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July 31, 2018

By Hand Delivery and Electronic Mail

Aida Camacho-Welch, Secretary
NJ Board of Public Utilities
44 South Clinton Avenue
3rd Floor, Suite 314
P.O. Box 350
Trenton, NJ 08625-0350

**Re: New Jersey Community Solar Energy Pilot Program
Docket No. QO18060646**

Dear Secretary Camacho-Welch:

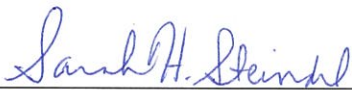
Please accept for filing the enclosed original and ten (10) copies of comments being submitted on behalf of the New Jersey Division of Rate Counsel ("Rate Counsel") in connection with the above-captioned matter. This filing is also being submitted electronically in accordance with the Notice issued in this matter.

We are enclosing one additional copy of the comments. **Please stamp and date the extra copy as "filed" and return to our courier.**

Aida Camacho-Welch, Secretary
July 31, 2018
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Thank you for our consideration and attention to this matter.

Respectfully submitted,

By: 

Sarah H. Steindel, Esq.
Assistant Deputy Rate Counsel

SHS
Enclosure

cc: Rule.Comments@bpu.nj.gov
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STATE OF NEW JERSEY
BEFORE THE BOARD OF PUBLIC UTILITIES

In the Matter of New Jersey Community) BPU Docket No. QO18060646
Solar Energy Pilot Program)
)
)

COMMENTS OF THE
NEW JERSEY DIVISION OF RATE COUNSEL
ON THE NEW JERSEY COMMUNITY SOLAR ENERGY PILOT PROGRAM

July 31, 2018

Introduction

The Division of Rate Counsel (“Rate Counsel”) would like to thank the Board of Public Utilities (“Board” or “BPU”) for the opportunity to provide comments on the Community Solar Energy Pilot Program (“Pilot Program”) topics issued by Staff on July 6, 2018. On May 23, 2018, P.L.2018, c.17 (the “Clean Energy Act”) was signed into law and directed the BPU to adopt rules and regulations establishing a Pilot Program within 210 days. The Pilot Program is intended to provide necessary experience and groundwork for the development and implementation of a full-scale Community Solar Energy Program within 36 months. Staff held a stakeholder meeting on July 24, 2018 to discuss these topics and inform the development of the Pilot Program.

A community solar project is a neighborhood-scale solar energy system from which nearby residential and other small electricity consumers can purchase a subscription for a fixed monthly share of the electricity generated by the project. The arrangement can eliminate the barrier of large capital cost that can keep customers from installing solar energy systems on their home or business. However, Rate Counsel has seen no New Jersey-specific studies, to date, that suggest there are any major solar installation barriers. In fact, current solar market conditions suggest quite the opposite. In fact, the recent passage of the Clean Energy Act was motivated in large part due to the glut of solar capacity development and that capacity’s corresponding Solar Renewable Energy Certificates (SRECs). The Clean Energy Act accelerated the solar RPS requirements, in large part, to reduce this glut. Adopting a new full-scale solar program, in light of these recent market trends, and currently anticipated market trends, is not advisable.

If the Board moves forward with a community solar pilot, Rate Counsel suggests that the pilot (1) be limited in scale and scope; (2) have a defined set of goals that can and will be

evaluated post-pilot; (3) require no ratepayer financial support; and (4) not undermine the Clean Energy Act's attempt to establish stability in New Jersey solar markets. The remainder of Rate Counsel's comments are offered in response to Staff's list of topics.

I. SITING AND PROJECT SIZE

1. What should the annual Pilot Program capacity limit be? Please justify your answer both qualitatively and quantitatively.

Rate Counsel Comment: The purpose of a pilot program is to provide information and feedback on program design, market responses and lessons learned; and to give policy makers an opportunity to adjust the program structure as needed. A cap is a necessary component of any pilot program and should allow for enough projects to provide information and feedback, but not so many such that the program becomes overwhelmed before it can be evaluated for problems or needed changes. While an uncapped program may allow the market to determine the scale of deployment it may also cause implementation issues if growth exceeds expectations. For instance, uncapped programs in Minnesota and New York had unexpectedly high numbers of applicants shortly after the introduction of their programs. As discussed in our introductory comments, Rate Counsel believes that if initiated, this Pilot Program should be limited in scope and focused on providing low-cost solar energy opportunities.

