BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UM 1746

In the Matter of	)
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PUBLIC UTILITY COMMISSION OF OREGON	)
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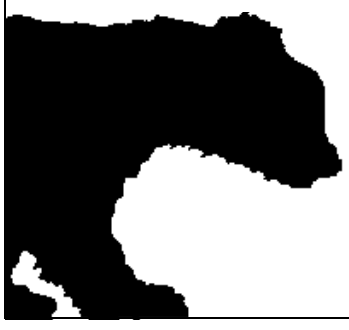
	)
Recommendations for Community Solar Program Designs and Attributes	)

COMMENTS OF THE

CITIZENS' UTILITY BOARD OF OREGON



September 25, 2015

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I. Introduction

The Citizens' Utility Board of Oregon (CUB) is pleased to submit its Opening Comments in response to Staff's Program Design Recommendation for a community solar program. CUB appreciates the effort Staff has put forth in organizing everyone's input. Below CUB will respond to each of Staff's preferred attributes.

Definition of Community Solar

CUB supports Staff's definition of community solar as capturing the key elements of what community solar should be. While a community solar project can reflect the costs a consumer is paying to participate in the project, CUB agrees with Staff, as we note later, that it's important for any community solar project to reflect the benefits of output of the system, much like a consumer would see from a rooftop system. This will differentiate community solar from a voluntary program offering.

System Ownership Attribute

Staff has indicated that it prefers a non-utility owned (including a utility affiliate) program. Staff outlines its reasoning for this and cites accounting complexity and oversight when the utility owns the resource, avoided risk of stranded asset costs being passed on to ratepayers, and monopoly power advantage.

While CUB shares Staff's concerns about stranded costs and competition, CUB does not agree that the utility should be excluded from participating in community solar programs. CUB is sympathetic to the idea that because the utilities possess market advantage, there is a possibility that other solar developers would not be able to compete with the Company. CUB also understands that unsubscribed capacity means that "someone" will have to pay for stranded costs. However, CUB does not agree with Staff's assumption that this necessarily would go to the ratepayer. Much like Staff's recommendation that the third-party developer will need to bear the risks of unsubscribed capacity,[1] CUB does not see why there cannot be some sort of mechanism that holds non-subscribers harmless in the case of utility ownership. If the utility wishes to participate in community solar, the utility (not ratepayers) should bear the risk of that unsubscribed capacity. There is also the fundamental issue of who pays for the cost of administering the programs. Ultimately, if the utility will not be able to participate, there is the question of who pays for the distribution systems, the labor hours, and the administration cost of using utility resources. This introduces another level of accounting complexity—holding non-subscribers harmless when subscribers are using utility resources. CUB does not believe that using potentially rate-based assets while excluding the utility from participating is ultimately an equitable solution to community solar.

[1] See page 9 of Staff's Design Recommendation.

CUB also notes that the reasons cited against utility ownership in terms of market advantage are also reasons to allow the utilities to participate. Ultimately, if the utility can administer community solar most efficiently, CUB does not see a reason to limit the market. Ultimately, CUB believes that the program should be designed in such a way that would allow third-party developers to compete. The utility might need to make certain resources available (e.g., information on regional efficiency) to the market so that customers would be allowed to pick and choose which developer they would prefer to subscribe to. Ultimately, CUB believes in the ability of consumers to choose, and this means that customers should not be restricted to only choosing among (potentially) higher-cost third-party options or *not* being allowed to choose a higher-cost third party option because utility's monopolistic advantage has prevented smaller companies from participating. As we noted in our initial submission exploring the potential workability of Rocky Mountain Power's proposal in Utah, in our view the main issue is not whether a utility should offer a product, but how can non-utility developers be allowed to create offerings for customers, and how customers can identify projects in which to participate without waiting for the utility to develop one.

System Location Attribute

CUB agrees with Staff's preferred characteristic:

> ***Flexible but within Oregon as long as electricity is delivered to the utility's system. Utility could identify optimal grid locations for diverse community solar projects that may appeal to an array of customers. – Staff Preferred Characteristic***

System Size Attribute

Staff indicates that it prefers a "flexible, but phased approach."[2] CUB agrees with Staff's reasoning that different customers will prefer different system sizes. Should community solar grow to be a reasonably large program, CUB believes that long-term system size limits are not appropriate, but for the sake of administering the program, CUB is not opposed to a phased approach, where "chunks" of capacity are approved annually. However, we do not believe that any phased capacity, either for systems or on an overall program basis, should be outlined in the statute. Any legislative bill language should be permissive, but any specifics about a phased approach should be developed in rule.

