

June 2, 2017

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF OREGON  
AR 603

In the Matter of Rulemaking to Implement Community Solar Provisions of SB 1547.		Comments of Northwest Sustainable Energy for Economic Development, The Environmental Center, Climate Jobs PDX, and Northwest Energy Coalition.
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Thank you for the opportunity to provide comment, and input on the AR 603 draft Community Solar rules that were released May 1st, 2017, and respond to both staff and other parties comments that have come in over the past month. We appreciate the time that staff have put into the drafting rules and comments, and recognize that there are multiple priorities that are being balanced as this rulemaking proceeds.

Community solar can and should play a key role in Oregon's energy future, and we want to work together to ensure a timely and successful rollout. We have concerns that some of the currently envisioned rules will not lead to that outcome.

Northwest Sustainable Energy for Economic Development (Northwest SEED) is a regional non-profit dedicated to creating communities powered by locally-controlled renewable energy. The Environmental Center, located in Bend, Oregon, has a mission to embed sustainable thinking and behavior into daily life in Central Oregon. NW Energy Coalition is a non-profit advocacy organization with membership including more than 110 environmental, civic, and human service organizations, progressive utilities and businesses in Oregon, Washington, Idaho, Montana and British Columbia. Climate Jobs is a grassroots organization focused on bringing together labor and environmental goals to address climate change.

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.

As we move to the final steps of the rulemaking process, we want to ensure that the Commission and staff receives feedback about the parts of the draft rules that will work to develop a community solar program that serves community needs around the state.

There are a number of major themes and items in staff and stakeholders responses to date, which we would like to address, and the headers below reflect the outcomes that we hope the rules will create. Some of these reflect and reinforce earlier comments we have made as well.

### **Community solar should be a reality in the near future.**

Fundamentally, 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.

Staff have responded to this by stating that they are uncomfortable with putting a defined timeline in the rules, and noting the significant workload that they already have. While we respect that there is a significant burden for PUC staff to play in developing these final administrative processes, it is also critical that customers, developers and community organizations have a clear idea of when community solar will be a real option for meeting their energy goals. This is part of the workload, time and energy that dozens of organizations around the state are spending as well, and we want to ensure that we are moving forward.

We suggested that 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. During the Administrative Law Judge hearing on May 22nd, staff expressed reservations about this approach, and concerns that a volunteer advisory group would not have the authority or commitment to make decisions. What we are proposing is not a role for the Advisory Group that would take any formal responsibilities away from the PUC Commissioners in approving final administrative processes, but rather a way to use the technical expertise and knowledge of the community of key stakeholders as a way to speed up the process and provide recommendations to the Commissioners. Engagement of stakeholders who want to see the program launch successfully will be an asset to this process.

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.

There are other compelling reasons to have a timeline as well, including the proposed rules related to the rate-basing of start-up costs. All the elements of the Program Implementation Manual, related administrative functions, and Low Income Community Manager must be seen

as part of these costs, and though they can be recovered through the rates of the electric companies, there is no time window specified for what qualifies. We suggest that we should seek to have the program in place and operating by July 1st 2018 at the latest.

We will reaffirm some of the comments from previous submissions, and agree with other stakeholders that an extended administrative process will increase costs and uncertainty. There are community-centered organizations around the state that have been waiting to participate in community solar. The market and customers 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. 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 as 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.

The processes proposed by Oregon Citizen's Utilities Board in their comments defines some potential timelines, and we support their approach to an orderly rollout of a program. 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.

### **Customer's needs should drive the development of projects**

Community solar should facilitate shared investment by like-minded residential and commercial customers of Oregon utilities to gain access to the economic and environmental benefits of Oregon's solar resources. We believe the legislature agreed. In SB 1547 (Sec. 22(1)(a), a community solar project is defined as solar photovoltaic energy systems that provide owners and subscribers the opportunity to share the costs and benefits associated with the generation of electricity by the solar photovoltaic energy systems," and further states (Sec. 22(3)) that such projects "(b) Must be located in this state; and (c) May be located anywhere in this state."

The draft rules and staff comments appear to unnecessarily narrow the purpose and scope of the program, both in geography and customer engagement.

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, clarified in comments, 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. There are also net-metering options available for some customers, and PURPA is an option for some generators. Staff comments seem to define a role for Community Solar that is distinct and separate from any of the other existing solar programs, and that these are mutually exclusive options. At the same time, staff looks to guidance from some of these other frameworks in developing the boundaries for customer participation. But community solar has never been described as a residual program after all other solar development efforts are accounted for. To be sure, community solar should be designed carefully to insure compatibility with other existing parts of the solar development landscape.

Staff goes on to say, "The program will exist primarily to provide an option to customers who have no other option to access solar PV." While this is an important motivation for community solar, it is not the exclusive reason. There are good reasons why even customers who could install solar on their roofs would instead subscribe to a community solar project. There are good reasons why developers of PURPA qualifying facilities (QF) or power purchase agreement (PPA) projects might wish to set aside part or all of their projects for community solar participation.

We do not see that there is incompatibility between these various customer/generation focused programs, and encourage greater flexibility in how an individual customer is able to participate in community solar projects.