Program caps vary by state and experience. In Connecticut, a 2015 law established a two-year pilot program for shared clean energy facilities (including community solar), authorizing a competitive solicitation for projects totaling no more than 6 MW. Capacity in the program was split between service territories: 4 MW in the Eversource service territory; and 2 MW in the United Illuminating service territory. Rate Counsel notes however, that this pilot program was initiated after a study on the topic of shared clean energy facilities had been completed by the state. Other states are limited by pre-existing caps on net metering, such as the 1 MW cap in New Hampshire and a 30 MW cap in Rhode Island. Virginia has a 40 MW cap on community solar but has required each investor-owned utility to develop its own pilot program.

In Maryland, the Public Service Commission (PSC) is piloting a community solar program with three program caps: one for small projects under 500 kW, one for larger projects between 500 kW and 2 MW (the maximum allowable project size), and one for projects that primarily serve low- and moderate-income households. These cap structures are intended to allow sufficient opportunities for investment in community solar, while giving state regulators and other stakeholders time to identify and address problems in program design before the program grows too large. Through the cap and categorization mechanism, this pilot program is designed to generate sufficient interest from solar developers while allowing the PSC and other stakeholders time to learn and study the differential impacts of project size and market segment.

Rate Counsel suggests that any community solar pilot program not exceed 5 MWs in total given the range of pilot programs in other states, to date, and, more importantly, the current status of New Jersey's solar energy market. New Jersey has a dynamic and well-supplied solar market. Since 2008, the "demand" side of the market, comprised of the demand for solar energy (or SRECs), has declined while the "supply" side of the market, consisting of the provision of SRECs and driven by both existing and new solar installations, has increased. However, recently New Jersey SREC prices are falling and are anticipated to continue to fall, suggesting an oversupply of SRECs relative to market demand. Given these trends, it is likely that further large scale solar development is unneeded and, in fact, could be counterproductive to the Board's overall goals of trying to maintain a stable SREC market. Additional SRECs, like those that may be put to the market under the community solar program, may further depress an already challenged SREC market.

- 2. How should the annual Pilot Program capacity be allocated between Electric Distribution Companies ("EDCs")? How should excess annual capacity be reallocated if not used?**

Rate Counsel Comment: The allocation of the Board's community solar pilot program should be informed by each EDC's load share with PSE&G receiving the larger share of the capacity and the other EDCs receiving the balance. Underutilized community pilot program capacity should not be reallocated to other LDCs since the presence of under-utilized capacity will likely suggest a lack of market interest in community solar programs.

- 3. How should the Pilot Program annual capacity limit be divided among different project categories? What should those categories be (e.g., "small," "brownfield, landfill, historic fill," and "LMI" project types)? Please propose a breakdown of categories, with respective percentages of the annual capacity limit.**

Rate Counsel Comment: The Pilot Program should not be divided among different project categories. This distinction is not directed by the Clean Energy Act and is unnecessary. Capacity development should be market driven and, for pilot purposes, should be secured in a least-cost, competitive fashion. Siting limitations should not be established for pilot program purposes. If the Board is to limit the locations of community solar projects such siting location limitations should be evaluated at a later time. Additionally, the Board should be cognizant of the additional costs and lack of interest associated with the development of renewable/solar facilities on brownfield, landfill, and greenfield sites. For instance, over the last three years, experience with the SREC-II Based Financing Program has shown minimal developer interest in siting solar projects on brownfield, landfill and historic fill sites. In fact, after eight rounds of solicitations for capacity on brownfield, landfill and historic fill sites, only one bid has been made and awarded, totaling 5.2 MW. This leaves 3.8 MW, or over 40 percent of potential capacity unsubscribed and clearly indicates a lack of interest by developers in sites that are neither cost-effective, or cost-competitive.¹ Since the purpose of the pilot programs is to evaluate how to implement an effective community solar program resources would be better spent in establishing and learning from a limited implementation of

¹ Documentation for the SREC-II Based Financing Program are available at: <https://njsolarprogram.com/>.

the community solar project rather than limiting siting locations and providing extra incentives to develop solar facilities on more expensive sites. The implementation and siting of LMI projects will be discussed further later in these comments.

