PRC Report to the Legislature on the Status of the Community Solar Program November 1, 2024

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Executive Summary

The Report to the Legislature provides an overview of the Community Solar Program authorized by the Community Solar Act of 2021 and created by the New Mexico Public Regulation Commission (the "Commission" or "PRC") in accordance with that Act. This report covers the nine areas the Commission is required to report on, additional information that may be helpful in evaluating the program's progress so far and recommendations for changes or adjustments.

When the Commission opened a solicitation for Community Solar developments pursuant to the statute, it was met with overwhelming response. Of the projects bid into New Mexico's program, the statutory cap allowed only 11.5% of those projects to be selected. Through the implementation process, the Commission has also learned of and addressed unexpected hurdles to implementation and has consistently moved the program forward, though not as quickly as desired or expected. See Appendix A for a Community Solar Procedural Timeline.

While there has been robust interest in the program from community solar developers, investor-owned utilities and co-ops have not participated as developers of community solar projects. Additionally, because no development has gone into operation and because of the lack of certainty around costs associated with the interconnections, bill credits and tariffs, the Commission does not have a clear picture of consumer demand, including low-income customer demand.

The program is still in the development stage, and yet, the Commission feels that Community Solar is on a path towards success. The Commission will shortly be issuing a final decision on important elements that should give participants more certainty on bill credits and tariffs, as well as other adjudicated issues. This final order will help the program move forward.

Based on its experience implementing this program since 2021, the Commission recommends the following to help the program move forward:

1. Amend the funding mechanism of the Community Solar Program from one based solely on "application fees" to a more sustainable and predictable funding that will allow for long-term program administration. This could include legislative appropriation to the PRC specifically for Community Solar implementation or specific authority of the PRC to collect and use assessments similar to its current Pipeline Safety Fee Fund.
2. Provide the Health Care Authority (HCA), the state agency charged with administering LIHEAP, with sufficient funding to adopt the Department of Energy's Clean Energy Connector tool to enhance management of matching low-income customers with Subscriber Organizations.
3. Explicitly provide the Commission with authority to impose sanctions on utilities for failure to meet deadlines associated with the implementation of the Act.
4. Provide the Commission with jurisdictional authority for the oversight of Community Solar developers and subscription managers, including the ability to hold developers to standards, deadlines and other requirements that the Commission determines are in the public interest.

5. Explicitly allow the Commission to order utilities to provide consolidated billing for Community Solar subscribers, if the Commission determines the Program so requires.

Community Solar Program Status & Community Solar Facilities Development

New Mexico's initial Community Solar Program is making steady progress toward full operation. While no project has currently broken ground, the program has overcome significant hurdles and has resulted in necessary and important decisions, guidance and growth.

The Commission received an overwhelming response to the Commission-approved competitive market solicitation request for proposals ("RFP"). 408 individual projects amounting to over 1.7 GW of potential projects submitted bids. As a result of the 200 MW statutory cap, only 47 unique projects were able to be selected and are in line for the program. The remaining bidders are on a ranked "wait list" for capacity slots should any of the initially selected projects drop out of consideration or downsize. While one waitlisted project has withdrawn, so far, no selected project has withdrawn from the process.

Eleven projects across five Subscriber Organizations have entered Interconnection Agreements, with at least one in each utility territory. In addition, one project located in El Paso Electric's ("EPE") territory is deferring signing its Interconnection Agreements until the outcome of the Solar Bill Credit (SBC) tariff case.

Implementing the Community Solar Act has been a multifaceted endeavor as it requires collecting data, analyzing outcomes, and adapting policies based on feedback, often in a climate that may not support such changes. Navigating these challenges requires ongoing evaluation to assess effectiveness and make necessary adjustments to ensure its intended impact leads to successful outcomes.

The market solicitation of bidders for the Community Solar Program commenced in November 2022, with initial bid selections announced in May 2023. As of the publication of this report, 32 months after the Commission adopted Rule 573, the Community Solar program is on a promising path—11 out of the 45, or 22% of the initially selected projects have successfully signed Interconnection Agreements. Subscriber Organizations, those groups who were selected to build projects, are working to enroll subscribers, and there's a vibrant interest in expanding participation.

The journey toward program commercialization has encountered several challenges that reflect the robust interest and potential of the program:

- The Commission's competitive market solicitation attracted an impressive response, with bids received for nearly nine times the program's available capacity. This level of interest extended the evaluation process but highlights the strong demand for solar projects.
- Legal considerations surrounding Rule 573, which reached the New Mexico Supreme Court in March 2024, resulted in a favorable decision upholding the Rule, affirming its importance for the program's future.
- Some bidders submitted petitions to the Commission regarding the alignment of the Rule with elements of the RFP, leading to re-scoring of certain bids and ensuring that the selection process is thorough and fair.

- The interconnection of projects with utility distribution systems requires necessary upgrades, and while this adds time to the process, it ensures that the projects will operate safely and efficiently in the long term and improve the overall capacity of New Mexico's grid.
- The procurement of equipment and system upgrades is a standard part of the interconnection process, which may extend timelines by 12-24 months, yet ensures that all projects meet high operational standards.
- The Commission is actively engaged in an extended regulatory proceeding to define the fiscal elements of the program, including SBCs, fees, and tariff provisions, which will further enhance program clarity and sustainability.

In October 2024 the Commission raised the program cap by 300 MW and, while that additional capacity is not yet subject to solicitation and procurement, this proactive approach demonstrates a commitment to refining initial program elements to ensure long-term success.[1]

All selected projects needed to undergo technical reviews for interconnection with the utilities; several projects required supplemental reviews as required by the utilities. Virtually all projects face substantial costs for distribution system upgrades to interconnect at their chosen locations. Estimated costs of these upgrades range from a minimum of $280,000 to as much as $13 million. The highest costs are for projects that would be located in Public Service Company of New Mexico ("PNM") territory, due to highly constrained circuits, feeders and substation equipment in PNM's distribution system.

Additional costs and delays were anticipated for several projects that would be located in Southwest Public Service Company's ("SPS") territory because it was understood that the Southwest Power Pool ("SPP") must study potentially adverse impacts on its high-voltage transmission systems.

These delays have had an impact on Subscriber Organizations' ability to market the program and conform with the provision of the Rule requiring proof of compliance with the 30% minimum carve-out for low-income customers. The Commission granted a variance from the August 1, 2024, deadline for Community Solar projects to achieve the minimum 30% level of low-income subscriptions. The new deadline is 12 months from the signing of a valid interconnection agreement with the utility, or by the commercial operation date of the project, whichever is earlier. The Subscriber Organization must provide the valid interconnection agreement to the Program Administrator within 14 days of signing.

Participation of Investor-Owned Utilities & Rural Electric Distribution Cooperatives

Jurisdictional utilities expressed little interest in becoming Subscriber Organizations or developing Community Solar projects. Only EPE entered a bid for a Community Solar project in its own territory. The project was not among those selected in the bid evaluations. In explaining the lack of interest, the utilities expressed a range of reasons including other business interests and the desire to avoid a perception of conflict.

[1] 17.9.573.11(A)

No rural co-op has expressed interest in participating in the program. The co-ops were unified in choosing not to participate in the program, in part because they fear it may increase costs to their members through cross-subsidization or violate energy delivery commitments by their generation and transmission providers. Kit Carson, the one co-op that is not a member of a larger generation and transmission provider, reported that it already provides nearly 100% renewable energy to its members, and it is not inclined to support a Community Solar Program.

Low-Income Participation

Due to the current status of the program, low-income participation is not yet known. However, commitment to serving low-income consumers among subscriber organizations remains high. All the selected projects promised to reach a level of low-income subscribers equal to or greater than 50% of the project capacity, which exceeds the 30% statutory requirement. Most selected projects also pledged to provide low-income customers with 20-25% or more savings compared to their utility bill.

Representatives of the development community expressed a wariness of moving ahead with customer subscription efforts due to uncertainties related to the feasibility of financing based on the high costs of interconnection, unresolved issues around the actual valuation of the SBC, and utility proposals that would impose additional costs on subscribers and/or Subscriber Organizations.

