain the opt-in option. (Arcadia Power)

RESPONSE TO COMMENTS 21 AND 22: The Board declines to make the commenters' recommendation because many municipalities may have limited suitable project sites within or near their boundaries. The Board is proposing in the Notice of Proposed Substantial Changes Upon Adoption, published elsewhere in this issue of the New Jersey Register to permit projects to be located in the same EDC service territory as a partner municipality to allow flexibility for automatic enrollment partnerships.

23. COMMENT: The commenter recommends that a local government competitively solicit bids from community solar developers to maximize community and subscriber benefits. The commenter also recommends that there should be transparency and protections for automatically enrolled subscribers, such as informing potential subscribers that there is a competitive market for community solar and that existing subscribers are not re-enrolled. (CCSA-SEIA)

RESPONSE: The Board agrees with the need for consumer protections and notes that the rule requires that municipalities send selected subscribers a notice prior to enrollment that "there are potentially other projects and competing subscription opportunities," as well as that "it is the responsibility of the subscriber organization to verify that their subscribers are not already subscribed to another community solar project." The Board also notes that automatic enrollment provisions state that local governments, if they do not intend to develop or own the project themselves, "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."

24. COMMENT: The commenter supports the inclusion of municipal automatic enrollment, which would benefit LMI customers. The commenter states that N.J.S.A. 48:3-94.a(4)(b) authorizes the Board to allow EDCs to transfer customer information to municipalities for automatic enrollment in community solar projects. (NAACP NJ State Conference)

RESPONSE: The Board disagrees that N.J.S.A. 48:3-94.e(4) gives the Board authority to allow disclosure of customer information because this provision pertains to government energy aggregation programs, but automatic enrollment in community solar projects is not a government energy aggregation program. The Board notes that N.J.S.A. 48:3-85.b(2), as amended at P.L. 2023, c. 200, an act concerning the CSEP, provides permission for data disclosure in automatic enrollment programs.

25. COMMENT: The commenter states that existing State law prohibits EDCs from providing customer data to municipalities without their consent, so an "opt-out" program may not be able to be administered without data privacy concerns. The commenter notes that effectively administering an "opt-out" program requires municipalities to determine how to allocate appropriate subscription sizes to automatic enrollees, a process that the commenter identifies is likely not possible without collecting energy usage history of individual customers from the EDCs. Further, the commenter identifies that N.J.S.A. 48:3-85.b(1) prohibits it from disclosing customer information without consent of the customer, so it would be unable to freely provide such information to municipalities.

The commenter also raises concerns of a potential data breach and the damage the commenter and customers may suffer, so the commenter recommends that any vendor with which a local government contracts for third-party maintenance of an automatic enrollment project, as outlined at

N.J.A.C. 14:8-9.6(l)5, be required to meet the same cybersecurity measures required of the EDCs. (PSE&G)

RESPONSE: The Board notes that N.J.S.A. 48:3-85.b(2), as amended at P.L. 2023, c. 200, provides permission for data disclosure by EDCs to a local government or its agent for automatic enrollment programs. The Board declines to adopt additional cybersecurity measures at this time.

26. COMMENT: The commenter recommends changing “all rate classes” at proposed N.J.A.C. 14:8-9.6(e) to “residential customers” because the permanent CSEP is available to residential customers only. (PSE&G)

RESPONSE: The Board disagrees with the commenter’s statement and declines to make the recommended change, as non-residential customers may also subscribe to a community solar project.

27. COMMENT: The commenter recommends further discussion by the community solar billing working group on provisions regarding subscription portability and the deletion of N.J.A.C. 14:8-9.6(f), noting that the proposed portability of subscriptions is contrary to all existing billing services and, if required, will impose significant development costs upon the EDCs. (PSE&G)

RESPONSE: The Board intends for subscription portability to be with respect to a contracted subscription with a subscriber organization and does not intend to require EDCs to implement additional changes to billing systems for this. If a subscriber moves, a subscriber organization may update the subscriber’s utility account number and subscription size.

N.J.A.C. 14:8-9.7 Community Solar Billing

28. COMMENT: The commenter supports consolidated billing but anticipates it will need until July 2025 to complete necessary billing system enhancements. Additionally, the integration of consolidated billing will be better informed once the Board-ordered working group convenes to develop consolidated billing. (ACE)

RESPONSE: The Board recognizes the time it may take for the EDCs to design, develop, and test consolidated billing systems but declines to extend the implementation deadline and will continue to work with the EDCs through the billing working group to support meeting this deadline.

29. COMMENT: The commenter opposes the calculation of bill credits for master-metered affordable multifamily housing by including demand charges, which would increase costs to ratepayers. The commenter suggests the Board consider reductions to bring bill credit values closer to the EDCs’ avoided costs. (RC)

RESPONSE: The Board found that the original method of calculating the bill credit resulted in many multifamily housing units being undesirable subscribers for community solar providers, which the Board believes does not adequately meet the Clean Energy Act’s requirement “to ensure the ability of residential and commercial customers to participate in solar energy projects, including residential customers in multifamily housing.” The changes in the rules will result in a bill credit value that will help multifamily housing units participate in community solar, but which is still lower than the typical residential rate, which may result in lower costs to ratepayers.

30. COMMENT: The commenter recommends that community solar developers bear the full costs of billing and administration incurred by the utilities, and that the fee for implementing consolidated billing not be limited to one percent of the subscription fee. The commenter also suggests that the EDCs would not be able to recover the full costs of consolidated billing. The commenter, therefore, suggests amending proposed N.J.A.C. 14:8-9.7(q)7 to require EDCs to charge subscriber organizations a utility administrative fee to fully recover their costs of implementing community solar billing. (RC)

RESPONSE: As community solar subscriber organizations would be required to participate in consolidated billing, the Board believes that one percent of the subscription fee will be an appropriate rate to charge for the process implementation. N.J.A.C. 14:8-9.9(c), as proposed, permits full cost recovery for CSEP costs.