4. Should co-location of solar projects be allowed? What conditions or limits should apply?

Rate Counsel Comment: Yes, particularly if this helps to facilitate lower-cost market-based community solar projects. Co-location for the purpose of Board rules means having two community solar projects at one location. However, if the Board is referring to location of projects on farmland or open space, restrictions should apply to ensure that preserved farmland and/or open space are maintained.

5. What should the geographic limitations for community solar pilot projects and subscribers be (i.e., how far from the project can subscribers reside)? Please justify how your proposal maintains the community link between project and subscribers, without compromising the feasibility of community solar pilot projects.

Rate Counsel Comment: Rate Counsel recommends that community solar pilot program projects, and their respective participants, should be located within the same EDC service territory. Allowing subscribers to participate in a project located in another EDC service territory could lead to significant administrative costs and could lead to speculative-type projects that could lead to unanticipated outcomes. In a few states, more limitations are placed on community solar participant locations. For instance, Massachusetts requires that community solar participants be located in the same service territory as well as load zone. Other states require community solar participants to be within in the same or adjacent county of the project (Colorado, Minnesota and North Carolina).² However, Rate Counsel believes these restrictions are unnecessary and projects should be allowed within service territories in order to achieve maximum participation in the pilot program. Limiting program participation by load zone may isolate customers that live outside these load zones.

6. What land use restrictions and limitations, if any, should apply to siting community solar pilot projects? Should siting of community solar pilot projects be restricted to certain areas? Your answer should include a specific discussion of community solar on farmland and open space. Land use restrictions will be consistent with current New Jersey statutes and regulations.

Rate Counsel Comment: Please see Rate Counsel's response to Topics 1, 3 and 4. Community solar pilot projects should not be restricted to certain areas, except that projects should not be allowed on preserved farmland and/or open space. The Clean Energy Act does not direct for siting restrictions, except as required under N.J.S.A. 48:3-87(r). The market should allow developers to determine the most efficient and cost-effective project sites, subject to applicable state and local zoning and other land use restrictions.

² Details of individual state programs are available at: <http://www.dsireusa.org/>

7. **Provide recommendations on alternative siting and creative land use in sites other than "brownfields, landfills, areas designated in need of redevelopment, in underserved communities, or on commercial rooftops." For instance, are parking lots, road rights-of-way, multifamily buildings, or schools appropriate locations for community solar? Please provide both qualitative and quantitative responses, including what specific policies may be required to facilitate development of these types of projects.**

Rate Counsel Comment: Please see Rate Counsel's response to Topics 1, 3 and 4. There is nothing in the Clean Energy Act that suggests the use of "creative land use" in developing a community solar pilot program. Rate Counsel recommends that the Board focus the community solar program on one that minimizes costs, not attempts to serve any land use goals that are not part of its regulatory purview and are not part of the governing statutes on this pilot program.

8. **What liability, provisions, and exemptions should apply to community solar developers and subscribers for projects located on landfills and/or contaminated land?**

Rate Counsel Comment: Rate Counsel refers to its responses in Topics 1, 3, 4 and 7 above. Capacity development should be market driven and, for pilot purposes, should be secured in a least-cost, competitive fashion. This can not be done with projects located on landfills and/or contaminated land. As noted in Rate Counsel's response to Topic 3, the SREC-II Based Financing Program has shown minimal developer interest in siting solar projects on brownfield, landfill and historic fill sites. Further, filings from PSE&G's Solar 4 All programs have also provided evidence that these sites are prohibitively expensive and not least-cost projects.³

II. LOW- AND MODERATE-INCOME ACCESS

9. **Provide recommendations on the definition of LMI community solar pilot projects, with appropriate justification.**

