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Public Utility Commission of Oregon
201 High St SE #100,
Salem, OR 97301

To the members of the PUC staff,

Thank you for the chance to comment on the May 1st draft rules regarding the community solar initiative in Oregon. The recent draft of the proposed rules is a dramatic improvement in clarity and function. As an affordable housing provider throughout the Northwest, Viridian Management is acutely aware of the potential barriers and issues that will surface when attempting to connect renewable energy to the approximately 70,000 affordable housing units within the state. However, we fully support the State's initiative to include a 10% benefit rate for low-income to lower the cost of operation of affordable housing and to provide a renewable energy resource to those that traditionally have not been able to afford it.

Our extensive experience in the affordable housing industry informs our opinion that the 10% low-income carve out mandated by SB 1547 will be difficult to fulfill. But it is possible with incorporation of best practice methodologies and an eye toward simple processes. A significant issue already in our industry is the unnecessarily burdensome compliance requirements regarding how low-income beneficiaries are identified and certified and these could be equally troublesome for participation in community solar programs. Our opinion that there are smarter ways to opt-in low income beneficiaries is shaped by our research into the community solar industry in Colorado, which has a 5% low-income carve out. In Colorado, community solar developers have struggled to meet the 5% minimums, even though they are giving subscriptions or panel ownership away and have a very low bar for their definition of low-income (Analysis of the Fulfillment of the Low-Income Carve-Out for Community Solar Subscriber Organizations, Colorado Energy Office, Nov 2015). In the case of Oregon's higher 10% benefit requirement, it is possible some community solar projects will be unable to financially pencil out and be killed in their infancy.

Finally, most community solar projects depend on long-term subscriptions from anchor tenants and subscribers. This is directly at odds with the nature of low-income tenancy, which can often be measured in months and multiple locations. However, smartly written policy could allow an entire affordable housing project to act as an anchor tenant. Most of the recommendations made in this document center on our desire to avoid mistakes made in other states' programs, while providing easy, efficient pass-through of benefits to an inclusive definition of low-income recipients. They are also intended to facilitate low-income access to the community solar projects state-wide, instead of restrictive geographic areas.

The following considerations are offered as potential refinements to the draft rules presented on May 1st. In the recommendations below "Original" means the draft rules proposed by the AR 603 workshop staff on May 1st.

860-088-0010
Definitions for Community Solar Program

Recommendation:

Modify definition of "Qualifying low-income customer" to be more inclusive.

Original:
(20) "Qualifying low-income customer" means a retail customer of an electric company whose annual income in the most recent year with available data prior to the customer's participation in a community solar project is 200 percent of the federal poverty level, as designated by the federal Department of Health and Human Services.

Proposed:
(20) "Qualifying low-income customer" means a customer of an ***electric utility*** whose annual income in the most recent year with available data prior to the customer's participation in a community solar project is 200 percent of the federal poverty level, as designated by the federal Department of Health and Human Services***. It may also be an entity (housing provider/manager) that is a retail customer of an electric utility for a single-meter property or that could serve as an aggregate subscriber for the utility services for low-income housing, shelters, refuges and other locations whose primary mission is the assistance of low or extremely low-income housing. Status as low-income may be determined through tax documents, by proof of participation in state/federal energy assistance programs by verification of qualification for tenancy in affordable housing programs, shelters, refugees (HUD, RD, etc) or other designated programs in direct support of those in need in the State of Oregon (welfare, SNAP, etc), or as determined by the Low-Income Community Manager.***

Reasoning:
The proposed definition is the most inclusive. Many low-income families are not in electric company service areas, but rather in the many electric co-ops and consumer-owned utilities within the state. Community solar should easily belong to more than just the residents of Portland and the PGE service area. Defining a "low-income" customer as a "retail customer" artificially limits community solar participation. The definition should include multi-family housing, single-meter elderly/disabled housing and facilities such as homeless shelters where there is not a low-income customer responsible for the bill or making the decision to subscribe to solar. We will need all of these disparate groups to fulfill the 10% low-income carve-out.

860-088-0010
Definitions for Community Solar Program

Recommendation:

Modify the definition of “Subscriber” to be effective in situations beyond the single-family home and to be inclusive of larger housing projects where participation could come in the form of aggregate subscription of all meters in the project to the solar project.

Original:
(24) “Subscriber” means a retail customer of an electric company who enters into a lease for part of a community solar project. For the purposes of this program, a subscriber will be defined at the site address level.

Proposed:
(24) “Subscriber” “means a retail customer of an ***electric utility*** who enters into a lease for part of a community solar project. For the purposes of this program, a subscriber will be defined at the ***site/meter address level or aggregated meter level, if required, in the case of multifamily housing and commercial/institutional facilities.***

Reasoning:
The subscriber definition is needlessly prescriptive. Creating flexibility here will remove barriers to the application of this renewable energy technology to other customers besides single-family home subscribers.

