

## **MEMORANDUM**

TO: CDG Customers Working Group

FROM: Adam Conway and Justin Fung

DATE: November 11, 2015

RE: Case 15-E-0082 – Community DG for Low Income Customers

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This memorandum provides background on two City of New York (“City”) programs that could be adapted to promote and market Community Distributed Generation (“CDG”) to low or moderate income (“LMI”) customers. This memorandum also briefly summarizes what provisions of the Home Energy Fair Practices Act (“HEFPA”) may be applicable to CDG, and suggests how to streamline the HEFPA compliance process for CDG project sponsors.

## **BRIEF SUMMARY**

- (1) The NYC Solar Partnership is a program that could be used to promote and market CDG to LMI customers. NYC Community-Based Retrofit Accelerator also could be adapted to provide educational material and technical assistance to potential CDG project sponsors.
- (2) HEFPA compliance for CDG project sponsors could be streamlined through an educational package containing a standard Annual Notification of Rights. The Commission could also adopt non-mandatory standardized forms with pre-approved procedures (for complaint resolution, voluntary third party notice, etc.) that project sponsors could use as part of their compliance filings.

## **OUTREACH THROUGH ESTABLISHED NYC PROGRAMS**

### NYC Solar Partnership

The NYC Solar Partnership<sup>1</sup> is an initiative spearheaded by Sustainable CUNY at the City University of New York (“CUNY”), in collaboration with the City Mayor’s Office of Sustainability and the New York City Economic Development Corporation (“NYCEDC”). It strives to promote community shared solar projects and group purchasing of solar power in the City, with the goal of installing 250 MW of solar photovoltaic (“PV”) on private buildings by

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<sup>1</sup> <http://www.nycedc.com/program/nyc-solar-partnership>

2025. The Partnership has traditionally been funded through grants from the US Department of Energy (“DOE”), the New York State Energy Research and Development Authority (“NYSERDA”), and the New York Power Authority (“NYPA”), and received funding as part of Mayor de Blasio’s *One City: Built to Last* plan to continue facilitating the proliferation of solar energy in New York City.

One of the Partnership’s core tenets is more equitable distribution of solar PV for communities that have historically had limited access due to financial hardship, technical constraints, and other reasons. Thus, NYC Solar Partnership may be an appropriate vehicle for marketing and promoting CDG to LMI communities through their already-established outreach programs as the CDG market begins to take shape. Specifically, the Partnership could include the benefits of CDG in their solar educational materials for residential customers. Likewise, CUNY’s Solar Ombudsmen initiative could be expanded to include CDG by aiding building owners with CDG permitting and HEFPA compliance, *infra*. In addition, CUNY’s NYC Solar Map could be adapted to help prospective CDG project sponsors identify optimal locations to install solar PV arrays in the city, particularly near LMI communities. Finally, the Partnership could also consider innovative ways to incorporate community DG in its solar group purchasing “solarize” campaigns, which seek to spread solar adoption throughout the city and particular to LMI customers.

#### NYC Community-Based Retrofit Accelerator

NYC will soon launch the Community-Based Retrofit Accelerator, in which the City will partner with its strong network of community-based organizations to launch education, outreach, and assistance programs to accelerate retrofits in small- and mid-sized building stock. The program will focus initially on neighborhoods where there are overlapping issues of housing affordability and grid reliability, in partnership with local utilities. The program will also complement a utility cost reduction program currently under development by HPD to help fund retrofits in small- and mid-sized residential buildings where rising utility costs threaten affordability. This neighborhood-level initiative, first outlined in *One City: Built to Last* and scheduled to begin in 2016, can be leveraged to connect residents in these communities with information on CDG opportunities and benefits. The NYC Community-Based Retrofit Accelerator also could help participants comply with permitting requirements in developing CDG projects on existing buildings. Finally, the program could also be expanded to include assistance with complying with HEFPA.

### **HOME ENERGY FAIR PRACTICES ACT**

As noted by the Commission in the July 17 Order,<sup>2</sup> CDG project sponsors fall within the definition, at PSL §53, of an entity that “sells or facilitates the sale or furnishing of...electricity to residential customers” and would therefore have to comply with HEFPA. However, the

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<sup>2</sup> 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) (“July 17 Order”).

Commission also noted that only some HEFPA provisions would be applicable to CDG. The following briefly discusses what HEFPA provisions may be applicable to project sponsors, and suggests how to streamline compliance for CDG project sponsors.