Rate Counsel Comment: Rate Counsel recommends that the Board work with LMI communities to develop solar projects that meet the needs of the community, not the needs of the developers. The Board should focus on meeting the needs of the LMI community rather than allowing developers the control to decide what they want or are willing to offer to these communities. Additionally, various advocacy organizations have suggested that the pilot projects should include commitments to train and hire residents in areas such as construction or sales in order to help facilitate economic and job growth in these communities. Rate Counsel agrees that adding economic development and job growth opportunities in these communities may be beneficial. Furthermore, Rate Counsel recommends that the Board use

³ BPU Docket No. EO12080721, Direct Testimony of David E. Dismukes, filed January 18, 2013, p. 30; BPU Docket No. EO16050412, Direct Testimony of David E. Dismukes, filed September 23, 2016; and BPU Docket No. EO16050412, Direct Testimony of Todd W. Hranicka, 2016-04-28 - Attach A - Hranicka - WP-TWH-S4AEII-1.xlsx.

this Pilot Program to study and evaluate the potential costs and benefits of community solar programs before applying it to specific targeted income categories. Further, the governing legislation on this pilot does not expressly require, or even suggest, that a pilot program be developed on an income-differentiated basis. The legislation only requires that the Board consider the impact that its pilot will have on various income classes. This should be one of the evaluation criteria used by the Board in its post-program evaluation.

10. Provide recommendations on what LMI eligibility criteria should be accepted to qualify a subscriber and/or a project as LMI. Include consideration of how many times or how often LMI subscribers should be required to submit proof of eligibility.

Rate Counsel Comment: See Rate Counsel’s response to Topic 9. Rate Counsel recommends that the Board consult with residents and local organizations of the targeted communities to develop eligibility criteria in order to ensure that the pilot programs will be designed to effectively serve the targeted LMI community.

11. The BPU is considering a number of different approaches to encourage development of LMI community solar pilot projects, including, but not limited to:

- **Dedicated capacity:** e.g., a certain percentage of overall capacity for the Pilot Program would be reserved for LMI projects.
- **Procedural:** e.g., LMI projects would receive preference in the solar interconnection queue.
- **Financial:** e.g., incentives would be provided to LMI community solar pilot projects, potentially as an adder to the bill credit.

Which approach, or combination of approaches, should the BPU implement in order to most effectively support LMI access to community solar pilot projects, in conformance with the Clean Energy Act? Please be specific in recommending qualitative and quantitative incentives, and proposals for implementation.

Rate Counsel Comment: See Rate Counsel’s response to Topics 9 and 10. Rate Counsel also notes that the statute explicitly states that “the rules and regulations developed by the board shall establish: ... (7) the provision of access to solar energy projects for low and moderate income customers.” This says nothing about “encouraging,” “incenting” or setting any other set-aside, preference or other explicit support mechanism for income-differentiated pilot programs. The statute simply states that these customers should be given “access” to the pilot program.

III. VALUE OF THE CREDIT

- 12. Please define the following terms: "value of solar," "retail rate," and "avoided cost of wholesale power." Please discuss applicability and impacts on the Pilot Program**

Rate Counsel Comment:

Retail Rate: The rate charged by a utility to a customer that includes all fixed and variable costs of transmission, distribution and energy.

Avoided Cost of Wholesale Power: The cost associated with the production or procurement of energy that the utility avoids when its output is displaced by the output from a solar generator.

Value of Solar ("VOS"): The real value VOS is determined by a bottom-up calculation of the benefits and costs that solar resources provide to, or impose upon, the electric system. These values represent avoided costs to the utility and the overall system (avoided transmission and distribution services) and the cost of incorporating solar to the system.