31. COMMENT: The commenter supports consolidated billing, noting that it will better serve customers and simplify the billing process with customers receiving a single bill each month. The commenter identifies that a simpler process will be easier for the subscriber and will eliminate concerns of missed or incorrect payments. The commenter further supports that projects already in operation will be allowed to participate

in consolidated billing. The commenter opposes the assessment of a utility credit of “no greater than one percent of the value of the subscription fee,” as proposed at N.J.A.C. 14:8-9.7(q)7, noting that it does not oppose EDC-performed consolidated billing, but the fee amount merits careful consideration to ensure development costs are not increased. The commenter further notes that requirements that increase development costs for community solar systems inhibit further expansion of the program into new communities. (Modern Renewables/Bromley)

RESPONSE: The Board thanks the commenter for their support for consolidated billing. The Board believes that one percent of the subscription fee will be an appropriate rate to charge for the process implementation, reducing the need of subscriber organizations to administer their own billing system.

32. COMMENT: The commenters recommend that projects be able to bank unallocated generation credits for two years from their accrual instead of during the first two years of project operation, noting that it would accommodate rollover of subscribers and reallocation of credits without financial risk of lost revenue and allow projects to evenly reallocate credits to customers. (Arcadia Power) (CCSA-SEIA)

RESPONSE: The Board believes that it is the subscriber organizations’ responsibility to maintain fully subscribed projects and that extension of banking beyond an initial period will lead to excessive administrative costs at the EDCs and result in greater costs to ratepayers. Therefore, the Board declines to adjust the banking procedures.

33. COMMENT: The commenter recommends adding “and every 12 months thereafter” to proposed N.J.A.C. 14:8-9.7(i) when addressing banked credits, requiring that unallocated credits continue to be allocated to the EDCs on a regular basis following the closure of the initial proposed 24-month period. (PSE&G)

RESPONSE: The Board believes that it is the subscriber organizations’ responsibility to maintain fully subscribed projects and that extension of banking beyond an initial period will lead to excessive administrative costs to the EDCs and result in greater costs to ratepayers. Therefore, the Board declines to adjust the banking procedures.

34. COMMENT: The commenter supports the establishment of consolidated billing implemented by the EDCs with the option to offer consolidated billing to non-residential customers. The commenter opposes the requirement that it be used for all residential customers, noting that flexibility in this requirement ensures that consolidated billing does not become a barrier. The commenter is concerned about issues that may arise during implementation and wishes to retain the option of dual billing in case of delays with consolidated billing. (CCSA-SEIA)

RESPONSE: The Board believes subscribers are best served by having a single bill, and continued use of dual billing while consolidated billing is in use may confuse potential subscribers. The Board intends for a billing working group to reduce implementation issues.

35. COMMENT: The commenter recommends that the Board allow credits applied to customer accounts be rolled over for five years from the date they are applied to the customers’ accounts to ensure customers receive maximum benefits from their subscriptions. Additionally, the commenter suggests that the proposed rules should require EDCs to apply the oldest credits first so customers can continue to retain their value. (Arcadia Power)

RESPONSE: The Board believes that credit carryover until the end of an annualized period is long enough to resolve billing issues and provide customers with benefits while discouraging the oversizing of community solar subscriptions. Therefore, the Board declines to make the change.

36. COMMENT: The commenter notes that the proposed language at N.J.A.C. 14:8-9.9(c), “implementing and administering consolidated billing,” would be a component of cost recovery for “implementation, compliance, and administration of the Program” and notes that there should not be a one-percent cap on a fee for the former and the commenter is unclear why one should exist. The commenter recommends adding “The one percent fee will cover the EDC’s costs of handling the administration of the consolidated billing for the subscriber fee and does not include recovery of bad debt costs. Bad debt related to the subscription fees, now subject to consolidated billing, will be recovered through the Societal Benefits Charge” as a clarification for the fee’s purpose and requests confirmation that the bill credit would be considered electric

revenue and that EDCs can recover funds related to unallocated or unsubscribed credits. (PSE&G)

RESPONSE: The Board believes the one-percent cap on the community solar administrative fee is appropriate. The Board confirms that the value of bill credits is considered electric revenue and that bill credits, including unallocated or unsubscribed credits, are “incremental costs incurred in implementation, compliance, and administration of the Program” that may be recovered pursuant to N.J.A.C. 14:8-9.9(c), and that subscription fees are to be remitted to project owners regardless of utility customer payment.

37. COMMENT: The commenter notes that N.J.A.C. 14:8-9.7(q)1 and 2 are contradictory, with the former allowing non-residential customers to be billed “through utility consolidated billing or separate billing” while the latter requires that “all subscribers shall be billed using consolidated billing.” The commenter recommends striking “or separate billing” at N.J.A.C. 14:8-9.7(q)1. (PSE&G)

RESPONSE: The Board agrees with the commenter that the provisions as proposed were unclear and intends to maintain the intended option for subscriber organizations to bill non-residential customers through separate billing. The Board has removed the contradictory language at N.J.A.C. 14:8-9.7(q)2.

