

**PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: October 20, 2020**

REGULAR X CONSENT _____ EFFECTIVE DATE _____ N/A _____

DATE: October 12, 2020

TO: Public Utility Commission

FROM: Kacia Brockman

THROUGH: Bryan Conway, JP Batmale, and Sarah Hall **SIGNED**

SUBJECT: OREGON PUBLIC UTILITY COMMISSION STAFF:
(Docket No. UM 1930)
Temporary waiver of Community Solar Program's low-income subscription requirement for project certification.

STAFF RECOMMENDATION:

Temporarily waive, for a period of 12 months, the requirement in the Program Implementation Manual of the Community Solar Program (CSP or Program) that a Project Manager subscribe 10 percent of a project's capacity to low-income customers prior to project certification, and instead require the Project Manager to meet the project's low-income subscription requirement within 12 months after project certification, or be subject to a penalty.

DISCUSSION:

Issue

Whether the Commission should, in response to delays in recruiting low-income CSP participants due to the COVID-19 pandemic, approve a 12-month waiver period during which Project Managers can apply for project certification without having met their low-income subscription requirement, and allow Project Managers to meet the low-income subscription requirement within a 12-month recruitment period after project certification, or be subject to a penalty.

Applicable Rule or Law

ORS 757.386(2)(a) directs the Commission to establish a program that provides electricity customers the opportunity to share the costs and benefits of electricity generated by a community solar energy system.

ORS 757.386(9)(a) directs the Commission to determine a methodology by which 10 percent of the total Program capacity is made available for use by low-income residential customers.

On June 29, 2017, in Order No. 17-232, the Commission adopted formal rules for the CSP under OAR Division 88 of Chapter 860.

OAR 860-088-0050(3)(b) provides that the Commission will certify a project that demonstrates compliance with applicable low-income capacity requirements.

In accordance with OAR 860-880-0190, on December 17, 2019, in Order No. 19-438, the Commission adopted the CSP Program Implementation Manual (PIM) and the program policies and procedures therein.

The PIM provides that at least 10 percent of the generating capacity of each project must be subscribed by low-income residential customers at the time of certification and throughout commercial operation of the project.¹

Analysis

Background

The enabling statute of the CSP requires that 10 percent of total Program capacity be allocated for participation exclusively by low-income residential customers.² To ensure that this program-wide capacity requirement is met, the Commission adopted rules that require each CSP project to meet a low-income subscription requirement prior to certification.³ The PIM defines the per-project low-income subscription requirement as 10 percent of the project's generating capacity.⁴

The PIM also requires Project Managers to submit a low-income recruitment strategy that must be approved by the Low-Income Facilitator (LIF) as a condition for project pre-certification. Project Managers have three options for low-income recruitment. They may

¹ CSP PIM adopted December 17, 2019, in Docket No. 1930, Order No. 19-438, p. 52.

² ORS 757.386(9)(a).

³ OAR 860-088-0050(3)(b).

⁴ CSP PIM adopted December 17, 2019, in Docket No. 1930, Order No. 19-438; p. 52.

choose to rely on the LIF to recruit low-income subscribers for the project, recruit their own low-income subscribers, or a combination of both.

Of the 22 pre-certified projects in the CSP, only seven rely on the LIF to recruit low-income subscribers, and 15 rely on Project Managers doing their own recruitment. Some Project Managers have chosen to do their own recruitment because they are leveraging existing relationships with low-income housing providers, designing a project to serve a particular housing community, or partnering with a community-based organization on outreach.

When the Commission adopted the Program's low-income policy in Order No. 19-392, it acknowledged uncertainty about how successful low-income recruitment would be, noting that "it will be faster and more effective to course correct for low-income recruitment issues when there are projects moving forward with pre-certification and project data available."⁵

For the reasons described in the next section, no project has been successful in meeting its low-income subscription requirement to date.

Challenge Recruiting Low-Income Subscribers

On July 8, 2020, the PA Team alerted Staff that the COVID-19 pandemic was making it difficult for Project Managers and the LIF to recruit low-income customers to participate in CSP projects. The PA Team anticipated that some Project Managers would seek waivers to certify their projects before their low-income subscription requirement is met.

At Staff's request, the PA Team surveyed Project Managers doing their own low-income recruitment to understand the impact of COVID-19 on recruitment and how they had adjusted their strategies in response. On August 3, 2020, the PA Team presented the survey responses, which identified the following COVID-19 recruitment challenges. The PA Team later provided Staff a written recommendation for the proposed program-wide waiver, included as Attachment A, in which it reports these challenges are still applicable:

- In-person group education and recruitment events are not feasible;
- Online education is not viable since many low-income residents lack access to high speed internet or computers;
- Outreach to organizations that serve low-income residents is difficult due to staff reductions and competing priorities at those organizations; and

⁵ Docket No. UM 1930, Order No. 19-392; Appendix A, p. 69.