When subscribers invest in a portion of a community solar system, they receive a credit on their electric utility bill for their share of the power produced. Credits may be provided in the form of energy (kWh) offsets to the customer's consumption, or monetary credits to the customer's bill. States differ in terms of their methods of valuing generation. Some states compensate with credits based on the full retail rate, which typically includes generation, transmission and distribution (e.g. Maryland). In other states however, transmission and distribution are not included in the compensation (e.g., Colorado). A number of utilities and ratepayer organizations have opposed the inclusion of the distribution rate in the credit offered arguing that the inclusion of the distribution rate results in non-net metered ratepayers subsidizing the net-metered ratepayers since the net-metered customers essentially may be able to bypass paying their fair share of fixed costs that are embedded in the distribution rate. Rate Counsel agrees with this analysis.

Rate Counsel recommends using a LMP-based rate. The "LMP" or the "locational marginal price" of electricity is what a wholesale generator in that location would receive for its generation, and represents the closest approximation of the value to the system provided by a project. An LMP rate should be economically sufficient for projects that also receive SREC revenue. This would allow for the development of community solar projects while not "over-promoting" with an overvalued set of subsidies such as setting rates at the full retail rate. Should the Board decide to use a value of solar approach, it should use an administratively determined rate as an interim rate, until a detailed and thoroughly researched value of solar study can be performed. An administratively determined rate could be something like the LMP rate plus two cents, which is at least tied to a specific rate and used temporarily until an appropriate study can be performed.

- 13. The BPU is currently working to determine an appropriate value of the credit on each participating subscriber's bill. The BPU requests that stakeholders provide indicative financial data and analysis in response to the scenarios described below. Please ensure responses include quantitative and qualitative assessments. Responses may also include**

quantitative and qualitative assessments for alternative variations to these scenarios that you believe to be relevant and representative of the New Jersey market (e.g., variations on project size, location, type of off takers etc.).

Scenario 1: 5 MW ground-mount system on a rural landfill. Assume that the landfill is owned by a municipality, who has agreed to lease the land for \$6,000/year.

Scenario 2: 400 kW rooftop system on a high-school roof. Please include assumptions regarding lease payments to the school board:

Scenario 3: 1 MW canopy system in an urban parking lot.

Scenario 4: 200kW rooftop system on an affordable housing multi-family building. Please assume that, of the 200kW system, 100kW will be directly net metered to offset common load, and 100kW will be used for community solar subscriptions for LMI tenants of the building.

For each of these scenarios, please provide your best estimates for:

- Site acquisition, including lease or purchase, cost of applicable studies and time, and cost of negotiating land document.
- Pre-development, defined as all of the overhead costs from the day of site control to the Day 1 of construction.
- Development, defined as all construction costs and investments, both hard (e.g., panels, balance of system, interconnection, etc.) and soft (e.g., labor, permits).
- Customer acquisition, including number of customers, churn, cost of acquisition. Please provide differentiated estimates for higher-income versus LMI customer acquisition.
- Total project cost per kWh. Estimated time from project approval by BPU to Day 1 of operation.

Please submit the quantitative assessments in unlocked Microsoft Excel spreadsheets.

Rate Counsel Comment: Rate Counsel does not have a comment on this request at the current time.

14. How should the community bill credit be administered? Should an annualized period mechanism be used for community solar? If yes, should the annualized period be set once per Pilot Project, or once for each individual community solar subscriber?

Rate Counsel Comment: Please see Rate Counsel's response to Topic 12. Rate Counsel recommends that bill credits be administered monthly on a subscriber's utility bill so that the subscriber is able to view and understand the benefits of their investment.

15. Identify best practices in EDC administration of community solar billing in other states and explain how they can and should apply specifically to the New Jersey Pilot Program. EDCs specifically should identify issues relating to changes in the Data Exchange and Protocol Process Flows (or subsequent versions) and how they will administer the billing and crediting process in the Electronic Data Interchange (CUEDI") process.

Rate Counsel Comment: Rate Counsel does not have sufficient information to provide comment to this request at the current time.

16. What should happen to excess credits on a subscriber's bill at the end of a year?

Rate Counsel Comment: The Board should consider limitations on subscription size so that customers may offset their usage without accruing significant excess credits at the end of the year. However, should subscribers have excess credits at the end of an annualized period, these credits in the subscriber's account should expire.

17. Are there charges on subscribers' utility bills towards which the community solar bill credit should not be able to be applied?