38. COMMENT: The commenter requests clarification in the calculation method of the subscription fee at N.J.A.C. 14:8-9.7(q)4. (PSE&G)

RESPONSE: The EDCs filed a joint Consolidated Billing Report with the Board on May 28, 2021 (Docket No. QO20080556). The Board intends for the subscription fee and customer savings to be calculated similar to the example in the first paragraph at “4. Net Crediting Example” on page 14. The subscriber would be billed an initial billed amount based on their usage. The applied bill credit (based on the subscriber’s subscription size, the community solar project’s generation, and the bill credit value) is then multiplied by the customer’s bill credit discount rate to determine a net credit. The net credit is subtracted from the initial billed amount to determine final billed amount. The EDC would remit to the subscriber organization the amount of the applied credit times (one minus the bill credit discount rate), less the administrative fee.

39. COMMENT: The commenter recommends changing “an opportunity” at N.J.A.C. 14:8-9.7(e)3 to “one opportunity” to prevent customers from changing their annualized period selection multiple times in a year. (PSE&G)

RESPONSE: The Board agrees that this change is consistent with its intent in this provision and has made the recommended change.

40. COMMENT: The commenter recommends changing “wire transfer or check” at proposed N.J.A.C. 14:8-9.7(g) to “commercially available methods” to allow the EDCs flexibility in returning excess compensation to customers, such as through ACH payments. (PSE&G)

RESPONSE: The Board agrees that this change is consistent with its intent in this provision and has made the recommended change.

41. COMMENT: The commenter recommends changing “if Green Button capabilities are not available or are insufficient” at proposed N.J.A.C. 14:8-9.7(l) to “or an EDC data portal” because customers with an Advanced Meter Infrastructure (AMI) meter can access usage data through their AMI portal. (PSE&G)

42. COMMENT: The commenter requests clarification about the data access requirements. (ACE)

RESPONSE TO COMMENTS 41 AND 42: The Board agrees that this clarification is consistent with its intention in this provision and has made the recommended change. The Board intends for electricity customers, including community solar subscribers, to be able to access their usage and billing data electronically and does not intend to require additional software updates. The Board also intends for the billing working group to address data sharing needs.

N.J.A.C. 14:8-9.8 Low- To Moderate-Income Provisions

43. COMMENT: The commenters oppose the proposed requirement at N.J.A.C. 14:8-9.8(d)3 for re-verification of LMI subscribers when the subscriber moves to a new utility account and on the fifth anniversary of the subscription, noting that this may burden both subscriber organizations and subscribers. (Arcadia Power) (CCSA-SEIA)

RESPONSE: The Board believes that reverification of subscribers’ LMI status is an important check to ensure that community solar projects, which have a 20-year project life, continue to meet the Board’s objective that the CSEP serves a majority LMI subscribers. As the Board added self-attestation as an eligibility determination method, the Board wishes to ensure that this method is used appropriately and consistently, which would include reverification after five years.

44. COMMENT: The commenter recommends the Board prohibit using credit checks as part of the LMI qualification criteria. The commenter indicates credit checks are unnecessary given other available methods and may falsely disqualify potential customers, particularly those categorized as LMI and located in overburdened or environmental justice communities. (Arcadia Power)

RESPONSE: The Board appreciates the commenter’s concern and acknowledges there are several avenues to show income eligibility so that verification is not a burden on a potential customer or subscriber, as demonstrated by the addition of programs to the list for proof of participation pursuant to N.J.A.C. 14:8-9.8(d)2i. However, based on the experience of the Pilot Program, the Board declines the commenter’s suggestion to modify the rule.

45. COMMENT: The commenter recommends removing “Unless granted a waiver by the Board” from N.J.A.C. 14:8-9.8(b), which suggests that some projects may be excluded from the CSEP’s requirement that all projects reserve at least 51 percent of capacity for LMI customers. (RC)

RESPONSE: The Board agrees with the commenter that all community solar projects should be LMI projects and has removed this clause from this provision. As the Board may, in response to a petition, waive its rules for good cause pursuant to N.J.A.C. 14:1-1.2, it does not need to specify that waivers are permitted here.

46. COMMENT: The commenter recommends clarifying that projects must “reserve” 51 percent of project capacity for LMI subscribers, not that this segment must be fully subscribed at all times, as compliance would otherwise be difficult when the project begins operation and encounters subscriber churn. (Solar Landscape)

RESPONSE: The Board agrees with the commenter and notes that the requirement for reserving capacity for LMI subscribers is consistent with its intent and practices and has made the recommended clarification at N.J.A.C. 14:8-9.8(b).

47. COMMENT: The commenter recommends requiring that an affidavit provided by an affordable housing provider include a representation that benefits passed on to residents not cause a reduction in their eligibility for housing subsidies. (RC)

RESPONSE: As each individual resident may have their own circumstances, the affordable housing provider may not know how their eligibility for housing subsidies would be affected by community solar benefits. The Board adjusted its published notice of proposal from the CSEP Staff Straw Proposal (Docket No. QO22030153, March 30, 2023) to allow affordable housing providers flexibility in determining the appropriate way to pass community solar benefits on to residents. While the Board declines to make the requested change at this time, it intends to continue to work with subscriber organizations and affordable housing providers to approve appropriate affidavits for LMI qualification.

48. COMMENT: The commenter supports self-verification as a key component of program simplification incorporated into the proposed rules, allowing participants a way to avoid disclosure of personal financial information. The commenter further suggests the removal of any requirements for recording through an EDC’s authorized administrator because subscribers are often reluctant to provide detailed personal information to third parties. (Modern Renewables/Bromley)

RESPONSE: The Board thanks the commenter for its support for LMI qualification by self-attestation. The Board also notes that the requirement for recording such eligibility determination through an administrator was in the CSEP Staff Straw Proposal (Docket No. QO22030153, March 30, 2023) but was not included in the published notice of proposal.