- Low-income verification is difficult when libraries and other public resources are not open for customers to print and copy personal documents.

The PA Team reports that these challenges are faced by Project Managers and the LIF alike. Recruitment efforts have continued, but require significantly more time and effort to contact and educate people as it is done individually and remotely. Consequently, no projects have yet achieved the low-income subscription requirement. The LIF reports that it has achieved roughly 16 percent of its recruitment goal and Project Managers doing their own recruitment have achieved roughly 5 percent of their goal.

As anticipated, in September a Project Manager applied to the PA for project certification and requested a waiver to allow a 12-month extension to meet its low-income subscription requirement. The PA Team and Staff jointly considered the benefits and risks of providing such a waiver to an individual project. In lieu of individual project waivers, Staff and the PA Team favor a temporary program-wide waiver, as described below.

Temporary Waiver Proposal

Staff and the PA Team propose a 12-month, program-wide waiver of the low-income subscription requirement that is specified in the PIM. The waiver will apply equally to all Project Managers and will include the following elements:

1. A Project Manager may, by October 21, 2021, apply for project certification prior to meeting the 10 percent low-income subscription requirement without requesting an individual project waiver;
2. The Project Manager will be required to reserve 10 percent of a certified project's capacity for low-income subscriptions;
3. The Project Manager must fully subscribe 10 percent of a project's capacity with low-income customers within 12 months of project certification or face a penalty;
4. Staff will convene stakeholders to determine the appropriate penalty, which could be a financial penalty such as forfeiture of project revenues from sale of the unsubscribed portion of the project's low-income capacity allotment, and will recommend the appropriate penalty for Commission approval by May 1, 2021;
5. At the same public meeting, by May 1, 2021, Staff and the PA Team will update the Commission on CSP low-income recruitment under the waiver, informed by monthly activity reports Staff receives from the LIF; and
6. By October 21, 2021, Staff will again update the Commission on the progress of CSP low-income recruitment under the waiver and recommend whether to continue with the waiver allowing projects to meet the low-income subscription requirement 12 months after certification, or to let the temporary waiver expire

and revert to requiring projects to meet the low-income subscription requirement prior to certification.

Impacts to Low-Income Customers

In the PA Team's recommendation for the proposed program-wide waiver, Attachment A, the LIF makes the following arguments, which Staff finds important in making its recommendation.

- Low-income customers are not harmed by the waiver since the capacity will remain reserved solely for low-income customer subscriptions.
- Low-income customers who have already subscribed to a project will realize their benefits sooner if the project can certify and become operational under this waiver.
- Recruitment of low-income customers will be easier after a project is operational because (a) new subscribers will be able to enroll and start saving money immediately; and (b) prospective subscribers will have the example of other low-income customers already successfully participating in a project.
- The 12-month recruitment period will alleviate the time pressure for low-income recruitment, allowing Project Managers and the LIF to foster long-term relationships with the organizations that serve low-income residents.

Stakeholder Feedback

On September 14, 2020, Staff gave notice to the UM 1930 docket service list that it intends to recommend this temporary program-wide waiver and asked for stakeholder feedback. No party objected. One party, Oregon Solar Energy Industries Association (OSEIA), expressed support for the waiver. OSEIA commented that the waiver would accelerate benefits of CSP for low-income subscribers and aid in establishing long-term relationships with organizations serving low-income customers. OSEIA also encouraged enforcement of the low-income subscription requirement at the end of the recruitment period. OSEIA's comments are included as Attachment B.

Conclusion

COVID-19 has created unforeseen challenges to low-income recruitment in the CSP. Staff recommends this temporary waiver of the low-income subscription requirement to allow projects for which low-income recruitment is the only unmet certification requirement to proceed with certification and become operational. Staff finds that having operational projects in the CSP will allow low-income subscribers to realize financial benefits sooner and may help accelerate recruitment of low-income participants. Staff and the PA Team remain fully committed to achieving the low-income participation goals for the CSP established in statute.

PROPOSED COMMISSION MOTION:

Temporarily waive, for a period of 12 months, the requirement in the CSP PIM that a Project Manager subscribe 10 percent of a project's capacity to low-income customers prior to project certification, and instead require the Project Manager to meet the project's low-income subscription requirement within 12 months after project certification, or be subject to a penalty to be determined by May 1, 2021.



Oregon Community Solar Program Administrator Low-Income Subscription Waiver Request Recommendation

Project managers have faced challenges recruiting low-income customers since the launch of the program in 2020. The COVID-19 pandemic has disproportionately impacted low-income customers and the community-based organizations that serve them have been overwhelmed with competing priorities, thus limiting the ability for project managers and the Program Administrator (PA) to effectively engage with these communities. Additionally, COVID-19 has made traditional recruitment efforts such as in-person workshops unviable, and online outreach and education is not an option for many low-income customers that do not have access to high speed internet or computers. These inequities and challenges are expected to be exacerbated by the impact of recent wildfires and evacuation of disproportionately low-income rural areas. The Low-Income Facilitator (LIF) has observed that low-income recruitment challenges are not from a lack of effort, but rather larger issues beyond the control of the low-income advocates, partners and project managers.

