April 24, 2020

VIA ELECTRONIC FILING

Hon. Michelle L. Phillips
Secretary to the Commission
New York State Public Service Commission
Three Empire State Plaza
Albany, New York 12223-1350

Re: Case 15-E-0082 – Proceeding on Motion of the Commission as to the Policies, Requirements and Conditions for Implementing a Community Net Metering Program – **Petition for Clarification and/or Modification of Permissions for CDG Customers to Participate in Multiple CDG Projects**

Dear Secretary Phillips:

Please find enclosed a Petition for Clarification and/or Modification of Permissions for CDG Customers to Participate in Multiple CDG Projects filed on behalf of the Coalition for Community Solar Access, New York Solar Energy Industries Association, and Solar Energy Industries Association. Please direct any questions on this submission to Erika Niedowski at erika@communitysolaraccess.org or (401) 680-0056.

Respectfully submitted,

Erika Niedowski
Northeast Director
Coalition for Community Solar Access

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

Proceeding on Motion of the Commission as to the Policies, Requirements and Conditions for Implementing a Community Net Metering Program	Case 15-E-0082

PETITION TO MODIFY AND/OR CLARIFY PERMISSIONS FOR CDG CUSTOMERS TO PARTICIPATE IN MULTIPLE CDG PROJECTS

Pursuant to 16 NYCRR §§ 3.5, 17.1, the Coalition for Community Solar Access, New York Solar Energy Industries Association, and Solar Energy Industries Association ("CCSA, NYSEIA and SEIA" or the "Petitioner") hereby submit this petition to modify and/or clarify the New York Public Service Commission's ("Commission") *Order Establishing a Community Distributed Generation Program and Making Other Findings* (the "CDG Implementation Order")[1] to allow for a single customer to subscribe to multiple Community Distributed Generation ("CDG") projects. This policy, which has been successfully adopted in Massachusetts, would help increase CDG participation among large anchor customers, small businesses, and non-profit entities, which the Commission has recognized as being important for reducing costs as well as expanding customer access to CDG[2]. The relief requested herein would help reduce soft costs associated with customer acquisition for CDG sponsors, which would result in increased deployment of CDG projects in New York. In light of the state's mandate to achieve six (6) gigawatts ("GW") of distributed solar under the Climate Leadership and Community Protection Act ("CLCPA"), and the New York State Energy Research and Development Authority's ("NYSERDA") related petition for $573 million in funding to achieve that goal,[3] this change would represent a modest, but cost-effective, way to accelerate CDG deployment without the need to increase CDG incentives.

BACKGROUND

[1] Case 15-E-0082, Proceeding on Motion of the Commission as to the Policies, Requirements and Conditions for Implementing a Community Net Metering Program, *Order Establishing a Community Distributed Generation Program and Making Other Findings* (issued July 17, 2015) ("CDG Implementation Order").
[2] In Case 15-E-0751, In the Matter of the Value of Distributed Energy Resources, *Order Regarding Value Stack Compensation* (issued April 18, 2019), see p. 24: "the MTC also disincentivized participation of large customers in CDG projects, which has the potential to increase project costs due to the financing and customer acquisition savings an anchor customer can create." See p. 27: "Furthermore, by removing a disincentive for anchor customers, the Community Credit will create benefits by allowing the development of more projects at the same or lower net revenue impact. The increased use of anchor customers may also increase the ability of developers to enroll subscribers with low credit scores, as the anchor customer will provide the necessary certainty for financial institutions."
[3] Case 03-E-0188, Proceeding on Motion of the Commission Regarding a Retail Renewable Portfolio Standard, and Case 14-M-0094, Proceeding on Motion of the Commission to Consider a Clean Energy Fund, *Petition Requesting Additional NY-Sun Program Funding and Extension of Program Through 2025* (issued Nov. 25, 2019) ("NY-Sun Extension Petition").

