CRS center for resource solutions

July 31, 2018

Aida Camacho-Welch, Secretary of the Board
State of New Jersey Board of Public Utilities
44 South Clinton Avenue
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Comments of Center for Resource Solutions (CRS) in Response to the July 6th Questions for Stakeholder Comment on the New Jersey Community Solar Energy Pilot Program (Docket No. QO18060646)

Ms. Camacho-Welch,

CRS appreciates this opportunity to submit comments in response to the questions for stakeholder comment contained within the July 6, 2018 Notice regarding the New Jersey Community Solar Energy Pilot Program. The intent of these comments is to provide information on industry best practices for consumer protection and the treatment of Renewable Energy Certificates (RECs) associated with community solar programs. These comments echo much of what CRS stated in its previous comments on the BPU Generic Solar Proceeding that were submitted on December 15, 2017.

Background on CRS and Green-e®

CRS is a 501(c)(3) nonprofit organization that creates policy and market solutions to advance sustainable energy. CRS has broad expertise in renewable energy policy design and implementation, electricity product disclosures and consumer protection, and greenhouse gas (GHG) reporting and accounting. CRS administers the Green-e programs. Green-e is the leading certification program for voluntary renewable electricity products in North America. For over 20 years, Green-e staff have worked with independent third-party auditors to annually verify renewable energy purchases in the voluntary market and ensure purchasers receive full environmental benefits and sole ownership of each megawatt-hour (MWh) of renewable energy they purchase. Verification procedures ensure there is no double counting between voluntary and compliance markets, and that other renewable energy or carbon policies do not claim any of the environmental benefits of certified renewable energy. In 2016, Green-e certified retail sales of over 48 million MWh, representing over 1.3% of the total U.S. electricity mix. In 2016, there were over 963,000 retail purchasers of Green-e certified renewable energy, including 53,000 businesses.

Treatment of RECs from Community Solar Pilot Projects

Under *Request for Comments*, item 19 asks, "Should Pilot Projects be eligible for solar renewable energy certificates ('SRECs')? If yes, should the SREC be given to the subscriber or to the community solar project owners?"

One REC represents the environmental attributes associated with one MWh of renewable energy, and because electrons generated by a grid-connected photovoltaic system are not directly transmitted to specific customers, RECs are used to track and account for the specified consumption of this solar energy.

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RECs are essential to properly substantiate renewable energy usage claims. For this reason, community solar projects in New Jersey should be eligible to generate RECs, or more specifically, SRECs. Furthermore, if these programs are actively marketed as "community solar," and customers believe they are enrolling to receive and consume solar energy, then the subscribers are entitled to have the SRECs retired on their behalves. If a customer enrolls in a program that does not retire SRECs on behalf of the end-users, then they do not have a valid claim to be consuming this solar energy. For example, if electricity from a solar facility is sold to one customer, but the SRECs are delivered to another, then only the customer who receives the SRECs may claim to be using the solar energy generated at this site. If SRECs are unbundled and sold separately, then the underlying electricity can no longer be associated with the environmental attributes of solar generation.

Similarly, if SRECs from community solar projects are used for compliance with New Jersey's Renewable Portfolio Standard (RPS), then subscribers cannot specifically claim to be consuming the solar energy generated by these facilities. Furthermore, in this scenario, the impact of these subscriptions on the growth of renewable energy would not be surplus to what is required by regulation. In other words, voluntarily enrolling in a community solar program that supports RPS compliance would simply subsidize the electricity service provider's compliance obligations. If these community solar projects are used for RPS compliance, then the end-use customers would not be contributing to solar energy development beyond what is already required by regulation in New Jersey.

Consumer Protection Relating to Renewable Energy Usage and Claims

Item 36 asks stakeholders to, "Please provide comments on consumer protection measures, including ideas and language for consumer protection rules, and a proposed customers disclosure form."

Because a customer who enrolls in a community solar program may reasonably assume that they are purchasing and consuming renewable energy, customer retention of the retired SRECs associated with this electricity is a matter of consumer protection. If customers do not have SRECs retired on their behalves, then there must be clear disclosures clarifying that the end-use customers are not legally entitled to claim the consumption of this solar energy. Misleading marketing and failure to implement adequate consumer protection measures could result in duplicative claiming of these environmental attributes, which undermines the overall integrity of the renewable energy market.

