

May 9th, 2017

BEFORE THE PUBLIC UTILITIES COMMISSION
OF OREGON
AR 603

In the Matter of Rulemaking to Implement
Community Solar Provisions of SB 1547.

Initial Comments of Northwest Sustainable
Energy for Economic Development,
Environment Oregon, and The
Environmental Center.

Thank you for the opportunity to provide comment, input, and questions on the AR 603 draft Community Solar rules that were released May 1st, 2017. We appreciate the staff time and thought that has gone into the drafting, and the multiple priorities that are being balanced as this rulemaking proceeds.

Northwest Sustainable Energy for Economic Development (Northwest SEED) is a regional non-profit dedicated to creating communities powered by locally-controlled renewable energy. Environment Oregon is a statewide, citizen-based environmental advocacy organization. The Environmental Center, located in Bend, Oregon, has a mission to embed sustainable thinking and behavior into daily life in Central Oregon. Together, we as joint Parties have a common interest in seeing a successful, equitable community solar program, which offers customers new ways to participate in the clean energy economy. Over the past months we, along with numerous other community-based groups around Oregon, have been discussing and reflecting on the development of rules for the community solar program.

At this point we will limit our initial comments to a few specific topics, and appreciate the opportunity to comment in detail on additional elements in the coming weeks.

We understand that the Commission and staff are particularly interested in the perspective of potential customers, including low-income people who might participate in this program. While we cannot claim to speak for all the interests of such a broad and diverse cross-section of our population, there are some fundamental elements that we have identified which will impact the opportunity for success in the program overall, as well as the mission of making participation available to all customers. We have organized our feedback thematically on three major issues that we have identified in the draft rules, related to customer participation, low-income program structure, and the timeline of program deployment.

Limitations to Customer's Participation

The draft rules create at least five different types of major limitations in the way that customers participate in the community solar program. The following are the structural elements that impact customer participation as we understand it, and are paraphrased from the relevant section of draft rules, which are referenced.

- A Participant must be a customer of an electric company and be located in the same contiguous service territory of the utility where the community solar project is located (Section 0080 - 1a)
- A Participant cannot be affiliated or participating in another community solar project (Section 0080 - 1b)
- A Participant's subscription or ownership interest in a project cannot exceed their average annual consumption (Section 0080 - 2)
- A Participant cannot subscribe or own more than 40% of a single project (Section 0060 - 6)
- 50% of each project must be reserved for Participants that are residential and small commercial customers (Section 0060 - 7)

Our understanding of staff intent is that these restrictions seek to prevent single large customers from dominating the community solar market, or from using Community Solar as an alternative to Direct Access participation.

We do agree that there should be some guidelines in the way that large customers participate in the community solar program, and want to ensure that there is broad opportunity for participation by residential and small business customers. However, we believe that the rule (Section 0080 - 1b) stating an entity be limited to a single project is overly restrictive, and does not serve the interests of building a broad, effective program. The other elements of the rule which ensure 50% of the project for smaller customers, and that no customer is participating in more than 40%, serve to protect from a single entity dominating the market opportunity. We suggest eliminating the "one project per participant per utility" restriction, but keeping these other elements that ensure broad participation in each project. If needed in the future, there could be additional restrictions based on total program capacity in order to address Direct Access concerns, but this should not be the starting point of the community solar program.

We can easily see a scenario in which a city or county government, in pursuit of economic development and climate action goals, wants to participate in multiple projects through a phased approach. The current draft rules would force a municipal customer to make a one-time choice of which project to participate in, even though the opportunities and their electricity load may change over time. For a customer with many site addresses, the current draft rules would prevent them from using their participation to build community and serve a larger set of social goals. Commercial entities may also have environmental and community goals that would be very limited by application of the current draft rules.

These restrictions also appear to apply to housing agencies or other entities that may play a role in meeting the low-income goals. If they too are bound to the “one-project per participant per utility”, it will severely diminish the effectiveness of the program.

We also recognize and want to point out that the geographic limitations of the draft rules and the requirements around “contiguous service territory” will lead to a disparity in community development opportunities, especially in some cities served by Pacific Power. Some communities with small population bases, limited land area or relatively low solar energy production will be limited in their ability to participate in larger projects that may be more cost effective. There may also be an imbalance of Project Managers serving some parts of the state, and thus the opportunity for participation. If the final rules contain this language restricting the geographic distribution between projects and participants, we suggest that there be opportunity to revisit this element as part of the annual evaluation.

There are also some elements of consistency that should be further illuminated, regarding the definition of Participant. In the draft rule definition for “Subscriber”, it states that the subscriber will be defined at the site address level. (Section 0010 - 24). However, it is not clear if that is also the way that an “Owner” will be defined. We do think that it is appropriate to define participating customers at the address level as suggested.

It is also not clear in Section 0080 1(b) what constitutes “affiliation” between participants, and depending on how broadly that is interpreted, could have negative consequences. For instance, would people living in individual condominiums in a senior retirement development have an affiliation with each other? Would small businesses who were restaurant franchise owners be considered to have affiliation if they were part of a national chain?

By simply removing the words “or be affiliated with” from that section, and clarifying that ownership participation is also defined at the address level, it would fix many of these issues. This would still limit a customer at a single address from engaging in multiple projects, while allowing entities with multiple addresses to help build out capacity in a phased manner, and bringing along significant numbers of residential and small commercial customers in the process. We encourage edits in the final draft rules that allow for greater flexibility and then using the annual review process to address specific issues if there are problems, rather than trying to limit participation and project development at the beginning of the community solar program.