A nearly universal sentiment expressed by Subscriber Organizations is that until such issues are resolved, the program rules do not provide adequate answers for subscriber organizations to confidently enroll low-income subscribers. As stated by one developer with several projects in the pipeline, it "does not plan to involve subscribers until they have more certainty that projects will move forward and complete the interconnection study process or until they are required to by program rules, as it leads to mistrust and confusion if terms are likely to change."[2]

In the meantime, the Commission and the Program Administrator have overseen numerous initiatives to inform low-income communities and other potential subscribers about the program, via webinars and in-person educational sessions.

New Mexico's program is one of three states to participate in a pilot venture by the National Renewable Energy Laboratory to build a "Clean Energy Connector" software system that would be a platform for matching low-income subscribers, especially participants in the federally funded Low-Income Heating and Energy Assistance Program (LIHEAP) subsidy program, with Community Solar subscriber organizations.

New Mexico, as part of the pilot, can begin incorporating in-development projects and LIHEAP implementing organizations onto the platform to prepare for future project deployments. The software is ready for use, and the project team is available to provide training and set up meetings with stakeholders in the state. After the completion of the pilot program, continued funding for the Clean Energy Connector tool is uncertain.

[2] PPC New Energy response to Commission Inquiry 24-00094-UT, April 1, 2024.

Adequacy of Facility Size

The 5 MW cap on individual projects appears to have widespread support. Most proposed projects were sized at or near this cap, though some of the selected projects bid capacity levels as low as 1.5 MW.

Although the Subscriber Organizations and development community generally support an increase to the state-wide program capacity, there has been little call to re-evaluate the size cap on individual projects. In at least three instances, developers have voluntarily reduced the capacity of their projects in order to avoid interconnection constraints or to move up from the waitlist.

The 5 MW cap, which is a common limitation in similar programs across the country, also has the benefit of assisting in the management of application and interconnection queue process. Without a cap, larger size projects would put significant constraints on the distribution system, which may not be easy to accommodate and thus create delays in getting projects operational.

Proposals for Alternative Rate Structures & Bill Credit Mechanisms

Alternative Rate Structures

The Commission is currently in the final stages of an adjudicated docket to determine appropriate rate structures and bill credit mechanisms. Generally, the utilities believe that existing rate structures are adequate to promote Community Solar, though there is disagreement on how to value a Solar Bill Credit. Some industry intervenors believe that utility billing practices for Community Solar subscribers should change to allow subscribers to receive only a single bill a month rather than two separate ones. Advocates argue that a single bill, reflecting the final costs after bill credits are factored in, will increase participation, particularly among low-income consumers.

Bill Credit Mechanisms

The Commission is also considering the appropriate bill credit mechanism as it considers its final decision. The SBC is the economic foundation of the Community Solar Program, as it establishes a value provided to subscribing customers, who will in turn pay a fee or subscription rate to Subscriber Organizations/project developers that will compensate for the costs of interconnection, construction and operations of Community Solar facilities, and provide the subscriber with a discount compared to the utility rates they had been paying.

Establishing the value of the SBC is one of the fundamental responsibilities of the Commission in administering the Community Solar Program.[3] The crediting of the SBC further specifies the responsibilities of each qualifying utility.[4]

Parties offered mixed perspectives on whether changes to the bill credit rate, for each rate class and overall, are necessary to ensure the long-term sustainability of New Mexico's Community Solar Program. A consistent theme the Commission heard on this matter was that there is currently insufficient information to impose an immediate change. All three utilities and Commission Advocacy Staff suggested that adjustments might be necessary in future iterations, based on

[3] NMSA 1978, § 62-16B-7(B).
[4] Ibid Section 6.A.(2).

insights gained from the 200 MW program currently in place and some sought greater clarity for calculations. Industry advocates suggest transitioning to a Value of Solar methodology, claiming it would more accurately quantify the costs and benefits of Community Solar to the grid and society.

The Commission anticipates making a final ruling on these and other issues impacting the SBC shortly. As described below, the task is of paramount importance to the program and as such, the Commission is taking great pains to ensure that it is completed in a thorough, careful manner.

Solar Bill Credit Evolution

The determination of solar bill credits has proven to be a particularly complex task that was more time-consuming than anticipated. Although staff have been diligently working to advance this process, it remains challenging to find ways to streamline this process, which not only impacts Community Solar project economics, but also informs subscribers about their estimated savings. As such, the Commission does not take lightly the significance of a well-designed solar bill credit program which extends beyond individual savings.

The Solar Bill Credit (SBC or bill credit) is the most important and most contentious financial element of the Community Solar Program, providing subscribing customers with a credit on their monthly utility bills that represents the value of Community Solar power, as described in the Community Solar Act and refined by the Commission in both the final order adopting Rule 573, and in subsequent tariff filings and proceedings, especially in the ongoing docket 23-00071-UT.[5]

In developing Rule 573, the Commission took special pains to understand the implications of this new element of ratemaking. The final Rule 573 established that rather than the Commission setting an SBC figure for each customer class, utilities should provide the SBC figure for each class, based on the adopted methodology in the Rule that ensures that the underlying Total Aggregate Retail Rate (TARR) includes a fuel factor and excludes monthly customer charges and transmission costs from the distribution deduction.

The Commission also recognized that some elements of the SBC would be subject to change periodically based on changes in market values for some elements (especially fuel and purchased power cost adjustments and the value of environmental attributes) more frequently than provided for under cost-of-service studies adopted in general rate cases. It set an expectation that the SBC should be updated on a regular basis to reflect those changes in values.[6]

With regard to valuing the environmental attributes of solar power, the Commission was unable to find a relevant geographical market-based pricing regime applicable to the purchase and sale of renewable energy certificates (RECs), which embody those environmental attributes.

Instead, the Commission adopted a provision requiring that the utility initially value the environmental attributes of RECs at the utility's average cost of meeting its renewable portfolio

[5] NMSA 1978, § 62-16B-2(B).
[6] Final Order in 21-00112-UT, pg.39-40, graph 140. March 31, 2022

standard requirement (which is embodied in the New Mexico Renewable Portfolio Standard (RPS) rate rider, adjusted annually).

Since Rule 573 became effective upon publication July 12, 2022, the utilities have been required to file several updates and revisions to their SBC calculations in the form of Advice Notices. SPS and EPE also filed applications for adoption of related tariffs (SPS in 22-00263-UT and EPE 22-00246-UT). However, upon the opening of docket 23-00071-UT, utilities filed another set of SBC numbers, which were considered in Phase II of the proceeding.

The following table shows how SBC calculations have evolved, beginning with preliminary estimates presented during an August 27, 2021, workshop on SBC calculation and continuing through the proposed tariffs filed in pending adjudicatory docket, 23-00071-UT. The record in this docket is complete and the Commission expects to issue a final order on these matters soon.

Table 2: Utility Proposed Solar Bill Credits 2021-2024 (cents/kWh)

Utility Est. August 2021 Workshop	**Residential**	**Small Commercial**	**General Service**
PNM	8.6 – 12.8	10.62 - 11	N/A
SPS*	6.69 – 7.07	5.52	N/A
EPE*	7.31	8.796	N/A
Revised Estimate **September 2022**			
PNM - Advice Notice 591	10.72	9.95	N/A
SPS - AN 309 * rejected	9.89	8.60	8.70 – 9.04
EPE – AN 279 and 22-00243-UT	9.89	8.69	8.17 -9.31
Revised Sept.-Dec. 2022			
PNM – AN 594 filed under protest	10.5	10.5	N/A
SPS - AN 311 filed under protest	10.15	9.18	N/A
EPE - AN 281 filed under protest	8.17	9.36	8.14
Filed in 23-00071-UT **September 2023**			
PNM	10.527	10.569	9.142
SPS	10.156	9.0817	7.83
EPE	8.17	9.363	8.138

Solar Bill Credit Issues on the Horizon

Several elements of the SBC are expected to fluctuate periodically. The basic SBC component is derived from the Total Aggregate Retail Rate (TARR) minus distribution costs, as determined by a cost-of-service study (CoS) in a general rate case (or numbers from the most recent prior CoS in an approved rate case, indexed to reflect settlement rates if there was no approved CoS as part of a subsequent rate case settlement).

