

**From:** Jaimes Valdez  
**To:** [UTC DL Records Center](#)  
**Subject:** UE-171033 - Spark Northwest Joint Comments  
**Date:** Wednesday, March 21, 2018 5:03:03 PM  
**Attachments:** [image001.jpg](#)  
[WA Community Solar Program Potential Org Roles, Ownership and Relationships.pdf](#)  
[Community Solar Rules Comments 3-21-18.docx.pdf](#)

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Dear UTC Filing Administrator,

Please find attached joint comments of Spark Northwest and Seattle Housing Authority, dated March 21<sup>st</sup>, 2018, regarding UE-171033 Community Solar Company regulation. Also attached is a deck of slides that provides additional context for potential ownership models.

Many thanks for your consideration,



Jaimes Valdez, *Policy Manager*  
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**Northwest SEED is now [Spark Northwest](#)**  
**\*Note new email address\***

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Records Management  
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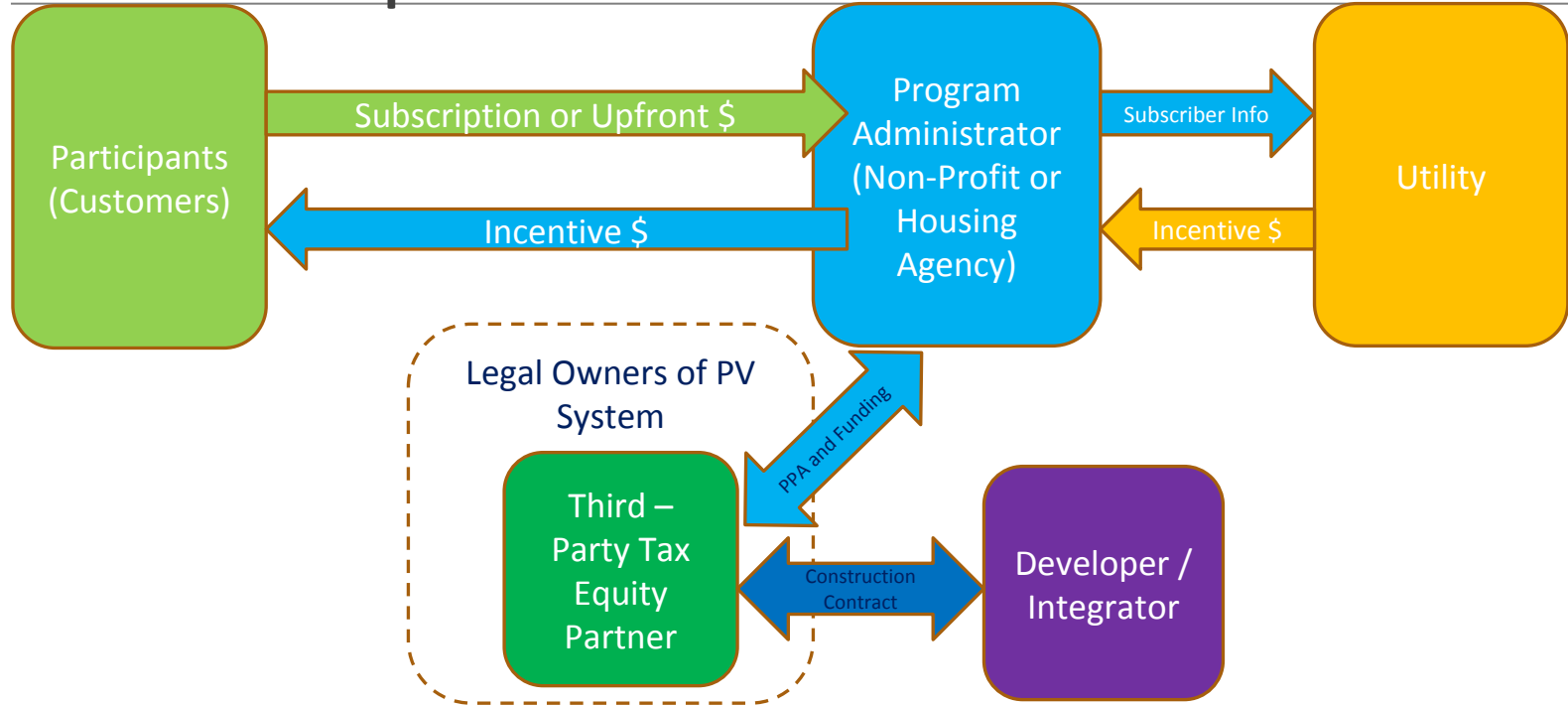
# Washington State Community Solar Program:

Potential Organizational Roles, Ownership and  
Relationships

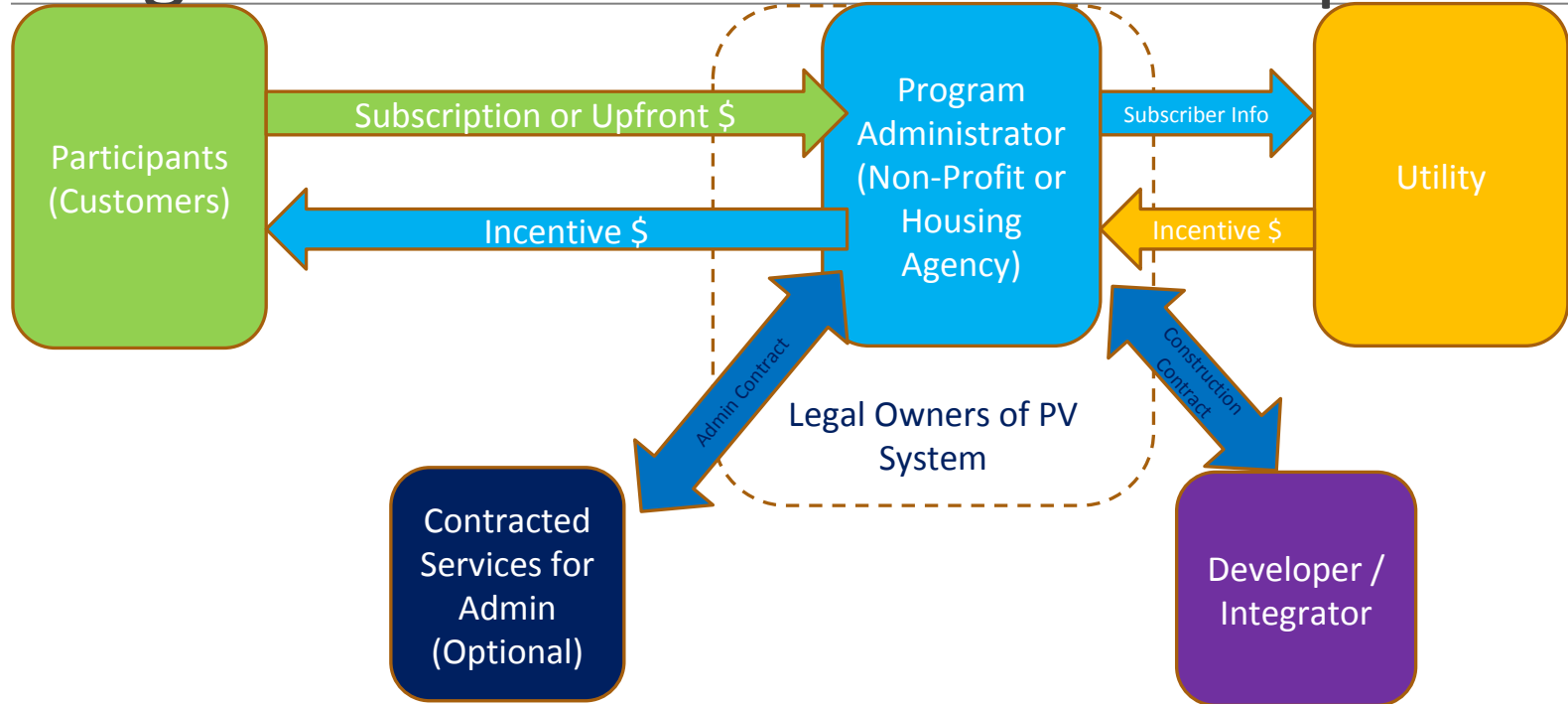
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PREPARED BY: JAIMES VALDEZ, POLICY MANAGER – SPARK NORTHWEST IN  
RESPONSE TO **DOCKET UE-171033**

