

ORIGINAL

OPEN MEETING AGENDA ITEM



October 24, 2012

Arizona Corporation Commission

DOCKETED 2012 NOV 6 PM 3 53

Via Electronic Mail

NOV 06 2012

Gary Pierce  
Chairman  
Arizona Corporation Commission  
1200 West Washington  
Phoenix, AZ 85007-2996



~~E-01345A-12-0290~~  
RE: Docket No. E-01345A-12-0290: Comments of Interstate Renewable Energy Council on APS Renewable Energy Standard Implementation Plan 2013-2017

Dear Chairman Pierce and Commissioners:

The Interstate Renewable Energy Council, Inc. (IREC) respectfully submits these comments on the community solar program discussed in Arizona Public Service Company's (APS) *Renewable Energy Standard Implementation Plan 2013-2017* (2013 RES Plan).

IREC is a non-profit organization that has worked for over three decades to accelerate the sustainable utilization of renewable energy resources through the development of programs and policies that reduce barriers to renewable energy deployment. IREC has participated in renewable energy-related workshops, proceedings and rulemakings during the past three years in nearly forty states, including Arizona, addressing a variety of topics that directly impact the deployment of renewable energy resources, including net metering, interconnection and community renewables. To support these efforts, IREC has assembled model rules that reflect best practices in net metering and interconnection, which are available on IREC's web site (<http://www.irecusa.org>). We have also developed *Community Renewables Model Program Rules* for stakeholders seeking guidance on how to develop robust community renewables programs in their community or state. Our model rules are attached to these comments as Attachment A.

APS proposed its community solar program in its *Renewable Energy Standard Implementation Plan 2012-2016* (2012 RES Plan), which the Commission approved in Decision No. 72737. APS further describes the program and associated rate schedule changes in its 2013 RES Plan. APS plans to implement a utility-led program, which will consist of 25 MW of community-sited, APS-owned solar facilities to be installed in 2014 and 2015. Community solar program participants will pay a voluntary solar premium on their bills, which in turn would lower the overall cost of the RES to all customers. APS plans to blend the community solar projects into its existing Green Choice program.

IREC commends both APS and the Commission for pursuing a robust community solar program. Fundamentally, community solar facilities can allow individuals and organizations unable to take

advantage of on-site renewable generation to support the development of renewable distributed generation and “green” their energy supply. IREC has been monitoring and assisting with the development of community renewables projects and programs around the United States for several years. The idea of community renewables can encompass a broad range of programs and projects, from utility-led community renewables programs such as APS’ Community Solar program to community-owned cooperatives to community-based renewable projects. IREC has supported a flexible definition that incorporates all of these concepts under the community renewables umbrella.

While IREC believes that APS’ Community Solar program is an important addition to its renewable energy program portfolio, IREC supports the Solar Energy Industries Association’s (SEIA) suggestion that the Commission direct APS to engage in a collaborative exploration of additional, non-utility-owned community solar offerings. In its comments, submitted on September 24, 2012, SEIA mentions IREC and our work in assisting state policymakers developing community renewables programs. In particular, SEIA references IREC’s participation in the development of statewide, developer-led community renewables programs in Colorado and Delaware before those states’ Commissions. IREC agrees with SEIA that Colorado and Delaware’s programs are strong examples of successful developer-led programs.

In 2010, the Colorado legislature passed the Colorado Community Solar Gardens Act (House Bill 10-1324), which implemented a statewide, developer-led Community Solar Gardens program. IREC participated in the development of the rules for the program at the Colorado Public Utilities Commission, which went into effect in January 2012. Under the rules, utilities allow for third parties to develop six MW of community solar gardens each year for three years (2011 through 2013). To account for the benefits of participation, customers receive a bill credit on their electricity bill for their share of electricity produced by their community solar garden. The state program is otherwise generally flexible with respect to the exact nature and structure of a developer’s community solar garden in an effort to allow for development of creative business models in this newly emerging program. IREC also participated in the development of the resulting Solar Rewards Community program at the State’s largest utility, Public Service Company of Colorado (PSCo).<sup>1</sup> When PSCo’s Solar Rewards Community program launched this past summer, it was extremely successful – within 30 minutes, it had three times as many applications as available capacity.<sup>2</sup>