On July 17, 2015, the Public Service Commission issued the CDG Implementation Order. That Order established a CDG Program through which multiple customers could receive credits on their utility bill from a single CDG facility. The purpose of the CDG Program is to "open opportunities for participation in solar and other forms of clean distributed generation to utility customers that would not otherwise be able to access that generation directly."[4] The Commission found that such a program, whereby customers could obtain the benefits of the generation they help fund, would be "both equitable and would promote New York's clean energy policies."[5]

The CDG Implementation Order set forth membership requirements for customers that were intended to expand participation without impeding the development of CDG projects.[6] In accordance with these principles, the Commission established the following membership requirements:

- Each CDG facility must have a minimum of 10 members.
- Members with individual demand up to 25 kW must be allocated credits that collectively amount to at least 60 percent of the facility's output (i.e., small customers must make up at least 60 percent).
- Members with individual demand in excess of 25 kW are collectively limited to no more than 40 percent of the facility's output (i.e., large customers may make up no more than 40 percent). The 40 percent share may constitute larger customers or anchor tenants.
- Members must take a percentage of CDG credits that amounts to at least a minimum of 1,000 kWh annually and cannot take a percentage that is more than a member's historic average annual consumption.

Additionally, the CDG Implementation Order gave utilities the ability to prohibit CDG members from locating net-metered generation facilities on-site or obtaining net metered credits from more than one CDG facility. The CDG Implementation Order states:

> Utilities may also restrict members in a Community DG project to participating in net metering only through that project. That is, members may not locate net metered generation facilities on-site or obtain net metered credits other than from the one project in which they are members.[7]

The Commission cited two reasons for allowing utilities to limit customers to one source of net metering credits: 1) The CDG program is intended to serve customers who don't have another means of participating in net metering, i.e. on-site generation, and 2) Tracking multiple sources of net metering credits could be administratively burdensome for utilities.

Since the CDG Implementation Order in July 2015, much has changed about the state's CDG program. The compensation structure has evolved from net metering to monetary crediting pursuant to the Value of Distributed Energy Resources (VDER) Value Stack, and the utilities have had over five years to update, refine, and automate bill crediting practices. With this evolution, it is not clear that the above cited language and rationale from the CDG Implementation Order still applies.

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[4] CDG Implementation Order at 3.
[5] *Id.* at 4.
[6] *See id.* at 7.
[7] *Id.* at 17.

In practice, our members have experienced that utilities have carried restrictions on customer participation in multiple projects over from the net metering regime into the VDER regime, even though there is no explicit prohibition in the VDER Order on multiple sources of CDG credits. For example, NYSEG's currently effective tariff states "A CDG Satellite Account shall have only one CDG Host Account."[8]

We are seeking specific clarification as to the ability of customers to participate in multiple VDER projects, but also suggest that the Commission consider allowing for additional multiple credit source scenarios (i.e., Net Energy Metering + VDER) given the myriad of benefits described herein.

As the New York CDG market has evolved since 2015, it has become evident that limiting customers to participation in one CDG project has created unnecessary barriers to full participation for large and medium-sized customers. Large customers with onsite load in excess of 40% of a single CDG project's output have limited access to CDG credits and cannot serve as a cost-reducing anchor for more than one CDG project, and are often not interested in pursuing the complexity of a CDG contract for a relatively small portion of their load. Medium-sized entities, including small commercial, municipal, non-profit, and religious institutions, often have demand exceeding 25 kW, but may lack the ability to serve as an anchor tenant due to credit-worthiness and the need for long-term financial commitments. As a result, the value proposition for these customers is often limited to a 25 kW contract, which is often only a small percentage of their demand.

The below table summarizes the impact that lifting the single subscription limitation would have across various customer segments:

	Small Electricity Users <25 kW – Residential & Small Commercial	**Medium Electricity Users 25-500 kW – Commercial & Institutional**	**Large Electricity Users >500 kW – Commercial & Institutional**
Current Single Credit Source Restriction	May only participate through a single crediting structure (on-site vs. CDG, ownership vs. subscription)	Lack of electricity demand and/or financial stability to effectively "anchor" CDG projects resulting in segment being underserved	Are limited by regulation to a maximum CDG allocation of 2MW AC which is often insufficient to cover customer needs
Multiple CDG Subscriptions Allowed	May participate in distributed generation through multiple contract structures and terms to best fulfill their needs. Common case would be customer desire for rooftop solar system on limited roof space, and CDG subscription to cover the remainder of customer load.	Able to meet demand without hindering effectiveness of "anchor" by signing up for multiple 25kW contracts from different CDG projects	Can serve as "Anchor" on multiple CDG projects to help them meet financing requirements while enabling attractive value propositions for large electricity user.