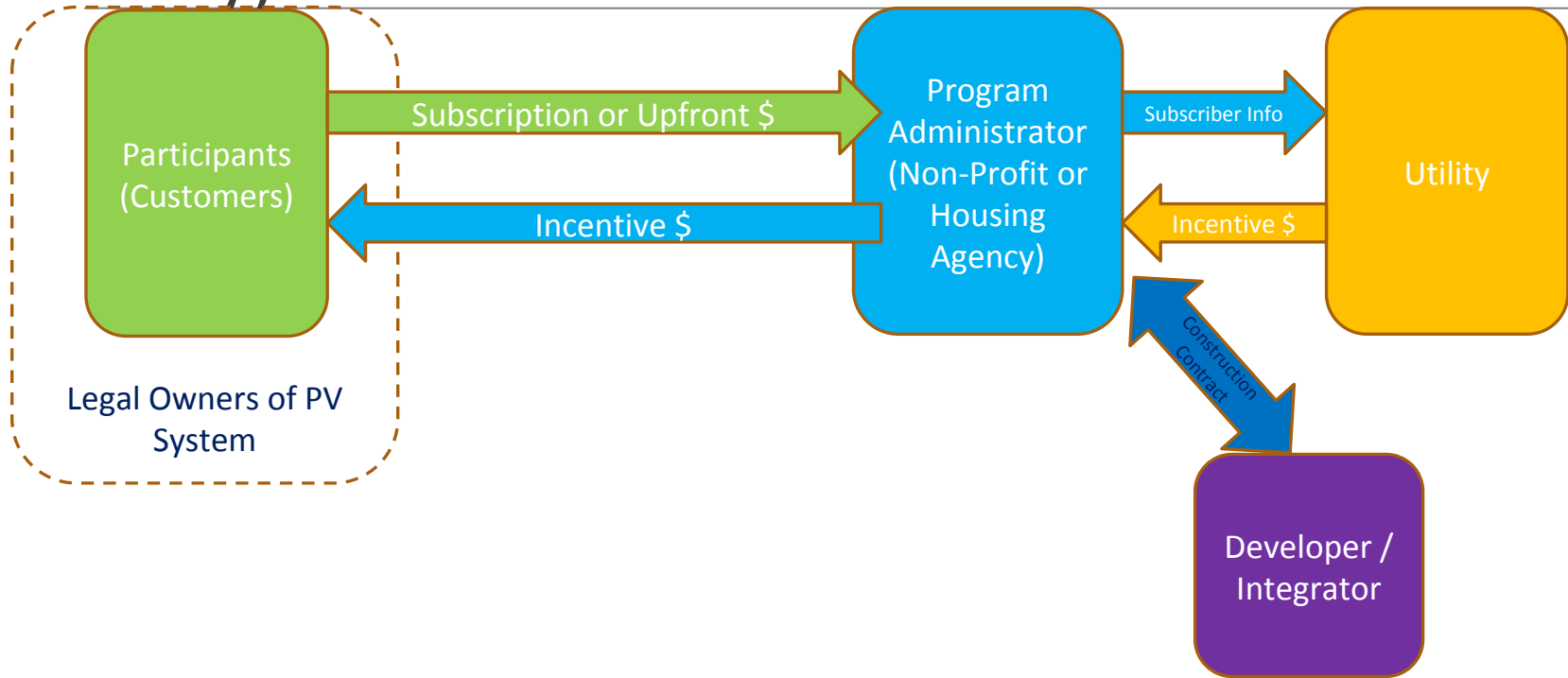
# Community Solar Models and Roles: Independent PA, Third-Party Ownership



