



THE UNIVERSITY OF
CHICAGO

ABRAMS ENVIRONMENTAL LAW CLINIC
OF THE UNIVERSITY OF CHICAGO LAW SCHOOL

October 4, 2021

Dr. Joy Wang
Michigan Public Service Commission
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RE: Comments on the MI Power Grid New Technologies and Business Models Workgroup Draft Report (U-20898)

Dear Dr. Joy Wang:

On behalf of Soulardarity and the Abrams Environmental Law Clinic at the University of Chicago Law School, we submit this comment to the MI Power Grid New Technologies and Business Models Workgroup. The MI Power Grid: New Technologies and Business Models Workgroup's September 15th Draft Report ("Draft Report") highlights many important technologies for the future of equitable renewable energy as well as offers several laudable recommendations for the Commission to follow. This comment offers some recommendations to make the Final Report even better, especially from the perspective of low to moderate-income (LMI) and Black, Indigenous, and People of Color (BIPOC) communities.

We first wish to thank the Commission and Staff for involving us in developing this Draft Report. This draft is the product of months of meetings, and it identifies many significant steps the Commission and/or the Legislature can take to advance renewable energy goals. At the same time, there are a few topics on which the findings or recommendations should be improved, expanded, or substantiated with additional detail and resources as Staff revises this document to prepare a Final Report. Specifically, the Final Report should go further in making clear the value of community-owned solar, with particular emphasis on the opportunities for community solar in LMI and BIPOC communities. This comment focuses on four particular areas where the report could be improved in this regard. The Final Report should: (A) clarify that true community solar is owned by communities, not utilities; (B) explicitly identify how failures of the current energy system impact disproportionately LMI and BIPOC consumers; (C) recommend establishing specific policies to ensure LMI and BIPOC communities can experience the benefits of community solar; and (D) support and add detail to the Draft Report's call for an independent value of solar proceeding. Each of these issues will be discussed in turn.

(A) True community solar is owned by communities, not utilities

While the Draft Report recognizes that third party ownership models are necessary for the transition to a clean energy future, the Final Report should include a clear statement

emphasizing the need for Commission action to promote community solar projects in which community members have ownership stakes and control. The Final Report should more fully present the value of non-utility owned community solar and prioritize its development and use. Leveraging new forms of a capital, generating community wealth, and fostering energy democracy are all benefits unique to community ownership of solar projects as opposed to utility-owned models.¹ On this front, we have the following recommendations:

Recommendation 1: The Final Report should use the term “utility-owned solar” or similar when referring to projects owned by utilities as a means to distinguish these projects from true community solar.

Rationale: The Draft Report itself notes that utility-owned community solar projects tend to have separate, specific names differentiating them from other types of solar projects.² “Community solar” as a term should be reserved for projects that are owned by and/or economically benefit community members as well as sited in the communities those projects serve.³ In addition to qualifying for certain tax-breaks not available to utility-owned solar,⁴ community-owned solar projects can actually build wealth in a community.⁵ Community-owned solar, whether through projects wholly-owned by community members or organizations or owned in partnership with project developers, offers community members the distinct benefits of having ownership of and decision rights for the project vested in the community the project serves.⁶ This is sufficient to draw a distinction between community-owned solar and other forms of solar projects.

Recommendation 2: The Final Report should include the non-utility owned community solar example of HOPE Village Revitalization (HVR) in the Spotlight table on page 34.

Rationale: As written, the spotlight table of the Draft Report does highlight two significant community solar projects. However, neither program is a community-owned project where the benefits flow directly and completely to the community the project serves. One good example to highlight would be HVR, as described by Debbie Fisher during the community solar session in March. HVR is currently seeking to implement a community solar project structured by creating a special purpose LLC and then transferring ownership to a nonprofit which would operate like a community land trust. This structure would create value for the community by localizing energy generation, giving residents a chance to be part of the growing green movement, and reducing energy costs. It would also promote ownership and vest decision rights in the community itself. The Final Report is an important place to uplift solutions derived from

¹ Koepfel, J., & Gorjala, M. (2021, May 19), *Alternative Community Solar Models and Community Benefits*. *MI Power Grid New Technologies and Business Models Workgroup Stakeholder Series*, 5 (citing Jason Coughlin et al., *A Guide to Community Solar: Utility, Private and Non-profit Project Development* (2010); John Farrell, Inst. for Loc. Self-Reliance, *Advantage Local: Why Local Energy Ownership Matters* (2014)).