860-088-0010
Definitions for Community Solar Program

Recommendation:
Add a definition for an “Aggregate Owner/Subscriber”.

Original:
None

Proposed:
(26) [addition] “***Aggregate Owner/Subscriber (participant)” is a qualified manager/owner of an affordable housing project, shelter, refuge, etc that is participating in a community solar project through the voluntary subscription of all meters within designated low-income, extremely low-income or homeless buildings /shelters under their management.***

Reasoning:
To facilitate maximum participation and benefit for transitory low-income end users, it is preferred to enroll designated institutions into community solar programs as part of the 10% low-income participation carve-out, rather than specific tenant names/accounts. In this case, the building manager/owner will act as an aggregate subscriber for purposes of enrollment. This arrangement increases the likelihood of low-income participants and decreases the regulatory burden with little compliance cost. Colorado’s low-income engagement efforts have met numerous obstacles. Many of the incentives that work to bring a middle or higher income retail customer to a solar project are less effective in the lower-income sector where many tenants are already receiving energy assistance or only reside in an area seasonally. Additionally, mental health and other disabilities can prevent widespread participation in renewable energy.

860-088-0020
Community Solar Program Administrator

Recommendation:
Provide clarity on mechanisms for low-income benefit pass-through.

Original:
(2)(O) Obtain information from project manager to calculate monthly bill credit for each participant's share of project output.

Proposed:
(2)(O) Obtain information from project manager to calculate monthly bill credit for each participant's ***(to include low-income beneficiaries' bill credit).***

Reasoning:
Clarity on how low-income beneficiary/subscribers will receive bill credit or other benefits is imperative. In effect, more extensive language is needed to determine how a low-income participant will receive a bill credit. Ideally, bill credits are delivered to meter numbers enrolled in the program regardless of the tenant occupying the unit. (Affordable housing providers spend significant amounts of energy to ensure eligibility compliance with various affordable housing program rules).

860-088-0030
Community Solar Low-Income Manager

Recommendation:
Clarify that low-income beneficiaries may not be only "on contract", and that there are numerous potential solutions for low-income participation.

Original:
(3)(b)(B) Replacing low-income customers that terminate a contract with a project.

Proposed:
(3)(b)(B) ***Fulfilling planned*** low-income ***beneficiary participation in projects within stated allocations***.

Reasoning:
In this case, it is better to be less prescriptive and just state that the LI community manager is responsible for assisting developers in maintaining enough LI subscriber participation so that the solar project can maintain its certification. The best system for maximum low-income participation may be for that group to not be on a specific contract, but to just benefit from the program through their housing being on subscription.

860-088-0080
Eligible Customers

Recommendation:
Restore original intent of legislation to be as broad and as flexible as possible and to remove arbitrary limits that reduce the renewable energy potential.

Original:
(1) To be eligible to participate in the community solar program as a subscriber or owner of a project, an entity must:
(a) Be a retail electricity customer of an electric company and take retail electricity service from that electric company in the same contiguous service territory where the project for which a subscription or ownership interest is sought is located; and
(b) Not be a participant or be affiliated with a participant of any other community solar program project that is located in the same electric company's service territory in Oregon.

Proposed:
(1) To be eligible to participate in the community solar program as a subscriber or owner of a project, an entity must:
(a) Be a retail electricity customer of an electric ***utility in this state*** and seek subscription or ownership of community solar ***project in this state***.
(b) Participate in ***only one community solar project per address***.

Reasoning:
(a) SB 1547 appeared to be flexible and encouraging for renewable energy. The restrictions proposed by the May 1st draft rules (a) seem needlessly restrictive. The point of community solar is to enable those who cannot utilize rooftop solar to participate in renewable energy. It should also maximize solar production and minimize installation costs. As written in the draft, it would not be possible to place solar arrays in sunny dry climates to provide maximum energy to those in rainy/snowy/overcast climates. Additionally, the "contiguous service area" language dramatically reduces the effectiveness of community solar when overlaid on top of Oregon's patchwork quilt of electric utilities.

Does this mean that low-income participation must be contiguous as well? Will certain geographic areas be prohibited from accessing community solar projects because there are not enough low-income families in the same contiguous areas? Or will low-income potential subscribers need to be located near populated areas that can afford a solar project? It is recommended to stay close to the original intent of the law to avoid unintended consequences. Additionally, consider the differences between electric company and electric utility here.

(b) Some property owners have multiple buildings or homes in different geographic areas. Are they restricted to putting just one property in one solar program, or can they enroll all of their unique properties in programs? As written, this seems needlessly restrictive and counter to the legislature's goals.

