

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

**UM 1746**

In the Matter of

OREGON PUBLIC UTILITY  
COMMISSION

Examining a range of community solar programs and attributes to allow individual customers to share in the costs and benefits of solar facilities.

Response to Staff Draft  
Recommendation:  
Northwest Sustainable Energy for  
Economic Development, Oregon  
Solar Energy Industries  
Association, Renewable  
Northwest, Environment Oregon,  
Portland Bureau of Planning and  
Sustainability, Oregonians for  
Renewable Energy Progress,  
Northwest Energy Coalition

**I. INTRODUCTION**

We thank the Oregon Public Utility Commission (the Commission) staff for their efforts in developing a draft recommendation to the Legislature regarding community solar, and welcome the opportunity to provide additional comments. The meeting on September 22<sup>nd</sup> 2015 was useful in clarifying many of the concepts put forward by staff and stakeholders, though many questions still remain. The following is a joint response by the undersigned parties (“the Parties”) to UM 1746, submitted to provide input, comments and recommendations on the staff draft released September 18<sup>th</sup>, 2015. It seeks to address the most relevant issues to the Parties in a concise format.

**II. HIGH-LEVEL CONSIDERATIONS**

The staff clarifications were helpful in defining terms used, and the vision that Commission staff had regarding outcomes of the UM 1746 docket and some of the administrative processes. The Parties still have concerns regarding the following big-picture aspects of the draft recommendation:

- Commission staff have opted to recommend a set of attributes, rather than a program model to the Legislature. While this may indeed allow for greater flexibility, Parties suggest that due to the short legislative session, a more thoroughly developed model would be most useful for the drafting of potential legislative language. Many of these attributes are interconnected, effectively suggesting a model. Commission staff could also seek further guidance if needed from relevant legislators.
- The “Project Pool” concept put forward as an administrative structure has a number of problematic elements. While we recognize the prudent goals of Staff to provide accountability, transparency, and consumer protection, a simpler structure could deliver the same benefit. To our knowledge, no other state with community solar has this type of Project Pool structure. In lieu of a Project Pool, we propose the following approaches:
  - Developers should bear the risk of construction, and reserve community solar capacity from the utility before construction, potentially with a deposit charged. Projects could then be registered in a database, but residential customers would not commit funds/subscriptions to a project until it was commissioned. This mirrors typical contracts with direct-ownership of residential solar, where final payment is only made to the contractor once the system is installed. Commercial subscribers could potentially make commitments prior to construction. These “anchor tenants” reduce the risks and costs of project development, however this too should not be a

pre-requisite or requirement of any project prior to interconnecting with the utility.

- Developers should be able to market to and attract customers to a project in a manner deemed fair, with standard disclosures.
  - Utility interconnection standards, electrical codes, and local jurisdictional permitting and inspection all exist to ensure appropriate technical review and safe installation.
  - If there is a need for centralized information, then the Project Pool should function much like the existing Energy Trust of Oregon (ETO) solar contractor database. Project developers would be screened for certain criteria and standards, including business licensing, insurance, et al in a manner that is fair and inclusive. A website could list the developers, which utilities they serve, as well as projects with registered capacity.
  - There are questions about the costs of administering the proposed Project Pool, how those costs are paid, and which entities would be responsible for overseeing and managing this process.
  - Without further details, Parties cannot support the Project Pool concept as proposed.
- The Definition of Community Solar recommended by staff generally fits with principles that the Parties favor. However, there should be a distinction that while bill credits should flow through the utility bill, it is not necessary for subscription costs and risks to also be transmitted through the utility billing system. The agreement between the Subscriber and the Developer is a contract, independent

of the utility, and utilities should not be burdened with the additional complications of acting as an agent between the two. This may also serve to mitigate some of the concerns of the utilities regarding the complexity of adding bill line items, non-payment and collections issues.