Adders to this base credit are Fuel and Purchased Power Clause (FPPC) figures that are revised more frequently (i.e., monthly for EPE), and the value of environmental attributes of the RECs that have been granted to the utilities under the Act. Until the Commission reconsiders how to value these environmental attributes, Rule 573 adopted a "proxy" in the form of the RPS rate rider value, which is adjusted annually in separate proceedings.

FPPC Volatility in SPS and EPE Territory

During the deliberations that led to Rule 573, the FPPC adder was a relatively high figure, mainly due to highly volatile natural gas prices resulting in part from Winter Storm Uri in early 2021.

Since then, FPPC has dropped substantially due to low or negative natural prices from the Permian Basin throughout 2024, especially for SPS and EPE. Utilities have noted this dynamic in several proceedings unrelated to Community Solar, in which negative FPPC values could lead to non-utility generators or subscribers to special rate programs, like Solar*Connect, having to repay the utilities.

For Community Solar, the volatility in FPPC may prove problematic for Subscriber Organizations' ability to promise Community Solar subscribers a fixed monthly fee, or discounts in costs compared to utility rates.

According to estimates, more current FPPC figures may create a materially lower SBC for residential and general service customers who want to subscribe to Community Solar, when compared to the SBC rates last proposed by utilities in 23-00071-UT.[7]

More troubling to developers – and their banks and project financiers – is the expected continued volatility to FPPC projected through 2035, resulting in SBC figures well below those projected in 2022. This, they say, could adversely impact the ability to finance projects and diminish the expected rate discount benefits for Community Solar subscribers.

[7] Comparing the November 2022 SBC proposals with current rates (mid-2024) the developers calculated a 17.8% decrease in EPE's expected SBC for residential subscribers, from 8.17 cents/kWh to 6.72 cents/kWh. The EPE Fuel and Purchased Power Cost Adjustment Clause (FPPCAC) value diminished from 2.7 cents/kWh to 1.11 cents/kWh, even as the RPS rider increased marginally from 0.73 cents/kWh to 0.88 cents/kWh in 2024. Similarly, the developers project that EPE's small general service SBC would decrease by 15.5%, from 9.36 cents/kWh to 7.91 cents/kWh. SPS rates show even greater decreases, according to SunVest, as the FPPAC dropped from 3.63 cents/kWh in 2022 to 1.48 cents/kWh in mid-2024. This could result in SBCs for residential subscribers to fall by 24.8%, from 10.16 cents/kWh to 7.64 cents/kWh. Small general service SBCs would fall by 26.9%, from estimated 9.19 cents/kWh to 6.72 cents/kWh.

These parties have suggested that a preferrable approach to such volatile SBCs would be for the Commission to establish an administratively set SBC with an annual inflation adjustment.

Cross-Subsidization Issues

The Commission is still grappling with cross-subsidization and anticipates providing guidance in its final order of docket 23-00071-UT. The Commission did not initially define the parameters of a Public Interest standard applicable to the Community Solar Program, nor did it establish what the 3% limit might translate to in terms of dollar amounts per year of allowable subsidization when it implemented its Rule 573.

During the rulemaking, the Commission expressed skepticism that there would be any cross-subsidization given that under the Act, any costs that utilities incur to "administer" the program would be subject to recovery from subscribers via a rate rider. Any such costs would be minimal because program administration would not be conducted by the utilities but by an Independent Program Administrator that would be paid in part via bidder application fees, not rates.[8]

However, in recognition that utilities may incur some level of incremental costs to implement the Community Solar Program, Rule 573 established a process for recovery of appropriate costs via a rate rider imposed only on subscribers.[9]

Rule 573 did raise a novel provision regarding the alternatives for treatment of costs of interconnecting Community Solar projects to the utility distribution system. The Rule allows for a potential "cost sharing" of interconnection studies by multiple Community Solar project developers that might be relying on a shared use of utility facilities.

It also contemplated that some required system upgrades might not just benefit the developer but also provide "system benefits" that could be paid in part through rates, not exclusively by interconnection application fees. The justifications for such cost-sharing would be made under application of criteria for Grid Modernization, following provisions of the Grid Modernization Act of 2019.

Additionally, Rule 573 determined that shared costs found to be beneficial to the grid would not be subject to the 3% cross-subsidization limit, even if they are recovered through rates.[10]

To date, there has been no request to the Commission to consider an alternative cost allocation under the terms of the Grid Modernization Act.

Subsidization Issues in SBC Tariffs

Nonetheless, potential cross-subsidization for the Community Solar Program became a critical issue in the proceeding to consider utility tariffs that would establish the value of the Solar Bill

[8] NMSA 1978, § 62-16B-7(C).
[9] 17.9.573.13. D.
[10] 17.9.573.13

Credit.[11] This proceeding consolidated consideration of each of the utility-proposed tariffs into a single case.

Aside from applying the methodology for establishing an SBC for each rate class as was specified in the Act and refined in Rule 573, utilities' tariffs proposed a number of conditions, fees or additional rate riders.

Utilities proposed minimum monthly bill charges, metering charges, "unavoidable" basic rate structures and use of utility avoided-cost principles that they wanted to include in rate riders levied on the Community Solar subscribers. In essence, these proposals would have the effect of reducing the value of the Solar Bill Credits.

They based their proposals for recovery from subscribers on their contention that the Solar Bill Credit, in and of itself, amounts to a program subsidy if any of the value of the SBC is greater than the utility's avoided cost for energy or includes "uneconomic" or "unavoidable costs" incurred by the utility in its implementation of the Rule.

At its simplest, the utility position was stated by SPS: "[I]f non-subscribers pay any costs of a Community Solar Program, then non-subscribers subsidize it by that amount."[12]

EPE stated, "[I]n the context of the Community Solar Program, the subsidy equals the difference between the total bill credit amount provided monthly net of avoided costs."[13]

The utilities each proposed some version of a subscriber rate mechanism that would recapture the value of SBC above "uneconomic costs." They justified these provisions as a way to ensure that there is no subsidization of the program by non-subscribers.

The proposed recovery mechanism differed for each utility.

- PNM proposed a regulatory asset that would track for recovery the entire value of SBCs less the avoided cost benefits provided by the Community Solar projects, with a 4% carrying charge, recovered in the next rate case.
- EPE similarly proposed a regulatory asset that sets a "base rate" of unavoidable costs, subtracted from the SBC and subject to base rate recovery.
- In contrast, SPS proposed a specific "Community Solar Program Bill Credit Recovery Rider" which would recoup the difference between the SBC and an "avoided cost" figure based on the Southwest Power Pool's determination of locational marginal prices (LMP). This figure would be adjusted monthly.

Intervenors representing the Community Solar developer community promoted use of a "long-term avoided cost" methodology that would take into account values for, among other benefits,

[11] 23-00071-UT
[12] SPS post hearing briefs, pg. 47.
[13] EPE Initial Brief at Att. 3, pg. 3.

avoided generation capacity, avoided transmission capacity, line-loss adjusted energy, RPS compliance, and other environmental benefits. These intervenors contended that a failure to implement a full avoided-cost analysis would lead to an improper recovery of unsubstantiated "lost revenues," which they assert is not called for under either the Act or the Rule.

The Commission anticipates issuing a final order on these issues soon.

Local Developer Project Selection & Expansion of the Local Solar Industry

Of the 47 projects selected as of 10/2/24:

- 47 (100%) committed to contract for materials, supplies, or services only with businesses owned or operated locally or owned or operated by majority owners of members of racial minorities, women, veterans, or Native American.
- 7 (15%) committed to 50% ownership of the proposed facility by members of the local community, defined as individuals living within 50 miles of the facility.
- 47 (100%) have an existing and continuing partnership with a tribe that has a footprint in New Mexico, pueblo, local community, or non-profit community organization registered to do business in New Mexico.

Of the 408 projects that submitted a bid:

- 370 (91%) committed to contract for materials, supplies, or services only with businesses owned or operated locally or owned or operated by majority owners of members of racial minorities, women, veterans, or Native American.
- 21 (5%) committed to 50% ownership of the proposed facility by members of the local community, defined as individuals living within 50 miles of the facility.
- 392 (96%) have an existing and continuing partnership with a tribe that has a footprint in New Mexico, pueblo, local community, or non-profit community organization registered to do business in New Mexico.