Likewise, Delaware has also successfully implemented a community renewables program. In 2010, the Delaware legislature passed Senate Bill 267, which added sections to the State’s net energy metering provisions to allow for expanded net metering and community-owned generating facilities. As in Colorado, participating customers receive bill credits for their share of solar electricity and the program is otherwise flexible with respect to solar facility development. IREC participated in the development of rules for the program at the Delaware Public Service Commission, which were finalized in June 2011. The State’s sole investor-owned utility,

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<sup>1</sup> More detail on PSCo’s Solar Rewards Community program can be found at [http://www.xcelenergy.com/Save\\_Money\\_&\\_Energy/For\\_Your\\_Home/Renewable\\_Energy\\_Programs/Solar\\*Rewards\\_Community\\_2\\_-\\_CO](http://www.xcelenergy.com/Save_Money_&_Energy/For_Your_Home/Renewable_Energy_Programs/Solar*Rewards_Community_2_-_CO).

<sup>2</sup> See Mark Jaffe, *Demand high for Xcel’s solar garden program in Colorado*, Denver Post (Aug. 16, 2012), available at [http://www.denverpost.com/business/ci\\_21322815/demand-high-xcels-solar-garden-program-colorado](http://www.denverpost.com/business/ci_21322815/demand-high-xcels-solar-garden-program-colorado).

Delmarva, submitted compliance tariffs shortly thereafter. While IREC continues to see a high level of enthusiasm in the state for community renewables, the Delaware program has been slower to move forward for a variety of reasons but is now beginning to take off.

Beyond the statewide programs in Colorado and Delaware, there are successful programs in place at the utility level around the United States that rely on developer-owned generation. Colorado Springs Utilities (CSU) recently announced a pilot Community Solar Garden program, for example.<sup>3</sup> Through the program, CSU's customers can meet their energy needs by participating in a developer managed/owned community solar garden in CSU's service territory. As in Colorado and Delaware, participating customers receive a bill credit for their share of electricity. Indeed, as the Commission is likely well aware, Arizona boasts a successful pilot community solar program at the Salt River Project, SRP Community Solar.<sup>4</sup> In this program, SRP sold blocks of energy produced by a developer-owned solar system to participating customers. In return, customers receive a bill credit on their electricity bills.

IREC believes that a developer-led community solar framework could be equally successful in Arizona. Our *Community Renewables Model Program Rules* offers a model framework for such a program and provides a useful starting point for a conversation at this Commission. IREC would welcome the opportunity to participate in further discussion and development of community solar in Arizona, and would be pleased to share the knowledge we have gained in assisting in community solar development in other states.

We appreciate this opportunity to provide these comments.

Sincerely,

/s/ Joseph F. Wiedman

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On Behalf of the INTERSTATE  
RENEWABLE ENERGY COUNCIL, INC.

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<sup>3</sup> More detail on CSU's program can be found at <http://www.csu.org/residential/customer/Pages/Community-Solar-Gardens.aspx>.

<sup>4</sup> More detail on SRP Community Solar can be found at <http://www.srpnet.com/environment/communitysolar/home.aspx>.

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**Attachment A**

# COMMUNITY RENEWABLES

MODEL PROGRAM RULES



Interstate Renewable Energy Council

November 2010

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[www.irecusa.org](http://www.irecusa.org)

## **About the Interstate Renewable Energy Council**

The Interstate Renewable Energy Council (IREC) is a non-profit organization accelerating the use of renewable energy since 1982. IREC's programs and policies lead to easier, more affordable connection to the utility grid; fair credit for renewable energy produced; best practices for states, municipalities, utilities and industry; and quality assessment for the growing green workforce through the credentialing of trainers and training programs.