### **III. Community Solar Model Attributes**

- **System Ownership Attribute** - Parties are supportive of the general staff recommendation regarding ownership. To provide for fair competition, utilities should be able to participate as system owners only through non-regulated affiliate entities. Developers in the community solar marketplace should have similar access to customer information. The asymmetrical level of customer data available to a regulated utility would make it difficult to fairly compete. Also, it should be clear that a utility should not be eligible for a regulated rate of return on a community solar asset developed with subscriber's funds. Commission staff could consult statutes in other markets including Colorado and Minnesota, which have allowed for utility participation along with protections that assure a level playing field for new market entrants.
- **System Location Attribute** - Parties are comfortable with the staff proposed recommendation to maintain flexibility regarding the location of projects, and to allow them anywhere in Oregon. This structure may serve to favor very large projects in Eastern Oregon, to the detriment of any projects in denser, more

urban areas. To mitigate this, Parties suggest the approach articulated below, regarding system size attributes.

- **System Size Attribute** - The Commission staff should clarify two distinct aspects of this attribute, the Program Capacity, and the maximum Community Solar system capacity.
  - Regarding the Program capacity, Parties favor an approach whereby the legislature sets a minimum target capacity and a maximum, with the authority for the Commission to increase that capacity upon periodic annual review. This provides a phased approach allowing the Commission to make capacity available based on information gained in the deployment of the program.
  - The individual project system capacity should have an upper limit defined by the Legislature, with allocations within a reservation process to account for a diversity of system sizes. Parties suggest that at minimum there be two tiers : projects under 200kW and projects 200kW-2MW in capacity. This structure will allow for competition at various scales, and mitigate the tendency for only the largest projects to be built. A phased approach could allow the Commission to adjust the capacity tiers and allocations based on market activity.
  
- **Customer Type Attribute**- The proposed limitation of community solar programs to residential and small commercial customers is unnecessary, and larger customers should have the choice of participation. As noted by some

stakeholders, the Voluntary Renewable Energy Tariff and renewable energy available through Direct Access do not currently address the needs of large non-residential customers very well. Larger customers could play a valuable role as “anchor tenants” early in a project.

**However**, to ensure that the program is targeted generally towards smaller customers, Parties propose that a minimum of 50% of the project capacity be held by subscribers who meet the qualifications that staff recommend, related to a 30kW or under service Schedule.

- **Special Carve-outs Attribute-** As stated in our previous comments, this attribute should be labeled as a “Low-Income Participation Attribute”. It is important and valuable to a community solar program that it truly be accessible to all members of our community. This includes low-income customers, who should have an opportunity to share in the benefits of solar energy.

Parties suggest that a minimum of 10% of each community solar system capacity be allocated to qualifying low-income customers. The qualification terms could be determined by legislature or the Commission, using objective standards or existing programs such as the Low Income Home Energy Assistance Program (LIHEAP). Project developers would then offer either discounted or subsidized subscriptions to low-income customers to meet the requirement.

The staff proposal of allowing the market to benevolently choose projects that include low-income customers is unlikely to result in the desired outcome. It is true that a low-income requirement would incrementally increase the costs of

subscriptions for other community solar subscribers. However, this principle is also in effect for all ratepayers already, who contribute a marginal low-income assistance fee as part of utility bills.

The Commission oversees other elements of low-income assistance and distribution of social benefits through utility bills, and it is essential that staff develop a recommendation that addresses low-income participation, and provide a pathway forward for legislative action. The Parties also concur with many of the approaches suggested by the Interstate Renewable Energy Council in addressing this issue and providing additional financing and funding tools for low-income participation.

