The undersigned submits these comments regarding Section 2, LMI Access, of the outline that was used by BPU staff to organize the discussion during the stakeholder meeting on Community Solar held on July 24, 2018.

I. Introduction

Robust LMI and Environmental Justice ("EJ") community participation must be a core objective of the Community Solar ("CS") pilot program, with the goal that the participation of LMI/EJ individuals (both directly and through social service, housing and similar organizations that predominantly serve such individuals) should account for at least 20% of the program based upon subscribed capacity. To make this a reality, it is critical that the State take all possible steps to ensure that LMI/EJ participation is placed on a secure and sustainable long-term footing.

To a disproportionate extent, LMI and EJ community citizens of the State have suffered adverse impacts to their health and general well-being as a result of both historical and ongoing exposure to the emissions of fossil fuel-generating plants and other industrial sources of pollution. Similarly, to a disproportionate extent these citizens suffer adverse economic and other consequences as a result of exposure to climate change-related weather events. In addition, LMI/EJ community citizens, as electric utility ratepayers, have heretofore participated in funding the State's residential rooftop solar programs, while receiving little benefit from these programs in return. For these reasons--and many others--fundamental fairness requires that the State give priority to making available the financial and other resources necessary to ensure the robust participation of LMI/EJ community citizens in the pilot and follow-on permanent CS program. In this regard, and as a starting point, the BPU should consider dedicating the funds it will be allocated as a result of the State's return to the RGGI fold to providing financial support for LMI/EJ community participation in CS.

At the same time, given the realities of the State's fiscal health and the existing and expected increasing demands on ratepayer resources, it is absolutely critical that the BPU also take every possible opportunity to identify and deploy the tools at its disposal to promote LMI/EJ community CS participation that go beyond the traditional use of ratepayer and State-provided resources in the form of grants and subsidies.

To be clear, LMI/EJ participation in New Jersey's Community Solar program needs to be undergirded by a substantial allocation of State/ratepayer financial resources designed to make CS subscription more affordable for LMI/EJ citizens, and it is critical that this support be committed for the long-term in the most secure fashion possible: in order to incentivize the various participants in the industry to embrace the LMI/EJ-focused agenda with vigor, the long-term nature of the commitment of New Jersey to the effort must be credible. The following recommendations are therefore offered as potentially useful complements to such financial support--neither individually nor collectively can they be expected to be sufficient to put LMI/EJ participation on a sound footing in New Jersey. Nonetheless, they warrant consideration.

II. Program Design Elements

All CS project sponsors will have in common the objective that the revenue streams generated by subscriber payments are as secure and predictable as possible. A variety of structural mechanisms are available to help ensure that this is the case with regard to LMI/EJ community participants.

The State should take measures to ensure that (i) utilities provide project owners/operators with access to any and all information regarding customer payment history that may be useful to establish the creditworthiness of potential LMI/EJ community participants, subject to prior consent of such potential participants to making such information available. Project owners/operators should be required to take full account of such information in evaluating creditworthiness, but prohibited from drawing any adverse inference as to a potential subscriber's creditworthiness because such information is not so provided.

The evaluation of the creditworthiness of potential retail solar customers has typically leaned heavily on the FICO scoring framework, but it is most common for LMI/EJ citizens to have FICO scores that are either too low to meet traditional credit evaluation standards, or--having little if any participation in the formal banking and credit sector of the economy--to have no FICO score at all. At the same time, for obvious reasons many LMI/EJ community citizens assign the highest of financial priorities to meeting their utility payment obligations, and thus, have long histories of timely payments. The consideration of these favorable payment histories may be able to help to mitigate the tendency of businesses that lack the information to adequately assess risk to "assume the worst." Of course, a necessary predicate for this better information access to be of value is a requirement that the utilities would be obligated to both bill for subscriptions and issue credit on account of subscriber offtake allocations, with the net result that the financial impact of a subscriber's CS subscription would be fully and directly reflected in the utility billing process.

In addition, LMI/EJ community subscribers should be granted the maximum flexibility (i.e., likely more flexibility than that granted to other subscribers) both to (i) transfer their subscription obligations directly to new LMI/EJ community individuals/households that meet creditworthiness requirements, and (ii) "carry" their subscriptions with them when they move their residence, even if their new residence is outside of the area regarded as the standard subscription eligibility territory for a particular project. Both project sponsors and electric utilities should be required to maintain waitlists of prequalified households (both LMI/EJ and non-LMI/EJ) wishing to subscribe to a project as and when capacity becomes available so that they can quickly take the place of any defaulting subscriber . Also, both utilities and project sponsors should make concerted efforts to educate

LMI/EJ households as to the availability of CS project subscription opportunities, while making sure that such efforts place strong emphasis on consumer financial educational considerations.

In a related vein, for projects that have “anchor subscribers” --whether municipalities, universities, schools or hospitals, social service or housing organizations, or commercial businesses--that are subscribing to a project subject to an overall cap on their participation (either in percentage or absolute capacity terms), the BPU should make provision to permit such subscribers to exceed the cap to a specified extent, if they are willing to backstop a project by increasing their offtake as and when necessary due to LMI/EJ community subscriber defaults.

III. Creative Use of Existing Financial Resources

As a way to leverage the value of a relatively small amount of State resources, BPU should seek to collaborate with NJEDA or another appropriate State agency to provide support for projects that makes a commitment to LMI subscribers that meets or exceeds a specified level in the form of a financial reserve to which a project owner can have recourse to cover a specified portion of any losses it incurs related to LMI subscriber defaults. Alternatively, it can seek to create or a State income tax credit mechanism that would be made available to cover a specified portion of such losses. To avoid “moral hazard” considerations, it would be essential that such guarantees or tax incentives be only partial in nature, so that a project owner would continue to have an incentive to maintain a rigorous credit evaluation process.

The BPU should also explore ways in which funds that have been heretofore used to provide utility bill relief or other forms of energy assistance (e.g., EE measures) to LMI/EJ community citizens can be more effectively deployed by taking into account the goal of supporting LMI/EJ participation in CS. As one simple example, federal dollars have heretofore supported the state's LIHEAP program, used in part to provide financial relief for customers from electricity bills for heating, and the ratepayer-funded USF program provides bill relief for electricity consumption more generally, in both cases to citizens that meet specified needs requirements.. Perhaps these resources could be deployed to provide financial assistance in the form of free or reduced cost CS subscriptions and thus serve two goals at once.

IV. A "Set the Floor and Trade" proposal

It is clear that it is not enough to simply establish a goal for LMI/EJ percentage participation in a CS program and expect that goal to be met without various forms of market intervention, whether in the form of program design elements or special financial support. Those states that have simply established participation goals by statute or regulation without making the necessary interventions have generally been unsuccessful to date in meeting such goals. Other states, such as Colorado, have ensured the enacted participation goal is met, but only through simple requirement that each and every CS project that is deployed include a specified minimum percentage of LMI/EJ participation. The BPU should endeavor to investigate the potential benefits of adopting a more market-mediated, economically efficient approach, analogous to a cap-and-trade model, of mandating a specified minimum percentage of LMI/EJ participation on a per -project basis, but permitting individual project owners to meet that obligation either through actual LMI/EJ subscriptions, or by purchasing "LMI credits" from projects that have LMI/EJ subscriptions in excess of the required floor level.

Respectfully submitted,
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