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# GUIDING PRINCIPLES

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Over the course of the last year, the Interstate Renewable Energy Council (IREC) has worked closely with The Vote Solar Initiative to develop model program rules for community-scale renewables that consider many of the basic issues facing community renewables programs. IREC's model program rules address such issues as renewable system size, interconnection, eligibility for participation, allocation of the benefits flowing from participation, net metering of system production, and other essential features of a community renewables program. The goal of this effort is to provide stakeholders with program rules they can tailor to the individual circumstances and policy preferences of their state without having to reinvent the wheel at each turn.

The first part of this process was the development of a Community Renewable Power Proposal (Proposal) to generate stakeholder input on best practices in this emerging policy area. As part of the development of the Proposal, IREC reviewed current efforts at developing community renewables programs taking place at the municipal and state level in such places as Massachusetts, Colorado, California, Washington, and Utah.

Two key principles greatly influenced the development of the Proposal and IREC's consideration of the various policy choices available in designing a community renewables program.

**As a foundational matter, IREC believes it is important that participants in a community renewables program should have an experience that is as similar as possi-**

**ble to that of customers investing in on-site renewable energy.** Several factors motivate this belief. First, on-site programs in many states have been very successful in motivating energy consumers to invest in solar energy. Replicating the program elements that spurred this motivation seemed a logical choice. For example, many customers appear to be highly motivated to zero out their monthly energy bill as a part of their choice to invest in solar. Net metering is an essential element of this process because it offers a simple and intuitive means that allows customer-generators the ability to self-generate power and offset utility power purchases with every kilowatt-hour (kWh) of electricity generated on-site. Moreover, customers participating in solar programs have been shown to install more energy efficiency measures than nonparticipants and are also highly motivated to reduce their energy bills.<sup>1</sup> On-bill net metering for community solar systems can maintain participating customer's motivations to reduce their energy bill via participation in community solar programs and engagement in energy efficiency measures.

**Community renewables programs should be additive to successful on-site renewable energy programs.**

Over the previous decades, renewable energy companies have invested considerable resources in building their businesses. This private investment in time and resources has helped expand markets for renewable energy in partnership with government incentive programs. For this reason, it makes little sense to undermine successful on-site programs, and the business based upon these programs, when seeking to expand options for customer participation in renewable energy programs.

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<sup>1</sup> See CPUC California Solar Initiative 2009 Impact Evaluation, Final Report, Section 10, published June 2010, available at <http://www.cpuc.ca.gov/PUC/energy/Solar/eval09.htm>.

# IREC'S MODEL PROGRAM RULES

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IREC's Proposal generated significant feedback from utilities, industry participants, and other stakeholders, which was used to develop IREC's Model Program Rules. As noted previously, the Model Program Rules make a number of decisions on basic program elements after consideration of many viewpoints. For example, the Model Program Rules specify a renewable system size cap of two megawatts (MW). This size cap was chosen because a two-MW system maintains economies of scale both in the installed cost of the system and in the participation/marketing costs for a business engaged in developing community renewables systems (i.e., a two-MW system allows a for significant number of community members to participate in the system), and still allows for relatively low-cost interconnection on most utility distribution systems.<sup>2</sup> Another program element – the minimum number of participants – can have important program impacts. If a program requires too many participants, gathering up the minimum number of participants can make participation by smaller systems difficult. On the other hand, if a program requires just one participant, then the “community” aspect of a community renewables program is taken out of the picture. In considering these two concerns, IREC has chosen to require a minimum of two participants in a community renewables system. This requirement will allow duplex owners, small apartment buildings, and small commercial establishments to participate.

Five areas deeply impact the Model Program Rules and deserve special attention:

1. Method of allocating the benefits of participation
2. Valuation of the energy produced by the community renewables system
3. Utility compensation for program administration
4. Financing options for community renewables
5. Program administration

<sup>2</sup> Most state interconnection procedures specify 2 MW as the cutoff for Level 2 “Fast Track” interconnection procedures. Systems interconnecting at the distribution level that are able to take advantage of Level 2 interconnection procedures will generally proceed in a relatively quick and inexpensive fashion through the utility interconnection process.

