

Kathleen H. Burgess, Secretary
New York State Public Service Commission
Empire State Plaza Agency Building 3
Albany, NY 12223-1350

January 20, 2017

Re: “Notice Soliciting Comments Concerning Community Distributed Generation for Low-Income Customers” (Case # 15-00348)

Introduction and Summary

Cypress Creek Renewables (CCR) respectfully submits the following comments in response to the “Notice Soliciting Comments Concerning Community Distributed Generation for Low-Income Customers” (hereafter the “Notice”).

CCR is a community and utility-scale solar developer and long-term owner and operator of solar projects. We have solar farms in operation or under construction in 15 states, and have an operating portfolio of over 1,000 MW. Specifically, in New York we have made significant investments to date resulting in a current pipeline of over 1,500 MW of community distributed generation projects (CDG) and over 500 MW of utility-scale projects.

Based on our experience developing and financing CDG projects to date across the country, CCR strongly supports the Commission’s and DPS Staff’s efforts to establish consumer protection standards, but recommends structuring those requirements so that they are most relevant to customers and are most compatible with the product offerings, and also enable these offerings to reach as many low to moderate income (LMI) customers as possible. Concerning utility ownership of CDG facilities, as detailed in our recent response to the “Petition of Consolidated Edison Company of New York, Inc. for Approval of a Pilot Program for Providing Shared Solar to Low Income Customers”¹, CCR finds this discussion premature, and urges DPS Staff to delay focusing on possible utility ownership parameters and instead focus for now on how to remove barriers to the private market serving low to moderate income customers.

Specifically, in summary we recommend:

- Developing a standardized Customer Disclosure Statement with the general categories proposed in the Notice, but with separate requirements for ownership vs subscription models and with some additions and modifications as detailed below, and that the implementation of this Customer Disclosure

¹ Cite CCR Comments ConEd Petition

Statement specify the required level of detail and not disrupt previously executed contracts

- Updating the applicable provisions from the Home Energy Fair Practices including the removal of the provisions concerning budget billing and security deposits, and the enhancement of the critical provisions concerning meter reading and billing requirements.
- Focusing on removing the barriers that have existed over the last year to the private market serving low-income customers, including adoption and implementation of the recommended queue management and limited cost-sharing mechanism proposal, adoption of a Value of DER decision that results in an equitable and successful transition that does not inadvertently disrupt the New York solar market while taking an important interim step towards a more accurate valuation, and granting the request that any excess generation credits at a CDG sponsor's host account at the end of the annual billing period be valued at the utility's avoided cost.

Comments by Section

Attachment A – CCR Supports the Development of a Standardized Customer Disclosure Statement, But Recommends That There Be Separate Requirements for Ownership vs Subscription Models (As Some Items Are Not Appropriate for Both), That Some Items Be Added and Modified As Detailed Below, and That Its Implementation Standardize and Specify The Required Level of Detail and Not Disrupt Previously Executed Contracts

We support a Standardized Customer Disclosure Statement for CDG projects as proposed in Attachment A of the Notice with the below edits marked in red and our explanatory comments in red italics. We recommend that generally all of the below items would be included in the disclosure for all projects, except for the items marked as Ownership Model Only (OMO) or Subscription Model Only (SMO), which would apply only to those model of projects. We also note that several of the items listed are not specified by the project sponsor, but are a matter of state policy and we suggest that this should be made clear in the statement. Finally, we strongly recommend that before a Standardized Customer Disclosure Statement is implemented, the level of specificity of the information to be provided by developers should be standardized, perhaps via the use of a standard form, so that there is a common level of detail provided. The new the Standardized Customer Disclosure Statement requirement should also not disrupt existing contracts executed prior to its implementation.

Proposed Category	Proposed Detail Required
Costs of <u>Participation</u>	<ul style="list-style-type: none"> • Non-recurring charges • Recurring charges • If charges will increase, by how much <u>and at what rate</u>, and notice given • <u>Late payment fees if applicable</u>
Terms and Conditions of <u>Participation</u>	<ul style="list-style-type: none"> • Financial structure (PPA, lease or ownership) • Rights to applicable tax credits • <u>Rights to renewable energy certificates (RECs)</u> • Customer/sponsor dispute resolution process • Bill crediting/<u>value model (i.e. NEM, Phase 1 Tariff Tranche XX, Phase 2 Tariff, etc method)</u> • Rollover credit banking process <u>(description of standard process set by NY NEM or Tariff rules)</u> • Definition of <u>annual</u> underperformance and compensation to be paid by Developer <u>(We support this if approached in a fashion that lines up with both worst-case normal solar resource variations, customer exposure, and project financing realities. Thus we suggest a definition for subscription model projects that a customer's share must generate at least 50% or more of its estimated output in a given year or the subscriber can leave without penalty since subscribers are only paying for the electricity provided. For ownership model projects, customers are paying for the asset and so the minimum standard should be greater, for example 80% of estimated output in a given year or a customer is paid for the missing production. With this in place, we don't think that notice when a project is out of</u>

