



**Comments on NY-Sun Inclusive Community Solar Adder:  
Proposed Program Rule Changes, Proposed Round 2 Program Design, V.2**

Submitted by  
**New York Solar Energy Industries Association (NYSEIA)**  
&  
**Coalition for Community Solar Access (CCSA)**

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New York Solar Energy Industries Association (NYSEIA) and the Coalition for Community Solar Access (CCSA) appreciate the opportunity to provide feedback on Version 2 of the NY-Sun Inclusive Community Solar Adder (ICSA) Proposed Round 2 Program Design.

NYSEIA and CCSA are referred to collectively in these comments as the “the parties”, “we”, or “our”.

New York Solar Energy Industries Association (NYSEIA) is a nonprofit industry trade association proudly representing hundreds of distributed solar and storage businesses with thousands of employees across the Empire State. Our mission is to advance and accelerate distributed solar energy and energy storage deployment in New York State through engagement on key legislative, regulatory, and statutory policy matters affecting these industries. Our membership is primarily composed of local, regional, and national firms working every day to help achieve the ambitious clean energy and equity goals outlined in the Climate Leadership and Communities Protection Act (CLCPA).

The Coalition for Community Solar Access (CCSA) is a national coalition of businesses and nonprofits working to expand customer choice and access to solar for all American households and businesses through shared solar programs. CCSA’s mission is to empower every American energy consumer with the option to choose local, clean, and affordable shared solar. CCSA works with customers, utilities, local stakeholders, and key decision makers to develop and implement policies and best practices that ensure community solar programs provide a win, win, win for all, starting with the customer. CCSA is composed of over 100 member companies and nonprofits working together to expand access to clean, local, and affordable energy.

We strongly support and appreciate the New York State Energy Research and Development Authority’s (NYSERDA) decision to proceed with the release of the Inclusive Community Solar

Adder (ICSA), despite the ongoing uncertainty regarding federal guidance on the low-income adders contained in the Inflation Reduction Act (IRA). The ICSA is critical to the industry's ability to effectively target the benefits of solar development to low-to-moderate income families and residents of disadvantaged communities, a key tenet of the Climate Leadership and Community Protection Act (CLCPA).

We respect NYSERDA's right to adjust ICSA awards for projects that receive an expanded tax credit as part of the Low-Income Communities Bonus Credit Program<sup>1</sup>, and appreciate NYSERDA's willingness to find solutions to allow projects to move forward while there is still significant uncertainty in the federal program. The ICSA will continue to be an important and necessary part of meeting New York's energy equity goals, as there will be a limited capacity of the federal tax credits available nationwide, creating an extremely competitive environment and significant uncertainty regarding whether projects will be able to receive the additional incentives. In 2023, there are only 700 MW available nationwide for the Category 4 Qualified Low-Income Economic Benefit,<sup>2</sup> which may include behind-the-meter solar as well as community solar; given the availability of community solar in 22 states across the country,<sup>3</sup> it is likely that only a handful of projects in New York may receive allocation awards. And until the federal guidance is available to describe criteria for determining allocations, as well as the definition of economic benefit, or how to qualify and verify low-income households, there is little certainty within the development community that projects will be able to meet the requirements to qualify. Ensuring the continued availability of the ICSA will maintain strong market signals to developers and CDG providers to continue efforts to serve this important customer segment, regardless of federal tax credit availability.

We also encourage NYSERDA to consider allowing projects that receive the additional Federal incentives to also utilize the ICSA if greater than the federally required 50% of project capacity will serve low-income or ICSA eligible customers. Providing ICSA awards to this incremental capacity will enable additional benefits to LMI customers that would otherwise not be served. We also encourage NYSERDA to preserve the full ICSA award for projects that receive a location-based 10% Bonus ITC for being located in a low-income census tract, Energy Community, or on tribal land; this adder is intended to serve a different purpose than the ICSA and is intentionally distinct from the low-income economic benefit Category 4 20% Bonus ITC. The 10% bonus tax credits based on geography incentivize siting projects in priority communities, but do not incentivize or require that beneficiary projects provide direct savings to LMI customers and members of disadvantaged communities. For these projects, an incremental ICSA award could strongly encourage developers to leverage their solar projects to provide direct savings to LMI customers.

