

# Community Solar Needs Clear, Flexible State Regulations

By **Elliot Hinds** and **Diana Jeschke**

Community solar programs allow multiple commercial, residential and other retail electric customers to participate as subscribers in offsite solar generation. While program rules vary by state, under one popular rubric, a third-party developer owns and operates the community solar project and, for an agreed-upon subscription price, retail electric customers can subscribe to a portion of the facility's output, for which they are credited on their utility bill.



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Thus, businesses and households that may not have the space, resources or desire to install solar generation can nevertheless benefit from solar energy in the amount that fits their needs, without the upfront cost of building a solar project. As these programs become increasingly popular, states should foster further investment by adopting program rules that provide the certainty and flexibility needed for developers to successfully develop and subscribe community solar projects.



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Community solar provides an opportunity for retail electric customers to participate in solar generation, without the cost and other requirements (e.g., a house that can support solar panels) of rooftop solar. As it has grown, more and more states are adopting or expanding community solar programs.

For instance, new legislation was introduced this year in Maine and Pennsylvania, and New Jersey regulators approved rules for a new three-year pilot program. Other states are expanding their existing programs, with Maryland extending its pilot program through 2024, and Colorado enacting legislation to, among other things, increase the allowable community solar project size from 2 megawatts to 5 megawatts.

Still others, such as New York and Illinois, continue working to develop and implement their existing programs. While some resistance remains — for instance, legislation introduced this year in New Mexico and Florida stalled — community solar appears poised for further growth.

But these are locally focused programs, where the rules governing everything from solar project criteria to bill crediting can differ significantly state to state, and even among utility territories within a state. For developers with projects in multiple jurisdictions, this means the structure of a community solar project accepted in one state may not be in the next.

For instance, while a 5-megawatt community solar project may be perfectly acceptable in New York or Colorado, it would exceed the community solar size limit in many other states, like Maryland. These nuances, particularly different bill crediting and state-specific incentive rules, can also affect a project's potential revenue stream, and they should be considered as early as possible in assessing the proposed project's economics and program eligibility.

For instance, many states allocate community solar capacity and related incentives on a first-come, first-served basis, under which developers must typically apply to reserve

program capacity for their projects or risk being excluded.

In April, Illinois regulators allocated renewable credit incentives — considered by some as necessary for a community solar project’s financial viability — to applicants through a lottery. The plan drew criticism for picking winning and losing projects at random.

Similarly, many states simply value bill credits at the retail rate. New York, however, has undertaken a multiyear process intended to value credits based on a more granular assessment of solar-generation benefits, including energy, capacity and environmental value. The state’s regulators previously approved a market transition credit based on the local utility’s retail rate, available only to residential and small commercial customers.

But in April, this transitional credit was replaced in several utility territories with an administratively set community credit that, unlike its transitional predecessor, is also available to larger, nonresidential customers. It is expected to encourage larger customers (e.g., schools and businesses) to participate as so-called “anchor customers” in community solar projects, thereby potentially reducing the project’s financing and customer acquisition costs.

Navigating these nuances is made more complicated for developers when a jurisdiction’s rules are fluid. While pilot programs may initially serve an important purpose, they should quickly evolve into permanent program rules that may encourage project investment by providing greater certainty and clarity. These program rules should also reward the time and effort required at the early development stages by allocating available program capacity and related incentives on a first-come, first-served or merit basis, and avoiding arbitrary allocation systems such as lotteries.

While community solar programs may ultimately be implemented through utility tariffs, state regulators could encourage consistent implementation within the state by, for instance, establishing pro forma tariff language effecting state policy to minimize utility-specific variations. At a minimum, application and disclosure forms, marketing material, preapprovals and other administrative burdens should be streamlined by a standardized system at the state level.

Solar project owners also need sufficient flexibility in managing their facility subscriptions to balance a subscriber’s interests with the certainty many lenders require. Community solar projects typically depend on subscription agreements with multiple retail electric customers. As residents and businesses may relocate or otherwise change over time, a typical community solar project can be expected to experience at least some subscriber churn during the life of the solar facility.

Bill crediting rules that discourage anchor customer participation and prescriptive subscription requirements — such as arbitrary subscriber minimums — complicate a community solar developer’s ability to manage this uncertainty, making it difficult to keep a project fully subscribed and demonstrate a project or portfolio of projects is financeable.

Other prescriptive subscription limits, such as capping a subscription amount to an electric customer’s average annual historic usage, may unnecessarily limit the customer’s options where, for instance, a customer is expanding their home or business, planning to acquire an electric vehicle, or experiencing seasonal demand changes.

Community solar is a “third way” for retail customers to participate in and benefit from renewable power. It is an option that avoids the downsides of utility-scale solar

development, over which individual retail customers have little control, and residential solar development, which often requires significant upfront capital investment by the customer.

Community solar is poised for further growth as more states initiate or expand policies bringing renewable options to more electric customers and embrace third-party development. But for these programs to realize their full potential, regulators should provide clear and predictable program rules allowing sufficient flexibility for developers to successfully build and subscribe these projects.

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