## **Allocating the Benefits of Participation**

Allocating benefits to program participants is a critical element of a successful renewables program – whether community oriented or on-site. For obvious economic reasons, enthusiasm to participate in a community renewables program will be dampened for many potential participants if the benefits of participation are siphoned off in taxes or fees. Accordingly, it is important to avoid structuring a program in a manner that might trigger income tax liability. Community renewables programs that structure payments similar to wholesale energy sales could find those payments categorized as taxable income. Therefore, IREC has chosen to avoid a program structure that allocates benefits in this manner and instead uses virtual net metering (VNM) to allocate the benefits of participation onto a customer's monthly electric bill. Additionally, as noted above, many customers are motivated to offset their energy bills through their participation in on-site renewables programs. Most states' existing net metering programs accommodate this desire by placing net metering credits on a customer's monthly bill. VNM would maintain a direct relationship between customers' participation in renewable energy programs and a reduction in their monthly energy bills. Lastly, consistent with the principles outlined above, VNM provides a similar experience for customers installing on-site renewable energy systems and community renewable program participants.

## **Valuation of the Energy Produced by the Renewable System**

Closely related to the method chosen to allocate the benefits of participation to community renewables program participants is the valuation of the energy produced by the community renewables system. As a threshold matter, a decision must be made on whether the net metering credits generated by a community renewables system should be transferred to participants as a 1:1 kWh offset on the customer's utility bill or whether the kWhs should

be given a monetary value based on some retail rate. This is important because it determines whether the value of a credit can be administratively determined or whether the value will be different for each participant and be based on the amount that a participant would otherwise pay for a kWh of electricity provided by a utility.

Under most state net metering programs, the value of enrollment takes the form of a kWh credit. Electricity generated by an on-site, net-metered system is used to directly offset kWhs purchased from a utility. Any excess electricity that is produced beyond what is immediately needed on-site is given a kWh credit that allows a customer-generator to make a kWh-for-kWh swap with a utility on future bills.

Although this structure works well for net metering where most electricity produced by an on-site system is immediately used on-site, it can be more difficult to administer this arrangement once a generation source is separated from the participants who would like to receive electricity from that system. Providing kWh credits can be particularly difficult to track if a customer is on a time-of-use rate structure because kWh production would have to be tracked within time periods and applied to the customer's bills within time periods. This can produce a real administrative burden if credits are allocated by hand.

Another option is to denominate kWh credits in dollar terms. Net metering credits denominated in dollars and cents are often much easier for utilities to administer and often require fewer billing software changes because billing software is generally able to handle issuance of dollar credits on some level.

Considering these factors, especially the possible ease of administration by utilities, allowing kWhs generated by a community renewables project to be given a monetary value that can be applied to participants' bills appears to make the most sense. Three approaches to determine the appropriate monetary value to assign to kWh credits are currently in use for community renewables programs: (1) the "Massachusetts Approach," which values a kWh credit based on the retail rate in effect where the community renewables system is located; (2) the "California Approach,"

which values the kWh credit based on a the participant's retail rate; and (3) the "Maine Approach," which values the kWh credit based at the wholesale value of power production (or possibly some other valuation).

After considering these options, the second approach offered a number of positive outcomes. First, the California Approach maintains the ability of the renewable energy to act as a price hedge against future utility rate increases. Second, the California Approach maintains an outcome that is as close as possible to the experience participants would have if they installed a solar energy system on-site. Finally, the California Approach allows customers whose rate tariffs contain demand charge components to have the grid benefits stemming from their participation in a community renewables program to be recognized by valuing their kWh credits at a "total aggregate retail rate" containing all of their rate components.<sup>3</sup>

### **Compensating Utilities for Program Administration**

One of the thorniest issues related to development of successful community renewables programs is setting an appropriate compensation rate for utilities to administer programs. Most would probably agree that utilities should be allowed to recoup their administrative costs in the same manner in which they recoup such costs for on-site renewable energy programs. However, allowing utilities to recover costs for distribution service from renewable energy program participants has generated more controversy. In the context of community renewables programs, California and Massachusetts have taken different paths.

