



State of New Jersey  
DIVISION OF RATE COUNSEL  
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PHIL MURPHY  
*Governor*

SHEILA OLIVER  
*Lt. Governor*

BRIAN O. LIPMAN  
*Director*

February 15, 2023

Members of the Senate Environment and Energy Committee  
Statehouse Annex  
P.O. Box 068  
Trenton, N. J. 08625

**RE: S3123 (Increases goal for annual capacity of solar energy projects to be developed under Community Solar Energy Program to 500 megawatts per year.)**

Members of the Senate Environment and Energy Committee:

I write on behalf of the Division of Rate Counsel ("Rate Counsel") regarding S3123 (Increases goal for annual capacity of solar energy projects to be developed under Community Solar Energy Program to 500 megawatts per year.), which is up before the Senate committee on February 16, 2023. I regret that I am unable to attend the meeting, but I hope you will consider our comments. In our correspondence to the Committee dated November 2, 2022, a copy of which is attached, we expressed concerns about this bill. While it is our understanding that the Committee will be considering amendments that would reduce the capacity targets compared to the original bill, we continue to have significant concerns about the financial impact on ratepayers' utility bills, particularly when energy and other costs of living continue to rise. The committee should take into account the cumulative effect of all the subsidies ratepayers are required to pay and the impact that has on affordability. Legislation should not limit competition in the solar market, as competition tends to drive prices downward.

As you are aware, Rate Counsel represents and protects the interests of all utility customers – residential customers, small business customers, small and large industrial customers, schools, libraries, and other institutions in our communities. Rate Counsel is a party in cases where New Jersey utilities seek changes in their rates or services. Rate Counsel also gives consumers a voice in setting energy, water, and telecommunications policy that will affect the rendering of utility services well into the future.

As we noted in our earlier correspondence, the capacity targets were already changed once, when the Solar Act of 2021 increased the minimum targets for the program from 50 to 150 megawatts ("MW") annually. S3123, as amended, would further increase the target to 225 MW for Energy Years 2024 and 2025. While the increased targets are lower than the originally

proposed 500 MW annually, they are still likely to create undesirable results to ratepayers. While the increase is less extreme than in the original bill, it would still increase costs for ratepayers, because the increased targets for Community Solar would crowd out less expensive grid supply projects and would undermine the ability of the Board of Public Utilities ("Board") to assure robust competition in the Community Solar solicitation process. Limiting the amount of solar that can compete to drive prices downward ultimately hurts ratepayers by resulting in higher, administratively set prices

It is also important to note that, if this legislation passes, it will set a precedent that the targets for the Community Solar program are subject to repeated modification by legislative mandate, instead of being based on the Board's expert assessment of the market. Although this legislation would increase the target only for two energy years, there is nothing to stop the solar industry from returning repeatedly in the future to see extensions of and increases in the 225 MW target.

As we stated in our earlier letter, Rate Counsel is supportive of renewable energy, and understands the desire to encourage in-state renewable energy investments. However, it is also important to allow the Board to manage the Community Solar program without repeated changes in the program's goals. As explained in our earlier letter, repeated increases in the amounts of resources that are mandated to be allocated to a single segment of the market will only increase costs and undermine the State's ability to meet its clean energy goals.

We very much appreciate the opportunity to share our comments on behalf of the State's ratepayers and hope you will consider them. **We urge you not to vote this bill out of committee.** Please feel free to contact our office if you have any questions. Thank you for your attention to these important matters.

Sincerely,

*/s/ Brian O. Lipman*

Brian O. Lipman  
Director, Division of Rate Counsel

c: Joey Guerrentz, Policy Analyst, Senate Environment and Energy Committee  
Kevil Duhon, Deputy Executive Director at New Jersey Senate Democratic Office  
Eric Hansen, OLS Committee Aide  
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Rebecca Panitch, Republican Aide, Senate Environment and Energy Committee  
Christine Mosier, Chief of Staff, Senator Bob Smith  
Pamela Cocroft, Committee Secretary  
Jessica Murray, Chief of Staff, Senator Greenstein  
Erin Rice, Senator Codey's Chief of Staff  
Tina DeSilvio, Chief of Staff, Senator Durr

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Assemblyman John McKeon

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PHIL MURPHY  
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November 2, 2022

Members of the Senate Environment and Energy Committee  
Statehouse Annex  
P.O. Box 068  
Trenton, N. J. 08625

**RE: S3123 (Increases goal for annual capacity of solar energy projects to be developed under Community Solar Energy Program to 500 megawatts per year.)**

Members of the Senate Environment and Energy Committee:

I write on behalf of the Division of Rate Counsel ("Rate Counsel") regarding S3123 (Increases goal for annual capacity of solar energy projects to be developed under Community Solar Energy Program to 500 megawatts per year.), which is up before the Senate committee on November 3, 2022. I regret that I am unable to attend the meeting, but the short two days notice was not sufficient lead time to move our schedule of pending rate matters. I hope you will consider our comments. We have concerns about this bill, especially its almost-certain potential for increasing costs to ratepayers and undermining the Board of Public Utilities' ("Board") ability to use competitive processes to assure that community solar projects meet important criteria including serving low-income ratepayers and maximizing benefits to subscribers.

