Solar Parties' Comments on the Program Implementation Manual
12/16/2019

The Oregon Solar Energy Industries Association and Coalition for Community Solar Access (here after referred to as the Solar Parties), appreciate the opportunity to provide these comments on the proposed Program Implementation Manual (PIM) for Oregon's community solar program (UM 1930). We applaud the effort by the Program Administrator (PA) team and Public Utility Commission (PUC) Staff in largely sticking to a pre-determined schedule set last Spring, and in attempting to balance the interests of all stakeholders in developing this design framework. We are largely supportive of the direction and resulting content established by the PA team and Staff. That said, we do have several comments provided here which either reinforce previous comments we've submitted directly to the PA over the past seven months or which cover new content. Our interest in providing this input is to be constructive and we are not interested in delaying the launch of the program.

General Comments

The Solar Parties would have preferred that this review process included at least two additional key elements of the program design which remain significant uncertainties for the program ahead of a January launch.

- The first is that there appears to be no planned opportunity for stakeholder feedback regarding the power purchase agreement (PPA) contract that will be used for the program. While this is largely focused on unsubscribed generation which should be a minor element of the program, these contracts can be complicated and have implications from a development and financier's perspective. We recommend providing an opportunity to comment on this topic (without delaying the launch of the program).

- The second is that, while we are excited by the prospect of a special community solar interconnection process and queue, how this will work in practice with each utility remains unclear. In particular, what is the process for projects in the existing standard queue to be transitioned to the community solar queue (if a resizing would provide this opportunity)? We've provided comments on this specific topic below, though it would make sense to provide an opportunity for comment on this as well (without delaying the launch of the program).

Reinforcing Previous Comments

The Solar Parties have been active throughout this process as demonstrated in the appendix of the Staff report for this hearing, in addition to separate comments we've submitted on select topics. We briefly highlight some of those concerns we've raised previously again here.

- Lottery – We understand that at some point lotteries may be as good a policy as any for dealing with excess demand in a program, but would echo previous comments that using "project

readiness" as a qualifying factor for project selection would be the best practice. We appreciate the higher bar set for the general capacity in the program to require a completed system impact study (SIS) for pre-certification, but if demand does exceed program capacity to then go a step further an account for whether a project has a completed facilities study, or interconnection agreement, for example.

- Clearinghouse website – While we support the use of a central website for showing projects, the Solar Parties have expressed concern on the use of this site as a place to compare prices. This is a relatively unprecedented step – at the program level – for community solar in the country. We appreciate the interest in creating a consumer tool for project "shopping" but would echo our past comments that it has the potential to fuel market biases due to apples-to-oranges comparisons while also driving a lowest-common denominator approach to project development and product design.

Specific Comments on the PIM

The following section provides more explicit comments in response to the Program Implementation Manual. It is organized by first providing an excerpt from the PIM being called to attention, then the issue of concern, followed by our recommended edits or actions to address the issue.

Project Manager Financial Health, Mergers, and Asset Transfers

"If a Project Manager is considering a merger or sale of its business or a Project, they should contact the Program as early as possible. A Project Manager must notify the Program Administrator at least six weeks prior to the sale or transfer of its business or any Pre-certified or Certified Project to allow sufficient time for the Program to support a smooth transition." (pg. 17)

- **Issue:** Six weeks can be a very long time in terms of a transaction, and it could be both impractical and a problem (particularly for lenders) if a project must "sit on ice" for a long duration simply to meet a notice requirement. In the solar industry, there are multiple common financing structures that require a technical sale of the entity (sales leaseback, inverted lease, etc). Even in the most common structure of a partnership flip, some parties have started "selling" their projects into a holdco in order to boost the basis that is eligible for the ITC. This part of project financing needs to be fluid and flexible.

- **Recommendation:** The focus on a notice should be in relation to the sale or transfer of Project Manager or the project manager entity - not the project "owner" (unless they are the same).