Under Massachusetts' "neighborhood net metering program," net metering credits generated by a neighborhood net-metered facility do not contain the distribution portion of a fully bundled retail rate.<sup>4</sup> As a result, participants in Massachusetts' community renewables program continue to pay distribution charges to their utility. Because neigh-

<sup>3</sup> Utah recently recognized that customer-generators on retail rate tariffs with demand charges would be inadequately compensated if they only received the generation component of their retail rate. See Report and Order Directing Tariff Modifications, Docket No. 08-035-78, Public Service Commission of Utah, issued February 12, 2009.

<sup>4</sup> See Database for State Incentives for Renewable Energy (DSIRE), Massachusetts Net Metering Program page, available at [www.dsireusa.org](http://www.dsireusa.org).

neighborhood net-metered facilities' participating customers may be located anywhere within a distribution utility's service territory, Massachusetts' approach seems reasonable. Moreover, utilization of the transmission system will be minimal because systems are limited to 2 MW, and, therefore, utilities only need to be compensated for use of the distribution system.<sup>5</sup>

In California, net metering credits are valued at a participant's fully bundled retail rate. This outcome also appears sensible at this time because only occupants of affordable multi-tenant buildings can participate in California's VNM program. Under this framework, participants will be on the same distribution circuit (i.e., located within the same building), which results in little or no use of the utility's distribution system.

As noted above, both California and Massachusetts take a reasonable approach to recovery of distribution system costs based on the particulars of their respective community renewables programs. Based on these concepts, IREC's Model Program Rules specify that the kWh credits received by customers located on the same distribution circuit as the community renewables project should be valued at the participant's full retail rate. For other participants, a stakeholder process will determine an appropriate level of compensation for use of a utility's distribution system once locational benefits stemming from the community renewables system are taken into account.

## **Financing Community Renewables**

Because renewable energy systems represent a significant investment, IREC's Model Program Rules support direct ownership, third-party ownership, and utility ownership of community renewables systems. Allowing a multitude of ownership options will maximize the availability of funding and ensure federal, state and local incentives are used to their fullest extent. Of particular note, third-party ownership of a renewable energy system can be essential to fully utilizing available federal tax credits in many instances. In fact, the efficient utilization of federal tax credits can result

in a reduction in the cost of renewable energy by almost fifty percent. Recognizing the important role third-party ownership can play in increasing access to renewable energy, thirteen states have explicitly authorized third-party ownership of onsite renewable energy systems. Moreover, legislation enacting community renewables programs in Colorado, Massachusetts, Delaware and Washington has clarified that third-party owners of community renewable energy systems are not subject to public utility regulation.

While utility ownership of community renewables represents an important avenue of funding for these systems, to maintain a level-playing field between utility-owned systems and privately-owned systems, utilities must be required to include all system purchase costs, operation and maintenance costs, necessary investment returns, and other costs related to a utility-owned system in their offerings to potential participants. This requirement will ensure that all of the costs incurred by a utility to operate a community renewable system are recovered from program participants (the same as occurs with other competitive providers) and not non-participating ratepayers.

## **Program Administration**

Program administration is another critical component of successful renewables programs. Existing community renewables programs have taken two approaches to program administration. Vermont's group billing program relies on customer representatives, whereas other programs rely on utilities. IREC believes the best approach is to allow utilities to administer a community renewables program. IREC takes this view because utilities have significant experience in administering complex energy programs and a community renewables program on the scale envisioned in IREC's Model Rules will potentially have many participants. At this point in time, utilities seem to be best suited to administer such complex programs. Moreover, use of a utility administrator avoids creditworthiness concerns that might be associated with a third-party customer representative handling collection of participants' utility bills.

<sup>5</sup> Colorado's legislation, House Bill 10-1342, appears to require a similar outcome. However, the Colorado Public Utilities Commission just began implementation of Colorado's program in Docket 10R-674E, where this detail and others are still being addressed.

