



PO Box 65491
Washington, DC 20035
202-888-6252
info@communitysolaraccess.org
communitysolaraccess.org



Joint Response Comments on Behalf of the Coalition for Community Solar Access and the Oregon Solar Energy Industries Association in AR 603 2 June 2017

Introduction

The following joint comments are provided by the Coalition for Community Solar Access (CCSA) and Oregon Solar Energy Industries Association (OSEIA), hereafter referred to as “Solar Parties.” We appreciate the opportunity to provide this feedback in “response” to comments made on the structure and development of Oregon’s community solar program. Please refer to our “Initial” Comments, submitted on May 19, for additional background on the CCSA and OSEIA organizations.

Although the Solar Parties continue to stand by our Initial comments, the following input is in direct response to comments stated during the May 22 Hearing and those filed publicly with the Commission. We hope the Commission will consider both sets of comments prior to finalizing Oregon’s community solar program rules.

Our comments are organized into three primary sections: Response to Staff Comments; Response to Staff Statements; and Response to Other Comments. We appreciate the Staff’s work in driving this process to where it is today and their continued sincere effort to consider stakeholder input. By far the focus of our response below is with the Staff. In general, we are encouraged by several of the incremental improvements being suggested by Staff in their filed comments, though remain concerned with some aspects of those comments in addition to statements made during the May 22 Hearing.

Response to Staff Comments Filed May 30, 2017

Our response to the Staff Comments filed on May 30 is broken into three sections: general agreement with Staff comments; opposition to Staff comments; and potential problems with Staff comments.

Agreement with Staff Comments

The Staff submitted comments on May 30, which include several recommendations that at least partially address some of the key concerns raised by the Solar Parties and other stakeholders during this rulemaking process. The following list includes the most notable Proposed Rule adjustments and/or clarifications suggested by the Staff of which the Solar Parties also support. While we support the specific recommendations highlighted here, there are aspects to some of Staff’s related input – even on these topics – that we are opposed to and have outlined in following section: “Opposition to Staff Comments”.

- **Removing the term “contiguous” as a qualifying regional requirement for eligibility of retail customers participating in projects located in the same service territory.** The Solar Parties are very supportive of this recommendation by the Staff, and we appreciate the acknowledgement to us and many other stakeholders that this was a critical issue that could have undermined the participation of Pacific Power customers.
- **Broadening the eligibility of non-residential customer participation beyond a single project.** Capping a single non-residential customer’s participation at 2 MW and allowing the ability to participate in more than one project would be major improvements to the rules from a developer and customer perspective. These changes would enable greater flexibility in project financing and customer choice.
- **Noting a key “principle” underlying the Proposed Rules as being economic certainty and transparency for pre-certified projects.** The Solar Parties appreciate Staff’s recognition for the importance of maintaining economic certainty and transparency for project managers that are pre-certified and working toward certification. It is imperative to the success of the program that there are minimal uncertainties with regards to the prescribed costs and benefits of participating in a project (beyond the variability of solar generation) and that financiers have a legally enforceable commitment from the Commission that a “pre-certified” project has a clear path to certification based on clear and transparent expectations.
- **Maintaining the initial capacity tier of the program at 2.5% of the 2016 peak load for each respective Electric Company.** The Solar Parties fully support the Staff’s defense of the initial capacity tier allocation both for the reasons outlined in Staff comments, in addition to simply providing the market with greater scalability opportunities to compete and innovate. If there is an unduly limited amount of capacity available developers will be hesitant to research and invest in the market due to a higher risk of not being awarded capacity and lack of opportunity to build and replicate product models that improve and reduce costs through lessons learned. For similar reasons, the Solar Parties urge that the process for determining subsequent capacity tiers be established during the implementation phase of the program.
- **Credit rate honored for the life of the system.** The Solar Parties support the Staff’s assertion that the credit rate applied to a project be honored for the life of the system. This would be in line with industry best practices and would ensure participants can receive the full benefits from their subscription or ownership in a project. It also improves the financeability of a project, further reducing costs for developers and participants alike. That said, this clarification should be included in the actual rules and not only asserted as Staff’s intention.

Opposition to Staff Comments

While the Staff comments included recommendations that would represent a clear improvement for several areas of the Proposed Rules, the Solar Parties remain opposed to the following issues.