49. COMMENT: The commenter requests that the Board reconsider the readjustment of SREC-IIs for projects that fall below the 51 percent LMI subscriber requirement, as proposed at N.J.A.C. 14:8-9.8(g), noting that the criteria for this provision are poorly defined and will discourage participation in the market by introducing uncertainty and increase financing costs of projects. The commenter notes it expects this provision

to discourage financiers from participating in this market. The commenter suggests that “bad actors,” which it defines as “recalcitrant operators,” should be addressed by other means. (Modern Renewables/Bromley)

RESPONSE: The Board believes the possibility of financial penalties through adjustment of SREC-II values is needed to ensure compliance with the LMI standard and declines to adopt the commenter’s suggestion. The Board will provide opportunity for remediation to bring a project into compliance.

N.J.A.C. 14:8-9.9 EDC Responsibilities and Cost Recovery

50. COMMENT: The commenter suggests rewriting subsection (c) to permit an administrative fee that will recover administrative costs from community solar projects and notes that the reference regarding the administrative fee is incorrect. (RC)

RESPONSE: The Board has corrected the incorrect cross-reference regarding the administrative fee at N.J.A.C. 14:8-13.6(p) to N.J.A.C. 14:8-9.7(q), as well as similar incorrect references at N.J.A.C. 14:8-9.6. The Board declines to rewrite the subsection, as the administrative fee is not intended to be uncapped.

N.J.A.C. 14:8-9.10 Consumer Protection

51. COMMENT: The commenter notes that the section is missing information regarding educating subscribers about community solar, such as the basics of solar energy, frequently asked questions, workshops with community organizations, and customer assistance. The commenter also disagrees with the deletion of a provision regarding formal pleadings and petitions procedures. The commenter further suggests that the Board’s customer complaint process be available to subscribers. (RC)

RESPONSE: The Board agrees with the commenter that it should provide educational material to potential subscribers but does not believe this needs to be codified in the rules. The Board further believes that the formal pleadings and petitions procedures at N.J.A.C. 14:1-4 and 5 apply to all its solar programs, including CSEP participants, without needing to be explicitly restated in this section. The Board already has a community solar complaint form available on its website and does not believe additional rules are necessary for subscribers to submit complaints or contact the Board.

N.J.A.C. 14:8-9.11 Reporting

52. COMMENT: The commenter objects to the reporting requirement that EDCs must submit updated calculations of the bill credit within 30 days of new rates taking effect. Instead, the commenter proposes that EDCs submit updated calculations twice per year on June 1 and October 1 to coincide with the basic generation service rate changes. (ACE)

RESPONSE: The Board’s intent at N.J.A.C. 14:8-9.11(e) is to ensure that developers, subscribers, and subscriber organizations have current information regarding the value of the bill credit so that they can make appropriate projections. The Board believes that biannual updates to reporting bill credit calculations are consistent with this intent and adopts the commenter’s recommendation to specify the reporting frequency for EDCs to be twice per year, by June 1 and October 1, which will provide sufficiently accurate information without excessive paperwork burden.

SUBCHAPTER 11. SUCCESSOR SOLAR INCENTIVE PROGRAM

N.J.A.C. 14:8-11.2 Definitions

53. COMMENT: The commenter recommends removing the exemption from co-location restrictions for community solar and net-metered facilities or limiting this exemption to projects that combine to less than five MW capacity. (RC)

RESPONSE: The Board believes that the capacity of net-metered facilities being naturally limited by the amount of on-site loads and the different customers of a net-metering project, and a community solar project warrant permitting co-location of these project types and declines to make the suggested change.

N.J.A.C. 14:8-11.5 Successor Solar Incentive Program Registration Process

54. COMMENT: The commenter objects to the minimum facility maturity standards proposed at N.J.A.C. 14:8-11.5(d)2ii and iii and recommends that SuSI Program applicants attain a notice of conditional registration before applying for interconnection with the EDCs. (ACE)

RESPONSE: The Board declines to make the requested change because it is not appropriate to allocate registered capacity in the program to projects that are uncertain of their interconnection costs and operation timeline. The rules provide an appropriate level of maturity to suggest successful project completion.

55. COMMENT: The commenter recommends the Board publish a list of applicants and projects that have registered for the CSEP, along with the status of the registration to allow EDCs to make better and more efficient decisions when processing and studying interconnection applications. (ACE)

RESPONSE: The Board publishes a list of approved projects in its monthly solar reports published on the Clean Energy Program website at <https://njcleanenergy.com/renewable-energy/project-activity-reports/project-activity-reports>.

56. COMMENT: The commenter recommends that the period regarding expiration date of conditional registration be extended beyond 18 months due to associated EDC system upgrades to facilitate interconnection. These upgrades are project and location dependent. (ACE)

RESPONSE: The Board disagrees with the commenter’s recommendation and believes that it is the responsibility of the developers to register a project when they believe they can meet the timelines of the program. Additionally, the program offers an administrative six-month extension if a project needs more time to reach operation within the confines of the rules.

N.J.A.C. 14:8-11.7 Market Segment Megawatt Blocks for the ADI Program

57. COMMENT: The commenter recommends having a separate tranche for landfill and brownfield sites, noting higher construction costs and that there existed a separate tranche in the Competitive Solar Incentive Program. The commenter further noted that these sites, while costly to develop, result in a significant added value compared to other project types and impose the same ratepayer cost. (CS Energy)

RESPONSE: The Board believes that having a single capacity block for all projects for each EDC territory will promote higher bill credit discounts for subscribers and more efficient registration by projects. Landfill projects may participate in the CSI Program for a dedicated tranche.