Overall, we support the proposed draft rules creation of an initial tier of program capacity, which is indexed to 2.5% of utility peak load. From staff estimates, this yields approximately 160MW of capacity. This number reflects a middle ground between the initial starting point of 1%, and take into account significant stakeholder input for a broader program of greater than 5%. We do not support comments from utility partners suggesting a lower 1% initial tier and would point out that

there are 6-month check ins envisioned as part of the process that can be used to address programmatic issues with deployment.

While not a completely satisfactory, we approve of the staff comments suggesting that customers can participate up to 2MW cumulatively. This appears to be a compromise from the initial restriction in the draft rules that limit any any affiliation with more than one project, and is responsive to stakeholder's concerns. For the first tier of capacity allocated in the Community Solar program, this 2MW threshold for participation is an acceptable starting point. However, the adopted rules should allow for future expansion as there is growth into the next tier of capacity.

We can easily see a scenario in which a city or county government, or a local university, in pursuit of economic development, sustainability or climate action goals, wants to participate in multiple projects through a phased approach over time. For instance, on June 1st 2017, the City of Portland and Multnomah County passed resolutions for a move towards 100% renewable energy in the county by the year 2050, with 100% renewable electricity by 2035. The new OSU-Cascades campus in Bend has very ambitious sustainability goals, including net zero energy. Community solar should be available to these and other entities to meet these community-supported needs and goals. Commercial entities may also have environmental and energy goals that would be limited by application of the current draft rules

As stated in previous comments, it is still not clear in the draft rules 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? These elements were not significantly clarified in the staff comments, and we still suggest the removal of the term "affiliation" from the final rules.

The other elements of the draft rule which ensures 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, and we support them.

We also recognize and want to support the staff recommendations to remove the term "contiguous" from the draft rules, though still would support additional expansion of the geographic opportunity. Staff appears to make somewhat contradictory statements about geography and the role of customer proximity to the project in the context of net-metering. While we won't delve into a full exploration, we would just note that there is significant distance from the furthest edges of the utility service territories, even under the staff proposal.

We see community solar as a key economic development tool, and want to ensure broad opportunity around the state. 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. If the final rules contain restrictions on the geographic

distribution between projects and participants, we suggest that there be opportunity to revisit this element.

Overall, as stated before, we encourage edits in the final draft rules that allow for greater flexibility and then rely on the 6-month 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. The rules should focus on the minimum necessary to establish a functional, effective program, not seek to prevent every possible negative outcome that the PUC imagines may come up. The worst outcome would indeed be that no projects are developed, and no customers have the opportunity to participate.

### **Low Income Customers should be able to participate at no cost**

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 success of the community solar program as a whole relies on meeting these targets. However, we want to ensure that there is the right set of tools available to meet these goals, and not limit the community solar program. 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 at 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.

Staff clarified in their comments that these two goals are additive in nature, and that there will not be double-counting of capacity to meet the overall 10% goal. However, staff also made blanket policy statements about the ways that low-income customers participate in the program that will severely limit the opportunity for effectively meeting this goal.

It is unclear to us what staff means by the following statement : “Though Staff believes a full subsidy of subscription costs for low-income participation is not appropriate, Staff encourages the Commission to consider some sort of intra-program fee that all participants pay in order to bring down the cost of individual low-income customer participation.” If this applies to individual participants, then we interpret staff as saying that low-income customers must pay for their participation. If that is the case, then we see major structural issues in the program design, and have concerns about ways that low-income customers may be further disadvantaged. In other states, there are clear mechanisms for low-income customers to receive benefits from community solar at no higher net cost, and with low risk.

Some of those risks might be related to customer's moving or being evicted from a housing situation, and there is still not guidance and clarity in the draft rules related to transferability and portability of subscriptions and ownership.

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 clear guidance that projects can provide free and reduced cost subscriptions or charitable deductible donations towards ownership interests for qualifying customers or organizations. The Low Income Program Manager should seek to provide net-benefits to low-income customers and ensure that the up front costs are significantly reduced. The costs of bringing in low-income customers are unlikely to be met by altruistic impulses alone.

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 allocation of costs as suggested in staff comments, to be shared by all projects, may also be inadequate.

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 needs to be an expanded definition of low-income. The staff conception of qualifying low-income customers or entities is generally consistent with creating a program that can serve broad social needs, but could be expanded further to be effective.

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, as we stated in earlier comments, 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. There should be clear guidelines in the administrative rules to allow this.

However, we disagree with stakeholder comments that seek to limit the delivery of community solar benefits to either individual customers or only to non-profit housing providers. A broad range of models may be useful in meeting the low-income goals, and we are concerned that if options are limited, it will have a cascading range of implications on the program as a whole, especially as attainment of the low-income goal is being promoted by staff as a key indicator to the expansion beyond the initial 2.5% capacity tier. We do not want the tools allowed for meeting the low-income goal to be limited, and then have the low-income aspects subsequently used as a scapegoat for not expanding community solar.

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.

Thank you for consideration of these comments, and we look forward to continued engagement as the rules are adopted and we move towards implementation, hopefully in the near future.

Sincerely,

s/ Jaimes Valdez  
Policy Manager  
Northwest SEED