Committing to contracting for material, supplies, or services, and maintaining a continuing partnership with a local entity were significant factors in project selection. Projects that did not make those commitments did not receive sufficient points to be selected. While the incidence of local ownership is much lower than the other two factors, the data bears out that an extremely high percentage of projects are engaged with the local community and economy, and that this is a direct result of the Community Solar Program.

Community Solar Facilities' Effect on Utility Compliance with the Renewable Portfolio Standard

Under the terms of the Act and Rule 573, RECs associated with energy generated by Community Solar projects have been granted to the utility where those projects are located. These RECs, which each represent 1 MWh of energy, may be used by the utilities to show compliance with RPS requirements, which will reach 40% of energy consumption for each utility as of January 1, 2025.

Because to date no Community Solar projects are operational, there has been no transfer of RECs to the utilities.

PNM did project that in 2025, the amount of RECs associated with full development of the 125 MW of capacity in the program would generate 203,373 MWh of RECs. This would amount to 6.2% of its 2025 RPS requirement of 3,276,000 MWh. PNM did not provide a detailed analysis of this estimate, but it appears to depend on a capacity factor for the solar projects of approximately 17% once projects are operational.[14]

EPE provided a very preliminary figure of 6,461 MWh of RECs associated with its 30 MW allocation of Community Solar projects in 2025, while SPS did not provide any specific figures.

Using PNM's calculation, full output from 200 MW of Community Solar might generate as much as 500,000 MWh worth of RECs for utility compliance with RPS once all 200 MW of capacity is online. The total Investor-Owned Utility (IOU) RPS requirement for 2025 is calculated to be 8,933,000 MWh, so Community Solar at full capacity and output might account for about 5.5% of the total IOU requirement.

Effectiveness of the Commission's Rules to Implement the Community Solar Act

The Commission put into effect the provisions of the Community Solar Act, while adding key implementation details regarding the bidding process and scoring regime for accepting non-economic bid proposals from prospective developers and Subscriber Organizations.

The Commission also confirmed that its existing policies for consumer protections and complaints would be applicable to the Community Solar Program.

In keeping with the Act, the Commission determined that the interconnection review of Community Solar projects would be conducted under the newly adopted rules and policies for Interconnection of Distributed Generation Facilities Less than 10 MW. [15]

With regard to administration of the program, the Commission explored how other Community Solar programs around the country handle running their programs and found three distinct models:

- Utility Administration
- Commission Staff Administration
- Third-Party Program Administrator

Responses from stakeholders indicated strong opposition to allowing the utilities to administer the program. Only SPS proposed this model, as it is how the Colorado Solar Gardens Program was set up, with Xcel affiliate Colorado Public Service Company being the program administrator.[16]

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[14] Capacity factor represents a percentage of the total possible generation output for the nameplate capacity of the project, discounted to reflect how much the project actually delivers. In the case of solar PV, the main variable will be amount of energy produced during daylight hours.

[15] Title 17.9.568

[16] SPS is also an affiliate of Xcel.

Citing its own budget constraints and lack of a dedicated staff or economic resources beyond the collection of bidder application fees, the Commission determined that a third-party program administrator made the most sense and would take the regulator out of the day-to-day operations of the program. The Commission stated that it would have no direct role in bid evaluations or overseeing utility interactions with Subscriber Organizations and have a light-handed approach toward the customer relationship between Subscriber Organizations and subscribers.

The utilities, in particular SPS, challenged this to the New Mexico Supreme Court, arguing – among other issues – that the Act did not specifically authorize use of a third-party program administrator, and that the Commission's Order did not adequately detail the bidding evaluation process or establish sufficient consumer protections.

The Commission countered that it has statutory authority to delegate program management and the project selection process to an experienced consulting firm with which the Commission has contracted to administer the program. Moreover, the Rule provided detailed project requirements and specific project attributes that allow Subscriber Organizations to earn points toward selection. The Rule also provided a procedure by which Subscriber Organizations can petition the Commission to review the Program Administrator's decisions.

Following oral arguments in May 2024, the Court issued an order affirming the Commission.

Note: See Appendix B for a description of the utility challenges to the Community Solar Program. Appendix C reviews various issues raised by bidders to the program and how the Commission handled several of these petitions.

Revenue Estimates for Community Solar Program Application Fees 2022-2024

The 2021 Community Solar Act allows for assessment of bid application fees from prospective developers which are designed to cover a portion of the administrative costs of the commission in carrying out the community solar program.[17]

The Community Solar Rule set the fee structure as:

- **$1,000 per bid** non-refundable application fee, due at time of application.
- **$2,500/MW capacity for awarded bids** non-refundable, due to the Commission within 30 days of notification of the award.

While it's true that if the objective was to fully fund the contract solely through collected fees, there was a shortfall of $104,808, but that's not the complete picture. In FY23, the PRC used $166,666.66 from the general fund to cover the first half of the contract for that fiscal year. The second half was funded by fees collected in FY23, and for FY24 and FY25, the entire contract will be financed using fees that have already been collected. The total contract value for InClime over three years is $1,009,999.99, and to date, the PRC has collected $905,192.50 in fees. Given that

[17] 62-16B-7 (C). NMSA 1978

general fund resources were utilized for the initial costs in FY23, the PRC is on track to cover the remaining payments to InClime through FY25 with the fees already collected.

There is a possibility that the Commission will collect additional fees as the Rule allows for maintenance of a waitlist of additional projects/capacity should any of the initial bidders withdraw. Each bidder proposing a wait-listed project shall pay the $2,500/MW fee within 30 days of moving from the waitlist to the queue of selected projects. To date, however, no projects have withdrawn from the project queue, as developers are waiting for resolution of the Solar Bill Credit tariffs proceeding to assess whether they can economically construct projects despite the high costs of interconnection upgrades (see section above). Two projects have been elevated from the waitlist after agreeing to reduce their project capacity to fit into the 200 MW cap.

On October 3, 2024, the Commission issued its Order Amending Rule to the state's Community Solar Program, raising the annual statewide capacity cap by 300 MW to go into effect on November 1, 2024. This will require future solicitation; however, there currently is no funding available to hold a new solicitation. Given the annual cap and complexity of the bid process, the application fee alone is not an appropriate funding source for the ongoing administration of the program as it would require a constant source of applications which would outsize the program.

Because there is no provision for additional revenues beyond the application fee structure in place, the Commission will need to work with the Legislature to determine an appropriate budget and funding source for on-going program administration.

The Role of the Program Administrator

In August 2021, the Commission hired InClime, Inc. as the Community Solar Program Administrator until June 2025. InClime, experienced in administering community solar programs nationwide, was charged with overseeing the initial solicitation and selection of projects and also oversees the ongoing implementation. As such, InClime collaborates closely with New Mexico utilities PNM, SPS/Xcel, and EPE through bi-weekly meetings. These discussions focus on:

- The development of subscriber portals, which are crucial for managing subscriptions and bill credits, allowing project developers to report subscriber data to utilities.
- The progress of Community Solar projects through the interconnection process, addressing challenges such as project queuing, territorial disputes, and delays caused by other projects.
- Implementation of budget billing for customers subscribing to Community Solar and determining the timing for applying bill credits.

Consumer Protection

On behalf of the Commission, InClime has established a robust consumer protection program for New Mexico's Community Solar Program, which includes a best practices document and extensive resources on the program's website for various stakeholders.[18] Key elements include:

[18] www.csnewmexico.com

1. **Educational Materials**: A flyer to help potential subscribers understand the program and evaluate quotes from Community Solar providers. Project developers must provide this flyer and a uniform disclosure form before subscription agreements are signed.
2. **Disclosure Form Appendix**: Subscriber Organizations must offer a Disclosure Form Appendix, which clarifies the roles of different companies involved in Community Solar subscriptions and provides information about the Subscriber Manager and Sales Agent.
3. **Enrollment Process Review**: InClime meets with Subscriber Organizations to review their online enrollment processes, ensuring compliance with program requirements and adequate document review time for customers.
4. **Complaint Handling**: The Program Administrator serves as the first line of defense for consumer complaints, requiring Subscriber Organizations to investigate and respond to issues. If unresolved, InClime assists in brokering a resolution or escalating complaints to the Public Regulation Commission's Consumer Relations Division for informal resolution or the New Mexico Department of Justice for serious cases.
5. **Issue Types**: Complaints often relate to the complexities of the Community Solar Program or can involve more severe issues like predatory sales practices. InClime aims to guide customers through these challenges and facilitate resolutions.