[8] New York State Electric and Gas Corporation, Leaf No. 117.46.21, effective date Dec. 12, 2018.

Petitioner respectfully requests that the Commission clarify and/or modify rules governing the CDG Program, to allow CDG members to obtain CDG credits from more than one CDG facility. This change would ensure the CDG Program continues to benefit customers and contributes to the achievement of New York's policy goals by increasing CDG participation among medium-sized customers, enabling an attractive value proposition for large energy users to serve as anchor tenants, expanding customer choice among all customer classes, and lowering customer acquisition and management soft costs across the board.

These significant benefits come only at the limited cost of implementing a discrete modification in utility billing. The billing mechanics now prevalent under VDER are particularly easy to adapt to multiple credit sources as the value of the credits are already being calculated separately based on the characteristics of the CDG project(s) providing the credits, and can each be applied to subscriber bills as single line item monetary credits. This relatively minor change should be manageable, as demonstrated by utilities in other states that currently accommodate multiple community solar subscriptions, as well as utilities' advances and general improvement in billing processes in New York since the inception of CDG. No additional state incentives or ratepayer funds would be necessary to effectuate this change.

Some changes, however, would be required in terms of crediting mechanics. Under current billing practices, if a subscriber has more CDG credits than needed to cover their monthly electricity costs, those excess credits are banked and applied to future electricity bills in months where the customer does not have enough monetary credits to cover their bill. In the case of multiple CDG memberships, an administratively straightforward rule needs to be established that avoids favoring one CDG host over another. One straightforward option is for allocated and banked credits to be applied on a first-in, first-out basis, so that credits are applied in the same chronological order that they were allocated to the account. If there are differing views on the best approach to banked credits, we suggest that the CDG Billing and Crediting Working Group is an appropriate forum to reach consensus on a crediting treatment that is equitable to all potential CDG hosts. With the input of the Billing and Crediting Working Group, the Commission should also consider establishing rules to ensure greater billing transparency to both CDG customers (how credits are displayed on their monthly bill, including a separate line item for each CDG membership) and CDG hosts (how allocated, utilized, and banked credits are displayed on the monthly host report).

ARGUMENT

I. New York's Ambitious Solar Deployment Goals and the Maturation of the CDG Industry Call for Allowing Customer Participation in Multiple CDG Projects

In 2019, New York State adopted the CLCPA. This law established a statewide goal for distributed solar photovoltaic ("PV") deployment to 6 GW by 2025 and directed the Commission to adopt programs to enable the State's solar objectives. Reaching the CLCPA's ambitious goal will require significantly ramping up deployment of CDG. To date, approximately 240 MW of CDG have been installed in the state, nearly 3 GW of CDG projects have been approved by NYSERDA, and even more projects deeper in the pipeline are or will be seeking subscribers.[9] The state's goal will also require a significant investment of funds. To wit, NYSERDA filed a petition on November 25, 2019, seeking $573 million in additional funding to expand the state's distributed solar program, NY-Sun.[10]

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[9] *Solar Electric Programs Reported by NYSERDA: Beginning 2000,* OPEN NY (last visited March 10, 2020), available at https://data.ny.gov/widgets/3x8r-34rs.
[10] *See* NY-Sun Extension Petition, supra.

In its petition, NYSERDA requested a number of items related to CDG funding and program rules – all aimed at reducing costs, increasing customer access, and enabling scale at the level needed to reach the state's goals. For example, NYSERDA requested a "Community Adder" to replace the "Community Credit" that had been exhausted in certain service territories under the Value of Distributed Energy Resources ("VDER") tariff and "Opt-Out" CDG for community choice aggregation customers. Throughout, NYSERDA also emphasized its view of the importance of consolidated billing to grow access to CDG by customer bases that had been otherwise hard to reach and reducing overall costs.

The rationale for this petition to allow multiple project subscriptions aligns with NYSERDA's rationale in its NY-Sun Petition regarding CDG Program adjustments – to reduce soft costs associated with CDG deployment and thereby help the state reach its 6 GW deployment goal. This proposal does so without requiring additional ratepayer funds.

