

NJBPU Approves Year 2 Application Process for Community Solar Energy Pilot Program

In developments of interest to New Jersey electric utilities, solar developers, subscriber organizations, and eligible consumers, on October 2, 2020, the New Jersey Board of Public Utilities (NJBPU) moved forward with New Jersey's Community Solar Energy Pilot Program (Community Solar Program), approving the Year 2 application process. Applications for Year 2 community solar projects are due by February 5, 2021.

Overview

The Year 2 application form and process are similar to that used in Year 1. Furthermore, a new online application process has been introduced that is expected to streamline some aspects of the application process.

The Community Solar Program capacity for Year 2 was doubled from up to 75 megawatts (MWdc) to up to 150MWdc, which has been allocated among the state's four electric distribution companies (EDCs) based on their respective shares of retail electricity sales. Atlantic City Electric (ACE) with a 12.35 percent share of retail sales was allocated 18.525MWdc of program capacity; Jersey Central Power & Light (JCP&L) with a 28.86 percent share of retail sales was allocated 43.29MWdc of program capacity; Public Service Electric & Gas (PSE&G) with a 56.87 percent share of retail sales was allocated 85.305 MWdc of program capacity; and Rockland Electric Company (RECO) with a 1.92 percent share of retail sales was allocated 2.88MWdc of program capacity in Year 2.

The three-year pilot Community Solar Program, which is codified at *N.J.A.C. 14:8-9 et seq.*, provides access to clean energy generation for utility customers currently unable to place solar generation directly on their own properties. The NJBPU's action on October 3 continues the process of allowing New Jersey electric utility customers (with an emphasis on providing access to low- and moderate-income (LMI) customers) to participate in a solar energy project that may be remotely located from their properties and receive a credit on their utility bills.

At the end of the three-year pilot, the NJBPU will convert the pilot program to a permanent one as required by section 5 of the Clean Energy Act of 2018 (*N.J.S.A. 48:3-87.11*) through the adoption of rules and regulations for a permanent program. Among other things, the permanent program will establish a goal for the development of at least 50MWdc of community solar energy projects per year and set forth standards for projects to be owned by electric public utilities, special purpose entities, and nonprofit entities.

BPU Recent Action

In its most recent action, the NJBPU issued two orders and two notices of proposed rule amendments. In one order, the NJBPU addressed the Year 2 application form and process and related issues (Year 2 Implementing Order).¹ In the second, the NJBPU focuses on the process for verifying LMI status (the LMI Order). One notice of proposed rule amendment addresses amendments necessary to accommodate Year 2 program changes, including those associated with LMI verification. The other proposal would provide an "opt-out" enrollment option for municipal owned community solar projects that are 100 percent LMI.

Year 2 Application and Process Changes (Including an Online Application Process)

In addition to clarifying the instructions, the NJBPU ordered staff to "develop an online application



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process” based on the approved application form with particular instructions to be developed and provided at a later date. Significantly, the evaluation criteria for Year 2 has been modified to accommodate lessons learned from the Year 1 experience. In this regard, the NJBPU eliminated point awards for projects that committed to serving more than 51 percent residential subscribers since it was not a meaningful differentiating criteria. The siting criteria now has an added category for “floating solar” such as on water treatment plants and sand and gravel pits. A new criteria for “Project Maturity” has also been added to differentiate plants that are further along in the permitting and interconnection process. Finally, the minimal qualifying score for a project has been raised from 30 in Year 1 to 50 in Year 2 due to the quality of the submissions in Year 1.

Year 2 Capacity

As indicated above, the Year 2 application period will close on February 5, 2021, at 5:00PM ET. In addition to doubling the Year 2 capacity from 75MWdc to 150MWdc, the Year 2 Implementing Order allocated at least 40 percent (60MW) of the Year 2 program capacity to LMI projects. Also, staff has been granted added flexibility to allocate up to 10 percent over or under the up to 150 percent MWdc capacity limit.

Eligibility for Transition Incentive Program²

The NJBPU’s Year 2 Implementing Order also contains an NJBPU finding intended to eliminate regulatory uncertainty regarding the impact of the New Jersey Solar Transition, which is intended to bridge the time between the now-closed SREC program and a successor program that is still under development. The Year 2 Implementing Order clarified that projects selected in Year 2 will be eligible to register for the current transition incentive program even if the projects are selected after the implementation of the successor program.

EDC Bill Credit Calculations and Sample Bills due October 30, 2020

The Year 2 Implementing Order requires the EDCs “to provide updated bill credit calculations and sample bills to Staff by no later than October 30, 2020 for posting to the community solar webpage on the NJCEP website” and to do so at least once annually no later than every October 15 of subsequent years.

Consolidated Bill Options

The EDCs are also directed to work with staff to develop and provide actionable recommendations to the NJBPU no later than February 26, 2021, about options for consolidated billing for community solar, which is a pre-requisite to further discussion regarding the possibility of an opt-out subscription model for certain limited circumstances (as discussed further below). In a related directive, the EDCs are also ordered to provide staff with “any existing data on the prevalence of master metered accounts in their respective service territories including demographic data regarding the types of buildings that are master metered.” This data is intended to assist staff in recommending measures to address a current disincentive to subscribe master metered customers as compared to regular residential customers.

