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AR 603 Community Solar Rulemaking
Comments in Response to May 22nd PUC Public Hearing
June 1st, 2017

To the PUC Staff,

The process for seeking public and stakeholder input by the Oregon PUC regarding Community Solar rulemaking docket thus far has been commendable for its efforts to solicit open and effective input from many sources. Viridian Management, as a provider of affordable housing throughout the Northwest, is a stakeholder in this process primarily for the purpose of helping shape pragmatic and efficient rules that will enable low-income Oregonians to participate in renewable energy and to share in its benefits.

By their very nature, low-income tenants live in circumstances that require a different approach than the typical residential utility customer upon which the community solar idea is anchored. The primary differences to consider are:

1) the transient nature of affordable housing tenancy;
2) many low-income (LI) tenants receive substantial utility allowance benefits from state and federal resources that could be replaced by solar;
3) the LI utility customer cannot afford to pay "extra" for renewable energy benefits or subscriptions;
4) utility and rent take a disproportionately higher amount of their income;
5) there are many types of LI housing which requires a flexible approach to regulatory structure, including multi-family properties with one-meter per unit, multifamily properties with a master meter for all units, refuges and shelters that are master metered and seasonal facilities.

It is Viridian Management's sincere hope that as daily stewards of the type of facilities that house a large portion of Oregon's disadvantaged families, we can provide practical and accurate feedback to the ongoing discussion of how to best connect LI families with renewable energy.

There are a few things about affordable housing that must be clarified before developing rules regarding how these properties can interface with a community solar project. It is important to note that affordable housing projects brought to life under the Low-Income Housing Tax Credit (LIHTC) program are typically well maintained and safe places for disadvantaged families to live. When constructed, all low-income properties are required to enter Restricted Use Covenants that require the project to remain in the affordable housing program for periods up to 60-years. In addition, each property is subjected to annual audits by numerous state and federal agencies to ensure compliance with all applicable laws and the covenants of LIHTC or other financing programs. While some properties are owned by non-profits, the vast majority are owned by private investors and almost all are managed by for-profit management firms. Every tenant is rigorously screened for income and eligibility requirements established by the government subsidy program. Compared to the low-income definition mandated in SB 1547 (200% of federal poverty level), the definition of "low-income" in the affordable housing sector is a much more rigorous standard which means that all of the tenants at the properties we manage would be potential subscribers.

Affordable housing projects are different from conventional housing in that the owners (both non-profit and for profit), by law, are restricted to a pre-set fee income. The owners are paid a fixed "return to owner" fee that is negotiated at the beginning of project's entry into the LI financing program. The management companies are also paid a fixed fee derived from the state or federally approved property budget. These fees are only paid out when approved by the state if numerous performance thresholds are met. Rents are raised when approved by state/federal agencies and this only happens when rising costs push the projects' budgets towards insolvency.

Hypothetically, if a low-income multi-family property were to subscribe to a community solar project as a single subscriber, this would directly benefit the tenants in a variety of ways. First, it would lower the financial burden of their monthly utility bills, but perhaps more importantly, it would reduce the overall budget for the entire property. In turn, this would allow rents to remain at a stable level and may even result in lower rents for tenants. The benefit could also be credited directly to the unit address regardless of the tenant. In this last scenario, it would be necessary to deal with a solar bill credit that likely exceeds what the tenant is already paying and to determine how to apply the overage back to either the agency providing the energy assistance (LIHEAP/OEAP) or funnel it to some other low-income benefit.

The connection between a community solar array and the low-income population that could benefit from it will be a complex one. It is our belief that the development of the regulatory apparatus needs to be flexible. It is our recommendation that the rule set be constructed under the mentality that it is better to write a small, flexible and evolutionary regulatory structure containing those items that we "must not do" (restraints), rather than an obese, complex regulatory structure containing all the permutations of things we "must do" (contraints). If the PUC's concerns and guidance are wrapped into smart restraints, then proactive developers and communities will be free to develop the most efficient models to bring to the certification process where the Program Administrator can ensure that the projects meet the intent of the law. Indeed, the best way to rapidly develop a coherent regulatory structure is to establish these efficient restraints and to let communities begin penciling out the many innovative ways a community solar project could come to life.

Viridian Management offers the following concepts to consider for the next phase of rulemaking.

1) Consider the negative disparate impact of the imposed geographic restrictions. These limitations will effectively prevent numerous rural and urban low-income communities from participating in community solar projects. Many of our rural Eastern Oregon properties are in low population areas outside of PGE and Pacificorp service territories. An underpinning concept of community solar is cost effectiveness through scale. A tiny array for that "community" would likely be much more expensive per KWh than a larger array built for a community located in the Willamette Valley. We recommend that "community" be defined as the "community of Oregon citizens" per the intent found in the legislature's description. Additionally, this would seem likely to prevent legal challenges waged by those communities restricted from building a local solar array because they are not located in immediate vicinity of the ~16-acres of open land required to build a 3MW facility.
2) Retain the current concept that would allow the affordable housing management services the ability to act as a "master subscriber" or anchor tenant for multi-meter and single meter multifamily housing projects. This will effectively solve the issue of tenancy lengths that are much shorter than the required subscription length and the fact that low-income tenants often move seasonally throughout the state moving from one service area to another.
3) Affordable housing providers and management agencies will often be the front line of interface with the low-income population. This means that they could effectively be the low-income community manager for the properties in their portfolios. This would allow the Low-Income Community Manager entity to be scaled down, reduced to an office of the Program Administrator

or possibly be eliminated, all of which reduce the startup and maintenance costs of the entire regulatory body.

4) Consider authoring rules that allow for innovative approaches such as the construction of an entirely low-income community solar array to offset the LI mandate for other community solar arrays. Or allow the anchor subscriber to purchase the 10% LI portion of the array at volume discount pricing, then donate that 10% to an agency in contact with a low-income community and receive a charitable tax credit. Both of these models have already proven to be effective in Colorado.
5) Do not allow the regulations to limit affordable housing providers as subscribers to non-profits corporations only. This would drastically reduce the population of low-income subscribers that could participate in community solar.
6) Consider pursuing regulatory rule development through mock-ups and vetting of early community solar proposals. Instead of spending the next year or more deliberating final rules for every potential permutation of future community solar projects, we feel that establishing and publishing a basic regulatory structure and the RVOS, and then campaigning for developers to propose projects for 1st stage of certification will result very quickly in bringing to light the real issues that need further regulatory review. It will also result in an efficient and effective regulatory structure that can easily adapt to problems as they arise.
7) Federal Infrastructure Tax Credits for solar projects begin winding down from 30% to a floor of 10% in 2020. Without these tax credits, many community solar projects will not be financially viable in the early period of adoption. If too much time is spent in developing the "perfect" regulation and in approving the first projects, Oregon will lose many of the projects and the economic and low-income benefit they could bring.

As a subject matter expert in the field of affordable low-income housing and utilities, Viridian Management is proud to serve as a stakeholder in this important discussion and we offer any assistance requested by the PUC and other institutions trying to connect community solar with Oregon's low-income population.

Sincerely,

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