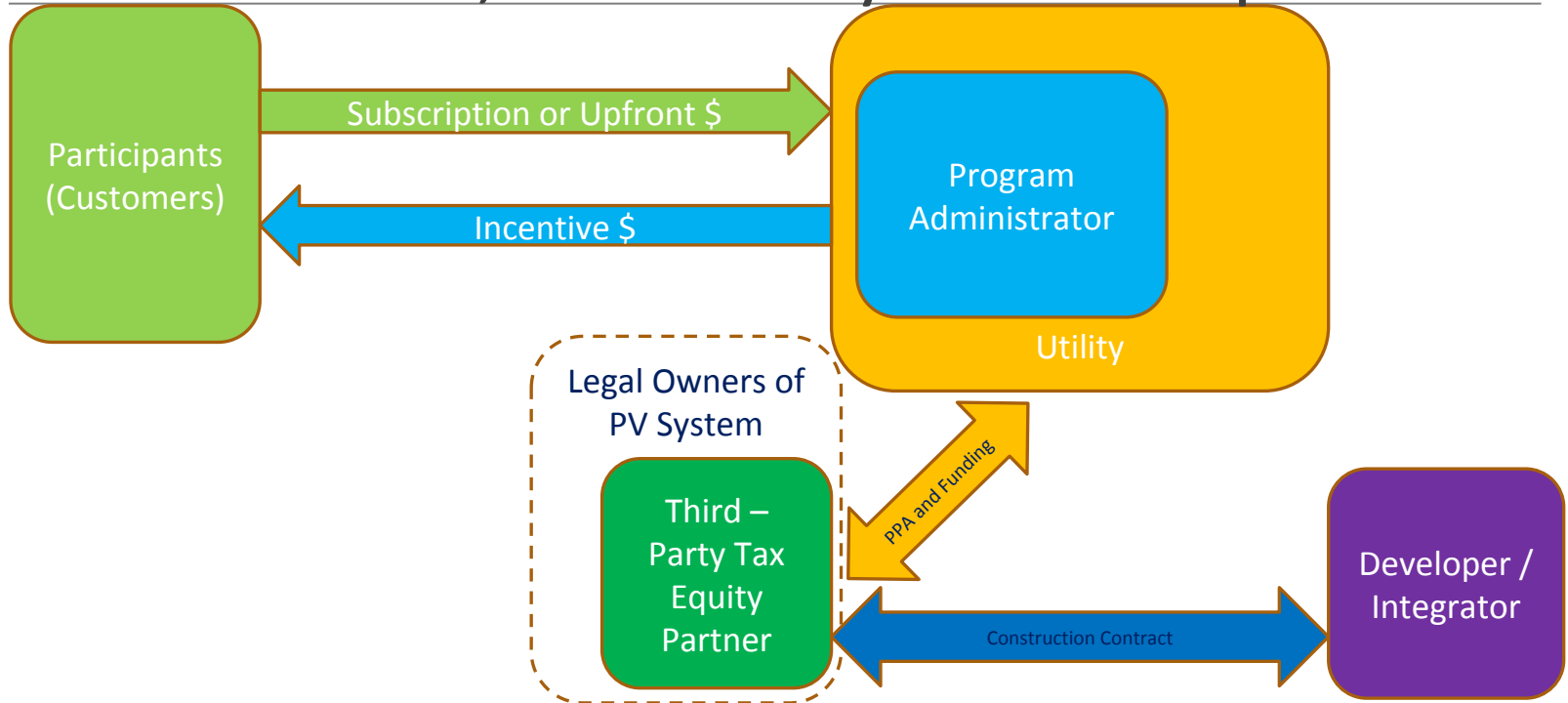
# Community Solar Models and Roles: Program Administrator Ownership



