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NJ Board of Public Utilities Prepares for Second Year of Community Solar Program

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In order to achieve New Jersey's ambitious goal of generating all of the State's electricity from clean energy sources by 2050, and to ensure that low and moderate income (LMI) residents can realize the benefits of renewable energy, the New Jersey Board of Public Utilities (BPU) is preparing to launch the second year of New Jersey's Community Solar pilot program.

The Community Solar program provides an opportunity for residential and commercial customers that do not have sufficient space for the installation of solar photovoltaic equipment to generate electricity for their own consumption to enter into a "subscriber agreement" that enables them to purchase electricity generated by solar facilities located on other properties.

Under the program, a solar developer constructs a solar PV facility on property (e.g., a rooftop) that it leases, usually from a commercial property owner. The solar developer/provider then solicits customers to enter into subscriber agreements to "purchase" solar energy at a contract rate. The local electric distribution company provides a bill "credit" to the community solar customer for each solar kWh of electricity delivered to the utility on behalf of the community solar customer. The subscriber in turn pays the community solar provider for the solar energy attributed to the subscriber.

The Community Solar program is required by the Clean Energy Act of 2018 and is intended to make renewable energy accessible and affordable to LMI customers and to Environmental Justice Communities. In 2019, the BPU commenced the Community Solar program by establishing a three year "pilot program" that will approve community solar projects of at least a total of 75 MWs per year.

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Solar developers throughout New Jersey have shown widespread interest in the program. During Year 1 of the program, 252 applications were submitted to the BPU. In December 2019, the BPU approved 45 applications consisting of 78-MWs – all of which will serve a subscriber base where more than 51% of the subscribers are LMI customers. In approving the projects, the BPU gave preference to projects that are installed on brownfields, commercial rooftops and projects that advance the interests of LMI customers.

On July 27, 2020 the BPU conducted a public stakeholder webinar to receive input regarding the Community Solar application and approval process applied in Year 1 of the program. The BPU Staff used the meeting to identify “lessons learned” from Year 1 of the pilot program and to identify areas where the program application review and evaluation process could be modified. During the stakeholder meeting, several solar developers affirmed their continued interest in the Community Solar program and urged the BPU to modify the program to permit subscriber enrollment based on “opt-out” requirements rather than “opt-in,” and to require the local electric distribution utilities to provide consolidated billing (*i.e.*, the local electric utility sends a single bill to the customer including charges imposed by the Community Solar provider). Meeting participants also encouraged the BPU to confirm that projects approved for Year 2 of the program will be eligible to receive transition solar renewable energy certificates (TREC).

At the stakeholder meeting, the BPU Staff stated that applications for Year 2 of the program will likely be accepted in the fall of 2020 with application awards being made within a few months thereafter. It is unclear whether the BPU will amend the application process or the award criteria for Year 2. What remains clear, however, is that the New Jersey solar developer community continues to have a strong interest in developing community solar projects – and that such projects are a great opportunity for property owners to lease their properties for solar installations. Further, the Community Solar program presents an opportunity for LMI customers to obtain electricity cost savings from the installation of solar renewable energy generation.

We will continue to monitor the BPU’s implementation of the New Jersey Community Solar program and will provide updates regarding new developments. Please contact the author of this Alert, **Barbara J. Koonz** bkoonz@greenbaumlaw.com | 973.577.1894 with any questions.