The relief requested in this petition would keep with the Commission's longstanding practice of updating the CDG Program to increase equitable access and promote the state's clean energy policies, including lifting the 10-member restriction for mass-metered buildings with multiple tenants,[11] and introducing the Community Credit and Community Adder to encourage projects to sign up anchor tenants to help lower project costs.[12]

If the Commission were to order the relief requested in this petition, CDG sponsors can expect a reduction in both customer acquisition and long-term customer management costs. The nature of CDG sales initiatives is that there is a fixed cost associated with the time required to identify, educate, and on-board each anchor customer. Allowing one anchor to serve multiple projects thus reduces soft costs. These reductions carry over into the operation of a project, as there is a lower billing and customer management burden realized over the project's lifetime.

Moreover, the concerns that caused the Commission to allow utilities to limit customer participation in 2015 are no longer as pressing. In its CDG Implementation Order, the Commission cited two primary reasons for this rule: (i) The rule would support the purpose of CDG to make net metering available to customers that cannot otherwise participate in it; and (ii) The complexity of billing arrangements on utilities would be "unduly burdensome" given the level of billing sophistication at the time.[13] Neither of these concerns are as compelling in 2020 in light of the CLCPA goals, the ability of anchor tenants to expand customer access, the advances in CDG billing, and the utilities' growing experience administering CDG projects and customer credits.

The transition to the monetary VDER tariff from net metering arguably has also reduced the billing complexity associated with multiple subscriptions. Under the current VDER tariff, the credit value realized by CDG participants is tied to the value of injection by each specific project, rather than the avoided cost per kWh offset through volumetric crediting. Accordingly, our proposed change would require little more than an additional line item detailing the monetary value ascribed to an electric customer's bill for each of her subscriptions.

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[11] Case 15-E-0082, <u>supra</u>, *Order Modifying Community Distributed Generation Membership Requirements* (issued March 13, 2017).

[12] *See* Case 15-E-0751, <u>In the Matter of the Value of Distributed Energy Resources</u>, *Order Regarding Value Stack Compensation* (Apr. 18, 2018).

[13] *Id.*

II. Allowing Large Customers to Subscribe to Multiple CDG Projects Would Enable Greater Participation for All Customers, Lower Project Costs, and Increase Deployment

Many large energy users, including municipal buildings, hospitals, industrial manufacturers, colleges, and master-metered buildings,[14] have on-site load that exceeds the total generation capabilities of the CDG projects to which they subscribe. Large customers currently can serve as an anchor customer for only one CDG project and may subscribe only up to 40 percent of that project's output. This is true even if that one CDG project meets only a small fraction of the customer's electricity demand and the customer would like to serve as an anchor for additional CDG projects.

Take, for example, a large hospital with 4 MWac of electricity demand on a single meter for which it is seeking to sign a long-term subscriber agreement with a CDG provider. Under the current utility restrictions, the hospital may subscribe to only one CDG project. Since CDG projects in New York are limited to 5 MWac and large customers may contract only up to 40 percent of one project's output, the hospital can meet a maximum of 2 MWac of its demand. That leaves half of its electricity demand unmet. This would be enough demand for the hospital to serve as an anchor for an additional 5 MWac CDG project in its community. Furthermore, if the hospital had signed a subscription agreement before the Commission raised the project size limit from 2 MW to 5 MW,[15] the maximum participation limit would be even lower (*i.e.*, 800 kW). Under the current restriction, this medical facility has no avenue to fully realize the cost benefits of CDG participation, and therefore may be discouraged from participating entirely.

Anchor customers, as the Commission has recognized, play an essential role in "facilitat[ing] project financing and the solicitation and organization of a [CDG] membership."[16] Increasing their use "reduce[s] project financing costs,"[17] and "create[s] benefits by allowing the development of more projects at the same or lower net revenue impact."[18] In the latest VDER Order, the Commission observed, "The increased use of anchor customers may also increase the ability of developers to enroll subscribers with low credit scores, as the anchor customer will provide the necessary certainty for financial institutions."[19]

Allowing one customer to serve as an anchor for multiple CDG projects would further amplify those benefits. Lower financing and customer acquisition costs would result in more projects being built using fewer community-based incentives. If NYSERDA were to reduce the level of the Community Adder in comparison to the current Community Credit as it has proposed, these cost reductions will be even more important. Smaller customers, which still must account for at least 60 percent of a project's offtake, would have more CDG projects to choose from and greater access to the CDG market as a whole.

