

# Opportunity and Need to Improve the Property Tax Approach for Solar and Storage in New York

November 2019

# About NYSEIA

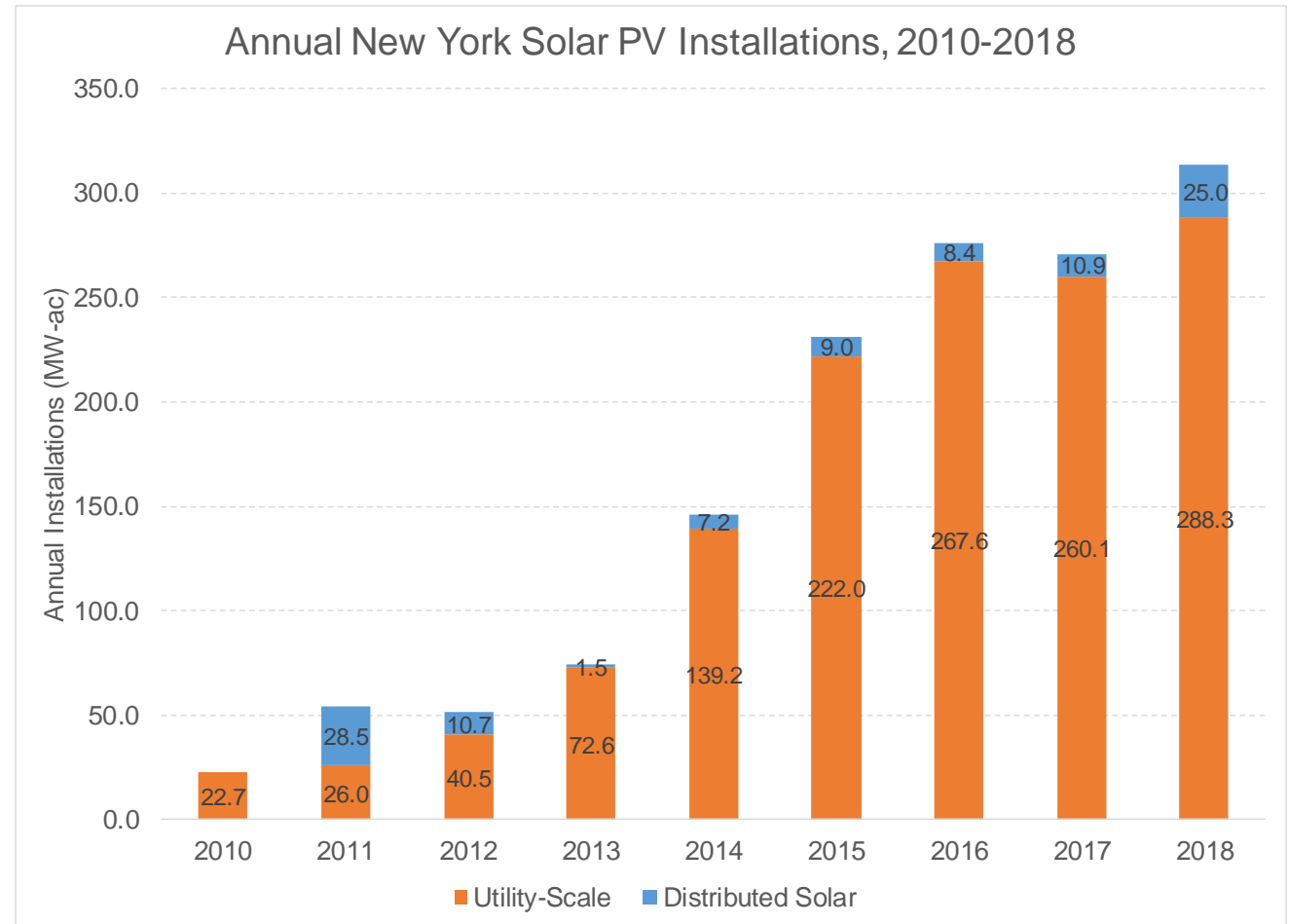
- Only statewide membership and trade association solely deployed to advancing solar energy deployment and use in New York State
- Founded in 1994, represent approximately 100 member firms including large commercial and community solar developers
- Membership and leadership drive policy initiatives towards achieving significant, long-term and sustainable growth of solar energy in New York
- Represent NY solar industry in stakeholder proceedings and discussions with stakeholders including legislators, regulators, utilities and state agencies

# Agenda

- Context of Solar Deployment in New York: Historical and Future Growth
- Opportunity and Status Quo Process
  - Unpredictable Exemptions, PILOTs, Assessments and Tax, and Resulting Friction
  - Difficulties for Local Jurisdictions, and Developers, Investors, and Customers
- Win/Win Solutions:  
PILOT Standardization and Benefits

# NYS Solar Deployment Has Been Growing Rapidly Since 2014

- Annualized growth of 33% since 2013, totaling around 2,000 MW-ac of solar installed to date
- 84% of that installed since 2014
- Since 2015, increasing deployment of larger-scale distributed systems (1-5 MW-ac each)
- Start to deployments of large-scale centralized systems (20-150 MW-ac each)