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<sup>1</sup> Internal Revenue Service, Notice 2013-17, <https://www.irs.gov/pub/irs-drop/n-23-17.pdf>, February 2, 2023.

<sup>2</sup> Ibid

<sup>3</sup> National Renewable Energy Laboratory, <https://www.nrel.gov/state-local-tribal/community-solar.html>.

The parties recommend that the full value of the ICSA be paid to projects in a single installment upon project completion. The current three-year payment schedule dilutes the value of the incentive, and projects may be unable to model the full incentive in the capital stack since subscribers sign short-term contracts, and financial entities may argue that there is no guarantee that subscribers who sign short-term contracts will remain in the project or that qualified replacements will be readily available.

### **Project Eligibility**

The parties support the proposed project eligibility criteria requiring that projects receiving the ICSA dedicate no less than 40% of their capacity to ICSA eligible subscribers, and that 50% of the ICSA portion of that capacity be dedicated to eligible residential subscribers.

### **Incentive Levels**

We continue to support the proposed Upstate incentive levels, as stated in our October 2022 comments on the Proposed Round 2 Program Design<sup>4</sup>. As we also noted in the Clean Energy Parties' comments on the 10GW Distributed Solar Roadmap<sup>5</sup>, in Con Edison territory, we advocated for lower base incentive levels in favor of a higher Community Adder and ICSA in order to bring direct savings to LMI families and residents of disadvantaged communities.

We continue to have concerns that the proposed incentive levels in Con Edison territory may be too low to compensate for the higher costs resulting from the additional administrative requirements in the proposed Round 2 ICSA program. We previously noted that in the Order Expanding NY-Sun Program, the Public Service Commission (PSC) directed an expansion of the *existing* ICSA block to rates of "\$0.30/Watt for projects meeting the base ICSA requirements, and \$0.40/Watt for projects meeting the additional EJ criteria" and noted that a "10% bill savings assumption was utilized as part of NYSERDA's modeling of the costs and benefits associated with the expanded NY-Sun program." With new Round 2 requirements including a 15% minimum discount rate that differs from previous modeling assumptions and the resulting rates directed by the Public Service Commission, we encourage NYSERDA to evaluate whether a further increase to Con Edison ICSA incentive rates is appropriate in light of both a higher bill savings requirement and new administrative complexities that were not established through the Order Expanding NY-Sun Program.

The NY-Sun 2020-2030 Operating Plan stated that "projects that have previously secured Community Credit status will be eligible to apply for the new ICSA capacity, but will receive the previous applicable ICSA rates of \$0.05/Watt DC for Upstate and \$0.10/Watt DC for Con Edison." In the NY-Sun Inclusive Community Solar Adder Proposed Round 2 Program Design

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<sup>4</sup> [https://www.nyseia.org/\\_files/ugd/a89dc9\\_2cd2141d1d5e4317ab51179db8620f4b.pdf](https://www.nyseia.org/_files/ugd/a89dc9_2cd2141d1d5e4317ab51179db8620f4b.pdf)

<sup>5</sup> Clean Energy Parties, CEP Comments on the 10GW Distributed Solar Roadmap, March 7, 2022

Version 2.0 Revised March 14, 2023, there is no mention of the incentive level for legacy Con Edison projects. Therefore, developers assume projects that previously secured the community credit in the Con Edison territory will be eligible for the \$0.30/W ICSA adder. We respectfully request that NYSERDA clarify the available incentive level for these Con Edison projects.

We also recommend that the ICSA be fully stackable, including with the Multifamily Affordable Housing Incentive (MAHI). Currently, the MAHI is the only NY-Sun incentive that cannot be stacked with the ICSA, which seems contradictory in light of eligibility criteria stating: “All properties and their residents must meet the building eligibility requirements of the NY-Sun Multifamily Affordable Housing Incentive to be considered an eligible subscriber under the ICSA.”<sup>6</sup> NYSERDA should reconsider this exclusion.

We also note that allowing multiple discount rates on utility consolidated billing is critical to the solar industry’s ability to offer increased savings to low-income customers. The parties strongly support NYSERDA and DPS Staff’s recommendation in the NY-Sun Program Mid-Point Review<sup>7</sup> to enable multiple discount rates within a single net crediting project. The parties can attest to the Mid-Point Review’s assertion that project economics cannot sustain offering a minimum 10% or 15% discount rate to non-LMI subscribers. Consolidated billing is a critical tool for serving low-income customers to reduce confusion and ensure customer trust in the program, and therefore the changes to net crediting rules are necessary to be able to support a higher savings rate for ICSA eligible subscribers.