- **Interim Rate.** The Solar Parties remain concerned with the lack of identification of an interim rate in the Proposed Rules and are not reassured by the Staff’s comments on this topic. Specifically, Staff states that “if it becomes apparent that an interim rate is necessary to allow projects to begin selling subscriptions and ownership shares, the Commission can open an investigation to establish such a rate.” The Solar Parties are concerned that waiting until the last minute to determine the credit rate will potentially result in just another process that drags the program implementation further into the future. Establishing an interim rate in the rules, or at least as part of the pre-determined implementation process, will ensure the program is not in limbo between dockets. Or alternatively, specifically indicating a deadline by which a decision will be made to pursue an interim rate if there is a delay in establishing a resource value for solar would be helpful. It’s difficult to overemphasize the importance of knowing a rate in developing projects. Without a rate, it’s impossible to develop the models that indicate the viability of a project and will be almost certainly impossible to even inquire about financing. This is a critical issue.
- **Unsubscribed generation.** The Solar Parties remain opposed to limiting the amount of unsubscribed project capacity that can be compensated to a Project Manager to only 10% of the project’s overall capacity. The minimum 50% subscription level of a project already provides a backstop to ensuring community solar projects are not using their participation in the program simply to access the extremely low as-available avoided cost rates. Further, as stated in our Initial Comments (which also included alternative examples), the margins in the solar industry are too slim for a project to be financially viable relying on the as-available avoided cost rate.

In addition, Staff states in their comments that unsubscribed capacity beyond the 10% compensated to a Project Manager will be donated at the RVOS rate to the utility for the purposes of funding low-income participation in community solar projects. This is roughly consistent with the Proposed Rules which state that it will be donated to the respective utility for purposes of funding projects that satisfy the 5% “programmatic” low-income component of the program. It’s unclear to the Solar Parties why these funds would go to the respective utility and not to the third-party administrator? If the Electric Companies are competing in the program, there may be a conflict of interest to not have a third-party disseminating these funds.

- **Project location requirements.** Although we support the Staff’s recommendation to remove the term “contiguous” from the Proposed Rules, we disagree with a number of assertions made by Staff in their comments relating to project location.
 - We maintain – as stated in our Initial Comments – that the concept of projects being allowed to locate anywhere in the state (as prescribed in the legislation¹), should continue to be explored. This may require additional legal research, but given the clear intent of the legislation it should not be completely dismissed. The Solar Parties would actively support exploring this potential with the

¹ Enrolled Senate Bill 1547. Section 22. Solar Program (Community Solar Projects). 78th Oregon Legislative Assembly, 2016 Session.

Commission in greater detail.² There also may become a greater need for this type of flexibility due to political as well as economic concerns.³

- The Solar Parties disagree that community solar should only be designed as a last resort “to customers who have no other option to access solar PV.” Community solar can and should be an option available to all customers, and allowing a broader geographic reach can make community solar more accessible and affordable to all customers.
- Staff notes that the RVOS will capture a range of distinct benefits that solar projects provide to ratepayers and to the electric system, including location-specific benefits. Assuming that the RVOS is calculated in a transparent manner, it should be possible to disaggregate these different values, allowing for more options in setting bill credit rates for different community solar configurations. Thus, the use of the RVOS should enable greater, not lesser, geographic flexibility in siting community solar projects.
- We also disagree with the suggestive comments by Staff that community solar projects need to be dissimilar to other types of solar projects. The aim of achieving maximum net benefits (economic and other) is a ubiquitous trait of most solar development across market segments.
- Finally, we disagree with the Staff’s assertion that “distance” is a “primary parameter” of what is or is not a “community.” This is an extremely subjective term, as demonstrated by Merriam-Webster’s definition, which includes a range of characteristics such as: a unified body of individuals (e.g., having a common history or common social, economic, and political interests); society at larger; or joint ownership or participation.⁴ Even the Electric Companies have a very diverse use of “community” in describing their companies. PGE, on its website, notes that it is “deeply committed to the communities (they) serve” and that the company’s employees “are deeply involved in serving the community.”⁵ This connection to the “community” exists despite having 51 cities in their service territory.⁶ Pacific Power, for its part, says that “our company and employees are committed to the communities we serve”⁷ even though those communities are spread over three states and include 740,000 customers.

² For example, what if we restrict community solar project location to those which can directly interconnect with an Electric Company’s system, even if that interconnection is not within the service territory, such as the Boardman coal plant which is not in PGE’s service territory but it is part of PGE’s system? It seems plausible that a community solar project in that area could be interconnected directly into PGE’s grid and provide access to an excellent solar resource. This approach would also fit within staff’s point about the future resource value considering locational value. Allowing a community solar project to be able to tie directly in to an Electric Company’s system would help define that element of a future resource value calculation.