Rate Counsel Comment: Please see Rate Counsel's response to Topic 12. The community solar bill credit should be based on an LMP rate. In order to assure that participants continue to contribute fairly to the costs of the distribution system and the programs funded by the societal benefit charge ("SBC") and other surcharges, credits should not be applied to these components of customer bills. There is no reason why subscribers should be exempted from these charges.

18. Should unsubscribed energy be purchased by the EDCs at avoided cost or area locational marginal pricing ("LMP")? Or should the community solar pilot project bear the loss of unsubscribed energy?

Rate Counsel Comment: See response to Topic 17 above. To the extent the Board does allow unsubscribed credits to accrue, those should be sold back to utilities at a market-based LMP-based price.

19. 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?

Rate Counsel Comment: As noted in Rate Counsel's response to Topic 1, New Jersey currently has a well-supplied solar market and an abundance of SRECs available to meet RPS requirements. Further large-scale solar development is unneeded and could be counter productive to maintaining a stable SREC market. Limiting the program size to 5 MW may help to slow further deterioration of the SREC market in the near future and may help to alleviate the concerns that SRECs will not provide enough of a benefit or incentive to

develop these solar projects. Should the Board decide to make pilot projects eligible for SRECs, Rate Counsel takes no position on the SREC ownership issue at this time.⁴

- 20. What components of the Community Solar Energy Pilot Program should be eligible for rate recovery by the EDCs? Include specific reference to what costs should be included to implement and comply with the Pilot Program. What should be the process for determining eligible costs? What should the process be for reviewing eligible costs and the proposed mechanism for recovery?**

Rate Counsel Comment: Only reasonable administrative costs incurred by the EDCs in dealing with new interconnections and subscriber billing should be eligible for rate recovery. Rate Counsel also notes that this question cannot be completely answered until the Board proposes a specific community solar pilot program. Rate Counsel will provide a response to this inquiry once a proposal has been offered.

IV. APPLICATIONS AND INTERCONNECTION

- 21. Please provide specific comments on how the Pilot Program application process should be organized, including: 1) what items should be included in the application, and 2) what specific criteria should the BPU use to rank applications.**

Rate Counsel Comment: Projects in the Pilot Program should be solicited via a competitive RFP process. Each EDC should solicit an amount of capacity proportional to their load share (see Rate Counsel response to Topic 2). Developers would submit project applications and the EDCs and Board would jointly evaluate applications based on project cost and other relevant criteria. The awarded project would enter into a purchase power agreement with the utility. The competitive approach will also allow for EDCs to give preference to projects that offer the greatest locational benefits. While some may advocate for a first come first serve approach, this may not necessarily lead to the installation or development of the least-cost or most beneficial project being installed. Therefore, projects should be evaluated through the RFP process in order to provide a competitive market process that will help to facilitate the selection of the most cost-effective and beneficial projects.

- 22. What specific measures should be implemented to ensure an effective and streamlined interconnection process for community solar pilot projects?**

Rate Counsel Comment: The Board should start with interconnection processes that follow the current ones utilized by EDCs to the greatest extent possible.

⁴ Rate Counsel recognizes that the Board is in the process of considering whether to continue the SREC program. Rate Counsel reserves its rights to assert any position it deems in ratepayers' best interests in that process.

23. What measures can be implemented to minimize negative impacts and maximize grid benefits to the distribution system of an EDC?

Rate Counsel Comment: EDCs and project developers should work together to identify areas of constraint as well as areas where capacity and/or resiliency may be needed and may provide the highest value. For instance, in California, the three largest utilities have provided online interconnection maps. The maps are intended to show developers key information about the interconnection potential for solar, as well as electric vehicles and battery storage.⁵ Maps include general locations of distribution circuits, substations, sub-transmission systems, and areas of transmission constraints along with associated voltage, available capacity and current and queued DG interconnections amounts. Similarly, in Hawaii, the utilities have shared Locational Value Maps with the goal of integrating “as much consumer-sited renewable generation as possible while maintaining reliable service to all customers.”⁶

24. Should existing solar projects be allowed to reclassify as community solar pilot projects?

Rate Counsel Comment: No, this Pilot Program should be limited to new projects only. Allowing existing solar projects to be allowed to reclassify as community solar pilot projects does not promote the development of new solar projects and only results in developers receiving additional resources and funding for projects that have already been developed and paid for. Allowing existing solar projects to be reclassified as community solar pilot projects will not advance the State’s renewable energy goals.