We appreciate the additional flexibility on bill discount levels and eligibility criteria for projects more robustly serving disadvantaged communities. Providing optionality for projects to qualify as Community Benefit Projects will encourage more projects to pursue this category of ICSA awards, providing deeper benefits to hard to reach and disenfranchised populations.

We reiterate our previous recommendation that a project get credit for workforce development even if they do not have a NYSERDA workforce development grant. It is reasonable to expect that some organizations have ongoing workforce development programming that does not require NYSERDA funds.

### **Subscriber Eligibility**

We support the process by which subscriber eligibility is determined, and particularly appreciate NYSERDA allowing participation in other needs-based programs as evidence of income eligibility. In addition to the programs listed in the proposal, we note that Delaware<sup>8</sup> and Maryland<sup>9</sup> allow Medicaid participation to be used as evidence of low-income status, and we

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<sup>6</sup> NYSERDA, NY-Sun Inclusive Community Solar Adder: Proposed Program Rule Changes. Proposed Round 2 Program Design. Version 1.1: Revised September 6, 2022

<sup>7</sup> NYSERDA and DPS Staff, NY Sun Program Mid-Point Review, Case 21-E-0629, January 17, 2023.

<sup>8</sup> [26 Del. Admin. C Section 3001](#)

<sup>9</sup> [Maryland PSC RM 56 Low and Moderate Income Verification](#)

encourage NYSERDA to include Medicaid as an option for categorical eligibility. New Jersey has just put forward a straw proposal for a permanent community solar program that proposes that customers be able to verify low income status through participation in Medicaid, Supplemental Security Income (SSI), Supplemental Security Disability Insurance (SSDI), Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), and Temporary Assistance for Needy Families (TANF).<sup>10</sup> Individuals receiving Section 8 housing vouchers, and those who qualify for free or reduced cost school lunch vouchers should also be able to use participation in those programs as proof of eligibility. We recommend NYSERDA launch the ICSA without delay and consider adding these and other needs-based programs on an ongoing basis.

We are largely supportive of how NYSERDA plans to define Eligible Subscribers and to differentiate between Residential and Non-Residential Eligible Subscribers. However, we encourage NYSERDA to amend its rules to state explicitly that all owner-occupied Master Metered affordable housing properties can count as Residential Eligible Subscribers; in such cases, LMI co-op/condo residents pay for the operation of their building through monthly maintenance fees. Reducing operating expenses in such a scenario translates into direct savings for all residents by forgoing the need to raise maintenance charges.

We also note that we appreciate the removal of self-attestation forms as a requirement for geolocation eligibility. We understand the basis for NYSERDA's hesitation to adopt the use of self-attestation forms as an alternative method to determining income-based eligibility. We urge continued dialogue and feedback on this topic, as the solar industry remains concerned that requiring extensive and sensitive documentation of income status may deter a large number of eligible low-income subscribers, particularly those living outside identified DACs. NYSEIA and CCSA recommend that NYSERDA revisit the use of self-attestation if the program struggles to enroll a large volume of eligible low-to-moderate income customers outside of DACs and/or if other states demonstrate that self-attestation is an effective way to reduce barriers to access and to better serve LMI customers.

## **Application Process**

The parties continue to support the revised application guidelines, in particular the provision allowing contractors using the same acquisition provider, subscription manager, acquisition strategy and customer engagement protocol for multiple projects to submit a primary application with all the required elements, and then a simplified application for subsequent projects in the portfolio. Our concerns regarding the requirement for developers to provide a video screen-capture of the customer experience journey remain, primarily due to the additional administrative burden this places on developers and the cost-value of the additional time required for compliance. We encourage NYSERDA to allow alternative documentation of the customer

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<sup>10</sup> New Jersey BPU Staff [Straw Proposal for the permanent Community Solar Energy Program](#), March 30, 2023.

experience, such as sequential screenshots of the process which are easier to capture and would reduce the administrative burden on solar providers.