## I. Definitions

As used within these rules, unless the context otherwise requires:

- a. **“Biomass”** means a power source that is comprised of, but not limited to, combustible residues or gases from forest products manufacturing; waste, byproducts, or products from agricultural and orchard crops; waste or co-products from livestock and poultry operations; waste or byproducts from food processing, urban wood waste, municipal liquid waste treatment operations, and landfill gas.<sup>6</sup>
- b. **“Community Energy Generating Facility”** means Renewable Energy Generation that is interconnected at the distribution system level and that is located in or near a community served by an Electricity Provider where the electricity generated by the system is credited to the Subscribers to the facility. A Community Energy Generating Facility may be located either as a stand-alone facility, called herein a stand-alone Community Energy Generating Facility, or behind the meter of a participating Subscriber, called herein a hosted Community Energy Generating Facility. A Community Energy Generating Facility may be no larger than two megawatts (MW). A Community Energy Generating Facility must have at least two Subscribers.
- c. **“Electricity Provider”** means the jurisdictional entity that is required to offer Net Metering service to Subscribers pursuant to [code section for applicable Net Metering rules].
- d. **“Locational Benefits”** mean the benefits accruing to the Electricity Provider due to the location of the Community Energy Generating Facility on the distribution grid. Locational Benefits include such benefits as avoided transmission and distribution system upgrades, reduced transmission and distribution level line losses, and ancillary services.
- e. **“Net Metering”** means a methodology under which electric energy generated by or on behalf of a Subscriber and delivered to the Electricity Provider's local distribution facilities may be used to offset electric energy provided by the Electricity Provider to the Subscriber during the applicable billing period.
- f. **“Renewable Energy Credit”** means a tradable instrument that includes all renewable and environmental attributes associated with the production of electricity from a Community Energy Generating Facility.
- g. **“Renewable Energy Generation”** means an electrical energy generation system that uses one or more of the following fuels or energy sources: Biomass, solar energy, geothermal energy, wind energy, ocean energy, hydroelectric power, or hydrogen produced from any of these resources.
- h. **“Subscriber”** means a retail customer of an Electricity Provider who owns a Subscription and who has identified one or more individual meters or accounts to which the Subscription shall be attributed. Such individual meters or accounts shall be within the same Electricity Provider's distribution service territory as the Community Energy Generating Facility.
- i. **“Subscriber Organization”** means an organization whose sole purpose is to beneficially own and operate a Community Energy Generating Facility for the Subscribers to the Community Energy Generating Facility. A Subscriber Organization may be any for-profit or non-profit entity permitted by [state] law. The Community Energy Generating Facility may also be built, owned, and operated by a third party under contract with the Subscriber Organization.
- j. **“Subscription”** means an interest in a Community Energy Generating Facility. Each Subscription shall be sized to represent at least one kilowatt of the Community Energy Generating Facility's generating capacity; provided, however, that the Subscription is sized to produce no more than 120% of the Subscriber's

<sup>6</sup> The definition of Biomass may need to be adjusted to reflect state renewable portfolio standard definitions.

average annual electrical consumption. For Subscribers participating in meter aggregation, 120% of the Subscriber's aggregate electrical consumption may be based on the individual meters or accounts that the Subscriber wishes to aggregate pursuant to these rules. In sizing the Subscription, a deduction for the amount of any existing Renewable Energy Generation at the Subscriber's premises or any Subscriptions owned by the Subscriber in other Community Energy Generating Facilities shall be made.

- k. **“Total Aggregate Retail Rate”** means the total retail rate that would be charged to a Subscriber if all electric rate components of the Subscriber's electric bill, including any riders or other additional tariffs, except for minimum monthly charges, such as meter reading fees or customer charges, were expressed as per kilowatt-hour (kWh) charges.