Overall, InClime and the Commission are committed to protecting consumers in the Community Solar Program through comprehensive resources and proactive complaint management.

Interconnection

Soon after launching the Community Solar Notice of Proposed Rulemaking in 21-00012-UT, utilities, PNM in particular, reported being inundated with interconnection applications from prospective Community Solar project developers. According to the utilities, prospective developers wanted to "secure a position in a queue to give their projects an advantage when capacity is ultimately awarded in the NMPRC Community Solar Program."[19]

In response, the Commission on June 15, 2021, issued an order directing utilities to work with PRC Staff to create and distribute a notice affirming PRC jurisdiction and this determination:

1) The Commission's existing interconnection rules and manual remain in place until amended or replaced by the Commission; and

2) A place in a utility's applicant queue for interconnection does not and will not provide any advantage for selection as a Community Solar project, as the Commission's rules will not be in place until on or before April 1, 2022. [20]

[19] PNM letter June 10, 2021.

[20] Order Issuing Notice to Electric Utilities and Applicants Regarding Pending Applications for Community Solar Interconnections During Rulemaking Proceeding, June 15, 2021. Pg. 3.

Utilities, working with the PRC Utilities Staff, created a notice that was issued to all prospective Interconnection applicants. Staff certified that each IOU had complied with the order by July 15, 2021.[21]

In the course of developing the final Community Solar Rule, the utilities sought several provisions, including a request from PNM for specific interconnection standards in the Community Solar Rule, not as part of the Revised Interconnection Rulemaking.

The Commission, however, held to its determination that there should be no special interconnection rules for these projects, but that they would undergo interconnection reviews under the rules in place at the time they applied for interconnection – and that applicants would not be considered Community Solar projects unless and until they were selected via the competitive process. Only then would they commence interconnection studies.

Once project selections were announced, the Subscriber Organizations engaged with the utilities to perform interconnection reviews and, in many cases, additional technical studies, to ensure there would be no adverse safety or reliability impacts from interconnection.

Given the fact that utilities were applying a newly revised Interconnection Rule 568 process for evaluations and receiving a large influx of interconnection application at the same time, the utilities reported being overwhelmed. In some cases, they requested variances from terms of Rule 568 because their internal processes were not yet able to comply with new requirements, such as employing "minimum daily load" threshold analysis for projects that might require additional studies.

Initially, project developers complained to the Commission that the larger utilities appeared to be treating interconnection reviews on a sequential basis, that is waiting for one project review to be completed before moving on to the next in line. This was a misunderstanding of the Commission order, which was addressed in a guidance letter to utilities.[22]

With delays to finalization of interconnection reviews extending into 2024, the Commission issued an inquiry to utilities and stakeholders as part of its process to compile this report to the Legislature—utilities described multiple technical issues that were complicating their reviews.[23]

Issues contributing to the delays include everything from miscommunications, like incorrect contact emails on behalf of applicants, to supply chain issues. Utilities also report delays related to the influx of interconnection requests from all sectors, not just Community Solar.

The New Mexico Renewable Energy Industry Association (REIA) offered this assessment of the interconnection process based on its members' experiences:

> [T]he three IOU's have indicated a wide range of timelines for completing system upgrades to allow for project interconnection times. For example:

[21] Staff Report, July 14, 2021.
[22] Guidance to utilities on interconnection September 2023.
[23] Notice of Inquiry issued January 11, 2024 in 22-00020-UT.

- PNM has demonstrated a relatively efficient process in procuring necessary interconnection equipment within 10 months. However, delays have been experienced due to slow project review services by third-party consultants, internal approval delays, and the sluggish processing of application payments. These aspects have contributed to extended timelines for achieving interconnection agreements.

- EPE faces a delay of 19 months for the procurement of the required equipment for system interconnection, a timeline that challenges project planning and implementation. Despite this, EPE has efficiently managed the earlier stages of conducting interconnection studies and securing necessary approvals.

- SPS presents a unique set of challenges, combining a lengthy and complex interconnection review process with a stated timeline of 18-24 months from the date of a fully executed interconnection agreement to procure the essential equipment needed for physical interconnection. This extensive period reflects not only internal challenges within SPS but also the additional requirement for projects to undergo an internal transmission study. This requirement, aimed at assessing potential impacts on the regional transmission organization (RTO), significantly exacerbates the delay in moving projects forward.

According to REIA, the experiences of their members highlight a pressing need for improvements in the interconnection process across all IOUs, with a particular emphasis on addressing the specific challenges posed by SPS's procedures. "Streamlining the review process, reducing equipment procurement times, and reassessing the necessity of certain requirements could significantly enhance the pace at which Community Solar projects are developed and interconnected, ultimately benefiting the broader objectives of New Mexico's Community Solar Program," REIA reported.[24]

As previously described, projects also face significant expense to upgrade the distribution system to ensure a safe interconnection. Although details are still forthcoming, the interconnection review for the initial 45 selected projects identified over $122 million in potential upgrade costs. This situation creates a significant barrier for the project developers participating in the Community Solar Program. Because the utilities claim not just capacity constraints on circuits but thermal constraints at the network level, any DG interconnection for a Community Solar project (up to 5 MW of capacity) will incur a cost for utility network upgrades that amount to several million dollars per project.

Solar for All Grant

In October 2023, the Commission joined with the New Mexico Energy Minerals & Natural Resources Division (EMNRD) to submit a bid for $250 million under the U.S. Environmental Protection Agency's (EPA) Solar for All program. Because of the great demand for funding applicants from all around the country, when EPA announced its awards in May 2024, it significantly reduced award levels to announced recipients.

[24] REIA response to Inquiry in 24-00094-UT, April 1, 2024.

The New Mexico Solar for All Project Team that applied for and was awarded a $156 million grant under the EPA's Solar for All program consists of EMNRD, the PRC, the Indian Affairs Department (IAD) and the HCA. EMNRD is the lead agency and will serve as program and funding administrator for projects enabled by the Solar for All grant.

The PRC portion of the award – about $18 million – is intended to create a pool of resources that can be applied to reduce the cost of interconnection of Community Solar projects.

In responses to PRC data requests about the upgrades that utilities have declared as necessary for interconnection, the utilities identified these facilities and components for most of the projects:

- Overhead feeder extensions
- Reconductoring circuits to handle the increased power flows
- Capacitor banks
- Reclosers
- Relays settings
- Intelliruptors
- Substation transformers
- Switchgear
- Voltage protections

The objective is to enable some of the Community Solar projects to reach commercial operations despite significant costs of interconnecting to the distribution networks of IOUs, as per the terms of the Act.

Without funding from Solar for All, many of these projects will be unable to afford the costs of system upgrades that utilities have identified as necessary for safe and reliable interconnections.

The Community Solar Program has a strong emphasis on serving low-income utility customers, which aligns with the goals of Solar for All. The first batch of 45 selected projects, amounting to nearly 200 MW of solar generation capacity, all have promised to exceed the statutory minimum 30% capacity devoted to low-income customers, and additionally pledged to provide these customers with savings up to 20-30% compared to utility bills, for a minimum of five years.

All selected projects have committed to forgoing upfront costs, early termination fees, and credit checks.

Together, these benefits of the competitive solicitation align perfectly with the goals of the Solar for All program: to maximize the delivery of affordable clean solar power to low-income households while providing demonstrable cost savings. The Map provided in Figure 1 of Appendix D shows the correlation between location of Community Solar projects and New Mexico's low-income populations. Table 3 of Appendix D indicates the number of low-income households located in counties where these Community Solar projects would be located.

The highest cost locations are all in PNM territory, with 20 of the 29 selected projects requiring more than $1 million of upgrades, and 12 of 29 with costs between $5 million and $13 million per

project. In all, PNM's total upgrades are about $117 million, the majority of the so-far identified costs of about $122 million.

Especially constrained areas appear to be located in Deming, Silver City and Lordsburg, (southwest) where all 11 selected projects would incur costs over $980,000 and 6 of the 11 would require over $5 million each (up to $12 million). A total estimate for those 11 projects is $53 million.

There is a concentration of six projects in the Belen/Los Lunas area (central) which would require as much as $36 million in upgrades. The highest costs are for the Los Lunas projects, with three over $9 million each.

