

**UE-171033 Community Solar Rules**  
**Summary of 7-26-18 Comments on Proposed Rules**  
**August 22, 2018**

480-103	Joint Commenters	Solar/Glacier	Energy Project	Public Counsel	Staff Response
002(1)	Clarify how a public housing authority would be regulated if it is serving as an administrator, potentially without a community solar company	GE: “Administrator” as defined in the rule conflicts with the use of that term in RCW 82.16.160 and needs clarification			<p>JC: Staff disagrees. If a public housing authority satisfies the definition of “administrator,” it would be treated the same as any other entity performing that function. If not, it would not be an administrator for purposes of these rules.</p> <p>GE: Staff disagrees. “Administrator” is a commonly used term. The rules use it to address stakeholder concerns that an entity other than the community solar company itself may administer a community solar project. The statute uses that term more broadly to include the company if it administers the project. The statute and the rules use the term differently, but both ultimately require the company to be responsible for all actions taken to administer a project. There is no conflict.</p>
002(2)	Remove references to “applicant” as confusing in light of the use of that term in the Washington Incentive Program				Staff disagrees. “Applicant” is a commonly used term and will have different meanings in each context. In these rules, it is used to identify a person who applies for participation in a community solar project, which is not the same as a “customer” or “participant.”

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002(6)	Clarify whether an entity must both own the project and provide services to be regulated as a community solar company; clarify whether a passive owner that does not provide services must register as a community solar company; clarify whether a company that only provides some elements of project services must register as a community solar company	SIW: Clarify that a community solar project service provider is not a community solar company unless that provider also has an ownership interest in the project; also clarify that an entity with an ownership interest only for tax purposes is not regulated as a community solar company; confirm that entities involved in design or installation of a project are service providers but not regulated community solar companies.			Staff disagrees. No clarification of the rule is necessary. A community solar company is defined as an entity that owns a community solar project and provides community solar project services to project participants. Entities that do not have any ownership interest in a project but provide design, installation, or other services to or for the project owner(s) are not community solar companies for purposes of these rules. Any entity that both owns a project and provides project services, whether directly or indirectly, is a community solar company, regardless of whether it is doing so only for tax purposes.
002(7)	Exempt from regulation any project in which all participants are also residents/customers of the property where the project is located; use a less prescriptive definition of community solar system that is not tied to the size and structural limits of the current incentive program				Staff disagrees. Staff does not support exempting any entity from regulation if it satisfies the definitions in these rules. This suggested exemption, moreover, would virtually swallow the rules given that most projects will have only participants who are also residents. Staff also continues to recommend that the rules reflect the current law, including the size and structural limits on community solar systems under the existing incentive program. The Commission can amend these rules to accommodate any new models after that program expires.

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002(8)		SIW: Clarify the term “provision of electricity” used in the definition of “community solar project services,” because a purchase power agreement between a project owner and host could be considered “provision of electricity,” as could bill credits from a utility to community solar project participants; questions whether “provision of electricity” applies the same for community solar companies and investor owned utilities.			Staff disagrees. The definition in the rule is identical to the definition in RCW 80.28.370(3), and Staff does not believe “provision of electricity” as used in that definition is unclear. The definition modifies the term by requiring that the electricity be “generated by a community solar project” and be provided “to multiple project participants.” Neither of the commenter’s examples would be community solar project services as defined in the rule. To the extent that a question arises as to whether a particular service is a community solar project service, the company may seek technical assistance from Staff. The definition of community solar project services applies to all such services, whether provided by a community solar company or an investor-owned utility.
030(1)	Require annual reporting of demographic data and identification of projects designed to facilitate low-income participation and data on the level of such participation		Include requirement for companies to provide information about projects designed for low-income participation and level of low-income participation		Staff disagrees. WSU is responsible for compiling this type of information for the legislature and has not requested Commission assistance to do so. At least initially, the Commission should not require companies to compile and report information that is not necessary for registration and consumer protection purposes.
030(2)	Clarify what is included in “gross intrastate operating revenue”				Staff disagrees. This term is a common accounting term and does not need clarification in the rule. A company may seek technical assistance from Staff if it needs guidance on what is included.
100(1)	Add “including low-income customers”				Staff disagrees. This addition is unnecessary.

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100(6)	One business day to return calls is overly burdensome for a small organization; include parallel communication requirements for email				Staff disagrees as to the response time. One business day is a reasonable time in which to respond to calls. Staff agrees that the rule should be modified to provide for email communication and has revised the proposed rule accordingly.
100(8)				Include a clear and unambiguous disclosure of the type of community solar project or services to which the customer is subscribing or leasing to reduce consumer confusion.	Staff disagrees. The rule's list of disclosures is extensive, and subsection (n) requires disclosure of any other material terms and conditions. To the extent that the type of project or services is material, the rule thus already requires disclosure of that information.
100(9)	Clarify what is meant by "current total value of the participant's share of the project"				Staff disagrees. Staff believes the phrase is sufficiently clear. As the language indicates, it is the current total of all measures of the share's value.
100(10)	To the extent this section requires copies of all materials to be provided to the Commission prior to distribution, it is a huge burden and will result in unnecessary delay				Staff disagrees. The rule clearly requires submission of materials to the Commission prior to distribution but only to give Staff the opportunity to review it and raise any issues. Staff believes this is an important safeguard against misleading and deceptive communications. Annual submission of materials, as the commenters suggest, would not be sufficient.
110	Incorporate language on nondiscrimination in hiring				Staff disagrees. The Commission's focus in these rules is on protecting consumers, not company employees.

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115				Include a provision requiring applicants to be at least 18 and either reside at the premises or have authority to make decisions on the electricity account.	Staff disagrees. Staff does not believe there is a significant risk of community solar companies attempting to induce minors or persons without authority to bind others to participate in a community solar project, and if they do, standard contract law requirements provide a sufficient basis for the Commission to prohibit such action.
125				Do not require company approval of any transfer since the original application does not require such approval	Staff disagrees. Once the customer enters into a contractual arrangement with the community solar company, the company should have the right to approve any assignment of that contract to a third party.
140(3)	Require affirmative consent to electronic distribution of materials only if money is to be paid by the participant to be part of a community solar project				Staff disagrees. The rule appropriately requires any person who receives required materials from the community solar company to affirmatively consent to electronic distribution. Whether the person pays money to participate in the project is irrelevant.
145	Meters typically belong to the utility, so this rule should be dropped or modified to reflect meter ownership and responsibility				Staff disagrees. As the provider of project service to the participant, the community solar company is responsible for ensuring the accuracy of the meter that measures the electricity provided. If the meter belongs to the utility, the community solar company must make the necessary arrangements for testing the meter's accuracy.
General	Add language on the role of the utility in verifying customer eligibility and allocating bill credits to customers				Staff disagrees. The utilities' responsibilities are better established in the rules governing electric utilities (WAC 480-100), individual company tariffs, or agreements between the utility and a community solar company.

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General				Consider maintaining a list on the Commission’s website of currently available solar projects, programs, and services	As the Commission implements these rules, Staff will consider maintaining such a list but does not believe the rules should require it.
General				Apply the consumer rules in Part III to investor-owned utilities offering community solar programs and services as well as to community solar companies	Staff disagrees. The Commission already has consumer protection rules in WAC 480-100 governing investor-owned electric companies, and these companies maintain tariffs. Both of these sources provide sufficient consumer protection, at least as an initial matter.
Commenters	Spark Northwest Bonneville Environmental Foundation Front and Centered NW Energy Coalition Solar Installers of Washington	GE: Glacier Energy SIW: Solar Installers of Washington			