Federal Standards Statement

N.J.S.A. 52:14B-1 et seq., requires State agencies that adopt, readopt, or amend State rules exceeding any Federal standards or requirements to include in the rulemaking document a Federal standards analysis. This rulemaking has no Federal analogue and is not promulgated pursuant to the authority of, or in order to implement, comply with, or participate in any program established pursuant to Federal law or pursuant to a State statute that incorporates or refers to Federal law, Federal standards, or Federal requirements. Accordingly, N.J.S.A. 52:14B-1 et seq., does not require a Federal standards analysis for the adopted amendments, new rules, and repeals.

Full text of the adopted amendments and new rules follows (additions to proposal indicated in boldface with asterisks ***thus***; deletions from proposal indicated in brackets with asterisks *[thus]*):

SUBCHAPTER 9. COMMUNITY SOLAR ENERGY PROGRAM

14:8-9.1 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.

14:8-9.2 Definitions

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

“Advertising” has the same meaning as set forth at N.J.A.C. 14:4-1.2.

“Affordable housing” means housing that meets the definition of “affordable,” as set forth at N.J.A.C. 5:80-26.2.

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

“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.

... “Associated disturbed areas” means areas that 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 at N.J.A.C. 14:8-4.2.

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

“Capacity” or “nameplate capacity” means the sum of the maximum rated output in DC rating of all individual photovoltaic panels physically interconnected to make up a solar facility.

... “Community Solar Energy Pilot Program” or “Pilot Program” means the community solar program conducted in two program years prior to its conversion to the Community Solar Energy Program.

“Community Solar Energy Program” or “CSEP” or “Program” means the community solar program established by this subchapter.

“Community solar facility” refers to the physical equipment, including, but not limited to, panels, inverters, racking, and balance of systems, which constitutes a solar facility used for community solar, with a capacity in DC rating not to exceed five MW.

“Community solar operator” or “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 project” or “project” refers to a community solar project approved by the Board, or registered for participation in the Program, including, but not limited to, the community solar facility, project participants, and subscribers.

... “Community solar subscription” or “subscription” refers to an agreement to participate in a community solar project, by which the subscriber receives a bill credit for a portion of the community solar energy produced by a community solar facility. A subscription may be measured as capacity in kW and/or energy in kWh 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.

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

“Electric distribution company” or “EDC” has the same meaning as an “electric public utility” provided at N.J.S.A. 48:3-51.

“Farmland” has the same meaning as set forth at N.J.A.C. 14:8-1.2.

“Government entity” has the same meaning as set forth at N.J.S.A. 48:3-51.

“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.

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

... “Local government entity” or “local government” for purposes of the Program means a New Jersey municipal government, including a borough, town, township, city, or village, or a New Jersey county government.

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

“Low- to moderate-income subscriber” or “LMI subscriber” means a community solar subscriber that meets the definition of a low-income household or a 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.

“Multi-family buildings” are defined as having three or more independent resident housing units, pursuant to N.J.S.A. 55:13A-3(k) and the 2015 New Jersey International Building Code definition for Residential Group R-2.

“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.

“NJDEP” means the New Jersey Department of Environmental Protection.

“Residential customer” has the same meaning as set forth at N.J.A.C. 14:3-1.1.

“Solar panel” or “PV panel” has the same meaning as set forth at P.L. 2018, c. 17.

14:8-9.3 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 community solar segment of the ADI Program shall be reviewed by the SuSI Program registration manager on a first-come, first-served basis, except as described at (c) below.

(c) For each Program solicitation, Board staff shall initiate an application process as follows:

1. The Board shall open an initial registration period for the Program at the start of each energy year or when appropriate by Board Order. The duration of the initial registration period shall be specified in the Board Order.

2. 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 the total capacity of applications for each megawatt block exceeds the capacity limit for the block.

3. 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.

4. 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.

5. The Board may modify the procedure for project application by Board Order.

(d) Projects previously approved for participation in the Community Solar Energy Pilot Program that did not reach commercial operation by their Pilot Program deadline are 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. Such projects’ capacities will not count toward the megawatt block capacity limits.

(e) Project applicants provided conditional registration in the CSEP shall post escrow with the Board in an amount set by Board Order, which

amount shall be stated as a dollars per kilowatt rate and shall be uniform for all projects. The escrow amount shall be reimbursed to the applicant in full upon commencement of commercial operation of the community solar facility. The escrow amount shall be forfeited to the State if the facility does not commence commercial operation by the expiration of the notice of conditional registration. This escrow requirement shall not apply to projects owned by public entities or registered 501(c)(3) non-profit organizations, subject to Board staff's determination that the non-profit organization is a community-based organization that is run by members of the community and whose benefits accrue to the community.

14:8-9.4 (Reserved)

14:8-9.5 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 that has been conditionally awarded an incentive in the Successor Solar Incentive Program or Transition Incentive Program may not qualify until its initial conditional registration expiration date has passed.

(c) Community solar facilities that meet the requirements of this section are eligible to register in the ADI Program as described at 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 by a waiver granted by the Board, a community solar project may be located on:

1. A rooftop;
2. A carport or canopy over impervious surfaces;
3. (Reserved)
4. (Reserved)

(e) (Reserved)

(f) *[Community solar projects shall be considered connected to the distribution system.]* ***(Reserved)***

(g) (Reserved)

(h) (Reserved)

14:8-9.6 Subscription requirements

(a) All subscription requirements pertaining to the CSEP and Pilot Program shall apply to both the original subscription and to all subsequent subscriptions enacted throughout the lifetime of a project, unless expressly determined otherwise by rule or Board Order.

(b) (No change.)