² *MI Power Grid: New Technologies and Business Models Workgroup Draft Staff Report*, at 31.

³ Jason Coughlin et al., *A Guide to Community Solar: Utility, Private and Non-profit Project Development* (2010).

⁴ *See id.* at 2.

⁵ *See, e.g.*, Kayla Soren, *A Minnesota Cooperative Shares the Wealth While Advancing a Clean Energy Future*, Institute for Policy Studies (Nov. 30, 2020), <https://ips-dc.org/a-minnesota-cooperative-shares-the-wealth-while-advancing-a-clean-energy-future/>.

⁶ *Id.*

the self-determination of the most impacted ratepayers and to publicize examples of true community solar projects that can serve as crucial models for other groups to apply in their own communities.

Recommendation 3: The Final Report should also include non-municipal entities, such as non-profits, as potential “anchor tenants” on page 34.

Rationale: The Draft Report acknowledges that non-profits can serve as anchor tenants on a previous page.⁷ Page 34 should be changed to include non-municipal entities as potential anchor tenants to promote consistency within report and reinforce that there are multiple options for anchor tenants besides local governments. For example, Cooperative Energy Futures in Minnesota employs an anchor tenant model as part of their Community Solar program, and uses local nonprofits organizations such as hospitals, universities, and cultural organizations as anchors.⁸ Another example comes in the form of Michigan Interfaith Power and Light, which presented during the Workgroup sessions on its efforts to aid faith congregations in organizing together to give their members access to community solar.⁹ These types of organizations serve as excellent anchors because they are rooted in the communities that they serve.

Recommendation 4: The Final Report should recognize explicitly that utilities have been the source of many barriers to non-utility owned solar in § 4.2.2-3. Specifically, the breakout box on page 35 should include additional detail to provide a complete description of the DTE Electric Low-Income Community Solar Pilot.

Rationale: Utilities in Michigan have a history of interpreting and pushing for legislation that prevents the spread of solar energy, especially solar energy that is not utility owned.¹⁰ The Final Report should be clear that investor-owned utilities have resisted the development of true community solar in Michigan.¹¹ The Draft Report acknowledges that the “[c]urrent investor-owned utility business model drives utilities to community solar ownership.”¹² However, the Final Report should be clear that the first and best community solar programs are currently coming from cooperatives and municipal utilities. These entities are developing the best programs because they are more accountable to their customers, rather than their investors.¹³ So while the end problem has been identified, the original cause has been left out. In order to effectively combat the barriers to the expansion of non-utility solar, the Commission must expressly identify and counterbalance the ways in which investor-owned utilities advance their interests in relevant policy development processes.

⁷ *MI Power Grid: New Technologies and Business Models Workgroup Draft Staff Report*, at 31.

⁸ Carla Skandier & Johanna Bozuwa, *An Anchor Strategy for the Energy Transition*, Democracy Collaborative (Sept. 3, 2018), [https:// 14 thenextsystem.org/learn/stories/anchor-strategy-energy-transition](https://14thenextsystem.org/learn/stories/anchor-strategy-energy-transition).

⁹ Leah Wiste, March 10 Workgroup Meeting.

¹⁰ Emily Prehoda et. al., *Policies to Overcome Barriers for Renewable Energy Distributed Generation: A Case Study of Utility Structure and Regulatory Regimes in Michigan*, Energies (2019).

¹¹ *Id.*

¹² *MI Power Grid: New Technologies and Business Models Workgroup Draft Staff Report*, at 31, 37.

¹³ Koeppel, J., & Gorjala, M. (2021, May 19), (2021, May 19) *Alternative Community Solar Models and Community Benefits*, MI Power Grid New Technologies and Business Models Workgroup Stakeholder Series, at 5–6.

