

# NEW MEXICO PUBLIC REGULATION COMMISSION

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## FOR IMMEDIATE RELEASE

### NEW MEXICO PUBLIC REGULATION COMMISSION ISSUES A NOTICE OF PROPOSED RULEMAKING IN RESPONSE TO THE COMMUNITY SOLAR ACT

(SANTA FE, NM – OCTOBER 27) – The New Mexico Public Regulation Commission (PRC) issued a Notice of Proposed Rulemaking (NOPR) today regarding the Community Solar Act, which initiates a formal notice-and-comment process in order to allow for rule adoption by April 1, 2022. The NOPR is expected to be published in the New Mexico Register on November 9, 2021.

“The Community Solar Act rulemaking is important work that will make a difference for the people of New Mexico, and those involved should be proud of their efforts,” said Commissioner Joseph Maestas, whose office headed up the rulemaking process within the agency’s Community Solar Action Team.

After hosting a series of collegial stakeholder workshops regarding recommended approaches for policy making, the significant policy proposals include:

- Projects should be selected via a non-price request for proposals (RFP), with minimum requirements and ranked/scoring criteria.
- Selected projects will go to interconnection review under the process approved in the parallel Interconnection Rulemaking
- Solar Bill Credit formula (specified in the Act) should not deduct transmission costs and may consider analysis of net present value of RECs over the period for reaching 80% RPS, including full environmental and distribution benefits

“I want to thank all the legislators, advocates, stakeholders, and staff that got us to where we are today,” Commissioner Maestas said. “But I also want to remind everyone involved to stay involved. It is so crucially important that everyone remain engaged as we make this final push to work through the public involvement portion of the rulemaking process. We are getting close to the finish line, but we are not there yet. Perseverance is key.”

Initial comments will be due December 9, 2021, with response comments expected by December 29, 2021. A public comment period will likely take place in January 2022, followed by a review period and the drafting of the final rule for presentation to the Commissioners and deliberation expected in March 2022.

*The New Mexico Public Regulation Commission (PRC) regulates the [utilities](#), [telecommunications](#), and [motor carrier](#) industries to ensure fair and reasonable rates, and to assure reasonable and adequate services to the public as provided by law.*

*The NMPRC also promotes public safety through the offices of [Pipeline Safety Bureau](#) and the [Transportation Division](#).*

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# SB 84 COMMUNITY SOLAR ACT PRC IMPLEMENTATION ISSUES 21-00112-UT

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# COMMUNITY SOLAR ACT



Source: GreenTech Media

## COMMUNITY SOLAR ACT

**Community solar program** allows for the development of community solar facilities and provides customers of a qualifying utility with the option of accessing solar energy produced by a community solar facility;

**Community solar facility** means a facility that generates electricity by means of a solar photovoltaic device;

**Subscribers** to the facility receive a bill credit for the electricity generated in proportion to the subscriber's share of the facility's kilowatt-hour output;

**Subscribing Organization** owns or operates the solar facility.

## COMMUNITY SOLAR ACT

- The overall program initially is capped at 200 MW across the state's three investor-owned utilities for the first three years;
- Native American nations, tribes and pueblos are exempt from law but may host/own/operate Native Community Solar projects in New Mexico;
- Rural Co-ops may choose to opt-in (does not affect initial cap);
- Individual Projects are capped at 5 MW capacity;
- Subscriber Organization may be: utility, municipality, county, for-profit or non-profit entity, Indian Nation/tribe/pueblo or tribal governance structure. Not considered utility just for operating.

## COMMUNITY SOLAR ACT

- Each project may have an “anchor tenant,” defined as a customer that subscribes to no more than 40% of a project’s capacity;
- Each project needs at least 10 subscribers;
- The program must include a mandatory 30% capacity carve-out per project, reserved for low-income people and related service organizations;
- At least 40% of capacity available in subscriptions of 25 kW or less.

## COMMUNITY SOLAR ACT – UTILITY REQUIREMENTS

- Acquire the entire output of a community solar facility connected to its distribution system;
- Utilities own the Renewable Energy Certificates;
- Apply community solar bill credits to subscriber bills;
- Provide to the subscriber organization a report indicating the total value of community solar bill credits generated by the community solar facility;

## COMMUNITY SOLAR ACT – UTILITY REQUIREMENTS

- Carry over any amount of a community solar bill credit that exceeds the subscriber's monthly bill and apply it to the subscriber's next monthly bill;
- Unsubscribed energy may be rolled forward on the community solar facility account for up to one year, after that unsubscribed energy shall be purchased by the qualifying utility at its applicable avoided cost.