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

(d) Community solar projects sited on the property of multi-family buildings are exempt from the 10-subscriber minimum, so long as they demonstrate that the project is intended to provide specific, identifiable, and quantifiable benefits to the households residing in said buildings.

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

(f) The following requirements regarding subscribers shall apply:

1. Community solar project subscriptions shall not exceed 100 percent of the subscriber's historic annual usage, excluding net-metered generation, calculated over the past 12 months, 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 change.)

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. (No change.)

6. When an EDC account associated with a community solar project is terminated or suspended for any reason, the EDC must notify the subscriber organization of the change within *[10]* ***30*** days of the suspension or termination.

(g) In cases of master-metered buildings, the account holder of the master meter shall be allowed to subscribe to community solar subscriptions on behalf of its tenants. The account holder of the master meter will be required to provide to the project's subscriber organization, an affidavit that will be made available to the Board that specific, identifiable, sufficient, and quantifiable benefits of the community solar subscription are being passed through to the tenants. Nothing in this subsection prohibits the account holder from signing a separate subscription for the separately metered building common areas.

(h) A community solar project shall not enroll customers that subscribe to more than 100 percent of the output of the community solar facility at the project's capacity.

(i) 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.

(j) 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. Projects are subject to the provisions at N.J.A.C. 14:8-9.8(e) and (g) if this minimum is not met.

(k) Community solar projects may have subscribers anywhere in the EDC service territory to which they are interconnected, unless they indicated otherwise in their application to participate in the Pilot Program. Projects that elected in their Pilot Program application to place a geographic restriction on the subscribers to the project must maintain that restriction for the lifetime of the project. The Board may waive this geographic restriction during the project's operational period in response to a petition for good cause shown.

(l) Beginning April 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)1i]****9.10(b)1i***, which mandate subscriber enrollment through affirmative consent of the subscriber. Unless explicitly stated otherwise, an automatic enrollment project shall be subject to all other rules of the CSEP, as well as to the following provisions:

1. Any registration for an automatic enrollment project must include a municipal ordinance or resolution authorizing the project and application, stating that the local government intends to manage the project as a municipal community solar automatic enrollment project and the mechanism by which it intends to enroll customers. A copy of the ordinance or resolution shall be presented to the SuSI Program registration manager as part of the registration;

2. (Reserved)

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 improve the financeability of the automatic enrollment project, subject to contractual provisions that maintain the local government entity's ultimate control of subscriptions for the automatic enrollment project;

4. (Reserved)

5. 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 at N.J.A.C. 14:8-*[13.9]****9.10***. Any public procurement shall comply with all applicable laws;

6. An automatic enrollment project may not subscribe customers unless the project is billed through consolidated billing and provides a guaranteed bill credit discount to the customers;

7. 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 ***automatically*** subscribe residential customers and affordable housing providers. At least 80 percent of capacity shall be subscribed by ***or reserved for*** 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 by phone, 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;

8. Subscribers shall 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. Any other fees or modification thereof must be approved by the Board through a petition submitted no less than 120 days prior to their proposed effective date;

9. The local government, or its designee, if applicable, selected through the public procurement process set forth in this subchapter, shall provide written notice delivered by the United States Postal Service to all 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 by the local government, or its designee, 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 the New Jersey Division of 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, a basic description of the Program and premise that there are potentially other projects and competing subscription opportunities, 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;

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; and

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

10. 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;

11. An automatic enrollment project may suspend or cancel a subscription in the event of suspension or cancellation of an EDC account;

12. 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 cancellation, the automatic enrollment project may 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

13. 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 local government 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, upon the request 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 (f)1 above. The local government shall indemnify the EDC for any breach of customer information. The EDCs shall facilitate the customer billing process.

14:8-9.7 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 that for affordable multi-family housing that measures electricity usage with a master meter and is billed on a commercial rate class, the value of the bill credit shall be set at the current pre-Sales and Use Tax retail rate inclusive of supply, delivery, and demand charges. For purposes of the calculation of the bill credit, demand charges shall represent the demand charges paid by all multi-family housing units billed on a commercial rate schedule served by an EDC over the previous energy year divided by the kilowatt-hours used by such units over the previous energy year.

(b) (Reserved)

(c) (No change in text.)

(d) The calculation of the bill credit shall not include 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.

(e) 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 a different annualized period is selected and accepted, whichever occurs earlier.

3. The EDC shall offer each subscriber ***[an]* *one*** opportunity to select a different date as the start of the subscriber's annualized period. A subscriber may submit their annualized period selection to the EDC at any time. However, an EDC is not required to accept a subscriber's selection of an annualized period that begins before the first full day of the first monthly billing period after the submittal of the selection.

4. Alternatively, a project's subscriber organization may set an annualized period for subscribers that is likely to minimize subscribers' excess net bill credits. In the case of an automatic enrollment project, the project's subscriber organization shall determine and set an annualized

period for all subscribers that is likely to minimize subscribers' excess net bill credits.

5. 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.

(f) (No change in text.)

(g) 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 N.J.A.C. 14:8-4.2. The excess compensation must be returned to the subscriber by bill credit*[, wire transfer, or check]* ***or commercially available methods***.

(h) 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.

(i) 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 an initial 12-month period after 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 at N.J.A.C. 14:8-9.6. At the end of the 24-month period and thereafter, any unallocated generation credits shall be compensated at the EDC's avoided cost of wholesale power, as defined at N.J.A.C. 14:8-4.2.

Recodify existing (i)-(j) as (j)-(k) (No change in text.)

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

(m) (No change in text.)

(n) Subscriber organizations shall send to the relevant EDC through the method determined at (m) above,* 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 method determined at (m) above.

(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.-2. (No change.)