To give a concrete example, while DTE agreed to develop three utility-owned pilot installations in low-income communities as part of settling the Voluntary Green Pricing Program, the utility has not attempted projects with elements of true community ownership and has no concrete plans to develop a more robust community solar program.¹⁴ While agreeing through settlement to include external input through a council, DTE ultimately retained control over the pilots. Ultimately, DTE only committed up to \$300,000 to fund partially the cost of each pilot project, for a total of \$900,000, despite retaining full ownership and control.¹⁵

The breakout box on page 35 of the Draft Report should be expanded to include these facts, which provide important detail and context regarding this pilot program. The benefits of such pilot projects are also not equitably spread between the utility and the community. Though utility pilots like this one provide a subset of community members with a bill credit, they do not provide rate relief for the communities in which they are located, and since they are typically owned by the utility, community members do not receive other benefits of ownership or control. Distributed energy in general and true community solar in particular has the potential to take profit away from utilities and send it directly to consumers, so it is often against a utility's economic interests to advocate for or even allow for true community solar. Utilities cannot be relied on to structure pilots or programs in ways that equitably commit the financial benefits to the communities in which projects are located. Instead decision-making power must be vested in communities and the design and implementation of community solar programs and pilots by utilities must be tightly regulated and overseen by the Commission.

Recommendation 5: The Final Report should recommend independent community solar with minimal involvement by utilities in § 11.5-2.

Rationale: The Draft Report recognizes that it is necessary to “think beyond the current utility business model to examine the full value” other methods of energy project offer the people of Michigan.¹⁶ While the Draft Report recommends the Commission establish non-utility owned community solar, the report states that the utilities should choose which non-utility owned projects get supported.¹⁷ Given utilities' track record of failing to adequately support community solar discussed in Recommendation 4 above, the Final Report should recommend solutions that do not give utilities discretion over which projects get supported. Communities should be able to lead development of community solar projects in which the utility's role is to approve technically sufficient interconnections and facilitate billing, without requiring involvement in planning, construction, or management. Such a change would promote the highest level of community control and the most diverse set of options for supporting the development of renewable energy.

(B) The failures of the current energy system disproportionately impact LMI and BIPOC consumers

¹⁴ U-20713 & U-20851, Direct Testimony of Jackson Koeppel on Behalf of Soulardarity in Response to Partial Settlement Agreement (Apr. 27, 2021) at 4–5.

¹⁵ *Id.*

¹⁶ *MI Power Grid: New Technologies and Business Models Workgroup Draft Staff Report*, at 111.

¹⁷ *Id.* at 112.

There are significant problems that only or disproportionately affect LMI and BIPOC consumers with respect to their energy needs. The experience of safety and reliability problems that these communities face could be alleviated, in part, through the expansion of community solar. However, to maximize the benefits of clean energy, special care must be given to ensure that community solar grows in Michigan in a way that fully includes LMI and BIPOC consumers.

Recommendation 6: The Final Report should include the following in § 11.3-1: “Low to moderate-income communities face disproportionate downed wire incidents and outages because of deteriorating distribution infrastructure.”

Rationale: Dealing with outages and safety risks due to deteriorating infrastructure is a significant challenge to LMI communities.¹⁸ Moreover, it is a problem that can be solved, in part, by expanding solar generation in these communities. One of solar power’s greatest, and under-appreciated, benefits is that when it is produced locally, there does not have to be as great an investment in distribution infrastructure because energy is being produced in closer proximity to where it will be used. The deployment of community solar can also make the local grid more resilient, as the local solar project is still able to supply power in cases where there are disruptions in the larger distribution grid.¹⁹ Thus, properly identifying this problem reinforces the undervalued benefits of community solar.

Recommendation 7: The Final Report should delete the phrase that “[i]dentifying low to moderate-income customers may be problematic” on page 34. Instead, the report should note that LMI customers have expressed strong interest in being included in true community solar programs.

Rationale: In prior testimony before the MSPC, Debbie Fisher explained that low-income customers have a strong interest in community solar when there is the potential for ownership and/or when the solar project is local to the customers’ neighborhood.²⁰ Kiava Stewart, a low-income customer, also explained that there are people like her who want community solar, just that they want to have control over the project themselves, not to remain at the mercy of utilities.²¹ Further, it is well documented that solar adoption rises as people in a community see others in their same community use solar and this is especially the case for low-income communities.²² In addition, organizations already exist that bring together low-income and BIPOC consumers who want community solar in their communities, including Soulardarity, HVR, and faith organizations. Moreover, if community members own projects, and not the utilities, then the profits from such projects can be used to reduce the costs to community owners, making community solar more financially accessible for LMI customers. Thus, if true

¹⁸ U-20713 and U-20851, Direct Testimony of Debbie Fisher (Dec. 23, 2020), at 7; U-20713 and U-20851, Direct Testimony of Kiava Stewart (Dec. 23, 2020), at 6.