As you are aware, Rate Counsel represents and protects the interests of all utility customers – residential customers, small business customers, small and large industrial customers, schools, libraries, and other institutions in our communities. Rate Counsel is a party in cases where New Jersey utilities seek changes in their rates or services. Rate Counsel also gives consumers a voice in setting energy, water, and telecommunications policy that will affect the rendering of utility services well into the future.

The proposed bill would amend N.J.S.A. 48:3-87.11, which required the Board to implement a community solar pilot program, to be converted into a permanent community solar program based upon lessons learned in the pilot program. The legislation, as originally enacted, did not specify capacity targets for the pilot program, and set a minimum target of 50 megawatts of community solar projects for the permanent program. Subsequently, the Solar Act of 2021 increased this target by requiring the target of at least 150 megawatts of community solar facilities per year, during the first five years of the Board's Successor Solar Incentive ("SuSI")

program. N.J.S.A. 48:3-116. The proposed legislation would further increase the target for the permanent community solar program to 500 megawatts per year.

This change is likely to result in increased costs for ratepayers. Community solar projects are incentivized as part of the Administratively Determined Incentive (“ADI”) segment of the SuSI program. For Energy Years 2022 and 2023, community solar was allocated 150 of the 525 megawatt overall target for the ADI program.<sup>1</sup> The proposed 500 megawatt annual target would likely crowd out lower cost grid supply projects, both the smaller projects that qualify for the ADI program and the larger ones that are to be incentivized under the Competitive Solar Incentive (“CSI”) segment of the SuSI program.

In addition, the expanded target would undermine the Board’s ability to assure that the incentives are awarded to the community solar projects that best serve the State’s clean energy goals. Currently, recipients of community solar incentives are selected in a competitive bidding process. Selection is based on a multi-factor evaluation in which projects receive points based on factors including whether the project will serve low and moderate income subscribers, how and where it will be sited, and what level of guaranteed savings will be offered to subscribers.<sup>2</sup> Currently, the Board has discretion to set capacity targets for each solicitation, subject to the 150 megawatt annual minimum target. This allows the Board to set targets for each solicitation at levels that will result in enough applications to assure a competitive result.

Most recently, the Board was successful in awarding incentives to community solar projects totaling approximately 165 megawatts.<sup>3</sup> Based on the results, the 150 megawatt annual target established in the Solar Act of 2021 appears workable. This may not be the case if the minimum target annual target is increased to 500 megawatts. The proposed increase is likely to be a serious constraint to the Board’s ability to assure robust competition in the permanent program. In this regard it is important to keep in mind that the Board is in the process of transitioning from the pilot community solar program to the permanent program; regulations for the permanent program are currently under development.<sup>4</sup> The Legislature should allow the Board to craft the permanent program, including capacity targets, based on lessons learned in the pilot.

Reducing the Board’s ability to harness competitive processes in the community solar program may be in the interests of certain segments of the solar industry, but it is not in the best interests of ratepayers or the State overall. Resources are not unlimited. In order to achieve the State’s clean energy goals, it is important to get the most “bang for the buck” when ratepayers subsidize solar and other clean energy. This will not happen if competition is reduced by

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<sup>1</sup> See NJ Div. of Clean Energy ADI Program information page, available at: <https://njcleanenergy.com/renewable-energy/programs/susi-program/adi-program>.

<sup>2</sup> I/M/O the Community Solar Energy Pilot Program, BPU Dkt. Nos. QO18060646 & QO20080556, Order at 5-6 (Oct. 28, 2021), available at: <https://nj.gov/bpu/pdf/boardorders/2021/20211028/8J%20ORDER%20Community%20Solar%20PY2%20Awards.pdf>.

<sup>3</sup> Id. at 6.

<sup>4</sup> See record of Board’s stakeholder proceeding, I/M/O the Community Solar Energy Program, BPU Dkt. No. QO22030153, available at: [https://publicaccess.bpu.state.nj.us/CaseSummary.aspx?case\\_id=2111043](https://publicaccess.bpu.state.nj.us/CaseSummary.aspx?case_id=2111043).

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increasing the amount of resources that are mandated to be allocated to one segment of the State's clean energy economy.

Rate Counsel is supportive of renewable energy, and understands the desire to encourage in-state renewable energy investments. However, before advancing this bill, we encourage the Committee to analyze its impacts on ratepayers, and on the achievement of the State's clean energy goals.

We very much appreciate the opportunity to share our comments on behalf of the State's ratepayers and hope you will consider them. Please feel free to contact our office if you have any questions. Thank you for your attention to these important matters.

Sincerely,

*/s/ Brian O. Lipman*

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Director, Division of Rate Counsel

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