Low Income Participation, Eligible Entities, and Funding Mechanisms

We are glad to see that staff have been responsive to the need for multiple paths and tools for meeting the 10% inclusionary goal for low income participation, and understand that the intent is that the program be measured by the direct participation of low income customers in projects. In order for the low-income elements of the program to be effective, there will need to be deep engagement with community organizations and entities that directly serve low-income populations.

As we interpret the draft rules, there are two paths for the fulfilment of the 10% low-income goals.

- Each project must provide 5% of total project capacity to qualifying low income customers, or entities that provide housing services for low-income customers.
- There will be a 5% allocation each capacity tier for projects that serve low income customers or entities. The intent is that this is distinct and additional to the minimum for each project above.

Fundamentally, in order for the community solar projects to bring low income customers into the program, their participation will need to be financially supported. There should be a focus on providing net-benefits to low-income customers, and ensuring that the up front costs are significantly reduced or free for qualifying customers and organizations. The costs of bringing in low-income customers are unlikely to be met by altruistic impulses alone. The rules should specify that projects can provide free and reduced cost subscriptions or ownership interests for qualifying customers or organizations.

We also encourage the final PUC rules to clarify the tools and financial incentives that can be used to meet the low-income goal, and to structure rules such that there are dedicated funding streams identified which can support low income participation. In particular, the section related to program specifies that “The Commission can create and eliminate non-financial incentivization opportunities including mechanisms to reduce soft costs of community solar project development.” (Section 0060 - 8) This is likely inadequate to meet the need. The Low Income Community Manager should be allowed to distribute funds or make decisions with regard to the deployment of incentives that serve to meet the low-income goal. In addition, the structure rules related to Renewable Energy Certificates (RECs) should be developed in a way that fits with the Energy Trust of Oregon’s (ETO) requirements for eligible projects. Allowing ETO funds to be deployed in targeted ways to meet the low-income inclusionary goal would be a useful tool.

In deploying projects and getting participation that serves the needs of low-income customers, there may need to be an expanded definition of low-income. In addition to the qualifications itemized in the draft rules, there are many organizations that serve housing-related needs for low-income people. The people served are not always directly utility customers. Specifically, we encourage the rules to allow organizations that provide for the housing needs of refugees and populations experiencing homelessness to qualify as entities that can meet the inclusionary goal. Additionally, it may serve the goals of the program to allow housing entities to manage subscriptions on behalf of tenants for qualifying low-income or subsidized units, and make them available as tenants move in and out of the unit. In looking at principles for the program, priority should be given to models that lower total net housing and energy expenditures by low income people, build community wealth, and prevent displacement.

In order for Project Managers to effectively meet these targets, the Low Income Community Manager will play a core role, and there may be a need for different approaches in different parts of the state. We encourage flexibility, while still ensuring that community solar can serve

as a tool to meaningfully reduce individual low-income customer bills and build community participation in the deployment of new renewable energy sources.

Timeline, Administration and Community Engagement

In order for any of the Community Solar program elements to be successful, projects actually need to be built, and the necessary billing and transactional elements in place to transfer bill credits. The draft rules create a number of new roles and administrative functions, and we are concerned that there is no defined timeline for the deployment of the community solar program.

According to the draft rules, before projects can apply for pre-certification, the Program Administrator must first develop a Program Implementation Manual, which is to be approved by the Commission, (Section 0020 - 2) as well as a number of related administrative functions. In addition, the Low Income Community Manager must be selected, and a number of data-related elements in place prior to program launch. The draft rules in Section 0040 specify that these start up costs can be recovered through the rates of the electric companies, but there is no time window specified for that anticipated process or the rate recovery.

As community-centered organizations, we are concerned that there will be a long lead time between the development of these administrative functions and the launch of projects. Communities and organizations that have been waiting to participate in community solar would be best served by having more options sooner, rather than years of potential delay and administrative processes. There are some practical considerations as well. The Federal Investment Tax Credit (ITC), which provides significant benefit to owners of eligible projects, is scheduled to be significantly reduced starting in 2020. The draft rules state that projects and their participants will bear the costs of administration after the initial start-up phase. If there are fewer projects built early in the program, they may bear a significantly higher amount of administrative costs, which then could serve as a disincentive for future projects, especially if the ITC is reduced.

We suggest that the final rules should include a timeline for program deployment and the administrative steps necessary to launch. It should be possible to identify the individual milestones necessary and put dates on those steps. That will allow organizations such as ours the opportunity to provide community engagement and education necessary at the right times for the program to launch successfully, and for Project Managers to plan accordingly.

For instance, the selection of the Program Administrator and Low Income Community Manager could be done in a concurrent process immediately after the rules are finalized, with a 90 day window for this selection process. Many of the duties required for these entities are itemized in the draft rules, and can provide a template for a future Request for Proposals. Additionally, and to reduce staff burden, the Community Solar Advisory Group described in Section 0050 should be formed as early as possible, and play a role in the guidance and development of the Program Manual. Merely having the Advisory Group in an after-the-fact program review capacity

will not yield as much value as having their engagement in the program development phases as well. As we respond to other stakeholder comments, we welcome a discussion about appropriate timelines and structures for the program administration.

We want to ensure that there is a successful launch of an effective, equitable community solar program in the near future, and hope that the Commission and staff share that vision.

Thank you for consideration of these comments, and we look forward to continued engagement in this rulemaking process.

Sincerely,

s/ Jaimes Valdez
Policy Manager
Northwest SEED

On behalf of Northwest SEED, Environment Oregon, and The Environmental Center