³ For example, restricting community solar to PGE’s service territory could increase the perceived pressure on high-value farmland, making it difficult to identify project sites and perhaps stain the community solar “brand” in PGE service territory.

⁴ Merriam-Webster.com. Dictionary: “Community.” Found at: <https://www.merriam-webster.com/dictionary/community>

⁵ PGE Website: <https://www.portlandgeneral.com/our-company/pge-at-a-glance/quick-facts>

⁶ Ibid.

⁷ Pacific Power Website: <https://www.pacificpower.net/about/cf.html>

- **Including “affiliates” in the definition of an eligible customer.** The Solar Parties support the removal of limiting non-residential participants to a single project, and are generally supportive of a 2 MW limit per customer. However, the general support for the 2 MW limit is undermined by Staff’s assertion that all “affiliates” are considered one eligible customer. This would conflict with the Staff’s justification for increasing the participation size to 2 MW, which they claimed would be consistent with the opportunity afforded to those that can build on-site net metered projects. Affiliates with separate meters, structures, and locations should be granted similar autonomy in determining their own energy options.

Potential Problems with Staff Comments

There are several additional areas of Staff comments and the Proposed Rules in general that are potentially problematic.

- **Queue transparency.** The Staff maintains that the project queue will be confidential, but that there will be some level of transparency in regards to the volume of projects in that queue. The Solar Parties are concerned that Staff may not fully grasp the benefits that can be leveraged from a more transparent queue, as demonstrated in markets throughout the country such as Minnesota.⁸ It’s useful for Project Managers to see the size and where projects are in the process to determine the risk of applying into the program, as well as where those projects are located (or attempting to be located) on the grid so that clusters of development can be avoided (since this often results in greater interconnection cost). This will reduce application congestion and encourage greater geographic diversity in project development.
- **Submitting proposed forms and contracts.** The Staff maintains that applications into the program will require the submission of “proposed forms and contracts for customers.” The Solar Parties are OK with some level of standard disclosures occurring, but it’s inappropriate for the Commission to interfere with the terms and conditions within private contracts between Project Managers and customers. Further, it’s unclear to us how these documents would be reviewed given different Project Managers will have different formats, etc., particularly if these are simply the “proposed” forms and contracts and could be subject to change following certification. We fear the Proposed Rules are potentially adding a burdensome review step, both for the Commission and developers, that will lack any benefit to customers. In fact, the additional administrative cost may be shouldered by the participants making this an even less attractive variable in the certification process.
- **Low income options.** The Solar Parties are generally supportive of the creative approach used in the Proposed Rules to enable more options in achieving the low-income participation targets. There was a robust debate among stakeholders with regards to whether a overall programmatic target (the Solar Parties first preference) should be used or if it should be a project-level requirement. As with the Staff, we’re opposed to

⁸ See the “Substation DG Queue” link on the following Xcel site:
https://www.xcelenergy.com/working_with_us/renewable_developer_resource_center/solar_rewards_community_developer_resources.

the suggestion by some stakeholders to include the 10% target as a project level requirement due to the potentially deal-breaking risk and cost it could impose on Project Managers. In a similar vein, even 5% could present an economic hurdle for project development. The ability to work with public or private housing services, receive additional active support from a low-income manager, and leverage on-bill debiting will be key to ensuring this project level requirement does not preclude developer participation in the program.

That said, Staff's suggestion to use an "intra-program fee" recovered by participants to bring down the cost of participation for low-income customers could have the same deal-breaking consequences for Project Managers as if the (participant-funded) subsidy wasn't even available. As emphasized in greater detail in our comments further below, this represents yet another reason to not undermine the ability to use incentives in achieving this policy objective.

- **Economic and legal certainty.** While we appreciate Staff's acknowledgment and stated intent to provide certainty for pre-certified Project Managers, we maintain concern that the importance of this key "principle" should be in the rules themselves rather than simply buried in the comment record. The Solar Parties recommend a broad but explicit disclaimer that is similar to the Staff's comment on this topic be included in the rules establishing parameters for the certification process.

Opposition to Staff Statements made at the Public Hearing on May 22

The Staff made several statements during the May 22 Public Hearing which the Solar Parties feel the need to respond. Specifically, we do not feel the following issues have been adequately addressed by Staff and remain in need of adjustments in the Proposed Rules.