	<p><i><u>service should be required as the customer is already covered against extreme outages by the production guarantee.)</u></i></p> <ul style="list-style-type: none"> • Maintenance plan <u>(OMO)</u> • Copy of solar panel warranty <u>(OMO)</u>
Length of the Agreement, End Date, and Renewal	<ul style="list-style-type: none"> • Term of <u>agreement</u> • <u>Process for contract renewal if applicable</u> • Process to unsubscribe <i>(We support unsubscribe options, but not a blanket default option for low-income subscribers to exit their contracts without penalty with 60 days notice as this will make financing for these customers more difficult)</i> • Amount of Early Termination Fee, if any, and method of calculation of ETF
Data Sharing and Privacy Policy	<ul style="list-style-type: none"> • Explanation of how Project Sponsor and Utility will share <u>Participant's</u> data • Data privacy policies • Process for customer disclosure of low-income status
Capacity Allocation/Subscription Size	<ul style="list-style-type: none"> • Percentage of <u>facility monthly</u> output to be credited to subscriber • How credits will be allocated to subscriber <u>(description of standard process from state NEM and Tariff rules)</u> • <u>Expected kWhs/Year</u> • <u>kW of project owned (OMO)</u>
Guaranteed Savings	<ul style="list-style-type: none"> • This agreement offers no guaranteed savings.
Rescinding Agreement Without Penalty	<ul style="list-style-type: none"> • A residential customer may rescind this agreement without penalty by calling the toll-free number within 3 business days of receipt of the sales agreement.

Attachment B – CCR Supports the Application of Provisions from the Home Energy Fair Practices as Proposed in the Notice, Except Those Provisions Concerning Budget Billing and Security Deposits Which We Suggest Be Removed. We Also Suggest Enhancing the Meter Reading and Billing Requirements.

We support the application of provisions from the Home Energy Fair Practices, but we recommend removing or altering the budget billing and security deposit provisions and increasing the requirements of the meter reading and billing provisions as described below in red italics.

Proposed Applicable Provision	CCR Comments
11.11 Residential customers must be offered a voluntary budget billing or levelized payment plan.	<ul style="list-style-type: none"> <i>We recommend removing this provision, as the rollover credit banking policy mentioned above will take care of this once a Customer is involved in a project through May of its first year, so there is no need for a separate voluntary levelized payment plan. Such an additional levelized payment plan would complicate the utility meter reading, customer meter reading, and utility billing process, which is already challenging and will need improvement as projects roll out across the state</i>
11.12 Security deposits are not required for residential service, unless the customer is a seasonal or short-term customer.	<ul style="list-style-type: none"> <i>We recommend removing this provision so that security deposits can be an option for LMI customers in order to improve the subscription term and savings proposition available to them</i>
11.13 Meter reading and estimated billing procedures	<ul style="list-style-type: none"> <i>Finally we recommend that CDG host/sponsor meters should never be estimated, and should be required to either be read every month by the utility, or to be read bimonthly by the utility and by the developer in the other months. Estimated host/sponsor meter readings do not work well for solar projects, as the utilities do not have an accurate forecasting method. Misestimates result in incorrect allocations</i>

	<i>to customers and subsequent rebillings, confusion, and avoidable complexity.</i>
11.16 Requirements for the information and charges for services on utility bills.	<ul style="list-style-type: none"> •<i>There should be a standard requirement for certain key information to be provided by the utility on the customer’s bill, so customers can clearly see the value of their solar subscriptions credited against their normal electric bills. This has been challenging to date in some utility territories. This information should include: % share for month, kWhs allocation for month, average kWh credit rate for month, resulting monetary credit for month, and monetary credit rollover balance.</i>

Utility Ownership – CCR Urges Staff to Delay Focusing on Possible Utility Ownership Parameters for CDG Projects, and Instead First Examine How to Remove Barriers to the Private Market Serving Low-Income Customers

As we detailed in our recent response to the “Petition of Consolidated Edison Company of New York, Inc. for Approval of a Pilot Program for Providing Shared Solar to Low Income Customers”, CCR finds the discussion of utility ownership of CDG projects premature. As we have noted previously, the CDG market in New York is still in its very early stages after having formally been started just over a year ago. The ramp up of the business models for such a market takes time, and in addition, the development of the CDG market has been delayed by external constraints outside of the industries’ control.

In particular, developers of CDG facilities have had to work with the larger solar industry through needed interconnection improvements, uncertainty created by the ongoing Value of DER proceeding, and remaining questions about unallocated sponsor/host meter CDG credit value as we commented on recently in response to “SolarCity’s Petition for Clarification, or in the Alternative, for a Declaratory Ruling Regarding the Payment for Excess Generation Credits Held by Community Distributed Generation Project Sponsors at the End of an Annual Billing Period”.

All of these issues in combination have acted to substantively slow the pace of the first wave of CDG projects coming online and have also delayed the focus of third-party developers on further innovations to serve LMI residents despite the serious interest of many developers to serve this market. Thus, concluding after just over a year with all of

these moving pieces and challenges, that the CDG market serving LMI residents represents a failure to deliver having been given “an opportunity to provide a service”, is not a fair or well-supported assessment of the current situation. CCR urges DPS Staff to delay focusing on possible utility ownership parameters and instead focus for now on how to remove barriers to the private market serving low-income customers, including granting the request that any excess generation credits at a CDG sponsor’s host account at the end of the annual billing period be valued at the utility’s avoided cost.

Thank you again for your leadership on these important efforts. We appreciate the opportunity to submit these comments and look forward to continuing to work with DPS Staff, the Commission, the Utilities, NYSERDA and other stakeholders.

Respectfully submitted,

/s/ Melissa Kemp

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