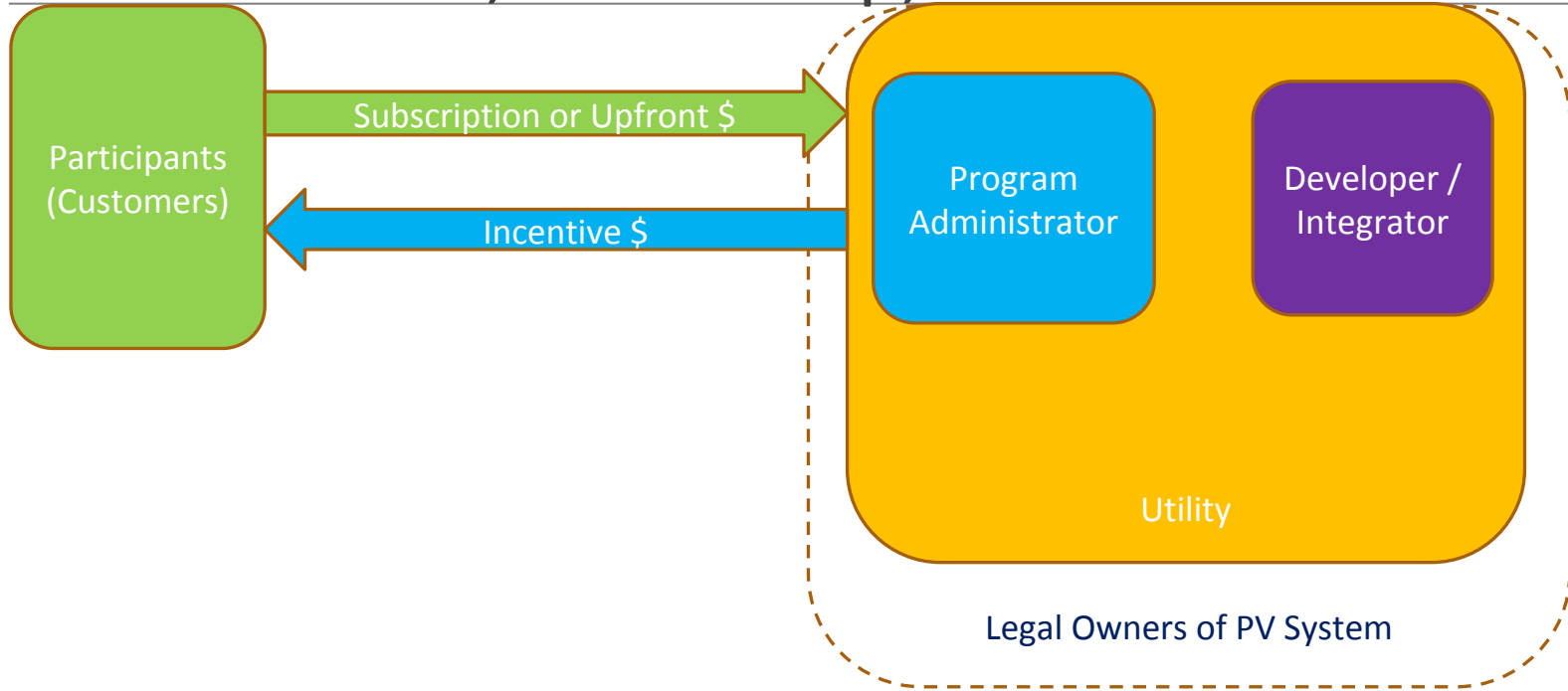
# Community Solar Models and Roles: Independent PA, Customer Ownership (less likely)



# Community Solar Models and Roles: Utility Administrator, Third Party Ownership



# Community Solar Models and Roles: Utility Administrator, Ownership, Self Build



March 21, 2018

RE: Docket UE-171033  
Executive Director and Secretary  
Washington Utilities and Transportation Commission  
1300 S. Evergreen Park Drive SW  
P.O. Box 47250  
Olympia, WA 98504-7250

The following are additional comments referencing Informal Draft Community Solar Rules and following up on the March 6th meeting regarding the Washington Utilities and Transportation Commission's jurisdiction and regulation of community solar companies, Docket UE-171033.

Our non-profit organizations continue to work with affordable housing providers, solar installers, community groups, investors and Seattle City Light to develop a scalable community solar program for low income housing providers. We hope that the rules can allow the development of effective, inclusive projects that truly embody the spirit of the legislation, which states that the purpose of community solar is to "facilitate broad, equitable community investment in and access to solar power".<sup>1</sup> This rulemaking at the Utilities and Transportation Commission (UTC) is a key step that will hopefully enable projects to launch in the near future and also create important consumer protection and clarity for entities that develop projects.