The LIF and the PA support the waiver request that allows projects to be certified and operational prior to subscribing the 10% low-income carve-out of each project by low-income residential customers. The LIF and PA have considered the waiver request and have taken the following into account in its recommendation.

Customer Service and Education:

- Low-income customers are not harmed by this waiver, as the requirement to reserve 10% of each project's capacity for low-income customers remains. In projects where low-income recruitment is the last Certification requirement to be satisfied, low-income customers would not experience program benefits sooner if the waiver were not granted.
- Low-income customers that have signed up for the waitlist would be able to experience more immediate benefits by granting this waiver. The PA expects reduced waitlist turnover and higher customer satisfaction based on faster connections to program benefits. The delay may also support low-income recruitment efforts as the project managers and customers could point to the successful experience of customers subscribing to existing projects.
- The PA and LIF are continuing to gain lessons learned regarding how the program interacts with various low-income financial challenges such as partial payments, and existing low-income assistance programs such as the Low-Income Home Energy Assistance Program (LIHEAP). Allowing the program to initially onboard a smaller number of low-income customers is expected to help the PA and LIF to continue resolve uncertainties, troubleshoot with subscribers, and create additional educational materials prior to full low-income participation.

Outreach and Partnerships:

- Building relationships with community-based organizations (CBOs) is critical to low-income program success, yet CBOs are currently overwhelmed with the unprecedented need that low-income communities are facing due to COVID-19 and wildfires. With tight recruitment timelines, project managers are pressured to engage in recruitment tactics that yield immediate results, which may not be the same tactics that would yield the best long-term outcomes for low-income customers. Granting the waiver would help to alleviate the pressure that program managers, the LIF, and CBOs face and allow for successful partnerships that last for years to come.



- As an integral member of the PA team, the LIF is committed to facilitating low-income outreach and recruitment, and will continue its efforts to fulfill the low-income program goals as quickly as possible to ensure that low-income customers receive the benefits that the Oregon Community Solar Program has to offer.

As a condition of waiver approval, the PA recommends the following additional requirements:

- The Project Manager must complete low-income enrollment within a year of receiving the waiver.
- The Project Manager must remain in regular contact with the LIF and demonstrate to the LIF's satisfaction that they are continuing appropriate low-income outreach and recruitment efforts.
- A violation of either of the above conditions would be subject to disciplinary procedures as described in the Program Implementation Manual (PIM), or other appropriate action proposed by the PA and approved by the Commission.



Kacia Brockman
Oregon Public Utility Commission
201 High Street SE, Suite 100
Salem, OR 97301-3398

September 22, 2020

RE: Staff's Notice Regarding Community Solar Low-Income Subscription Waiver

Dear Ms. Brockman,

Oregon Solar Energy Industries Association (OSEIA) supports staff's recommendation to waive OAR 860-088-0050(c) for a period of twelve months. OSEIA understands that the low-income facilitator, Community Energy Project (CEP), is also in favor of this waiver and OSEIA wants to support their efforts to not only recruit low-income community solar program (CSP) subscribers, but also build long-term relationships with organizations serving low-income ratepayers.

OSEIA's top priority is that the benefits of the CSP should not be delayed for low-income ratepayers. CSP is the only way for renters to access community solar and they have already been waiting for almost five years. OSEIA agrees with staff and CEP that this waiver has the potential for low-income subscribers to see benefits sooner, if low-income participants are able to subscribe to a project, that can go online before the entire 10% low-income subscriber requirement is met.

OSEIA hopes the staff memorandum regarding this issue will detail how the 10% low-income subscriber requirement will be enforced at the end of the 12-month period. It is essential that all projects comply with the 10% low-income subscriber requirement, to ensure that CSP is increasing access to solar for low-income ratepayers. It is also worth noting that many projects will not be able to take advantage of the 12-month extension, so it may be necessary to extend the extension if it is determined that it would continue to benefit low-income subscribers.

Lastly, OSEIA believes that low-income subscribers would see more benefit if the 20% discount were even higher. Unfortunately, the low credit rate gives little wiggle room for project managers to increase the low-income discount and still have a financially viable project. OSEIA encourages the commission to consider increasing the credit rate and adding an escalator, so that project managers and the low-income facilitator are able to draw greater participation interest by low-income customers.

Thank you for your consideration.

Respectfully,

A handwritten signature in black ink that reads "Angela Crowley-Koch". The signature is written in a cursive, flowing style.

Angela Crowley-Koch
Executive Director