

**STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION**

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**Proceeding on Motion of the Commission as to  
the Policies, Requirements and Conditions for  
Implementing a Community Net Metering  
Program**

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**Case 15-E-0082**

**JOINT REQUEST OF THE CITY OF NEW YORK, SOLAR  
ONE, GRID ALTERNATIVES, NATURAL RESOURCES  
DEFENSE COUNCIL, THE ASSOCIATION FOR ENERGY  
AFFORDABILITY AND ENVIRONMENTAL DEFENSE FUND  
TO WAIVE THE MINIMUM MEMBERSHIP REQUIREMENT  
FOR COMMUNITY DISTRIBUTED GENERATION  
PROJECTS SITED AT PROPERTIES WITH MULTIPLE  
RESIDENTIAL UNITS**

**Dated: September 1, 2016**

## **PRELIMINARY STATEMENT**

Pursuant to Rule 3.3(c) of the New York State Public Service Commission’s (“Commission”) Rules of Procedure, 16 NYCRR § 3.3(c), the City of New York, Solar One, GRID Alternatives, Natural Resources Defense Council (NRDC), The Association for Energy Affordability, and Environmental Defense Fund (collectively, “Petitioners”) hereby submit this request for a waiver of the current ten-member minimum for Community Distributed Generation (“CDG”) projects located on properties with multiple residential units. As explained herein, this limited waiver is needed in order to expand solar access opportunities, particularly in urban areas and low- and moderate-income communities. Furthermore, granting this waiver will allow New York State to more effectively leverage emerging regulatory mechanisms to advance the State’s support for clean distributed energy resources (“DER”).

## **BACKGROUND**

On July 17, 2015, the Commission issued its Order establishing the requirements and conditions for the CDG program.<sup>1</sup> With respect to project membership, the CDG Order states that “membership in a Community DG project is set at a minimum of ten.”<sup>2</sup> In other words, each CDG project must have a minimum of ten separate members in order to qualify for the CDG program.

Petitioners strongly support the CDG program, generally, as it has the potential to significantly increase access to the benefits of solar and other forms of clean distributed generation to customers who may otherwise be unable to directly participate in, and derive

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<sup>1</sup> New York State Public Service Commission Case No. 15-E-0082, Proceeding on Motion of the Commission as to the Policies, Requirements and Conditions for Implementing a Community Net Metering Program, Order Establishing a Community Distributed Generation Program and Making Other Findings (issued July 17, 2015) (“CDG Order”).

<sup>2</sup> Id. at 7.

benefit from, such projects. Notwithstanding Petitioners' general support for the CDG program, Petitioners submit that the CDG Order's specific minimum member requirement will actually result in unintended consequences that run counter to this objective.

While the membership minimum ensures that CDG projects will benefit numerous subscribers, it also forecloses opportunities for smaller groups to band together in support of more modest deployments of clean DG. Namely, this minimum will prevent innovative forms of on-site solar development from being realized within the underserved multi-family residential building context; particularly in cities, where such building types predominate and where most low- and moderate-income populations reside. Furthermore, in dense urban settings, such alternatives will be critical due to the multiple challenges that confront efforts to realize more conventional large-scale shared solar projects, which face added costs, risks and other barriers that are not as pronounced in other areas of the state. The most efficient way to overcome these obstacles is for the Commission to waive the ten-member minimum requirement for CDG projects on properties with multiple residential units.

### **DISCUSSION**

Community distributed generation should be flexible enough to support alternative urban forms of on-site shared solar projects that can be hosted on the roofs of diverse types and sizes of multi-family properties, including cooperatives and condos; market rate and affordable rental properties; small, owner-occupied homes with one or more rental units; and mixed-use properties with multiple residential units. While the CDG Order discusses participation by residents of master-metered buildings, it overlooks the potential for on-site systems serving residents of smaller apartment and mixed-use buildings (many of which are direct-metered), which are predominant in large cities such as New York City. Such *micro-shared solar* deployments,

rather than being sited remotely from load, would be sited on the vacant roof space of the buildings in which subscribers reside.

The CDG Order, however, does not allow these residents to take advantage of CDG to facilitate the shift to local solar power generation, particularly because the CDG Order requires a minimum of ten customers within each CDG project. The CDG Order considers application of the minimum membership requirement in the context of larger buildings that are master-metered by the utility but not for direct-metered customers living in multi-unit buildings or customers living in master-metered buildings with fewer than ten units. Direct-metered customers are, of course, able to participate in the CDG program remotely or on-site if building tenants meet the current membership size and consumption requirements. However, there are many multi-unit residential or mixed-use buildings with fewer than ten metered tenants, including, but not limited to, numerous Housing Development Fund Corporations (“HDFCs”) and 2-5 family homes.<sup>3</sup>

While the Commission previously considered the minimum membership requirement for the CDG program, recent experience within the solar market and technological advances in project design warrant reconsideration to address a significant barrier to solar adoption inadvertently created by the ten-member minimum in the multi-family sector.<sup>4</sup> Although remote participation is sometimes an option, this creates an additional hurdle for tenants who must then seek out CDG options (rather than having the CDG project conveniently located on-site). Off-site options are also significantly constrained in dense urban areas with limited available large-scale installation space, such as New York City. By enabling these properties to host systems on-

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<sup>3</sup> HDFCs are limited equity co-ops that provide affordable homeownership and housing options to many residents in New York City under the New York State Housing Finance Law, most of which have fewer than ten households.