### Applicable Provisions

Based on the Commission's discussion of HEFPA in the July 17 Order, provisions that prevent or delay termination of service are inapplicable to CDG. For example, provisions requiring utilities to continue serving customers who require life-saving medical equipment would not adhere to CDG project sponsors, because terminating participation in CDG would not affect the ability of those customers to receive electric service from a utility. Likewise, provisions governing the conduct of "distribution utilities" as defined by HEFPA are inapplicable to CDG, as CDG project sponsors do not own or maintain the distribution grid.<sup>3</sup>

On the other hand, HEFPA's complaint resolution provisions<sup>4</sup> are clearly applicable to CDG, as stated in the July 17 Order. Other HEFPA provisions likely to adhere to CDG project sponsors include: (i) the requirement to offer budget or levelized billing options;<sup>5</sup> (ii) meter reading and estimated billing procedures;<sup>6</sup> (iii) backbilling on residential accounts;<sup>7</sup> (iv) allowed charges for late payments;<sup>8</sup> (v) voluntary third-party notice;<sup>9</sup> and (vi) provisions governing the content of bills and annual notification rights.<sup>10</sup> These provisions provide consumer protections to CDG participants (especially those who may qualify as LMI) that the Commission will want to extend. For example, offering CDG participants the ability to pay an equal amount each billing cycle would allow customers to participate in CDG when they otherwise would not be able to afford the seasonal spikes in energy production. Likewise, preventing project sponsors from tacking exorbitant penalties on to late payments will remove a potential barrier to participation by LMI customers who may be more likely to miss payments than customers with higher incomes, but who would suffer greater harm from large late payment penalties.

Below is a table listing the Commission's HEFPA regulations that, based on the July 17 Order, are likely to apply to CDG:

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<sup>3</sup> A distribution utility means any utility "that is authorized under any general or special law, or any charter or franchise, to lay down, erect or maintain pipes, conduits, ducts, mains, poles or other gas or electricity distributing fixtures in, on, over, or under streets, highways or public places...." 16 NYCRR §11.2(a)(1)(ii).

<sup>4</sup> 16 NYCRR §11.20.

<sup>5</sup> 16 NYCRR §11.11.

<sup>6</sup> 16 NYCRR §11.13.

<sup>7</sup> 16 NYCRR §11.14.

<sup>8</sup> 16 NYCRR §11.15.

<sup>9</sup> 16 NYCRR §11.6.

<sup>10</sup> 16 NYCRR §11.16, 11.17.

<b>APPLICABLE</b>		<b>INAPPLICABLE</b>	
<b>16 NYCRR §</b>	<b>Description</b>	<b>16 NYCRR §</b>	<b>Description</b>
11.6	Voluntary third-party notice	11.3	Applications for residential service
11.11	Budget or levelized payment plans	11.4	Termination or disconnection of residential service
11.12	Residential service deposits	11.5	Residential service – special procedures
11.13	Meter readings and estimated bills	11.7	Service to entire multiple dwellings
11.14	Backbilling on residential accounts	11.8	Service to two-family dwellings
11.15	Late payment and other charges	11.9	Reconnection of service, restoration of commodity supply, and conditions for ending suspension of distribution service
11.16	Contents of bills	11.10	Deferred payment agreements
11.17	Notification requirements	11.18	Emergency disconnections of residences
11.20	Complaints to the utility	11.19	Inspection and examination of distribution utility apparatus
11.21	Emergency hotline		
11.22	Waiver		

### Recommendations to Streamline Compliance with HEFPA

One way to streamline the HEFPA compliance process for project sponsors is to create a standardized Annual Notification of Rights package. This package would contain all relevant information to which a customer is entitled under HEFPA, such as bill content information and the right to non-English billing. The package would also alert the project sponsor about other documents it must file with the Commission for approval, such as a levelized billing plan and a procedure for estimated billing.

The Commission could also adopt a standard set of forms that are available for use by project sponsors, but are not mandatory. For example, HEFPA requires a utility to file its complaint resolution procedures with the Commission 30 days prior to implementation. The Commission could create a standard form with a simple pre-approved complaint procedure for project sponsors to follow. The project sponsor would simply have to fill in its contact information and file the form with the Commission as part of its HEFPA compliance package, and adopt that procedure going forward. If a project sponsor is sophisticated and has its own established complaint resolution procedure, it could opt to file that for Commission approval instead of the standardized form.

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Similarly, HEFPA requires a utility to allow residential customers to designate third parties to receive certain notifications. A standard voluntary third-party notice form could be provided that contains all the necessary language, and which only requires the project sponsor to fill in its business mailing address.

The City welcomes additional thoughts from the working group on the issues discussed in this memorandum. If you have any additional questions and concerns, please do not hesitate to contact us at [aconway@couchwhite.com](mailto:aconway@couchwhite.com) or [jfung@couchwhite.com](mailto:jfung@couchwhite.com).

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