Customer Type Attribute

Staff's preferred characteristic is that residential and small commercial customers participate.[3] Staff indicates that this includes projects of 30 kW or less. CUB recommends that Staff be more explicit in its definition of "small commercial." For example, does this also include schools or religious institutions? Does it exclude any organizations? Staff clarified this issue in the workshop on September 22, but CUB also recommends outlining this formally. CUB would also acknowledge that any discussion that could apply a subscription solar approach – to use Rocky Mountain Power's phraseology – for large commercial and industrial customers can be undertaken with the VRET docket (UM 1690).

[2] See page 4 of Staff's design recommendation.
[3] *Ibid*.

Special Carve-Outs Attribute

Staff has indicated that it does not have a preference for a carve-out. While CUB is open to carve-outs for some programs, CUB does not feel that it needs to be a mandatory element of every community solar project. CUB would be open to a low-income capacity guideline as far as the *entire program* is concerned (For example, if total community solar capacity in Oregon in the first phase is 2 MW, then perhaps some percentage of this could be allocated to low-income customers, but this would not be restricted to *each* community solar project.). CUB believes that this could restrict the type of community solar projects available. For example, if a number of commercial businesses wanted to buy in to a program, but participation of some businesses was discouraged because of a low-income requirement, and the result is unsubscribed low-income capacity, then CUB does not feel that this outcome would be ideal. CUB feels that a low-income requirement for every project restricts the flexibility of community solar.

Subscription Size Attribute

Staff's preferred characteristics consist of the following:

> ***-Not to exceed average annual load***
> ***- Any solar energy credits in excess of annual energy use at the subscribers site will be donated to low income programs as is done with net metering today.***

CUB agrees with Staff's preferences.

Length Attribute

Of the contract length, Staff stated the following:

> ***Must include standard options of (1) one year and (2) life-of-the project (in years); other lengths could be determined through program design that is aiming to meet customer preferences***

While CUB understands that Staff is trying to accommodate a certain portion of the population who doesn't have access to residential solar (i.e., renters, condo-owners, etc.), CUB is uncertain about the usefulness of restricting every project to having both one-year and life-of-project terms. Like the commercial subscriber example above, it might be that a number of commercial customers wish to buy into a project, but because a portion of that project is limited to one-year contracts or twenty-year contracts, the project might result in some unsubscribed capacity. CUB feels there should be an expectation that there will be less restrictive options. Ultimately, CUB's concern is that multiple restrictions would lead to unsubscribed capacity.

Early Termination Attribute

Staff recommends an early termination fee or a transfer of subscription within the service territory. CUB agrees that there should be an early termination fee—it should be high enough to discourage early termination but not so high that customers feel trapped in a deal they can't get out of or seems so forbidding that they don't sign up for a project in the first place. It is important to strike a balance on this issue.

Calculation Method Attribute

The following are Staff's preferred characteristics:

> ***- Share of solar resource costs in the Power Purchase Agreement plus cost of administering program***
> ***- Availability of Residential Energy Tax Credit for subscribers and Energy Trust incentives for developers to bring down the cost of a community solar subscription fee***

CUB agrees with the general principle that the subscription cost should include resource costs in addition to administrative costs. Subscribers and the developer should bear the risk of

participation. CUB agrees that a tax credit and ETO incentives should be eligible to be used in community solar projects, but in terms of applying a new tax credit to community solar projects, this is a matter for the legislature to decide. But the PUC's report to the legislature can raise the issue as a recommendation. The Commission can provide guidance to ETO in terms of how ratepayer dollars can be used for community solar projects.

Product Design Attribute

Staff indicates that its preference is to design a capacity-based program. CUB is not opposed to Staff's preference, as having a concrete subscribed capacity presumably would make the solar program easier to administer.