¹⁹ See Elec. Innovation Lab, Rocky Mountain Inst., *A Review of Solar PV Benefit & Cost Studies* 14 (2d ed. 2013).

²⁰ U-20713 and U-20851, Direct Testimony of Debbie Fisher (Dec. 23, 2020), at 12.

²¹ U-20713 and U-20851, Direct Testimony of Kiava Stewart (Dec. 23, 2020), at 19–20.

²² Kelsey Barton-Henry, et. al., *Decay Radius of Climate Decision for Solar Panels in the City of Fresno, USA*, Scientific Reports 5–6 (April 2021).

community solar is offered and is visible in the community, LMI customers will come forward on their own to take advantage of these opportunities.

(C) Specific policies are needed to ensure LMI and BIPOC communities can experience the benefits of community solar

The Final Report should recommend that the Commission promulgate rules to specify design characteristics of community solar programs that make it possible and affordable for LMI and BIPOC communities to own, participate in, and develop community solar projects. To accomplish this, the Commission could also create a community solar advisory committee to develop standards for programs to accommodate LMI and BIPOC community needs.²³ In our May 19 presentation to the Workgroup, we suggested several ways projects and programs could be structured to make them more accessible and equitable. In addition, a recent report from Timothy DenHerder-Thomas et. al highlighted several ways to create equitable programs which such a committee, or even the Commission itself, should consider. For example, community solar projects could be required to set aside a fixed percentage of participation for LMI consumers. An increase to the financial compensation as well as improved practices for decreasing the time to compensate for solar generation could also be used to encourage co-op and/or community ownership of the solar projects. With respect to building the community solar installations themselves, there could be minimum requirements that ensure workforces and contractors include marginalized groups and come from the local communities hosting the projects.

As rate-payers, LMI customers need flexibility in order to receive the full benefits of community solar. This could be achieved through options that do not force LMI customers to pay costs up-front. Another method could include virtual net metering approaches, which could allow for the total offset of energy bills for consumers participating in community solar projects. Or, as has been proposed by BlueHub Capital in Massachusetts,²⁴ the commission could establish a net-crediting system where consumers would receive the net benefits of community solar projects without having to pay for the credit first.

Regulations should also require community solar programs allow for portability of participation for renters. So, if renters move within the same service area, that should not disrupt that consumer's specific energy plan. Such systems already exist in Michigan, including Consumers Energy's Solar Garden in Jackson.²⁵ DTE agreed to such portability for the low-income solar pilot as part of its settlement agreement in the Voluntary Green Pricing Program.²⁶

²³ Timothy DenHerder-Thomas et al., *Equitable Community Solar: Policy and Program Guidance for Community Solar Programs that Promote Racial and Economic Equity*, ISLER (Feb. 2020), <https://ilsr.org/wp-content/uploads/2020/02/Equitable-Community-Solar-Report.pdf>.

²⁴ Nathan Phelps, *Commentary: Making Solar Incentives Work for Low-Income Bay Staters*, Energy News Network (Apr. 12, 2021), <https://energynews.us/2021/04/12/commentary-making-solar-incentives-work-for-low-income-bay-staters/>.

²⁵ Consumers Energy, Solar Gardens, <https://www.consumersenergy.com/residential/renewable-energy/solar-gardens>.

²⁶ U-20713 and U-20851, Partial Settlement Agreement for Case No. U-20713 and Full Settlement Agreement for Case No. U-20851 (Apr. 14, 2021), at 13.