- **Implementation Timeline.** We heard from Staff that, due to essentially a heavy workload for Staff and the Commission, they are unable to commit to timelines or deadlines for implementing the community solar program. They also provided some assurance that the process for developing a request for proposal to obtain a third-party administrator would begin as soon as June. As voiced by several stakeholders and detailed in our Initial comments, we remain concerned that without establishing a deadline or timeframes from which either the entire or at least segments of the implementation process must abide, the program risks stalling well into 2018. A timeline should be identified for the program rollout to respect the intent of the legislature to bring community solar to residents of Oregon in an efficient manner.
- **Non-financial Incentives.** Staff stated that, because this program is voluntary, the idea of the Commission providing financial incentives is problematic. The Solar Parties are still confused as to what a "non-financial" incentive would be, much less that it could "incentivize" participation as was directed by the legislation.⁹ As Commissioner Bloom stated, "nothing is free," and therefore we don't see how there could be an incentive that has absolutely no financial cost or connection. All incentives must have a financial

⁹ Enrolled Senate Bill 1547. Section 22. Solar Program (Community Solar Projects). 78th Oregon Legislative Assembly, 2016 Session.

impact to truly be an incentive. As we stated during the Hearing and submitted in our Initial comments, we strongly object to undermining this tool with the term “non-financial” before we know what the program economics (both costs and benefits) will be and therefore whether some incentive support may be needed. The rules are vague and open to adjustments and implementation refinements in so many areas, yet opt to prescribe a qualifier to this aspect of the program. The legislation has provided the Commission with legislative backing to keep the integrity of this potentially important tool (with no qualifier) on the table.

- **Role of Advisory Group.** Staff suggested that since the commitment of the Advisory Group – as introduced in the Proposed Rules – would be voluntary, that there should not be too much responsibility or work falling on its role in the program. However, it is of our view that this group will have an interest in representing its respective organizations and that in most cases the engagement of its members will be part of their job, rather than some voluntary service. Further, this group could actually reduce the burden of work that will be resting on the shoulders of the Commission by being able to work through layers of program details.

As we stated in our Initial Comments and during the May 22 Hearing, we feel strongly that this group should act as a steering committee aiding in the design and implementation of the program from the beginning, rather than simply serving as a review group in the future. The national experience and vested interest by various stakeholders would be influential to ensuring a successful outcome to the implementation. As we also stated at the May 22 Hearing, a similar group was used to work out the details around the voluntary renewable energy options when they were first being established in the early 2000s. That process led to the most successful voluntary programs in the country. We can use that record of success to collaboratively establish a successful community solar program.

Response to Other Comments

In addition to responses provided to comments and statements made by Staff, the Solar Parties have a brief response to comments made by the Electric Companies.

- **On-bill debiting.** As stated in our Initial Comments, the Solar Parties are generally supportive of on-bill debiting as an opportunity to improve the customer experience and reduce administrative costs for Project Managers while leveraging the existing and well-equipped mechanisms already built into the utility-customer construct. It also represents at least one way to help level the playing field between Project Managers, as well as facilitating a more viable arrangement with low-income customers. In addition, it should be noted that Electric Companies are potentially able to leverage a revenue stream from this process through a small fee collection to recover their costs. That said, the Solar Parties hold some caution on this element in that it will need to protect confidential and potentially competitive details between Project Managers and participants, and should not be subject to regulatory oversight of those customer agreements. As such, we recommend making this optional for Project Managers at least in the near term.

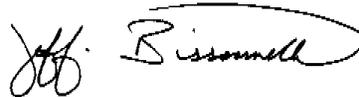
Conclusion

We have come a long way in our discussions about creating a community solar program. But the Solar Parties recognize that the adoption of the rules is really just the beginning of the next phase of the program's implementation. Staff has rightly attempted to create a great deal of flexibility in the rules to allow all stakeholders the opportunity to design a program that can be adapted nimbly as the program develops. Our comments are offered in that same spirit. Oregon has a tremendous opportunity to be a national leader in community solar. A set of flexible rules that still establishes some base restrictions while not being overly restrictive is the goal. The Solar Parties appreciate the opportunity to offer these Response Comments and we look forward to continuing to participate as the process moves forward.

Respectfully submitted,



Jeff Cramer
Executive Director, CCSA
jeff@communitysolaraccess.org
(503) 896-6230



Jeff Bissonnette
Executive Director, OSEIA
Jeff@oseia.org
(503) 516-1636