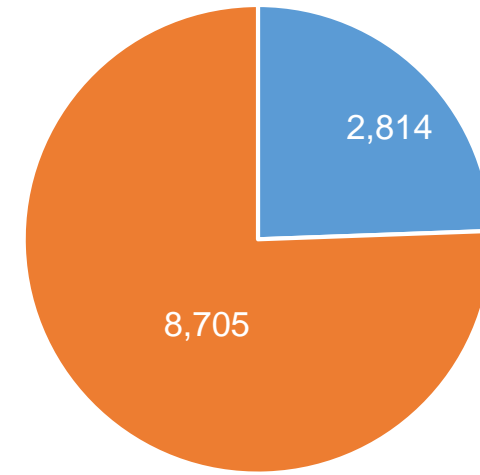


Source: DPS, NYISO, SEIA, Wood Mackenzie

# Climate Legislation Requires a Huge Expansion of Solar

- Climate Legislation and Community Protection Act (CLCPA) enacted June 2019
  - 85% economy-wide GHG emissions reductions from 1990 by 2050 (including transportation sector, building sector, and electric sector)
  - 70% electric sector decarbonization by 2030, and 100% by 2040
  - 6 GW distributed solar by 2025
- Attaining the economy-wide reduction target will require significant electrification, and is expected to **double NY's current electric demand**
- Preliminary estimates based off of the Brattle Group's extensive work indicate that NY is likely to need **around 130,000 MW-ac of solar by 2050** to meet targets, roughly translating to \$390-\$910 million annually of potential local tax revenue, much of it to fiscally strapped communities

1 MW-ac and Larger Solar PV Project Queue Capacity, September 2019 (MW-ac)



■ Distributed ■ Centralized

Source: NY DPS, NYISO

# Status Quo Process: Unpredictable Exemptions, PILOTs, Assessments and Tax, and Resulting Friction

- NYS RPTL 487 by default provides a 15-year exemption from Real Property Taxes for solar in all jurisdictions (except Special Districts) - i.e. exemption from any increase in assessed value of real property attributable to the installation of a solar energy system
- If jurisdiction provides this and has not opted out, however, it confusingly may require developer to enter into Payment in Lieu of Taxes (“PILOT”) Agreement for an amount up to but not exceeding full value/ad valorem taxation, and these PILOTs are currently negotiated on case-by-case basis between the developer and the three taxing jurisdictions.
- Taxing jurisdictions may also instead just opt out of the exemption and the possible PILOT approach entirely, resulting in full value/ad valorem property taxes for all projects built thereafter. Each taxing jurisdiction is left to determine its own ad hoc approach with no standard assessment methodology. Over 20% of taxing jurisdictions statewide have opted out

# Status Quo Process: Difficulties for Local Jurisdictions

- **Time/Administrative Burden on Local Staff for Assessment, Negotiation, and Large Number of Appeals:** Lengthy negotiations w/affected jurisdictions and/or each town/county assessor's work on how to deal with these projects is a poor use of time for taxing jurisdiction staff, as is dealing with large number of resulting appeals
- **Internal Political Conflicts and Pressure:** Property tax discussions also can become bogged down in local political conflicts between towns, schools, counties, and IDAs. Local politicians also bear significant burden in justifying an assessment approach, PILOT amount, or not opting out, to constituents
- **Legal Cost Risk from Appeals and Possible Litigation:** Jurisdictions are exposed to the legal cost of resulting appeals, and also as they cannot selectively opt-out; jurisdictions that opt out and selectively assess rooftop vs. ground-mounted solar are not equitably assessing property and may invite litigation
- **Threat to Local Revenue from Recent Court Finding of Personal Property:** Cornell case and upholding of appeals of its decision threaten to significantly reduce or eliminate the tax revenue to local jurisdictions from these projects going forward
- **60-Day Notice Creates Unfairness to AHJs:** AHJs often do not respond to "Notice of Intent to Construct" letters from solar developers due to administrative errors and a lack of awareness of 487 process - leads to unwittingly being bound to a full exemption for 15 years, also raising an additional area for risk of litigation

# Status Quo Process: Developer/Investor/Customer Challenges

- Lack of standardization and predictability in PILOTs and assessment methodology can severely threaten and disrupt larger project development
- Uncertainty of exemption and exclusion of Special Districts from exemption can disrupt smaller project development
- Lack of clarity for underlying land - underlying parcel on which arrays are sited appears to not be included in RPTL 487 and is often re-assessed as a result of a solar project's construction – can disrupt all scales development and result in a large, unintended tax burden on developers and/or landowners. Further, change in use often eliminates otherwise available ag exemptions
- Risk and time expenditure on this for every project also results in significant additional costs, needlessly increasing energy costs to all customers
- Process creates unnecessary friction between developer and local communities



# Industry Proposal: Standardized PILOT Legislation

- Seek legislative amendment to RPTL 487 through collaboration with NYSAC, NYSAA/Assessor Community, AOT, SSBA, etc.
- Legislation would:
  - Institute standardized \$/MW-ac/year PILOT payment for 25 year term for all solar projects greater than a certain size based on Region/Utility Territory and Segment (distributed vs transmission-level), and clarify % directed to each of the three jurisdictions
  - Continue and clarify exemption for residential and small commercial systems below a certain size
  - Clarify inclusion of Special Districts and underlying land treatment in each of the above
  - Provide exemption from Tax Cap for 487 PILOTs
- Requires general concurrence with assessors and counties/towns that standardized PILOTs reasonably reflect valuations and resulting taxes using the most accurate income-based/discounted cash flow assessment methodology
- Standardized PILOTs would:
  - Greatly streamline process and allow the deployment of solar projects in line with state goals
  - Eliminate legal risk and cost, time, and controversy for local jurisdictions
  - Eliminate risk and unnecessary increased costs for developers/investors/customers
  - Strongly support communities and improve trust between developers and taxing jurisdictions