860-088-0095
Calculation of Bill Credit

Recommendation:
Attribute excess generation value back to the community solar project to offset the costs of providing resources to low-income at low or no cost which will ensure the financial solvency of the project, instead of to electric company stand-alone programs.

Original:
(4) A participant's excess generation at the end of the annual billing cycle must be donated to the low-income programs of the electric company serving the participant.

Proposed:
(4) A participant's excess generation at the end of the annual billing cycle must be donated to low-income programs. ***Donation to low-income residents or those serving low-income residents that make up the 10% low-income mandate of the community solar project shall be considered first. Any excess generation remaining after meeting the needs of low-income subscriptions may be integrated into other state-wide programs.***

Reasoning:
Based on the experience of other states with community solar laws, it will be difficult for many community solar projects to be financially solvent based on the 10% or even 5% low-income mandate required by state law. It would be beneficial for excess generation sales to be donated back into the community solar array low-income carve-out or used to offset costs rather than being donated into other unrelated and less effective electric company programs.

860-088-0170
Low Income

Recommendation:
Ensure consistent and precise terminology is used and provide clarity to rules that enable affordable housing to easily enroll in mass into renewable energy programs.

Original:
(1) Every project must provide at least 5 percent of its total nameplate capacity to only qualifying residential low-income customers.
(2) Five percent of the total program capacity tier must be designated for projects or portions of projects that exclusively serve qualifying low-income customers or entities qualifying under subsection (3).
(3) Public or private entities that provide housing services to qualifying-low income residential customers may count towards the capacity requirements described in subsections (1) and (2).

Proposed:
(1) Every project must provide at least 5-percent of its total nameplate capacity to ***qualifying low-income customers***.
(2) Five percent of the total program capacity tier must be designated for projects or portions of projects that exclusively serve qualifying low-income customer or entities qualifying under subsection (3).
(3) Public or private entities that provide ***or manage*** housing services to qualifying low-income residential customers ***may, upon ensuring compliance the low-income definition, enroll their entire property's meter(s) in community solar*** projects that count towards the capacity requirements described in subsections (1) and (2).

Reasoning:
(1) Subsection one in the original text introduces a term "qualifying ***residential*** low-income customers" for the first time, which is undefined. Recommend using the previously explained definition without adding ***"residential"*** into the text without further explanation.

(3) The critical point is that low-income tenants are often highly transient and turnover can be rapid. To provide solar developers a stable low-income carve-out capacity to plan with, and to make sure that as many low-income residents as possible are receiving energy benefits, it's important for the PUC to allow affordable housing property managers and others the ability to enroll all of their meters in community solar projects independent of tenant subscriptions. While individual tenants rapidly cycle through, it is a near certainty that the next tenant on the wait list in an affordable housing project will be qualified low-income per numerous housing authority rules and audits. It is a best practice to keep designated meters enrolled in the solar project independent of the tenant name. In other words, subscribe the designated low-income facility, vice the individuals. Additionally, divorcing specific names from the rolls of low-income participation in community solar projects will enable low-income resident privacy and reduce incidents of alleged discrimination.

Finally, it is suggested to include affordable housing (as well as refuge and shelter) common area and office utility meters as applicable for inclusion in community solar projects. These areas are either for the tenants' use (laundry/common room) or necessary to make the building work. This will not result in unfair benefits to owner/managers, because they are compensated by pre-contracted RTO (return to owner) and a management fee, neither of which is adjustable. Reducing the electricity costs of the common areas and the office, simply means that the project can stay solvent longer without having to raise tenants' rent- this point is commonly misunderstood.

860-088-0200
RPS and RECs

Recommendation:
Clarify REC ownership in the case of low-income subscribers.

Original:
(2) All the environmental, economic, and social benefits associated with one megawatt hour of generation from a Community Solar Project shall remain in the ownership of an owner or subscriber of a Community Solar Project. This includes any renewable energy certificates that may be created as the result of one megawatt hour of generation from a Community Solar Project.

Proposed:
(2) All the environmental, economic, and social benefits associated with one megawatt hour of generation from a Community Solar Project shall remain in the ownership of an owner or subscriber of a Community Solar Project. This includes any renewable energy certificates that may be created as the result of one megawatt hour of generation from a Community Solar Project. ***In the case of low-income participation managed by the owner/manager of an affordable housing project, shelter, refuge, etc, where the tenant's qualification for residence in said housing is the result of a compliance effort by the owner/manager within the building's subscription to the community solar project, the REC ownership will remain with aggregate subscriber (owner/manager of the facility).***

Reasoning:
As written the draft rules do not discuss the handling of RECs with regard to subscriptions for the benefit of low-income. It is proposed that the LI subscriber owns them as would any other owner/subscriber per the draft rules. In the case of an aggregate affordable housing owner/subscriber (multi-family

owner or management), the ownership should stay with the aggregate participant as a reflection of the cost of compliance with low-income definitions.