During the meeting on March 6th, we were asked to provide additional comments on a few specific items. Though we have not yet arrived at language edits for all these questions, we wanted to provide background materials, resources, and context.

**Question : What entities and roles in community solar should be regulated by the UTC in the context of community solar companies, what models exist, and what constitutes "ownership"?**

In discussion of this question, we realize that there is a need for greater understanding of the organizations could play a role in community solar project. We offer the following observations:

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<sup>1</sup> WA 2017 SB 5939, Sec 7 (1)



- It is clear from the text of the legislation that Program Administrators are limited to utilities, non-profit organizations, and housing authorities<sup>2</sup>. These entities are the ones that are likely to have the most direct engagement with customers, and where there will be a need for information shared about the expectations and obligations of each party.
- However, the legislation envisions potentially a broader range of entities playing a role in community solar, and both the legislation and draft UTC rules state that :  
““Community solar company” means a person, firm, or corporation, other than an electric utility or community solar cooperative that owns a community solar project and provides community solar project services to project participants.”<sup>3</sup> The phrasing of this sentence leaves a lot to interpretation. For instance, does this mean that it only applies to entities that both own and provide project services to participants? What if the entity provides services only, and interacts primarily with the Project Administrator, and not participating customers? We support an interpretation of this clause in a way that primarily puts the point of regulation at the entity that directly communicates with customers.
- Ownership in the context of community solar is likely best framed in by understanding the other incentives available (outside of the WA Cost Recovery Incentive and any energy value provided by utilities) for entities involved in solar development. For the Federal Investment Tax Credit (ITC), there are currently provisions under IRS Sec (48) that allow qualifying businesses with appropriate tax liability to recover 30 percent of projects costs via a tax credit, as well as a schedule for amortized depreciation. This in total can be a significant benefit to project economics, and the ITC is contingent on the business owning the physical assets of the solar array, though not necessarily the power generated. The ITC tax credit is scheduled to ramp down in coming years, and reduce to 10% after 2021.<sup>4</sup> It is common in larger solar projects around the country for a tax equity investor to play an active role in the financing and ownership of a solar project for a fixed time period (~6 years) but have a more passive role in the actual construction and operation of the project.
- Individual taxpayers are also potentially able to receive a 30 percent tax credit through Sec (25D) of the tax code for solar generation that serves a residential property, though there is less clarity of exactly how this would be applied for community solar projects. In other states there have been cooperatively owned solar

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<sup>2</sup> 2017 SB 5939, Sec 5 (1)

<sup>3</sup> UTC Draft Rules : WAC 480-xxx-006 Definitions

<sup>4</sup> <https://www.seia.org/initiatives/solar-investment-tax-credit-itc>

projects structured in a way that allow individual taxpayers to benefit from the Sec (25D) tax credit. As there is not language that obligates utilities to provide customers with bill credits for the energy value of generation, it is unclear if Washington community solar participants would benefit from this structure.

- We unfortunately don't have a clear legal definition of what "ownership" means, but note additional language in the WA SB 5939 legislation that states :
  - "Nothing in this section may be construed as intending to preclude persons from investing in or possessing an ownership interest in a community solar project, or from applying for and receiving federal investment tax credits".<sup>5</sup>

For the purposes of exploring this further, we put together the attached slide deck, which represents some potential models for roles in administering, owning, and operating community solar projects . We are happy to talk with staff and Commissioners further about the details, and generally the diagrams are intended to reflect some of the flow of contractual and financial obligations among parties in a community solar project. We recognize that this is not an exhaustive list of possible models.

**Question : How should REC ownership be defined, and what disclosure is necessary if the project holds the RECs and/or sells them as part of the project financials?**

We recognize that Renewable Energy Certificates (RECs) are part of the environmental attributes and value of community solar projects, and impact the way that projects can be sold and marketed. Also, RECs play an important role in the voluntary green power market. In our proposed program model, we are planning to sell RECs for community solar on multifamily affordable housing as a portion of the capital stack, thus we would like RECs to be flexible.