Some trade association members have also expressed hesitancy regarding the requirement that the developer share with NYSERDA a copy of the contractual agreement between the primary contractor account and the subscription provider as evidence of their partnership. This hesitancy stems from concerns regarding the manner in which developers can ensure the confidentiality of those contractual agreements. We respectfully request that NYSERDA accept redacted documentation of the relationship between the subscription entity and the project development company to protect sensitive information.

The parties appreciate NYSERDA's willingness to reconsider the previously proposed ban on door-to-door sales for customer acquisition. Door-to-door sales can be one of the most effective methods of reaching LMI families in disadvantaged communities, in large part because of the "digital divide" that limits access to internet in certain communities, particularly for low-income seniors. Additionally, face-to-face interaction provided by the door-to-door approach facilitates a unique opportunity for personalized customer education and relationship building. And in light of the recent approval by the Climate Justice Working Group of the final criteria for identifying disadvantaged communities<sup>11</sup>, the geo-eligibility provision proposed in the program rules provides a natural efficiency for contractors to enlist door-to-door canvassing in ICSA eligible census tracts.

We support the spirit of the proposed criteria contractors must follow in order to engage in door-to-door sales. We believe that these additional criteria are reasonable, and could substantially improve customer satisfaction with the community solar subscription process.

We appreciate the additional steps taken to clarify the specific project changes that would trigger the need for a contractor to notify NYSERDA about a change. This clarification will help our member companies more effectively monitor their projects to ensure full compliance with the State's requirements. We are also grateful for the additional clarity regarding the compliance pathway for Round 1 projects to use Round 2 Eligible Subscriber Criteria. Finally, it is extremely helpful that NYSERDA has articulated a pathway for contracted projects that allocate more than 60% of their project capacity to Eligible Subscribers to receive additional ICSA funding. This flexibility will incentivize contractors to allocate additional capacity to benefit low-to-moderate income families and residents of disadvantaged communities.

### **Long Term Subscriber Composition**

The parties appreciate that NYSERDA has offered greater clarity and detail on this section on which we previously shared our members' significant concerns, specifically regarding the potential enforcement mechanisms. The concerns we noted revolve primarily around the ability

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<sup>11</sup> <https://www.dec.ny.gov/press/127364.html>

for projects to obtain long-term financing. The unpredictability of attrition and the fact that projects typically contract with a customer acquisition firm for only the first few years combine to create unique challenges for projects who could be forced to quickly replace customer loss with ICSA eligible waitlisted customers or risk incentive recapture. While we appreciate the requirements of the Solar Energy Equity Framework that funds the ICSA, there is industry consensus that this prolonged requirement risks discouraging contractors from participating in the ICSA. We encourage NYSERDA to consider reducing the number of years that contractors would be required to maintain the original subscriber composition.

### **Inflation Reduction Act**

We appreciate NYSERDA's willingness to move forward with the ICSA Round 2 release while full detailed guidance is still pending from the Treasury. The parties also appreciate and understand the desire to align state and federal programs and ensure that ratepayer funds can be used effectively and to stretch the reach of the NY Sun program. We also ask NYSERDA to consider the intent of the Inflation Reduction Act, which was to bolster any available State and Local incentives. The parties strongly believe that there is still a significant need for the ICSA to meet New York's energy equity goals, as federal incentives are limited in availability, and are likely to include program criteria that do not address all of New York's goals.

It is also critically important that steps be taken to ensure that the eligibility for the ICSA aligns well with the eligibility requirements for the IRA bonus credits. ICSA eligibility criteria may need to be set more broadly than federal requirements to capture the CLCPA-defined Disadvantaged Communities, meet NY-specific goals, and provide projects flexibility in acquiring and serving low-income customers, but at a minimum, should include subscribers who meet the federal requirements. As further information is provided, we would request that NYSERDA consider the application and approval timelines associated with the IRA bonus credits when setting ICSA timelines and eligibility requirements.

### **Conclusion**

The Inclusive Community Solar Adder is an essential component to the New York solar industry's ability to direct at least 40% of the benefits of solar development to low-to-moderate income families and residents of disadvantaged communities. NYSEIA and CCSA fully support NYSERDA's efforts to ensure the ICSA program attracts robust participation from community solar providers while providing meaningful benefits and a positive experience for eligible customers. We urge NYSERDA to integrate stakeholder feedback and launch Round 2 of the ICSA without additional delay.