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

(q) By no later than January 1, 2025, each EDC 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 residential customers through utility consolidated billing; non-residential customers may be billed through utility consolidated billing or separate 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 to the same community solar project may have different bill credit discounts.

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. An EDC may charge subscriber organizations a utility administrative fee of no more than one percent of the subscription fee to cover the EDC's 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.

9. All projects in the Pilot Program shall bill residential customers through utility consolidated billing within 12 months of the effective date of consolidated billing.

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

(s) (No change in text.)

14:8-9.8 Low- to moderate-income provisions

(a) For the purposes of this subchapter, a low- to moderate-income subscriber may be either:

1. A low- to moderate-income household qualified pursuant to (d) below; or

2. A qualified affordable housing provider. In order to qualify as an LMI subscriber for the purposes of a community solar project, an affordable housing provider shall sign and submit to the Board,* an affidavit indicating that the financial benefits of the community solar subscription will be passed on to their residents/tenants as specific, substantial, identifiable, and quantifiable long-term benefits with a description of such benefits.

(b) *[Unless granted a waiver by the Board, a]* ***A*** project in the Community Solar Energy Program must be an LMI community solar project, in which a minimum 51 percent of project capacity is subscribed by ***or reserved for*** LMI subscribers.

(c) (No change.)

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

1. For subscribers that reside in a government-owned property, the government site owner may provide an affidavit that those community solar 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, Medicaid, Supplemental Security Income, Social Security Disability Insurance, Special Supplemental Nutrition Program for Women, Infants, and Children, Temporary Assistance for Needy Families, the Low Income Household Water Assistance Program, 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; or

iv. (No change in text.)

3. Qualification of a household as low-income or moderate-income is required at the time of execution of the subscription agreement or contract, when a subscriber moves to a new utility account, and on every fifth anniversary of the subscription. A subscriber may not be removed from a community solar project for failure to requalify as low- or moderate-income.

4. (No change.)

(e) If a project is less than 51 percent subscribed by LMI customers, the subscriber organization shall, within 30 days, file a plan detailing steps to meet the 51 percent LMI subscription standard with the Board, with notice to the community solar owner and the community solar operator.

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

(g) The Board may adjust the SREC-II value for a project that fails to comply with this section. In determining a new SREC-II value, the Board may examine the degree of noncompliance, the community solar owner's diligence in remedying the noncompliance after notice, and any other factors the Board may deem relevant.

14:8-9.9 EDC responsibilities and cost recovery

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

(b) (No change.)

(c) 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, other than the consolidated billing administrative fee permitted at N.J.A.C. 14:8-13.6(p)***9.7(q)***, unless explicitly authorized to do so by the Board.

14:8-9.10 Consumer protection

(a) (No change.)

(b) Community solar subscriber organizations must comply with all applicable laws, rules, and regulations governing advertising, marketing, and fair business practices, including, but not limited to, N.J.A.C. 13:45A-9 and 13:45D and N.J.S.A. 56:8-2 and 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 pursuant to N.J.A.C. 14:8-9.6(l), a community solar subscriber may not be subscribed without their affirmative written consent, either through wet or electronic signature.

ii.-iv. (No change.)

2. As to marketing, advertising, and solicitations, as follows:

i. (No change.)

ii. Subscriber organizations shall provide information about the community solar projects that they are marketing in a prominent location on their websites, including projects' name, capacity, address, areas served, and projected or actual commercial operation date.

Recodify existing ii.-iii. as iii.-iv. (No change in text.)

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.

Recodify existing vi.-vii. as vii.-viii. (No change in text.)

3. As to contracts, as follows:

i. (No change.)

ii. Prices, whether in a quote or a contract, must include disclaimers that:

(1) (No change.)

(2) The Board does not regulate the price of community solar subscriptions, nor does it guarantee projected savings beyond the project's guaranteed minimum bill discount or the savings indicated in the project's application form.

iii.-vii. (No change.)

4. As to disclosure statements, as follows:

i. Subscriber organizations must present a disclosure statement designed by Board staff to each community solar subscriber at the same time as their subscription contract. Each subscriber must sign an acknowledgement that they have received and read the disclosure statement.

ii.- iii. (No change.)

5. (No change.)

6. As to inquiry and remediation, as follows:

i.-ii. (No change.)

7. (No change.)

14:8-9.11 Reporting

(a)-(d) (No change.)

(e) 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]* ***either on June 1 and October 1 each year or coincident with basic generation service rate changes*.**

(Agency Note: The text at N.J.A.C. 14:8-11.5(d) below reflects the adoption of amendments at paragraph (d)1 and new (d)2, effective December 18, 2023 (see 55 N.J.R.2555(a).)

SUBCHAPTER 11. SUCCESSOR SOLAR INCENTIVE PROGRAM

14:8-11.5 Successor Solar Incentive Program registration process

(a)-(c) (No change.)

(d) The registrant shall meet minimum facility maturity standards according to the ADI or CSI Program conditions and provide all required documentation as part of its initial registration package.

1. For net metered projects in the ADI Program, the registrant shall supply the following, and any other information the Board, or its designee, may deem necessary to confirm eligibility for the Program:

i. A utility bill showing the site host's name, address, and electric tariff, if applicable;

ii. 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;

iii. For facilities sized 25 kW or greater, up to one MW, evidence of having submitted to the relevant EDC*,* an Attachment A to an Interconnection Application and Agreement signed by the customer-generator and the installer;

iv. For facilities sized one MW or greater, written authorization from the EDC providing conditional approval to construct and a Milestone Reporting Form; and

v. 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.