Finally, there are seven projects in Tularosa/Alamogordo area (south central), with a combined cost estimated at over $20 million.

In the other utilities service territories, only two projects (of the 16) estimated at over $1 million. One is in Portales (SPS), the second in EPE did not reveal a location.

As evidenced above, the request for funding for enabling upgrades in utility distribution facilities is—as required by the Solar for All program—necessary to deploy several of these Community Solar projects to maximize the benefits for low-income customers who will subscribe to them, while providing resiliency benefits to the local grid.

Projects receiving the funding would be based on a further evaluation of maximizing impact for low-income community members and promoting community ownership models. Funds would be directed to the host utility to "buy down" the costs of necessary electric system upgrades, rather than a direct subsidy to the project developers.

Some challenges in applying the grant's funds include strict conditions imposed by EPA, including adherence to Bacon-Davis Act "prevailing wage" requirements and the "Build America, Buy America" restrictions on using US-made equipment and components.

The Commission is currently working with EMNRD to develop its process for allocating Solar for All funds among the selected Community Solar projects, with the hope that funds can be allocated in early 2025.

Recommended Changes

As detailed in the report above, the Commission believes the Legislature should consider some changes to the underlying Community Solar Act.

1. Amend the funding mechanism of the Community Solar Program from one based solely on "application fees" to a more sustainable and predictable funding that will allow for long-term program administration. This could include legislative appropriation to the PRC specifically for Community Solar implementation or specific authority of the PRC to collect and use assessments similar to its current Pipeline Safety Fee Fund.

2. Provide the HCA, the state agency charged with administering LIHEAP, with sufficient funding to adopt the Department of Energy's Clean Energy Connector tool to enhance management of matching low-income customers with Subscriber Organizations.
3. Explicitly provide the Commission with authority to impose sanctions on utilities for failure to meet deadlines associated with the implementation of the Act.
4. Provide the Commission with jurisdictional authority for the oversight of Community Solar developers and subscription managers, including the ability to hold developers to standards, deadlines and other requirements that the Commission determines are in the public interest.
5. Explicitly allow the Commission to order utilities to provide consolidated billing for Community Solar subscribers, if the Commission determines the Program so requires.

###

Appendix A

Community Solar Procedural Timeline 2021-2024

April 5, 2021	SB 84 Community Solar Act enrolled
May 12, 2021	PRC opens docket 21-00112-UT
June 24, 2021	PRC 1st workshop on Community Solar issues
June-October, 2021	PRC stakeholder engagement
October 27, 2021	PRC issues Notice of Proposed Rulemaking (NOPR)
February 1, 2022	PRC opens implementation docket 22-00020-UT
March 31, 2022	Order adopting Community Solar Rule adopted unanimously
May 12, 2022	Program Administrator solicitation
May 18, 2022	Order on rehearing requests
July 12, 2022	Rule 573 published
August 2, 2022	Program Administrator InClime contract signed
November 3, 2022	RFP for Community Solar projects issued/website
December 2, 2022	Bid window opens
January 31, 2023	Bids due
May 22, 2023	Bid awards announced
May-June 2023	PRC acts on petitions regarding bid scoring
June 15, 2023	Projects enter interconnection review
August 2, 2023	Webinar on consumer protection
Nov-Dec. 2023	Webinars on community outreach
January 17-19, 2024	PRC hearings on solar bill credits & tariffs
January 11, 2024	PRC launches rulemaking inquiry docket 24-00094-UT
March 11, 2024	Supreme Court hearing on appeal and interim ruling
March 21, 2024	Legislative report inquiry in 24-00020-UT
February 2024	First interconnection agreements signed
September 2, 2024	Recommended decision on solar bill credits & tariffs
Pending	Order on solar bill credits & tariffs approved

Appendix B

Community Solar Rule Appeal

In 2022, Southwestern Public Service Company ("SPS"), Public Service Company of New Mexico ("PNM"), and El Paso Electric Company ("EPE"), appealed the Commission's orders adopting the Community Solar Rule[1] ("Rule"), 17.9.573 NMAC, as well as orders implementing the Community Solar Program ("Program"), to the New Mexico Supreme Court ("Court"). On March 11, 2024, the Court heard oral argument. The same day, the Court issued an order affirming all the appealed orders and stating that it would issue an opinion at a later date.

The utilities challenged the Rule on several alleged grounds:

Transmission Costs

The Rule prohibits a utility from deducting transmission costs from the Community Solar Bill Credit ("Credit"). The utilities argued that all retail customers, including customers who subscribe to Community Solar facilities, cause a utility to incur transmission costs. Thus, they argued, the Rule's prohibition results in subsidization of the Program by non-subscribing customers, in violation of the Act's prohibition of such subsidization.

The Commission countered that subscribing customers continue to be billed for all costs that the Commission has held to be attributable to their respective rate classes through the application of cost causation principles. Such costs necessarily include transmission costs attributable to their rate class and the amount of energy they consume. The function of the Credit is to compensate subscribing customers for the energy generation attributable to their subscriptions, not to collect the costs attributable to providing service to them.

The Commission further argued that any costs deducted from the Credit should be costs to the utility that are caused by the Program. As the Credit compensates subscribers for the value of the energy they provide, only costs to the utility that are attributable to the provision of that energy should be deducted from the price of the energy. As Community Solar facilities are located at the distribution level of the grid, close to customers, they do not cause the utility to incur transmission costs. Thus, the Community Solar Act ("Act") expressly provides for the deduction of "distribution cost components," but not for the deduction of transmission costs.

Interconnection Costs

The Rule provides:

> *The commission may determine on a case-by-case basis whether the cost of distribution system upgrades necessary to interconnect one or more community solar facilities may be eligible for some form of cost-sharing . . . (3) among ratepayers of the same rate class as subscribers to the community solar facility via a rate rider for that class.*

The utilities argued that this provision violates the Act's prohibition of subsidization by non-subscribers of costs attributable to subscribers. The Commission countered that the Rule allows cost sharing only if it will not result in subsidization, as the Rule includes the following:

> *The commission will consider approving sharing of interconnection costs with nonsubscribing ratepayers only to the extent that the costs borne by such ratepayers are*

matched or exceeded by demonstrable benefits to such ratepayers, so that there will be no subsidization of interconnection costs by non-subscribing ratepayers in appropriate cases.

Subscriber Protections

The utilities claimed that the Commission failed to include subscriber protections required by the Act in the Rule. They further claimed that the Rule lacks specific provisions protecting subscribers and that it lacks enforcement procedures.

The Commission responded that the Act requires only two specific subscriber protections: (1) a uniform disclosure form and (2) grievance and enforcement procedures.[11] The Commission issued a uniform disclosure form when the Commission issued its Order Adopting Rule, and the Rule contains a corresponding section requiring that subscriber organizations use the form.[12] As for grievance procedures, the Rule provides procedures for subscribers and subscriber organizations to resolve disputes through informal means with the assistance of the Commission's Consumer Relations Division.[13] The Rule also provides for referral of disputes by the Commission to the New Mexico Department of Justice for enforcement proceedings.

The Commission further responded that the Rule contains additional subscriber protections, including a requirement that Subscriber Organizations maintain minimum levels of general liability insurance and a requirement that Subscriber Organizations implement a written subscriber agreement containing 11 specified terms.

Co-Location

The utilities contended that the Rule improperly includes an exception to the Act's prohibition on co-location. The "exception" states that the Commission "will consider, on a case-by-case basis, allowing more than one community solar facility to be located on the same parcel." The utilities argued that the Commission lacked authority to create an exception to the Act.

The Commission responded that the provision is not an exception to the Act, which does not define "co-location." The Rule first provides a "safe harbor," assuring Subscriber Organizations that a Community Solar facility will not be considered co-located with another such facility if they are not located on the same parcel.[17] This is not a definition of "co-location." Thus, allowing for the Commission to decide, on a case-by-case basis, whether facilities on the same parcel are or are not co-located does not contradict any definition of "co-location."

Program Administrator

The utilities argued that the Rule improperly delegates authority to the Program Administrator to select projects for the Program. They also claimed that the Commission had failed to establish a process for project selection.

