

# New Jersey BPU Proposes Substantial Changes to Community Solar Rules

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On Oct. 7, 2024, the New Jersey Board of Public Utilities (“BPU”) approved a Notice of Proposed Substantial Changes Upon Adoption to Proposed Amendments to the Community Solar Energy Program (“CSEP”) Rules (the “Notice”). CSEP is a program that enables developers of large solar energy projects to resell the energy generated by their projects to multiple subscribers (homeowners, renters, and businesses) in the local community at a lower price than the standard retail price charged by local utilities.

Community solar began in New Jersey several years ago, but the formal regulations still reflect arrangements for a pilot program, even though the BPU has concluded that program was a success and should be replaced by a permanent program. The BPU first proposed amendments to the pilot program rules to create the permanent program in September 2023, but those rules were never adopted. Instead, the BPU reviewed comments received on the proposed permanent program and has now proposed this Notice. In addition to adopting the proposed 2023 amendments, this Notice proposes revisions responding to the public comments received for the September 2023 proposal related to program eligibility, subscription requirements, cost recovery, Administratively Determined Incentive (“ADI”) Program eligibility, and the Successor Solar Incentive (“SuSI”) Program registration process. The pertinent proposed revisions are as follows:

## CSEP Program Eligibility

- BPU proposes adding “mining sites” to the list of permitted site types in the CSEP. This term would be defined as “a sand mine, gravel pit, or mine on land classified as “Extractive mining” in Level II of the modified Anderson classification system within the most recent Land Use/Land Cover GIS [Geographic Information System] data layer produced by the New Jersey Department of Environmental Protection. A mining site would exclude forested land as defined at N.J.A.C. 14:8-12.2.”
- BPU proposes modifying the co-location requirement of the CSEP to remove language distinguishing adjacent buildings with the same beneficial owner from those with different beneficial owners. The new language would not deem projects to be co-located if they are located on rooftops of separate buildings on different properties with different beneficial owners.
- BPU proposes allowing electric distribution companies (“EDCs”) to own community solar

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projects under limited circumstances. EDCs would be allowed to register projects in the CSEP for any capacity that is not fully subscribed by the end of an energy year.

### Subscription Requirements

- BPU proposes clarifying that existing community solar projects can serve as municipal automatic enrollment projects through a public procurement process.
- BPU proposes allowing the Board to set, via Board Order, an annual limit on the number or capacity of projects that convert to municipal automatic enrollment projects, and to limit the number or capacity of projects that contract with a single municipality, to prevent a small number of municipalities from taking up a large portion of the CSEP's capacity with automatic enrollment projects.
- BPU proposes removing the initially proposed 15-mile geographic restriction on automatic enrollment communities and allowing a local government to associate with a municipal automatic enrollment community solar project located anywhere in the same EDC service territory as the local government.

### EDC Responsibilities and Cost Recovery

- BPU proposes reinstating the requirement that each community solar project telemeter its production data to the appropriate EDC.
- BPU also proposes reinstating the requirement that EDCs be responsible for measuring the metered production of energy by community solar projects and for verifying that the projects are producing an amount of energy greater than or equal to the amount that is being credited to subscribers' bills.

### ADI Program Eligibility

- BPU proposes that community and/or remote net metered facilities sited on a landfill that is owned by a public entity and is not properly closed at the time of registration may be co-located, provided the total capacity of all co-located projects is no more than 10 megawatts (MW).

### SuSI Program Registration Process

- BPU proposes requiring that projects greater than 1 MW in size provide conditional approval from the EDC to construct the project when registering for the CSEP.

Overall, the BPU seems to be growing its highly successful CSEP by expanding the list of eligible sites and relaxing the restrictions on co-location, updates that most stakeholders will welcome. BPU is also seeking to allow EDCs to own CSEP projects so long as the capacity has not already been filled by non-EDC projects for a given energy year, and to broaden the scope of municipal projects that may participate in automatic enrollment.

Stakeholders have until 5:00 p.m. Dec. 6, 2024, to submit comments on the Notice.

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