2. For the CSI Program, the registrant shall supply the following and any other information the Board, or its designee, may deem necessary to confirm eligibility for the program:

i. A contract between the primary installer or the third-party owner, as applicable, and the bidder or customer of record, submitted within one year of the date of conditional registration;

ii. A site plan certified by a licensed professional engineer;

iii. For net metered facilities, a utility bill showing the site host's name, address, and electric tariff;

iv. (Reserved.)

v. For net metered facilities, written authorization from the EDC providing conditional approval to construct;

vi. A Milestone Reporting Form;

vii. Evidence of the project's accepted bid into the CSI Program; and

viii. For projects to be located on contaminated sites or landfills only, conditional certification of Tranche 3 eligibility from the Board, which the developer shall apply for using the form located on the Board’s New Jersey Clean Energy Program website at <http://www.njcleanenergy.com>.

[2.] *3.* For community solar projects in the ADI Program and *the* CSEP, the registrant shall supply the following, and any other information the Board, or its designee, may deem necessary to confirm eligibility for the Program:

- i. A site plan certified by a licensed professional engineer;
- ii. (Reserved)
- iii. (Reserved)
- iv. Evidence of applications for all discretionary land use approvals and entitlements applicable to the project, such as municipal zoning permit or municipal site plan approval, county site plan approval, soil conservation district approval, and Pinelands Commission or Highlands Commission approval, with a signed list of all permits to be applied for;
- v. A community engagement and subscriber acquisition plan;
- vi. A guaranteed bill credit discount to be offered to subscribers, given as a percentage to two decimal places; and
- vii. For projects on a contaminated site or landfill, an estimated size of the area designated as a “contaminated site” or “properly closed sanitary landfill,” a completed New Jersey Department of Environmental Protection permit readiness checklist, and a completed Contaminated Sites and Landfills Eligibility Verification Form.

(e)-(f) (No change.)

(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.-2. (No change.)
- 3. Include an expiration date occurring on:

- i. (No change.)
- ii. The 18-month anniversary of a registrant’s notice of conditional registration for community solar facilities other than those located on contaminated sites or landfills; or
- iii. The 36-month anniversary of a registrant’s notice of conditional registration for projects granted conditional certification by the Board as part of the CSI Program; or
- iv. The 24-month anniversary of a registrant’s verification of eligibility by NJDEP for community solar facilities located on contaminated sites or landfills.

4.-5. (No change.)

(h)-(l) (No change.)

14:8-11.7 Market segment megawatt blocks for the ADI Program

(a) (No change.)

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

1.-5. (No change.)

6. Community Solar, as defined in the Community Solar Energy Program at N.J.A.C. 14:8-9. The Community Solar market segment may be divided into megawatt blocks for each EDC area; and

7. (No change in text.)

(c)-(e) (No change.)

TREASURY—GENERAL

(a)

DIVISION OF PENSIONS AND BENEFITS STATE HEALTH BENEFITS COMMISSION State Health Benefits Program

Adopted New Rules: N.J.A.C. 17:9

Proposed: April 1, 2024, at 56 N.J.R. 466(a).

Adopted: September 5, 2024, by the State Health Benefits Commission, Kelly Fields, Acting Secretary, Division of Pensions and Benefits.

Filed: September 10, 2024, as R.2024 d.097, **without change**.

Authority: N.J.S.A. 52:14-17.25 et seq.

Effective Date: October 7, 2024.

Expiration Date: October 7, 2031.

Summary of Public Comment and Agency Response:

No comments were received.

Federal Standards Statement

There are no Federal requirements or standards that affect the subject of this rulemaking, except that there is reference to compliance with the Health Insurance Portability and Accountability Act (HIPAA), 42 U.S.C. §§ 1320d et seq., as well as compliance with the Federal Patient Protection and Affordable Care Act (PPACA), Pub. L. 111-148 and Pub. L. 111-152; however, these laws are not exceeded.

Full text of the expired rules adopted herein as new rules can be found in the New Jersey Administrative Code at N.J.A.C. 17:9.

OTHER AGENCIES

(b)

ECONOMIC DEVELOPMENT AUTHORITY

Administrative Rules

Professional Services Contracts

Adopted Amendments: N.J.A.C. 19:30-8

Proposed: June 3, 2024, at 56 N.J.R. 1016(a).

Adopted: August 26, 2024, by the New Jersey Economic Development Authority, Tim Sullivan, Chief Executive Officer.

Filed: August 26, 2024, as R.2024 d.092, **without change**.

Authority: N.J.S.A. 34:1B-1 et seq.

Effective Date: October 7, 2024.

Expiration Date: May 8, 2025.

Summary of Public Comment and Agency Response:

The public comment period ended August 2, 2024. **No comments were received.**

Federal Standards Statement

A Federal standards analysis is not required because the adopted professional services contracts amendments are not subject to any Federal laws, requirements, or standards. Accordingly, no further analysis is required.

Full text of the adoption follows:

SUBCHAPTER 8. PROFESSIONAL SERVICES CONTRACTS

19:30-8.1 Applicability

The provisions of this subchapter shall apply only to contracts for professional architectural, professional engineering and related design services, and professional land surveying services that involve development and construction of projects which are in excess of the amount prescribed pursuant to N.J.S.A. 52:34-7 and subject to the procurement provisions at N.J.S.A. 52:34-9.1 et seq. Nothing in this subchapter shall preclude the Authority from using procurement processes other than those prescribed in this subchapter if those processes have been approved by the Federal government or other State statute, or if an emergency has been declared by the Governor.

19:30-8.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise.

“Agency” or “State agency” means those entities as defined at N.J.S.A. 52:34-9.2 and shall also include any bi-State or multi-State entity to which