<sup>4</sup> CDG Order at 29.

site, these installations would support the State’s “Reforming the Energy Vision” objective of locating energy production in closer proximity to load for greater system efficiency and resiliency, and can also serve to engage and animate customer participation in DER and energy management more effectively than can remotely located projects.

Such on-site deployments have become more viable because of concurrent design innovations that allow city buildings to minimize limits to allowable rooftop solar capacity brought about by compliance with local fire and building codes. For example, new elevated canopy-based installations now offered by multiple solar developers allow for the installation of much larger solar capacities on roofs which, without a canopy, would only be able to accommodate very small solar arrays, if any at all. This design innovation enables even small multi-family buildings to host shared solar systems that are sufficiently large to be shared among a segment of tenants through community net metering.

While average solar capacities for such systems would be relatively modest, small multi-family and mixed-use buildings, in aggregate, represent a significant potential market for solar. One very common property type in many cities across New York State that is effectively excluded from participating in shared solar by the member minimum is the small 2-5 family owner-occupied home with one or more rental units. According to New York University’s Furman Center for Real Estate & Urban Policy, roughly 40 percent of New York City’s households live in buildings with fewer than five units, and 75 percent of all low-income New Yorkers not benefiting from a housing subsidy live in such small rental properties.<sup>5</sup>

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<sup>5</sup> NYU Furman Center for Real Estate & Urban Policy, “Maintenance and Investment in Small Rental Properties: Findings from New York City and Baltimore” (2013) *available at* [http://furmancenter.org/files/MaintenanceandInvestmentSmallRentalProperties\\_WorkingPaper\\_1\\_5NOV2013.pdf](http://furmancenter.org/files/MaintenanceandInvestmentSmallRentalProperties_WorkingPaper_1_5NOV2013.pdf).

By limiting these alternative small-scale CDG deployments, the ten-member minimum requirement prevents smaller groups of customers residing in common forms of multi-family residential and mixed-use properties from taking full advantage of solar energy. A limited waiver of the membership minimum for these properties (buildings with multiple households or residential units) would enable them to employ CDG regardless of metering arrangements and including properties served by independent utility meters, as is very often the case.<sup>6</sup> Waiving the ten-member minimum for these buildings would also enable many HDFCs to participate in on-site CDG projects, thus benefiting numerous low- and moderate-income communities that might otherwise be precluded from participating in a solar energy system.

Under the current framework, small rooftops are unlikely to host sufficient solar capacity to provide the 1,000 kWh per year subscription size minimum to at least ten subscribers.<sup>7</sup> Furthermore, many buildings that can meet this production threshold still do not have ten interested subscriber accounts located on-site, which imposes the additional burden of subscriber acquisition. These factors result in the installation of smaller rooftop solar systems that only serve single meters on buildings that could actually fit larger systems (e.g., 3 kW where an installer could fit 12 kW). In addition, these smaller systems are more likely to fall below the size threshold to receive consideration from installers owing to high fixed costs. Lowering the membership minimum for CDG projects that serve buildings with multiple residential units

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<sup>6</sup> Existing commercial, or Public Light Panel (“PLP”), accounts for common facility loads, or, alternatively, separate dedicated low-load (i.e. “light bulb in a closet”) accounts could readily serve as the shared solar host accounts, in compliance with the CDG Order.

<sup>7</sup> See CDG Order at 12. In New York City, where the average capacity factor of rooftop solar PV is 0.1363-0.1387, a solar PV system would need to be more than 8 kW in size to supply 10 subscribers with 1,000 kWh each on an annual basis. For solar PV capacity factor, see NYSERDA, “New York Solar Study” (2012) at 3-16, available at: <http://www.nysERDA.ny.gov/-/media/Files/Publications/Energy-Analysis/NY-Solar-Study-Report.pdf>.

would animate this entire segment of the market by simplifying the process and curtailing the number of interconnection and NYSERDA applications required for these projects. This complex administrative burden discourages solar installers from serving multi-metered, multi-family buildings not only in New York City, but in other urban areas of the state.

Lastly, the limited waiver requested herein should result in only minimal administrative burden on the utilities administering the CDG program. At most, utilities will need to file updated tariff leaves and/or Procedural Requirements to reflect the modified membership minimum for properties with multiple residential units. As discussed herein, any such burdens would be outweighed by the additional demand for renewable energy that can be unlocked by opening the CDG program to this discreet class of customers.

### **CONCLUSION**

Waiving the ten-member minimum requirement for CDG projects located on properties with multiple residential units would unlock enormous demand for rooftop solar in New York City and other dense urban areas of the state. Doing so will serve the interests of small building owners and the communities they represent, including many low- and moderate-income residents, facilitating the distribution of solar energy to a diverse field of potential customers. Therefore, for all of the foregoing reasons, the Petitioners respectfully request that the Commission waive the ten-member minimum requirement in the CDG program for projects located on properties with multiple residential units.

Respectfully submitted,



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