## II. General Provisions

- a. Subscriptions in a Community Energy Generating Facility may be transferred or assigned to a Subscriber Organization or to any person or entity that qualifies to be a Subscriber under these rules.
- b. New Subscribers may be added at the beginning of each billing cycle. The owner of a Community Energy Generating Facility or its designated agent shall inform the Electricity Provider of the following information concerning the Subscribers to the Community Energy Generating Facility on no more than a monthly basis: (1) a list of individual Subscribers by name, address, and account number; (2) the proportional interest of each Subscriber in the Community Energy Generating Facility; and (3) for Subscribers who participate in meter aggregation, the rank order for the additional meters or accounts to which Net Metering credits are to be applied.
- c. A Subscriber may change the individual meters or accounts to which the Community Energy Generating Facility's electricity generation shall be attributed for that Subscriber no more than once quarterly, so long as the individual meters or accounts are eligible to participate.
- d. An Electricity Provider may require that customers participating in a Community Energy Generating Facility have their meters read on the same billing cycle.
- e. If the full electrical output of a stand-alone Community Energy Generating Facility or the excess generation from a hosted Community Energy Generating Facility is not fully allocated to Subscribers, the Electricity Provider shall purchase the unsubscribed energy at a kWh rate that reflects the full value of the generation. Such rate shall include the avoided cost of the energy, including any Locational Benefits of the Community Energy Generating Facility.
- f. If a Subscriber ceases to be a customer within the distribution service territory within which the Community Energy Generating Facility is located, the Subscriber must transfer or assign their Subscription back to their Subscriber Organization or to any person or entity that qualifies to be a Subscriber under these rules.
- g. If the Subscriber ceases to be a customer of the Electricity Provider or switches Electricity Providers, the Electricity Provider is not required to provide compensation to the Subscriber for any unused Net Metering credits.
- h. A Community Energy Generating Facility shall be deemed to be located on the premises of each Subscriber for the purpose of determining eligibility for state incentives.
- i. Neither the owners of, nor the Subscribers to, a Community Energy Generating Facility shall be considered public utilities subject to regulation by the [responsible agency having regulatory oversight] solely as a result of their interest in the Community Energy Generating Facility.
- j. Prices paid for Subscriptions in a Community Energy Generating Facility shall not be subject to regulation by the [responsible agency having regulatory oversight].

- k. A Subscriber owns the Renewable Energy Credits (RECs) associated with the electricity allocated to the Subscriber's Subscription, unless such RECs were explicitly contracted for through a separate transaction independent of any Net Metering or interconnection tariff or contract. For a Community Energy Generating Facility located behind the meter of a participating Subscriber, the host Subscriber owns the RECs associated with the electricity consumed on-site, unless the RECs were explicitly contracted for through a separate transaction independent of any Net Metering or interconnection tariff or contract.
- l. The dispute resolution procedures available to parties in the Electricity Provider's interconnection tariff shall be available for the purposes of resolving disputes between an Electricity Provider and Subscribers or their designated representatives involving the Electricity Provider's allocation of Net Metering credits to the Subscriber's electricity bill consistent with the allocations provided pursuant to Rule II.b. The Electricity Provider shall not be responsible for resolving disputes related to the agreements between a Subscriber, the owner of a Community Energy Generating Facility, and/or a Subscription Organization or any other party. This provision shall in no way limit any other rights the Subscriber may have related to an Electricity Provider's provision of electric service or other matters as provided by, but not limited to, tariff, decision of [responsible regulatory body or agency], or statute.

### III. Net-Metering Provisions

- a. An Electricity Provider shall not limit the cumulative, aggregate generating capacity of Community Energy Generating Facilities.<sup>7</sup>
- b. For a Community Energy Generating Facility, the total amount of electricity expressed in kWh available for allocation to Subscribers, and the total amount of RECs generated by the Community Energy Generating Facility and allocated to Subscribers, shall be determined by a production meter installed and paid for by the owner(s) of the Community Energy Generating Facility. It shall be the Electricity Provider's responsibility to read the production meter.
- c. For a hosted Community Energy Generating Facility, the determination of the quantity of kWh credits available for Net Metering to Subscribers to that facility, including the host Subscriber, shall be based on any energy production of the Community Energy Generating Facility that exceeds the host Subscriber's instantaneous on-site consumption during the applicable billing period and the Subscribers' Subscriptions in that Community Energy Generating Facility.
- d. For a stand-alone Community Energy Generating Facility, the determination of the quantity of kWh credits available to each Subscriber to that Community Energy Generating Facility for Net Metering shall be based on the total exported generation of the Community Energy Generating Facility and each Subscriber's Subscription in that Community Energy Generating Facility.