- **Subscription Size Attribute-** The Parties generally support the staff approach regarding subscription sizing, with the recommendation above regarding allocations of capacity within a project to low-income customers and thresholds for participation by large customers. Parties do suggest that there be a minimum of 10 subscribers enrolled prior to any utility bill credits being distributed. Also, it should be noted that minimum subscription sizing may have an impact on the availability of Oregon state incentives, depending on changes made to the Residential Energy Tax Credit.
- **Contract Length Attribute-** There are a number of considerations with respect to the length of contract terms that Parties have concerns with. For the contract or PPA between the utility and the community solar developer, those should be fixed terms for a period of at minimum 20 years. Further, participating

subscribers should be assured that the program will continue and their on-bill crediting opportunity maintained for the life of the PPA or other contractual arrangement. Regarding the contract length between a community solar developer and the subscriber, the following are concerns:

- A mandatory offering of a one year contract is too prescriptive. While it should be available as an option, it should not be required. A short term option should be an optional element, with flexibility on the exact duration. The needs of renters can also be met through other attributes, including subscription portability and transferability charges suggested by staff.
  - Subscriber contract lengths should be set between developers and informed customers, but should not exceed the PPA term.
- **Subscription Pricing Calculation Method Attribute** - The Parties support the staff recommendation to the legislature suggesting that the Energy Trust of Oregon and RETC incentives be made available on an equitable basis to community solar participants. This also fits with the recommendation that subscriptions be allocated on the basis of capacity. There are a number of statutory changes required in order to allow these incentives to play a role, as noted by staff and Oregon Department of Energy. These may include administrative decisions regarding subscription terms and timing of payments, and Renewable Energy Certificate (REC) ownership. Regarding subscription pricing, this should be left to the market, with the community solar developer

offering a mix of contract terms and prices based on costs of development, rather than prescriptive calculations.

- **Oversight Attribute-** As noted previously, the Project Pool concept has a number of complicated features, and the Parties suggest alternatives that meet many of the same objectives. There could be best-practices and disclosures developed for messaging that take into account the requirements of various incentive programs, where applicable.
- **Bill Credit Rate Attribute -** Parties agree with staff that the calculation of the bill credit should be done by proportionally allocating the actual output of the community solar array to the subscribers, multiplied by a bill credit rate.

Regarding that bill credit rate, Parties propose the following :

- Until a Resource Value of Solar is determined, the bill credit should be established at the retail rate, net any fairly-determined administrative charges. Any administrative charges should be subject to oversight and periodic review by the Commission and stakeholders.
  - Once determined, the Resource Value of Solar could be used to inform the bill credit rate, but does not necessarily need to be equal to that value.
  - Subscribers should maintain the same expected bill credit rate for the duration of the subscription contract term, regardless of when the Resource Value of Solar is determined. This provides stability and certainty for customers.
- **Risk Allocation Attribute-** Parties agree with the staff assertion that risks should largely be borne by the developer and subscriber, in a manner that mirrors many of the

attributes of net-metered customers. The developer should bear the risk of undersubscription, and after an initial transition/subscription period the utility should pay avoided market rates for any unsubscribed energy. This will create an incentive for full project subscription. Contract tools such as performance guarantees can be useful, but should not be a mandatory part of program development. Other elements, such as operations and maintenance agreements or escrow accounts may also be useful to mitigate risk. Parties have submitted prior comments regarding the perceived issue of cost-shift, and suggest that there may be some costs in administering and implementing a program that are rationally reasonable to be shared with all customers. While there should be an accounting balance of costs and benefits between subscribers and non-subscribers, it does not need to equal zero to all parties. The additional choices and opportunity offered by community solar does create a new type of program, and has great potential to meet customer demands for cleaner, more accessible energy infrastructure.

## **V. CONCLUSION**

The Parties appreciate the opportunity to submit these comments in response to the UM 1746 staff recommendations. We acknowledge the expedited timeframe in developing these recommendations, and hope that they are useful in framing the next draft.

As we have stated before, the benefits of solar energy include bill savings, energy cost predictability, tax savings, and access to an emission-free electricity source. The Commission can play a valuable role in guiding the legislature to develop a program that brings these community solar projects forward in a manner that also ensures the opportunity for participation by customers of all income levels. Appropriately designed

community solar programs can provide a mechanism for efficient, economic, and equitable deployment of new renewable resources throughout Oregon.

The Parties submit these comments for consideration, and look forward to providing additional testimony to Commissioners on October 16<sup>th</sup>, 2015.

RESPECTFULLY SUBMITTED this 25<sup>th</sup> day of September, 2015.

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