Oversight Attribute

The following are Staff's preferred characteristics:

> ***- Central "Project Pool" established***
> ***- Review of messaging and outreach for consumer protection by the existing voluntary renewable energy Portfolio Options Committee***

The workshop held on September 22, 2015 provided much discussion about Staff's recommendation of a "Project Pool." As CUB understands it, the general premise of the "Project Pool" is to provide a meeting place for solar developers and interested customers to be able to meet in a supply-demand setting. CUB understands this to be a sort of online platform, whereby the "Project Pool" makes the market easier to access for all interested parties. CUB views this as an interesting solution to organizational challenges associated with hunting for a solar developer or a customer, the time it takes, information about what is available, etc. CUB envisions that this could potentially be a good tool, if properly designed,

to organize all interested participants – both the supply and demand side – and to help scale the installation of small solar projects. If such a "Project Pool" were enacted, CUB believes that it should be governed by principles of inclusiveness and transparency, but that it would also potentially provide some level of oversight. Staff was not explicit in what it had in mind – that is, is the Project Pool statewide or by utility service territory only? Who determines who gets to participate in the Project Pool? Who pays for the administration cost of the Project Pool? Are the Project Pool participants vetted in some way? These are concerns that comes to mind.

CUB is interested in more discussion about a potential Project Pool. CUB does not believe that initiation of a community solar program is dependent on the creation of a Project Pool. As we've stated in previous remarks, both in writing and at workshops, there is ample consumer protection for customers looking to install solar on their rooftops. Those same protections should be adequate for customers exploring participation in a community solar project. A Project Pool may be helpful in augmenting those protections but is not necessary to ensure them. CUB expects the state Department of Justice to attend to its usual diligence in protecting consumers. There could perhaps be an agreement between the Department and the Commission for the Commission to handle some individual complaints, much like what happens now with third-party leased systems. If there are bad actors that arise, CUB expects to be involved in highlighting those companies and warning consumers away from any projects proposed by those companies.

Lastly, while CUB understands Staff's desire to limit the Commission's responsibility in regulating various aspects of community solar projects, charging the Portfolio Options Committee (POC) with any responsibility is inappropriate. As discussed at the September 22

workshop, the POC is a creature of the Commission and is charged with an advisory role in programs where the Commission has jurisdiction. That would not be the case with marketing of community solar programs. CUB posits that Staff does not need to worry about limiting the Commission's role because that role is already limited. As an example, the Commission has no role in oversight of the outreach and marketing of individual solar installers selling systems to customers. The Commission's role is simply to outline the rules by which those systems are interconnected to the grid. Why would community solar projects be any different? There may be one exception to the case CUB is making here: community solar projects offered by a utility. Certainly the Commission would have a duty to oversee a utility's activities in this case, just as it would in any other activity a utility might undertake. This would include marketing materials, pricing, ROI issues and others. In this case, the Commission could determine that this type of oversight could benefit from the advisory role of the POC.

Rate Attribute

Staff states that its preference is that the solar rate paid to the subscriber should be "informed by" the resource value of solar. CUB agrees that the eventual process to determine the resource value of solar on an ongoing basis is an appropriate tool to inform the solar rate paid to project subscribers. Currently, the resource value of solar is being determined in docket UM 1716, but it is unclear how this would apply to a community solar project. Staff also indicates that it does not believe the retail rate is appropriate in the long term. However, in line with Staff's statement that

the credit should mirror the net metered solar customer's experience,[4] CUB believes that the retail rate should be used until the resource value of solar is determined.

Energy Attribute

Staff's preference is that a community solar program consists of a proportional share of actual system output and that the participant's energy bill would contain a bill credit (much like a net metered customer's experience.) CUB agrees with both principles. Customers should receive a concrete illustration of what they are buying and they should only be getting credit for energy they are buying in to.

Risk and Cost-Shit Minimization

Staff's preferences consist of the following:

- Developer and subscriber bear risks
- Unsubscribed portion attributed to all ratepayers at the as-available avoided cost price (market)
- Non-Payment of subscriptions (uncollectibles) is borne by the Developer/Owner
- Performance guarantees, including force majeure provisions, in contracts can limit risk

As mentioned previously, CUB agrees that the developer and subscriber should bear the risks; non-subscribers should not be held responsible for a developer's inability to secure customers. However, CUB is not certain that it is appropriate for the utility to buy power from the solar developer at a market price. If the market price is higher than the resource value of solar (which purportedly would inform the rate at which subscribers are paid), this might incent the developer to leave unsubscribed capacity open. This might also be an issue if a utility-owned project is

[4] See page 9 of Staff's design recommendation.

allowed. The general rate base should not be the source of capacity that a utility is not able to subscribe. This is an issue that warrants further discussion.

Conclusion

CUB reiterates its position that community solar should ultimately allow individual customers the opportunity to procure solar energy in an open market much like they would if they desired to put solar on their rooftop. The program should be flexible, and should provide the best means for customers to participate in solar when they otherwise could not have. CUB appreciates the opportunity to participate in this docket and looks forward to Staff's report.

Sincerely,

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