## COMMUNITY SOLAR ACT – PRC REQUIREMENTS

- Establish a process for the selection of community solar facility projects and allocation of the statewide capacity program cap, consistent with Section 13-1-21 NMSA 1978 regarding resident business and resident veteran business preferences;
- Require a qualifying utility to file the tariffs, agreement or forms necessary for implementation of the community solar program;
- Establish reasonable, uniform, efficient and non-discriminatory standards, fees and processes for interconnection;

## COMMUNITY SOLAR ACT – PRC REQUIREMENTS

- Provide consumer protections for subscribers;
- Provide a community solar bill credit rate mechanism for subscribers;
- Ensure that qualifying utility and its non-subscribing customers do not subsidize the costs attributable to the subscriber organization pursuant;
- Ensure non-subscribers shall not subsidize costs attributable to subscribers; non-subscribers shall not be charged more than three percent of the non-subscribers' aggregate retail rate on an annual basis to subsidize subscribers;

## COMMUNITY SOLAR ACT – PRC REQUIREMENTS

- Reasonably allow for the creation, financing and accessibility of community solar facilities; and
- Provide requirements for the siting and co-location of community solar facilities with other energy resources, provided that community solar facilities shall not be co-located with other community solar facilities.

# COMMUNITY SOLAR ACT – PRC POLICIES

## Five Areas of PRC Policies to be determined in Rulemaking

- Consumer Protection
- Ratemaking Issues
- Market Oversight
- Community Outreach & involvement
- Information Collection for Nov. 2024 Report

# COMMUNITY SOLAR ACT – PRC POLICIES

## Consumer Protection

- Establishing criteria for registration of Subscriber Organizations (owners of projects)
- Develop and approve a uniform disclosure form that identifies the information that shall be provided by a subscriber organization to a potential subscriber, in both English and Spanish, and when appropriate, native or indigenous languages,
  - to ensure fair disclosure of future costs and benefits of subscriptions,
  - key contract terms, security interests,
  - other relevant but reasonable information pertaining to the subscription
  - grievance and enforcement procedures
- Policies regarding defaults in delivery obligations, or bankruptcy/termination of CS projects (possible bonding requirements)

# COMMUNITY SOLAR ACT – PRC POLICIES

## Ratemaking

- Determining and applying the value of solar credits per rate class;
- Application fees to be assessed from Subscriber Organization for administration of program;
- Interpret how the 3 percent limitation on cross subsidization is calculated and applied;
- **Cost Allocation alternatives for distribution upgrades necessary to accommodate CS projects in public interest and showing of system benefit (policy may be set in the Interconnection rulemaking).**

# COMMUNITY SOLAR ACT – PRC POLICIES

## Market Oversight I

- Allocation of the 200 MW annual program capacity cap among IOUs;
- Approve a process for selection of CS project proposals by utilities;
- Establish reasonable, uniform standards, fees and processes for interconnection;
- Guidelines governing the siting and co-location of CS projects with other energy resources;
- Policies to limit potential discrimination in favor of utility affiliated Subscriber Organizations;
- Establishing data and operational reporting for Subscriber Organizations and utilities.

# COMMUNITY SOLAR ACT – PRC POLICIES

## Market Oversight II

- Ensuring subscription allocations are met and maintained (30 percent carve out for low income, 40 percent limitation on single subscriber, 25 kW capacity limits on at least 40 percent of other subscription shares);
- Process for approval of tariffs, forms and other documents;
- Refine policy for unsubscribed energy from CS projects;
- **Any potential limitations on use of RECs by utilities;**
- Determination of ongoing caps after Nov. 2024.

# COMMUNITY SOLAR ACT – PRC POLICIES

## Community Outreach & Involvement

- Solicit input from specified groups and constituents:  
State agencies, public utilities, low-income stakeholders, disproportionately impacted communities, potential owners/operators, Indian nations/tribes/pueblos, others.
- Identifying Service Organizations that can pre-qualify subscribers:  
How are these organizations trained? Monitored? Compensated?

# COMMUNITY SOLAR ACT – PRC POLICIES

## Information Collection for Status Report to Legislature

- The development of community solar facilities & adequacy of facility size;
- The participation of investor-owned utilities and rural electric distribution cooperatives;
- Low-income participation;
- Proposals for alternative rate structures and bill credit mechanisms,;
- Cross-subsidization issues;

# COMMUNITY SOLAR ACT – PRC POLICIES

## Information Collection for Status Report to Legislature

- Local developer project selection and expansion of the local solar industry;
- Community solar facilities' effect on utility compliance with the renewable portfolio standard, and;
- An evaluation of the effectiveness of the commission's rules to implement the Community Solar Act and any recommended changes.

*Report due November 1, 2024.*

# COMMUNITY SOLAR ACT