The Commission countered that the Commission has authority to delegate the selection process to an experienced consulting firm with which the Commission has contracted to administer the Program. Moreover, the Rule provides detailed project requirements and specific project attributes that allow Subscriber Organizations to earn points toward selection.[18] The Rule also provides a procedure by which Subscriber Organizations can petition the Commission to review the Program Administrator's decisions.[19]

Status Of Appeal

As noted above, the Court has issued an order affirming all Commission orders that were appealed by the utilities. The Commission awaits the Court's issuance of an Opinion containing detailed findings.

Appendix C

Summary of Petitions Decided by Commission

The Community Solar Rule[25] ("Rule") provides the following procedure through which subscriber organizations can challenge the program administrator's selections of project proposals:

> *The commission will engage a third-party administrator to manage an unbiased and nondiscriminatory process for selection of proposed projects for building and operating community solar facilities. The commission will have no involvement in the process except to the extent that the administrator or any participant in the process may raise before the commission an issue that is not fully addressed in this rule and that the commission finds, in its discretion, that it should address.*[26]

Several subscriber organizations filed complaints and petitions with the Commission concerning the selection process. The Commission carefully considered and resolved all of them.[27]

Summary of Rulemaking Regarding Statewide Capacity Limit

The Community Solar Act requires the Commission to adopt rules that address the statewide capacity cap ("Cap") for the Community Solar Program ("Program"), as follows:

(1) provide an initial statewide capacity program cap of two hundred megawatts alternating current proportionally allocated to investor-owned utilities until November 1, 2024. The statewide capacity program cap shall exclude native Community Solar projects and rural electric distribution cooperatives; [and]

(2) establish an annual statewide capacity program cap to be in effect after November 1, 2024 . . ..[28]

Pursuant to the Act, the Commission adopted the following provisions in the Rule:

> *A. The initial statewide capacity program cap of 200 megawatts alternating current is allocated among the three qualifying utilities according to addressable market estimations, subject to further refinement, as follows:*
>
> ***(1)** public service company of New Mexico (PNM), 125 MW;*
>
> ***(2)** southwestern public service company (SPS), 45 MW; and*
>
> ***(3)** El Paso electric company (EPE), 30 MW . . .*

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[25] 17.9.573 NMAC
[26] 17.9.573.12(A) NMAC (italics added).
[27] *See* Docket No. 23-00167-UT, Notice . . . that the Commission Has Instructed InClime, Inc. to Rescore Relevant Applications (May 9, 2023); Docket No. 23-00174-UT, Order Dismissing Complaint (May 31, 2023); Docket No. 23-00175-UT, Order Dismissing Complaint (May 31, 2023); Docket No. 23-00180-UT, Order Dismissing Complaint (May 31, 2023); Docket No. 23-00181-UT, Order Dismissing Complaint (May 31, 2023); Docket No. 23-00190-UT, Order Dismissing Complaint (June 7, 2023); Docket No. 23-00199-UT, Order Dismissing Petition (June 28, 2023).
[28] NMSA 1978, §§ 62-16B-7(B)(1), (2).

> ***C.*** *On or before April 1, 2024, the commission will commence a review of the results of the initial allocation and subscriber demand for the community solar program and a proceeding to establish a revised annual statewide capacity program cap and allocation to be in effect after November 1, 2024.*[29]

On July 15, 2024, the Commission issued its Order Issuing Notice of Proposed Rulemaking[30] ("NOPR Order"), as required by the State Rules Act.[31] In the NOPR Order, the Commission found that it should commence a limited formal rulemaking proceeding, which would address issues concerning the Cap.

In the Commission's proposed rule amendments, issued as part of the NOPR Order, the Commission provided two options for commenters to consider.[32] Option A would leave the initial 200 MW Cap in place while the Commission collected additional information relevant to the Cap, including information that will become available only as the Program progresses further.[33] Option B would raise the Cap to 300 MW, effective November 1, 2024.[34] The Commission also invited commenters to propose their own alternative amendments.

The Commission considered written comments filed by Staff of the Utility Division of the Commission, the Coalition of Sustainable Communities New Mexico, SPS, EPE, PNM, United States Solar Corporation, the EMNRD, Lightstar Renewables, LLC, the Coalition for Community Solar Access, Renewable Energy Industries Association of New Mexico, and La Vida Llena Residents Association.

The Commission also considered oral comments made during a public comment hearing held on September 18, 2024. There were a few comments in favor of the Commission's proposed Option A and several comments in favor of the Commission's proposed Option B.

On October 3, 2024, the Commission issued its Order Amending Rule, adopting the amendments that the Commission proposed in Option B.[35] The Commission found that there was no reason to delay raising the Cap and that there were many reasons to act promptly. The Commission noted that raising the cap would make an additional 300 MW available for a second project solicitation and selection process. The Commission further found that raising the Cap now would not commit the Commission to conducting the second round at any particular time but would ensure that, if

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[29] 17.9.573.11(A), (C) NMAC.
[30] Docket No. 24-00094-UT, NOPR Order (July 15, 2024).
[31] State Rules Act, §§ 14-4-1 to -11 (1967, as amended through 2017).
[32] Docket No. 24-00094-UT, Proposed Rule, Ex. A to NOPR Order.
[33] Option A would provide that "[t]he commission will review, among other factors, demand for subscriptions, levels of low-income subscriber participation, and the overall level of generation capacity within the program that is actually built and operational." Docket No. 24-00094-UT, Proposed Rule, Ex. A to NOPR Order.
[34] Option B would provide that "[t]he 300-megawatt cap will apply to the first selection process to be conducted after November 1, 2024, and will be in addition to the 200-megawatt cap applied to the initial selection process, resulting in a total cap of 500 megawatts." Docket No. 24-00094-UT, Proposed Rule, Ex. A to NOPR Order.
[35] Docket No. 24-00094-UT, Order Adopting Amendments to Rule *[etc.]* (Oct. 3, 2024).

the Commission finds that the second round should go forward in the near future, the increased Cap would be in place.

The Commission, considering comments filed by the EMNRD, also found that raising the Cap now would allow the $156 million Solar for All grant awarded to New Mexico (and administered by EMNRD) to begin helping low-income New Mexicans sooner.

Many commenters argued, and the Commission agreed, that raising the Cap would send a clear signal to potential investors that the Commission is committed to near-term and long-term Program growth. Public and private entities argued convincingly that delaying a decision regarding the Cap could be counterproductive to accomplishing the Program's goals. The Commission concluded that there is an urgent need for additional renewable energy and there is an urgent need to mitigate the continuing inequities in access to renewable energy.

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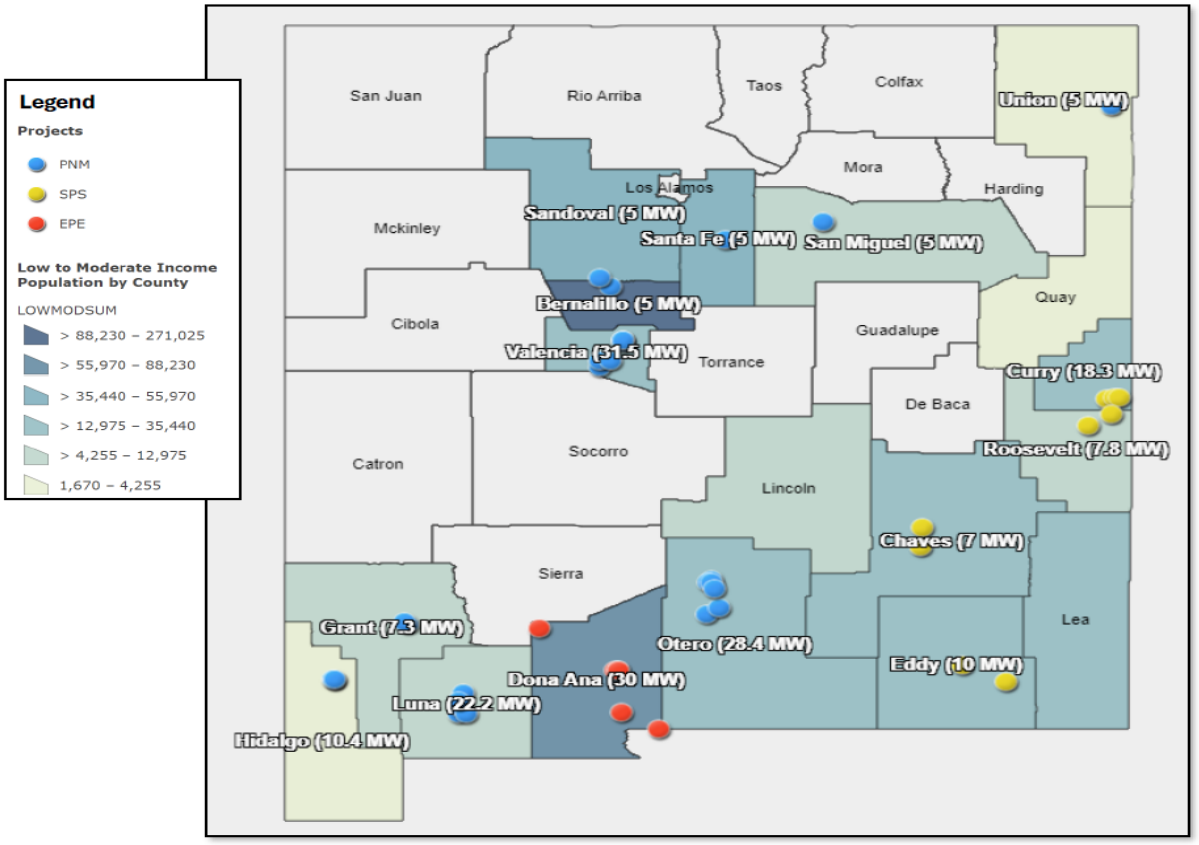
Appendix D