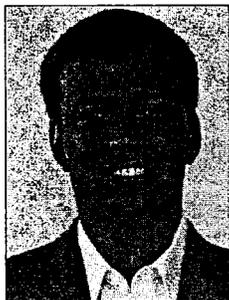
<sup>7</sup> This program rule is based upon IREC's Net Metering Model Rule (b)(2), which specifies that the cumulative, aggregate generating capacity Net Metered by on-site renewable generation facilities shall not be arbitrarily limited. Some states cap the total amount of aggregate Renewable Energy Generation that can be Net Metered for a particular Electricity Provider. Most commonly, aggregate enrollment caps are expressed as a percentage of an Electricity Provider's peak demand based on the aggregate of nameplate capacity of the generation systems (though it should be noted that capacity calculations are not standardized in their methodology across or even within states). Such percentages can vary from as low as 0.1% to as high as 20%. IREC believes aggregate caps arbitrarily and unnecessarily limit private investment in Renewable Energy Generation and needlessly curtail the flow of benefits that are associated with customer-side Renewable Energy Generation. For states that place an aggregate enrollment cap on Net Metered generation, that cap should be removed or expanded to ensure that community renewables programs do not undermine successful on-site programs.

- e. For Subscribers that host a Community Energy Generating Facility or where participating Subscribers are located on the same distribution feeder as the Community Energy Generating Facility, the value of the kWh credits for the host Subscriber and those Subscribers on the same distribution feeder shall be calculated by multiplying the Subscriber's share of the kWh electricity production from the Community Energy Generating Facility by the retail rate for the Subscriber. For Subscribers on tariffs that contain demand charges, the retail rate for the Subscriber shall be calculated as the Total Aggregate Retail Rate for the Subscriber.
- f. For all other Subscribers to a Community Energy Generating Facility, the value of the kWh credits allocated to each Subscriber shall be calculated by multiplying the Subscriber's share of the electricity production from the Community Energy Generating Facility by the retail rate as charged to the Subscriber, minus a reasonable charge as determined by the [responsible
- agency having regulatory oversight] to cover the Electricity Provider's costs of delivering the electricity generated by the community electricity generating facility to the Subscriber's premises after taking into account the Locational Benefits and other benefits<sup>8</sup> provided by the Community Energy Generating Facility. The [responsible agency having regulatory oversight] shall ensure that this charge does not reflect costs that are already recovered by the Electricity Provider from the Subscriber through other charges. In no event, shall the charge, if assessed, be greater than the Subscriber's distribution service charge as determined on a per kWh basis.
- g. The Electricity Provider shall carry over any excess kWh credits earned by a Subscriber and not used in the current billing period to offset the Subscriber's consumption in subsequent billing periods until all credits are used. Any excess kWh credits shall not reduce any fixed monthly customer charges imposed by the Electricity Provider.

<sup>8</sup> These benefits can often include capacity payments or energy market payments obtained by the Electricity Provider as provided for under the relevant independent system operator's tariff.

## ABOUT THE AUTHOR

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**Joseph Wiedman** is a partner with the law firm Keyes & Fox. Mr. Wiedman represents IREC in state-level rulemakings on many topic areas essential to building sustainable markets for renewable energy including net metering rules, interconnection standards, and community renewables. Mr. Wiedman is also involved in IREC's efforts to shape emerging program areas such as wholesale distributed generation market design, smart grid, and plug-in electric vehicles to ensure those programs support the continued growth of renewable energy markets.

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