Another area to reform within the Commission’s regulations are the rules related to the term “premises.” The Draft report draws attention to the problem that current regulations may hinder the deployment of community solar due to uncertainty of how the definition of “premises” would apply to situations where communities seek to work together to generate or manage electricity collectively and use it across streets or alleys.²⁷ As the Draft Report also notes, this problem affects the deployment of microgrids and is another way the current regulations hinder the spread of community-driven energy innovation.²⁸ Given these hurdles, the Final Report should explicitly recommend that the Commission promulgate new, clear rules that support the use of community solar and microgrids across Michigan.

Furthermore, regulations should ensure broad access to community solar programs. These could include allowing various paths for income verification and allowing certain housing communities to sign-up for community solar projects in bulk. An additional approach to consider would be prohibiting mechanisms that limit LMI participation such as credit score checks and income threshold requirements.

Finally, the Final Report should recommend that the Commission be more aggressive in advocating for equitable community solar programs. There already has been some precedent for Staff recommending that the Commission take such action. For example, in December 2020, Staff recommended that the Commission establish a community solar program rider for DTE in the Voluntary Green Pricing proceeding.²⁹ Since, as already mentioned, utilities have a track record of resisting true community solar, it is up to the Commission to proactively ensure that true community solar is available. Thus, the Commission should also empower third parties and ratepayer advocates to overcome the barriers created by utilities to true community solar by increasing educational efforts about community solar as well as offering technical support so these communities can develop community solar proposals.³⁰

Recommendation 9: A discussion of the above-mentioned policy options and recommended regulatory changes should be included in § 4.2.2 and the Final Report should also recommend some or all of the options in § 11.5-2.

(D) An independent value of solar proceeding is necessary and should be structured to ensure proper consideration of the benefits of true community solar

We appreciate that the report recognizes that solar is currently undervalued and recommends that the Commission launch a proceeding to adequately assess its value. In order to facilitate the spread of solar generation, Michigan needs to set a fair value of solar energy through a fair and open process led by the Commission and ratepayers, not utilities. Utility-conducted studies have consistently reported a lower value of solar than is actually deserved.³¹ Such proceedings should include meaningful public participation, especially with LMI and

²⁷ *MI Power Grid: New Technologies and Business Models Workgroup Draft Staff Report*, at 9–10.

²⁸ *Id.*

²⁹ U-20851, Direct Testimony of Julie K. Baldwin (Dec. 23, 2020), at 7.

³⁰ See U-20713 and U-20851, Rebuttal Testimony of Jackson Koeppel (Jan. 21, 2021), at 3–4.

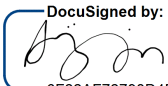
³¹ Gideon Weissman, Emma Searson & Rob Sargent, *The True Value of Solar: Measuring the Benefits of Rooftop Solar Power*, 2 (2019).

people of color communities, and should be facilitated by or include involvement of a body like the Michigan Advisory Council for Environmental Justice. Minnesota's value of solar proceedings provide a model Michigan could follow and build upon.³² The system used in Minnesota also provides for updates to its solar valuation, which allows its energy providers to adapt to improved technology forces utilities to internalize the societal benefits of distributed solar when making planning decisions.

In sum, to prevent the resulting value of solar from being skewed toward the interests of investor-owned utilities and to ensure the best result for Michigan customers, the Commission and its Staff should take the lead in a value of solar proceeding, a process which should center and support, financially and technically, the interests of ratepayers and of LMI and BIPOC ratepayers in particular.

Finally, we would like to end by saying we fully agree with the Draft Report that “[r]apid, decisive action is needed” on these matters, and we urge that the Commission take immediate, direct action based on the recommendations within the workgroup report.³³ Requesting more input from future workgroup sessions would only waste precious time where action is needed. It is not possible to overstate this point, and the Final Report should make clear in the introduction as well that the most needed remedy now is action from Commission. The Commission should take swift action based on the recommendations included in this comment as well as those outlined in the Draft Report to best address the needs of LMI communities and communities of color in the energy sphere.

Sincerely,

DocuSigned by:

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³² See John Farrell, *Minnesota's Value of Solar Can a Northern State's New Solar Policy Defuse Distributed Generation Battles?*, ILSR (Apr. 2014), <https://ilsr.org/wp-content/uploads/2014/04/MN-Value-of-Solar-from-ILSR.pdf>.

³³ *MI Power Grid: New Technologies and Business Models Workgroup Draft Staff Report*, at 119–20.



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