In the United States, both the federal government and solar industry agree that SRECs must be used to substantiate solar energy usage claims. If community solar subscribers claim to be using renewable energy but do not have SRECs retired on their behalves, this may result in additional risk for both the buyers and sellers involved in this program. The Federal Trade Commission states that, "If a business, including a home business, has solar panels and sells away all the RECs, it loses the right to tell customers it's using renewable energy. That's important to keep in mind if you have a home business and want to claim you use renewable energy."[1]

Furthermore, in its *Guide to Making Claims About Your Solar Power Use*, the United States Environmental Protection Agency states,

[1] United States Federal Trade Commission. *Solar Power for Your Home*. June 2015. Available at: https://www.consumer.ftc.gov/articles/0532-solar-power-your-home

"Without REC ownership, making claims about using solar power can result in a number of risks to your organization as well as violate state and Federal law and guidance, including the following:

- *Legal risks—Possible scrutiny by the Federal Trade Commission (FTC) and/or your state's attorney general's office for false or deceptive marketing claims. This is not only true of electricity consumers but also third-party suppliers who develop solar projects through PPA contracts. A PPA developer can't claim to be selling solar energy if the PPA doesn't convey the RECs to the off taker of the electricity.*

- *Contractual and financial risks—Potential for breach of contract by conveying the same environmental attributes to multiple users.*

- *Brand and reputation risks—Possible requirement to issue a clarifying statement regarding the claims about your solar power project, use of solar energy or carbon footprint reductions.*

An organization that claims to be using solar power but does not own the RECs associated with their solar generator's output, may be double counting or claiming the renewable attributes of the electricity. Double counting RECs between multiple parties undermines the renewable electricity market by overestimating the amount of renewable electricity generated/used relative to the number of megawatt-hours produced."[2]

Similarly, in its *Residential Consumer Guide to Solar Power*, the Solar Energy Industries Association states that consumers should,

> *"Understand Renewable Energy Certificates (RECs). RECs or SRECs (Solar Renewable Energy Certificates) are tradeable tags representing the renewable qualities of the electricity your solar system generates and are used to track the use of renewable energy from solar systems. If you own RECs or the RECs are retired on your behalf, you can claim you use 'solar' or 'renewable' electricity from the system. Selling or transferring your RECs can help lower the cost of your system, but you lose the ability to make 'renewable' or similar claims about your home. Check your contract to see who will own the RECs. It's a new topic for residential consumers and solar companies should explain RECs and REC ownership to you."*[3]

CRS has also published guidance on consumer protection and solar claims that might be useful to the BPU as it considers developing its own set of safeguards. Although written specifically for the higher education context, these materials are highly relevant to community solar programs:

- *REC Best Practices and Claims*. October 17, 2014. Available at: https://resource-solutions.org/wp-content/uploads/2015/07/REC-Best-Practices-and-Claims.pdf

[2] United States Environmental Protection Agency. *Guide to Making Claims About Your Solar Power Use*. August 2017. https://www.epa.gov/sites/production/files/2017-09/documents/gpp-guidelines-for-making-solar-claims.pdf

[3] Solar Energy Industries Association. *Residential Consumer Guide to Solar Power*. July 2017. https://www.seia.org/sites/default/files/resources/SEIA%20Consumer%20Guide%20to%20Solar%20Power%20-%20v3%20-%207.17.2017.pdf

- *Solar Energy on Campus. Part I: Renewable energy Usage Claims*. December 28, 2016. Available at: https://resource-solutions.org/wp-content/uploads/2016/08/Solar-Energy-on-Campus-I.pdf
- *Solar Energy on Campus. Part II: Solar Purchasing Options and Communicating Renewable Energy Use*. December 28, 2016. Available at: https://resource-solutions.org/wp-content/uploads/2016/09/Solar-Energy-on-Campus-II.pdf
- *Solar Energy on Campus. Part III: Key Considerations for Developers Working with Higher Education Institutions*. December 28, 2016. Available at: https://resource-solutions.org/wp-content/uploads/2016/12/Solar-Energy-on-Campus-III.pdf
- *Solar Energy on Campus. Part IV: Community Purchasing Campaigns and Renewable Energy Usage Claims*. December 28, 2016. Available at: https://resource-solutions.org/wp-content/uploads/2016/12/Solar-Energy-on-Campus-IV.pdf

To ensure adequate consumer protection, the BPU may want to consider requiring third-party verification and certification for community solar projects in New Jersey. Green-e, a renewable energy certification program administered by CRS, ensures that there is no double counting or double claiming of voluntary renewable energy purchases, and it furthermore requires that end-use customers receive complete and accurate disclosures covering the resource content and pricing of the electricity they are purchasing.

Conclusion

Should the BPU have any additional questions relating to these comments or the suggestions contained herein, CRS would be happy to provide clarifying information and participate further as the New Jersey Community Solar Energy Pilot Program progresses.

Respectfully submitted,

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