25. How can community solar subscription organizations most efficiently submit all required information regarding individual subscriptions to both the BPU and the relevant EDC? In the case of a replacement subscriber in an existing community solar project, should the subscriber organization be allowed to provisionally accept a new subscriber, subject to BPU review and right to disapprove within 30 days? What should that required information be?

Rate Counsel Comment: Subscription organizations should submit quarterly reports that include project in-service date; facility performance (generation), participation levels by type of participant (including enrollments and de-enrollments), share of subscription for each participant, annual amount of bill credits paid (total and average), subscription fee revenues, program costs, and an estimate of community benefits achieved. The Board should look to its current net metering rule requirements as a guide for the types of information that should be provided for a community solar pilot project.

⁵ For further information see Greentech Media. 2015. California’s new interconnection maps are a huge win for distributed energy. Available at: <https://www.greentechmedia.com/articles/read/californias-new-interconnection-maps-are-a-huge-win-for-distributed-energy#gs.RF5o4sQ>

⁶ <https://www.hawaiianelectric.com/clean-energy-hawaii/integration-tools-and-resources/locational-value-maps>

26. What reporting requirements should apply to EDCs with respect to the Pilot Program?

Rate Counsel Comment: See Rate Counsel Response to Topic 25 above.

27. What specific measures, if any, should apply to multi-family buildings?

Rate Counsel Comment: The community solar pilot program rules should assure that multi-family buildings have access and can participate in the program. However, there are a number of inherent issues in assuring that the benefits of the solar program will go directly to the tenants participating in the pilot program. Therefore, participation by multi-family buildings should be delayed until the Board is able to ensure that participating tenants will be adequately supplied with the benefits of the pilot and will not be adversely impacted by increased costs. There are no specific set asides or support mechanisms explicitly provided for in the the legislation.

28. What specific measures, if any, should apply to master-metered buildings in terms of eligibility for a Pilot Project? Please discuss specifically how to ensure that benefits of a community solar subscription are passed through to tenants.

Rate Counsel Comment: See Response to Topic 27 above. In the instance of master-metered buildings it is difficult to assure that benefits will flow to tenants since the owner of the building will be the recipient of any credits or savings from the pilot project. The Board's jurisdiction over how a building owner will distribute savings to tenants is not specified in the statue, and the obligation to pass the savings on to tenants should be made clear, if possible, in the regulations governing the pilot.

29. What information regarding community solar pilot projects should be made available on the BPU website? Should website publication be automatic upon approval of the project by the Board, or only upon request from community solar project owners?

Rate Counsel Comment: Rate Counsel has no comment at the current time but, as a general matter, supports the notion of making all reasonable effort to make non-confidential community solar pilot program information available on its website. The Board should also consider other avenues for the dissemination of information regarding community solar projects such as public meetings within the communities.

30. What specific elements should the BPU consider to ensure a smooth transition from the Pilot Program to a full-scale Community Solar Program?

Rate Counsel Comment: Rate Counsel has no comment on this question at the current time. Any transition should be informed by the results of the pilot.

V. CUSTOMER SUBSCRIPTIONS, CUSTOMER PROTECTION

- 31. Should there be a minimum number of subscribers per community solar pilot project? If so, what should it be? Please provide specific support for this number.**

Rate Counsel Comment: Most states have established minimum subscriber requirements. In Colorado, Maine and New York, each facility must have at least 10 subscribers. Other states however, are less strict: Massachusetts, Minnesota and North Carolina require three (Massachusetts) to five subscribers (Minnesota and New York). Other states, however, have not established a number of subscriber requirement (Vermont, Washington).