Restrictions on Marketing Projects Prior to Pre-Certification

"…the Project Manager cannot enter into an agreement with the customer until the project is Pre-certified." (pg. 20)

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- **Issue:** Unclear if this is referring to any type of "agreement", or specifically referring to a "subscription agreement"? For example, a "letter of intent" or "memorandum of understanding" should be allowed, particularly between Project Managers and non-residential customers, ahead of pre-certification.

- **Recommendation**: Clarify that this refers to a "subscription" agreement.

Interconnection

"Solar projects larger than 3 MW-AC that are already in a utility interconnection queue may apply for Pre-certification as a Community Solar Project if they reduce the size of the Project to 3 MW-AC or less, along with meeting all other Project and Program requirements." (pgs. 34-35)

- **Issue:** Unclear whether these projects, in the existing traditional queue, will have an opportunity to re-size their projects to become eligible for the community solar queue ahead of when new projects can apply? Will existing projects be given some level of seniority or first right-of-refusal?

- **Recommendation:** Provide a short, initial window (e.g., two weeks) following the program launch be provided to those projects in the existing queue which are interested in resizing their system to be eligible for the community solar queue.

Responsibilities of the Program Administrator, electric company, and Oregon Public Utility Commission (pgs. 44-45)

- **Issue:** It's unclear whether Project Managers have any recourse in the case where an error is made in the administration of the program which results in data and/or financial information not being conveyed correctly or in the pre-determined time durations.

- **Recommendation:** Allow for recourse by Project Managers in the case where an error is made in the administration of the program which results in financial harm to the Project Manager and/or its participants.

Participant Eligibility Verification

"Before enrolling a customer in a Project, the Project Manager must work with the customer to obtain the utility information needed to confirm the customer's eligibility and size their Subscription appropriately. The Program Administrator will verify Participant eligibility as they are enrolled and added to a Project in the Community Solar Program Platform by the Project Manager." (pg. 48)

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"To size a subscription, the Project Manager may need certain information from the Participant in the form of utility bills, green button data, or information about their household size and consumption." (pg 78)

"After signing a contract with a Participant, the Project Manager will enter information regarding the Participant, their Subscription and their utility information to the Community Solar Program Platform at www.oregoncsp.Org." (pg.72)

"The Participant authorizes its utility to provide the Project Manager and Program Administrator the utility usage and billing information for the electric account(s) specified by the Participant, for the term of the Contract. (pg. 47)

- **Issue:** It appears the ability to officially confirm a customer's subscription size eligibility does not occur until after a customer is "enrolled" in the platform, and a customer is not enrolled until after they have signed a subscription agreement with the Project Manager. This could create hiccups for all stakeholders and the administration of the program on several levels. In particular, it could result in subscriber agreements needing to be reworked after being signed. Further, it doesn't appear that there is a program-provided tool or authorized form for the Project Manager to request the customer's data ahead of signing a contract which could exacerbate the potential for inaccurate calculations and general frustration or confusion with participation.

- **Recommendation:** The program should aim to standardize this process and remove the number of potential touch points that could occur with participants. The simplest way to address this issue is to enable the sizing verification before the customer has signed the subscriber agreement. For example, a Project Manager could get authorization from the customer to "enroll" them into the platform if they are considering signing up with a project. That customer's information would then be officially on the Platform and could be used (with authorization from the customer) to size a subscription with one or more Project Managers and/or projects. The customer would then not have to go through this process more than once while considering multiple projects. It would also avoid – or significantly reduce - any need for subscription contracts to have to be resized due to verification.

  Another potential option is to provide consent forms to the Project Managers to obtain customer authorization to directly access the customer's utility data. This would remove the need for third-party verification and instead put the onus on the Project Manager.

  At the very least, if no other changes are made to this process there should be a standard form created for collecting the customer information in the preliminary stages of a negotiation with a Project Manager. This would avoid confusion created by Project Managers' potentially using different collection strategies. It could be formatted to better align with whatever approach is being used by the Program Administrator during verification, which should in turn reduce any correction needs after the contract is signed.

Respectfully submitted,

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