Low-Income Communities and Project Locations

The map below depicts counties in New Mexico that are serviced at least in part by an Investor-Owned Utility (IOU). Counties are color-coordinated based on the density of the low-income population in each county. Darker counties denote a higher low-income population.

Additionally, the map illustrates the interconnection locations of the Community Solar projects, with each project location colored according to the utility territory in which the project is situated.

Community Solar Projects and Low Income Population for Counties serviced by an IOU



To the best of the Commission's ability to estimate, there are approximately 655,785 low-income customers (as defined by 80% of local area AMI) in the counties served by IOUs. This is substantially more than numbers of customers enrolled in LIHEAP, and illustrates the challenge of identifying potential Community Solar subscribers.

Community Solar Summary of Counties within an IOU Service Territory Sorted by the Highest Number of Low-Income Populations

Counties	Estimated Low Income Population	Number of Projects	Sum of Projects (MW)
Bernalillo	271,025	1	5
Dona Ana	88,230	6	29.96
Santa Fe	42,555	1	5
Sandoval	42,555	1	5
Valencia	35,440	7	31.49
Chaves	26,535	2	6.95
Otero	24,660	7	28.38
Lea	22,970		
Eddy	21,550	2	10
Curry	19,830	4	18.25
Luna	12,975	5	22.23
San Miguel	12,090	1	5
Grant	10,880	2	7.25
Roosevelt	8,395	2	7.75
Lincoln	8,155		
Quay	4,255		
Hidalgo	2,015	3	10.42
Union	1,670	1	5

Appendix E

Interconnection Upgrade Costs

Project names and locations redacted

Size	Nature of Upgrades	Estimated costs	Time to completion
3.5 MW	New 5.2-mile feeder from substation; Upgrade 3 phase conductor 3.8 miles; new recloser, relays and capacitor bank	$7.6 million	18 months
3.75 MW	OVERHEAD CONDUCTOR line extension 150 ft; upgrade 1.4 miles of OVERHEAD CONDUCTOR; new capacitor bank, 2 reclosers, relay settings	$1.258 million	12 months
5 MW	OVERHEAD CONDUCTOR extension 0.6 miles; upgrade OVERHEAD CONDUCTOR 1.1 miles; new recloser and relays	$1.72 million	12 months
5 MW	New OVERHEAD CONDUCTOR extension 1,200 ft; upgrade relay settings;	$582,700	12 months
5 MW	New OVERHEAD CONDUCTOR extension 1000 ft; new double circuit feeder lines 5,000 ft; Relay, relocate pole	$1.6886 million	12 months
5 MW	New OVERHEAD CONDUCTOR 500 ft; New Intellirupter; upgrade substation transformer & switchgear	$5 million	24 months
5 MW	Underground upgrade relay settings; round line extension 400 ft; relay settings	$914,000	12 months
5 MW	New OVERHEAD CONDUCTOR extension 2640 ft; new 3 phase 1200kVar capacitor bank;	$768,900	12 months
5 MW	OVERHEAD CONDUCTOR double circuit line 0.4 mi; upgrade 500 ft OVERHEAD CONDUCTOR; 120 ft underground; recloser, feeder relays	$1.1 million	12 months
5 MW	Upgrade OVERHEAD CONDUCTOR 2100 ft; 2 reclosers relay settings	$968,000	12 months

3.88 MW	New recloser & relays; 5.4-mile feeder; new transformer substation;	$12 million	24 months
2.25 MW	2.8 miles reconductor PH; 2 new substation transformers; switch gear; recloser & relay settings	$11 million	24 months
5 MW	Upgrade 3.2 miles OVERHEAD CONDUCTOR; voltage regulator; recloser & relay settings	$2.233 million	12 months
5 MW	New conductor .5 mi & convert feeder to 3 phase; voltage regulator; 2 reclosers & relay settings;	$962,000	12 months
3.6 MW	1.4 miles new feeder extension; reclosers & relay settings; substation transformer	$9 million	24 months
5 MW	2640 ft OVERHEAD CONDUCTOR feeder; upgrade OVERHEAD CONDUCTOR 2 miles; 2 reclosers; feeder relay settings	$750,000	12 months
5 MW	150 ft OVERHEAD CONDUCTOR extension; new substation transformer & relays	$4.4 million	24 months
5 MW	UG extension 1056 ft; new pad mount switchgear; relay settings	$1.086 million	16 months
5 MW	half mile OVERHEAD CONDUCTOR extension; half mile upgrade; new capacitor bank; feeder relays & settings	$982,000	12 months
1.665 MW	1.9 miles new feeder; new substation transformer & switchgear	$10 million	24 months
4.255 MW	1.9 miles feeder; substation transformer & switchgear	$10 million	24 months
4.995 MW	2.2 miles new feeder; new substation transformer & switchgear; new recloser	$6 million	24 months
3.33 MW	3.4 miles reconductor OVERHEAD CONDUCTOR	$1.6 million	12 months

2.875 MW	1 miles reconductor; new reclosers & relay settings	$850,000	12 months
4.5 MW	2.5 miles new feeder; new recloser & relays	$1 million	12 months
2.75 MW	quarter miles reconductor	$400,000	12 months
4.75 MW	1.4 miles new feeder; new substation transformer & switchgear; recloser & relays	$9 million	24 months
4 MW	1.4 miles new feeder; new substation transformer & switchgear upgrades; recloser & relays	$9 million	24 months
4.65 MW	2.8 miles new feeder; new substation transformer & switchgear; recloser & relays	$5 million	24 months
5 MW	200 ft extension; 0.9 mi new conductor; VSR feeder protection	$617,071	18-24 months
3.25 MW	1550 ft extension; upgrade fuse; co-gen mode	$268,011	12-18 months
5 MW	100 ft extension; reconductor .5 mi; 2380 ft UG; upgrade fuse; voltage protection	$1.170 million	18-24 months
4.995 MW	945 ft extension; VSR feeder protection; reverse power flow	$672,749	18-24 months
5 MW	N/A	N/A	ON HOLD
1.95 MW	Convert to 3 phase: reconductor	$304,118	7-12 months
2.75 MW	2800 ft extension; VSR feeder protection; breakers; reverse power flow; co-gen mode	$859,501	18-24 months
5 MW	N/A	N/A	SPP
5 MW	N/A	N/A	SPP
5 MW	N/A	N/A	SPP

5 MW	N/A	$421,610	IX signed - 19 months
5 MW	N/A	$421,610	IX signed - 19 months
5 MW	N/A	$372,498	IX signed 19 months
5 MW	N/A	$421,610	IX signed - 19 months
5 MW	N/A	$1,091,319	21 months
5 MW	N/A	$421,610	IX signed - 19 months
		$122 million Total to-date	