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[14] There is an allowance for master-metered arrangements that serve a large number of sub-meter accounts (if the average allocation per sub-account is less than 25 kW) to be counted towards the sixty percent small customer allocation. Our proposal would enable other master-metered accounts that do not meet this criterion to participate more fully in the CDG Program in an anchor capacity.

[15] Case 15-E-0751, supra, *Order on Phase One Value of Distributed Energy Resources Project Size Cap and Related Matters* (issued February 22, 2018).

[16] CDG Implementation Order, supra at 8.

[17] Case 15-E-0751, supra, *Order Regarding Value Stack Compensation* (Apr. 18, 2018), at 24.

[18] *Id.* at 27.

[19] *Id*.

III. The Ability to Participate in Multiple CDG Projects Would Expand CDG Participation Among Medium-Sized Customers

The current restrictions being imposed by utilities significantly limit the ability for medium-sized customers (approximately 50 kW to 500 kW) to fully realize the benefits of CDG. These customers – including small businesses, non-profits, and religious organizations – often do not have the aggregate load to subscribe to the full 40 percent of a CDG project's offtake. This means that a CDG sponsor would have to sign up multiple mid-sized subscribers instead of one large customer to serve as an anchor for a CDG project. Enrolling multiple CDG subscribers entails more cost and reduces "the customer acquisition savings an anchor customer can create."[20] Additionally, many mid-sized customers lack the financial stability required to sign long-term contracts that would "anchor" a CDG project. As a result, CDG sponsors generally contract with a single, large creditworthy anchor customer as opposed to a combination of mid-sized customers to anchor a CDG project.

Mid-sized customers, of course, may subscribe in a non-anchor role for up to 25 kW worth of credits.[21] But even under this arrangement, such customers still have significant unmet demand and are effectively shut out from the CDG market for potentially hundreds of kW. Take, for example, a local business with 100 kW of CDG appetite on a single meter. If the business executes a contract for the full 100 kW of demand, their entire capacity will count against the 40 percent limit for large subscribers, thus reducing the space available for a creditworthy "anchor." Given that it is already difficult to find large customers willing to entertain a subscription size of only 40% of a 5MW AC project, CDG providers are not inclined to further shrink that value proposition by signing up medium size customers. Thus, this mid-sized customer would more likely be offered a contract for 25 kW, in order for them to qualify within the 60% pool of small subscribers. Because this value proposition is so small, covering only 25% of this customer's actual need, customers faced with this situation often choose to forego CDG participation altogether.

Granting our requested relief could alter the calculus for medium-sized electricity consumers and increase their participation. Allowing mid-sized customers to enroll in multiple CDG projects could allow them to meet a larger portion, or potentially all, of their demand with CDG subscriptions. Rather than being limited in practice to only 25 kW, they could sign multiple 25 kW subscription agreements across multiple CDG projects, up to their historic annual demand. It is worth noting that the long-term energy cost savings from CDG participation can be particularly impactful for small businesses and organizations that may not typically have the characteristics to meet the technical or creditworthiness standards required for other solar options. Notably, entities ranging from homeless shelters to charity groups to religious organizations and other non-profits are among the types of mid-sized customers that would be able to expand their CDG participation and therefore better support the populations that they serve. These savings will be particularly critical in maintaining financial stability for many small businesses and organizations that have been impacted by recent economic upheaval.

We note that the Commission should not be concerned that granting the requested relief could limit the number of CDG subscriptions available for residential and small commercial customers. To the contrary, by reducing costs and increasing deployment generally, there will be a greater supply of CDG projects for all customer classes. Many CDG market participants currently have models based on enrolling residential customers, and will maintain those efforts, and there are risk diversification reasons for why a given project may want to fill its capacity with a diversity of customers.

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[20] *Id.* at 24.

[21] The CDG Implementation Order defines small customers by contract size as opposed to rate class. *See id.* at 7.

Adoption of this rule change would also expand consumer choice by allowing customers to blend their CDG purchase across different terms from two or more projects and/or providers. This would enable customers to hedge risk between different pricing, escalation or contract term structures. This would be particularly impactful for many medium-sized customers that need to avoid the long-term contracts associated with anchor agreements in favor of more flexible term lengths that better align with their risk appetites and financial planning horizons.