Rate Counsel believes it is appropriate to establish a minimum subscriber requirement, to ensure projects are actually shared; while at the same time cautions against too many restrictions that may reduce cost-effectiveness. While it would be more cost effective for a project to subscribe just a few large customers, this runs contrary to the nature of a community solar program. Rate Counsel suggests an approach similar to Minnesota where each facility must have at least five subscribers; and no more than 40 percent of a facility's generation can be attributed to one subscriber.

- 32. What should be the maximum subscription size for each subscriber? Should specific limits be placed on residential versus commercial subscribers?**

Rate Counsel Comment: Yes, the Board should establish limitations on subscription size so that customers may offset their usage without accruing significant excess credits at the end of the year. Subscriptions should be sized to offset no more than 120 percent of a customer's historical average annual electricity consumption. Allowing subscriptions to be sized at no more than 120 percent of a customer's historical average annual electricity consumption ensures that the customer would be able to achieve maximum savings by entirely offsetting his or her costs for electricity usage, which may fluctuate from year to year based on a number of factors including weather and the economy.

- 33. What specific measures should be enacted for both community solar subscription organizations and the BPU to manage subscriptions effectively? Please provide specific churn rate assumptions.**

Rate Counsel Comment: Rules should remain flexible to allow subscriber organizations to meet customer needs and adjust allocations if subscribers move out of the service territory and/or cancel their subscriptions. Subscriber organizations should be able to update subscriber information on at least a monthly basis to enable timely and accurate bill crediting in the case of a customer moving within the utility territory or then transfer of subscription to a new customer.

- 34. Should subscriptions be portable? If yes, under what conditions?**

Rate Counsel Comment: Yes, subscribers should be able to retain their subscriptions if they move within the EDC service territory. Subscriber attrition is inevitable and policies that limit portability will simply increase project risk and cost. In addition, individual

subscribers should be allowed to leave the project and be replaced by new subscribers. Rules should remain flexible to allow subscriber organizations to meet customer needs and adjust allocations if subscribers move out of the service territory and/or cancel their subscriptions. Also, see Rate Counsel response to Topic 5.

- 35. Please identify what specific limits, if any, should be placed on the transferability of subscriptions, in accordance with applicable statutes, rules, and regulations. If the BPU were to determine that subscriptions [sic] are fully transferable (i.e., able to be brokered and sold), what consumer protections should be established? Please include consideration of, among other things, necessary approvals and certificates, to ensure that if a community solar subscription market, including through third parties, were to develop, that said market is fair and transparent?**

Rate Counsel Comment: While subscribers will likely sign a multi-year contract with a project, options to leave the program should be made available. The terms of transferability should be made clear by the project developer. Subscribers should be able to give or sell their subscriptions to other customers in a private transaction, or relinquish their subscription to the developer. The contract should also be clear with regard to any banked energy credits and any SREC credits. See also Rate Counsel's response to Topic 36.

- 36. Please provide comments on consumer protection measures, including ideas and language for consumer protection rules, and a proposed customer disclosure form.**

Rate Counsel Comment: Educational materials should be made available to customers to help understand the basics of solar energy and community solar projects; where community solar projects are available; how to access these projects; key terms in subscription agreements; and the right questions to ask solar developers.

Maryland, Minnesota and Hawaii have community solar contract disclosure requirements built into their community solar program rules. These disclosures require that consumers be provided upfront information about billing and pricing terms; a summary of charges (both nonrecurring and recurring); information about the circumstances under which the charges are subject to change; conditions of services; transfer and termination fees and any other penalties; and a production projection and method for calculating it. Rate Counsel also suggests that as part of the RFP process respondents should include information how subscribers will receive a fair share of the benefits from the solar project.

- 37. Besides NJ building codes and standards, what specific technical standards should the BPU cite in its rules and regulations for the community solar pilot projects?**

Rate Counsel Comment: Rate Counsel has no comment at this time.

38. Please provide general comments on any issues not specifically addressed in the questions above. Please do not reiterate previously made comments, keep these comments succinct, and make specific reference to their applicability in the New Jersey context.

Rate Counsel Comment: Rate Counsel has no further comments at this time.