

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

RULEMAKING TO IMPLEMENT RULES
REGARDING THE UTILITIES AND
TRANSPORTATION COMMISSION'S
JURISDICTION AND REGULATION OF
COMMUNITY SOLAR COMPANIES.

DOCKET UE-171033

SECOND COMMENTS OF PUBLIC COUNSEL

MARCH 1, 2018

I. INTRODUCTION

1. Pursuant to the Commission's February 16, 2018, Notice of Informal Draft Rules and the Opportunity to File Written Comments, Public Counsel respectfully submits the following comments on Community Solar Companies. We look forward to the discussion with parties at the March 6, 2018, workshop regarding these Informal Draft Rules (Draft Rules).

II. WAC 480-XXX-008: ANNUAL REPORTS AND REGULATORY FEES

2. This section requires annual reports filed by May 1 from each Community Solar Company, which includes a list of all individual community solar projects and related programs and services provided in the prior calendar year. Additionally, all investor-owned utilities must provide a list of all individual community solar projects and related services offered. Finally, each Community Solar Company must pay a regulatory fee annually by May 1.
3. As we noted in our initial comments dated November 20, 2017, Public Counsel agrees with the annual update of all individual projects offered in the state of Washington, as it provides

clarity regarding all community solar projects and services provided by Community Solar Companies and investor-owned utilities. This is consistent with the intent of ESSB 5939.

4. However, it is not clear in the Draft Rules whether community solar projects can be in service without first being listed in a report filed with the Commission. For instance, if a project were to go into service in June 2019, would it be appropriate to list the project in reports filed on May 1, 2019, or would the project more appropriately be listed in reports filed on May 1, 2020? If the project is more appropriately listed in reports filed on May 1, 2020, could the project be operated prior to appearing in a report? Public Counsel believes projects should operate when completed and reflected in the next report after the projects are placed in service. In any event, this issue should be clarified in the Commission's rule.

III. WAC 480-XXX-009: REGISTRATION AS A COMMUNITY SOLAR COMPANY

5. This section provides requirements and provisions for the annual registration of Community Solar Companies, which must be registered by the Commission in order to operate in the state of Washington. The Community Solar Companies must apply using the forms issued by the Commission, accompanied by a required fee, and must contain a minimum of 10 requirements filed annually by May 1.
6. Public Counsel agrees with the expanded minimum requirements presented in subsection (4).

IV. WAC 480-XXX-103: INFORMATION TO CUSTOMERS AND PROJECT PARTICIPANTS

7. Under this section, Community Solar Companies must transparently administer their project(s) and allow for fair opportunity for participation by electric customers. Community

Solar Companies must notify customers of any substantial change in operation, may establish a reasonable fee to recover costs for administration of the community solar projects, and must update annually information regarding each projects. Furthermore, Community Solar Companies must make available their contact information, information on rates, maintain a toll-free telephone number, and provide potential customers with a “Consumer Guide to Community Solar in Washington State”, as well a disclosure form that contains minimum conditions.

8. Public Counsel believes this section could be strengthened. First, while this section only mentions information that must be given to customers by Community Solar Companies, Public Counsel believes that these provisions should also apply to investor-owned community solar projects, as participants from both Community Solar Company projects and investor-owned community solar projects would benefit from the information.
9. Second, subsection (4) requires Community Solar Companies to maintain and update specific annual information as directly stated in ESSB 5939. However, Public Counsel believes that a list of all community solar projects administered by the Community Solar Company (or by an investor-owned utility) in the state should be included in the annual update to customer participants. Public Counsel believes this will provide continued clarity into each Community Solar Company’s (or investor-owned utility’s) offerings and options for consumers to make an informed decision.
10. Third, Public Counsel firmly supports subsection (7), in which each Community Solar Company must provide a printed or electronic copy of “Consumer Guide to Community Solar in Washington State”. As we stated in our initial comments, we believe customer education can

assist customers in deciding whether participating in community solar is the right option, as well as assist them in avoiding fraudulent marketing or misleading proposals. Public Counsel looks forward to reviewing this commission issued guide and providing feedback as warranted.

11. Finally, Public Counsel commends the Commission for expanding the conditions to be included in the disclosure form. To enhance the conditions further, Public Counsel recommends that the following should also be included in the disclosure form:

- Details, process, and costs of early termination of a contract;
- Process and procedure for outages;
- Duration of the contract must be clearly stated;
- A description of whether the participation in a project is considered a savings program, renewable energy program, lease-to-own program, or purchase of kilowatts generated;
- Process and procedure for increasing or decreasing subscribed amount.

V. WAC 480-XXX-104: COMMUNITY SOLAR COMPANY AGENTS

12. This section requires Community Solar Companies to develop standards and qualifications for individuals it hires as agents, which includes completing a background check. This section also requires agents conducting door-to-door sales to wear an identification badge, and, upon contact with a potential customer, identify the community solar company they represent, in addition to stating they are independent from the electric utility.

13. As stated in our initial comments in this proceeding, Public Counsel firmly believes in creating customer protections that can limit the number of fraudulent incidences, as well as incidences of misrepresentation. We are pleased to see two provisions have been included to

prevent misrepresentation. Nevertheless, Public Counsel believes there should be more protections for consumers. Below are additions that we believe should be included in this section.

- When conducting door-to-door activities the agent shall verify that the customer in contact is 18 years of age and is either a resident of the premise in which the sale is occurring or able to make decisions regarding the account.
- The agent will terminate a sale with a customer if the customer appears incapable of understanding and responding to the information communicated by the agent.
- When conducting door-to-door sales and upon the completion of a sale the agent will provide a copy of any signed documents or other documents related to the transaction to the customer before the agent leaves the premise.
- An agent will immediately leave the residence if the customer does not convey an interest to participate in the community solar project or if applicant, other occupant, or owner of the premises requests the agent to leave.

VI. WAC-480-XXX-108: APPLICATION FOR PARTICIPTION/PURCHASE

14. Under this section, only those persons who have given written consent can subscribe to a community solar project and be charged for the service. Also, it allows Community Solar Companies to require specific information from the applicant. Public Counsel believes that an additional provision should be included in this section. Similar to the provision we recommend in WAC 480-xxx-104, we believe that an applicant must be 18 years of age and must either reside at the premise or have authority to make decisions regarding the electric account.

VII. WAC 480-XXX-114: DISPOSITION OR TRANSFER

15. This section allows, “At any point, a participant in a community solar project may reduce their participation in a project in part or in whole” by either gifting or selling all or some of their share to other individual(s) that meet the requirements detailed by the Community Solar Company. First, Public Counsel agrees that participants should have the ability to gift or sell their share(s). However, Public Counsel believes that if a participant is ‘gifting’ some or all of their share(s), the Community Solar Company should not have the customer receiving the ‘gift’ be open to meeting requirements (other than practicable infrastructure conditions), as anyone should be able to receive the ‘gifted’ share(s), such as moderate or low-income electric customers.
16. Second, we believe that a provision should be added allowing participants to reduce the amount of their subscription. Considering that these leases can vary in length, and can be as long as 25 years, participants should be able to reduce (or increase) their shares of a project after a disclosed period of time.

VIII. CONCLUSION

17. Public Counsel will be present at the workshop on March 6, 2018, and looks forward to discussing these Draft Rules with the Commission and other stakeholders.