IV. Other States Have Successfully Allowed Community Solar Customers to Sign Multiple Subscription Agreements

The ability to assign credits from multiple projects to a single account has been instrumental in the uptake of community solar in other markets. Massachusetts serves as the prime example. In that state, which leads the nation with respect to the total number of customers participating in community solar projects, a customer may subscribe to multiple community shared solar projects since there is no statutory or regulatory prohibition on the practice. Even with up to 50 percent of a community shared solar project's capacity available for contracts in excess of 25 kW,[22] many large municipal, collegiate, healthcare and manufacturing entities require multiple subscriptions in order to fulfill their appetite for credits. One such example is a medical facility in western Massachusetts that has sufficient load on a single meter to accommodate six individual community solar anchor contracts. Similar large customers represent a significant portion of the creditworthy offtake in New York that is crucial to reducing financing costs for CDG projects. Many mid-sized electricity users in Massachusetts have also reaped the benefits of multiple community solar subscriptions by aggregating multiple 25kW subscriptions in order to fully meet their needs. While many of these small businesses and non-profits will likely be able to maximize their savings through three or four subscriptions, we are aware of examples of up to eight subscriptions being successfully applied to a single electric account. While Petitioner is mindful of concerns over administrative burden, multiple credit sources are not likely to be unreasonably burdensome particularly as utilities further improve and fully automate their billing and crediting processes.

In addition to Massachusetts, other states have achieved significant community solar deployment where customers are permitted to meet demand with multiple sources of credits. Minnesota's community solar program hit a record 662 MW of operational capacity in February of this year.[23] Under Minnesota law, customers may subscribe to multiple community solar projects, or participate in community solar and have an on-site distributed energy resource ("DER").[24] Each community solar subscription must represent at least 200 watts of the CDG facility's generation capacity and may not supply, when combined with other DER serving the premises, more than 120% of the customer's average annual consumption.[25]

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[22] *See, e.g.*, 225 CMR 20.02 (defining "Community Shared Solar Tariff Generation Unit" as "[a] Solar Tariff Generation Unit that provides electricity or bill credits to three or more Customers of Record. No more than two participants may receive bill credits in excess of those produced annually by 25 kW of nameplate AC capacity, and the combined share of said participants' capacity shall not exceed 50% of the total capacity of the Generation Unit, except in the case of Generation Units smaller than 100 kW AC.").

[23] John Farrell, *Why Minnesota's Community Solar Program is the Best,* INSTITUTE FOR LOCAL SELF-RELIANCE (Feb. 24, 2020), https://ilsr.org/minnesotas-community-solar-program/ (last visited March 9, 2020).

[24] Minn. Stat. § 216B.1641 (2019).

[25] *Id.* (defining "subscriber" as "a retail customer of a utility who owns one or more subscriptions of a community solar garden facility interconnected with that utility") (emphasis added). Minnesota's community solar garden program has significantly more commercial/industrial customer participation due to, among other things, its rate structure and low minimum member requirements.

Similarly, under Colorado's community solar program, customers must subscribe to at least 1 kW of the CDG facility's nameplate capacity and no more than 120% of the average annual consumption on the premises where the subscribe attributes credits, minus any on-site DER.[26] The ability of customers to meet their appetite for credits through multiple projects has moved these states closer to realizing their clean energy goals.

CONCLUSION

For the reasons set forth above, Petitioner respectfully requests that the Commission issue an order as soon as possible clarifying and/or modifying CDG program rules and applicable utility tariffs to allow multiple CDG subscriptions to be allocated to a single meter. This requested relief comports with the Commission's stated goals of avoiding excess complexity while efficiently meeting state clean energy goals, lowering soft costs, and expanding access to CDG – all without the need for additional ratepayer collections.

Respectfully submitted,

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Dated: April 24, 2020

[26] *See* 4 Colo. Code Regs. § 723-3:3665(a)(I)(B) ("Each CSG [Community Solar Garden] subscription shall be sized to represent at least one kW of the CSG's nameplate rating and supply no more than 120 percent of the CSG subscriber's average annual electricity consumption at the premise to which the subscription is attributed, <u>with a deduction for the amount of any existing retail renewable distributed generation at such premise</u>.") (emphasis added).