The Year 2 Implementing Order also directs staff to explore and, if warranted, to implement an online mechanism for interested governmental entities to be contacted by community solar developers in order to facilitate such entities in bringing community solar to their communities.

LMI Order³

The LMI Order addresses the lessons learned from the Year 1 experience with the eligibility verification requirements of *N.J.A.C. 14:8-9.8(d)2.ii* for LMI customers to produce and subscriber organizations to collect, tax returns for the prior three years when the customer could not demonstrate eligibility through participation in LIHEAP, Universal Service Fund, Comfort Partners, and/or the Lifeline Utility Assistance Program. Recognizing that the timing of a rulemaking process will not assist Year 1 participants, the LMI Order waives the requirements of *N.J.A.C. 14:8-9.8 (d) 2.ii* for Year 1 participants, allowing them to use alternative means acceptable to staff and designating Commissioner Holden to oversee this process.

Proposed Rulemakings

Program Implementation Changes (BPU Docket Number: QX20090577)⁴

As mentioned above, the NJBPU intends to initiate two rulemaking proceedings. The first addresses six amendments needed for Year 2 changes mentioned or alluded to in the Year 2 Implementing Order as follows: (i) *N.J.A.C. 14:8-9.2*, to add new definitions of programs that will meet LMI verification requirements; (ii) *N.J.A.C. 14:8-9.3*, to replace the six-month deadline for approved projects to begin construction with a requirement to provide quarterly updates to the NJBPU and to extend the deadline for approved projects to become fully operational from 12 to 18 months, and to limit the number of extensions that staff can grant to one, six-month extension; (iii) *N.J.A.C. 14:8-9.4*, to set the annual capacity limit for Year 1 and Year 3 during the relevant program year to reflect actual practice and allowing additional flexibility to reflect changes in program structure; (iv) *N.J.A.C. 14:8-9.5*, to amend the existing exemption to the 10-subscriber minimum so that it is only available to LMI projects limiting the exemption to projects that will reduce the energy burden on those paying the greatest portion of their income for electricity; (v) *N.J.A.C. 14:8-9.8*, to eliminate the option of requiring the production of subscriber tax returns to demonstrate LMI status and to expand the LMI eligibility criteria, including adding additional programs to the list of programs that automatically qualify a community subscriber as LMI, allowing subscribers to be qualified as LMI based on publically accessible information produced by the U.S. Census Bureau and the U.S. Department of Housing and Urban Development, and providing a process for subscriber organizations to propose alternative income verification methods to the NJBPU; and (vi) *N.J.A.C. 14:8-9.10*, to require that customers be notified in writing within 30 days if the subscriber organization managing their subscription has changed.

Opt-out Subscriptions for Certain Projects (BPU Docket Number: QX20090594)⁵

The other rulemaking proposes to amend *N.J.A.C. 14:8-9.2*, *14:8-9.4*, *14:8-9.8* to provide an opt-out subscription exemption from the current affirmative consent (opt-in) subscription requirements for municipal-owned community solar projects that are subscribed 100 percent by LMI customers where such projects provide guaranteed savings to subscribers so as to assure that such participants are not financially harmed by their automatic enrollment. The rulemaking would exempt such projects from the requirement of mandated subscriber enrollment by affirmative consent under *N.J.A.C. 14:8-9.8*, and establish penalties for projects that fail to meet their LMI commitments.

Neither proposed rulemaking has been published for comment as of the date of this writing. Interested stakeholders will want to, at least, monitor the progress of these rulemaking proceedings.

Conclusion

Based on the Year 1 experience, New Jersey's Community Solar Pilot Program appears to be meeting with success and garnering interest in the opportunities it provides to make the benefits of renewable energy more widely available to customers not having either or both locational or financial access. The opportunities in Year 2 for community solar project developers, potential subscribers and property owners and developers have expanded and the prospect of an online application process should create more efficiencies in attempting to take advantage of them.

¹ Available at: <https://www.bpu.state.nj.us/bpu/agenda/2020calendar/approved/20201002.html>; *8C - ORDER Community Solar Year 2 Application Form and Process 2020-10-01*.

² See, *N.J.A.C. 14: 8-10.1 et seq.*, which is a new subchapter added to Chapter 8 (Renewable Energy And Energy Efficiency) setting forth new rules for the establishment of a solar energy transition incentive program designed to provide a bridge between the Solar renewable energy certificate (SREC) Program and a solar successor incentive program under development by the NJBPU. 52 *N.J.R. 1850(a)* (also amending certain provisions of the subchapter 2 (Renewable Portfolio Standards); namely. *N.J.A.C. 14:8-2.2, 2.3, 2.4, 2.8, 2.9, and 2.11*) effective October 5, 2020.

³ Available at: <https://www.bpu.state.nj.us/bpu/agenda/2020calendar/approved/20201002.html>; *8D - ORDER Community Solar LMI*.

⁴ Available at: <https://www.bpu.state.nj.us/bpu/agenda/2020calendar/approved/20201002.html>; *8A - Rule Amendments Community Solar Rule Amendments*.

⁵ Available at: <https://www.bpu.state.nj.us/bpu/agenda/2020calendar/approved/20201002.html>; *8B - Rules Community Solar Opt Out Rule*.