In our projects, we are planning to provide disclosure to housing providers so that they can be clear and accurate in their messaging/marketing. We suggest that disclosure language be required from the Project Administrator to clarify what claims can be made about the energy generated from community solar, including if the RECs are going to be resold as a way of lowering project costs. We have limited information about whether RECs are important to individual subscribers, except for voluntary green power programs where these are the primary mechanism for the transaction.

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<sup>5</sup> 2017 SB 5939, Sec 7 (13)

**Question : What are best practices for non-discriminatory hiring policies regarding criminal background checks?**

We appreciate staff and Commissioner interest in this topic, and suggest approaching the hiring regulations for community solar companies in a way that does not unduly restrict people with criminal records from participating in the clean energy economy. We applaud Commissioner Danner’s comments in the meeting that we should develop regulations on hiring, “from a place of facts, not fear” (to paraphrase). Also, we appreciate greater clarification during the meeting that the section WAC 480-xxx-104 Sec 2(c) is intended to apply only to staff involved in door-to-door sales activities. Further clarification of this in the rules would be helpful, as well as a specific clause to promote non-discriminatory practices for hiring generally.

Throughout the country, we see efforts to “ban the box” and remove pre-screening requirements for candidates based on prior criminal background. People should have pathways to jobs after incarceration, and this is an important part of an effective and more equitable criminal justice system. We offer the following resource as a tool for best-practices on this topic, from the National Employment Law Center:

- [Fair Chance Ban the Box Best Practices Models](#)

**Question : How to collect demographic information in a way that provides meaningful income and racial information for program evaluation, and creates protection from individual customer info being used/shared publicly.**

We recognize that there is an important balance between being able to collect useful demographic information and the need to assure customer information will be appropriately used and protected. In order for us to adequately measure who is benefitting from policies like community solar, it is important to know income, geographic, racial, ethnic, and gender demographic information.

Firstly, it is important that we make demographic information collection as systematic and comprehensive as possible. Merely opt-in policies are inadequate to meet goals of program evaluation and accounting. However, it is critical that we protect customer data and the privacy of individual participants. Data sharing policies in community solar should require that any third party remove personally identifying information from publication or public sharing. We offer the following resources from the National Forum on Educational Statistics and the National Postsecondary Education

Cooperative as potential models for developing the data collection policy within the framework of community solar.

- [Forum Guide to Collecting and Using Disaggregated Data on Racial/Ethnic Subgroups](#)
- [Best Practices for Data Collectors and Data Providers](#)

**Question : What additional language about how customer participation could be tied to a specific housing unit, and then transfer to a new tenant when the apartment resident changes.**

As one of the potential project models we are working on, we envision being able to partner with housing providers to allocate capacity of an onsite (or offsite) community solar project to individual tenants in an affordable housing complex. In this model the right to the annual incentive payments (and potentially energy benefits) would be contingent on residing at that property. However, the participant would likely have no up-front costs associated with their participation. Thus the provisions in the rule WAC 480-xxx-114 Section 1, should allow for two separate additional potential transactions :

- The “transferability” of the participant’s portion of a project to another tenant or to the housing provider for re- allocation to a qualified tenant. This is perhaps captured in the “gifting” language, but would be part of a contractual understanding of the
- For other types of projects where the participating customer has an up-front cost obligation, the opportunity for “portability” of their participation to a new residence as long as they remain a customer of the utility that the community solar project is connected to.

Regardless of the mechanism, it should be clear to all parties how any transfer would take place. The following are some considerations of how this could be messaged in materials:

- To dedicate community solar shares to specific residential units in affordable housing properties, an agreement identifying this arrangement must be signed by the housing provider, community solar administrator and resident. In the case of housing authorities, the housing provider and community solar administrator may be the same entity.
- To meet housing providers’ goals, we would like to add a plain language disclosure in the terms of subscription that the share is tied to the unit and forfeited upon moving out.... For example, “Your participation in the community solar project at <<Seattle Housing Authority>> is linked to your occupancy in this building. Upon moving out, you will forfeit your participation in the community solar project and the related financial benefits.”



We appreciate the opportunity to continue providing input in this process, and thank you for your consideration.

Sincerely,

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