

Pennsylvania Making a Renewed Push to Open the Doors to Community Solar Projects¹

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The Commonwealth of Pennsylvania is experiencing an influx of renewable energy development. Solar energy projects are becoming more economically viable even in the northern portion of the continental United States as technology improves and government incentives drive investment. The amount of land used in these projects varies by type, but bigger projects can encompass hundreds—or even thousands—of acres of property under negotiated options, leases, or purchase agreements. While the renewable energy land acquisitions have not reached the fever pitch of oil and gas leasing during the Marcellus boom, land and legal professionals seasoned by the boom are a great resource for renewable energy companies entering the Commonwealth.

There are three broad classifications of solar development by size: rooftop solar, community solar, and utility-scale (or grid-scale) solar. Rooftop solar is a form of “distributed” solar. These types of residential or small commercial solar energy generation systems are connected “behind the meter,” which means the energy is used directly on-site. Community solar consists of mid-size solar arrays connected to the electricity distribution grid. Community-scale solar electricity is distributed “behind the meter,” but does not necessarily need to be used onsite. Multiple community members can subscribe to a community solar program and receive the benefit, even if the subscribers are not on the site where the power is generated. Finally, utility-scale solar projects generate electricity that feeds into the transmission grid. These are often the biggest projects by land area and may encompass hundreds of acres.

While utility-scale solar and rooftop solar development has recently increased in Pennsylvania, community-scale development could receive a push by either of two bills in the Pennsylvania General Assembly: Pennsylvania House Bill 1555 and Senate Bill 472. Under both bills, a “community solar facility” is generally defined as a project that 1) generates electricity by means of solar photovoltaic devices [i.e., solar panels] with a capacity that does not exceed 5,000 kilowatts (5 megawatts) of alternating current; 2) is located within Pennsylvania; 3) connects to and delivers electricity to a distribution system operated by an electric distribution company; 4) has at least two subscribers with no single subscriber subscribing to more than 50% of the facility’s output; 5) credits the generated electricity to the subscribers’ bills; 6) may be located remotely from a subscriber’s premises; and 7) must be owned or operated by a community solar organization. The bills allow the benefits of a medium range capacity project (up to 5 megawatts) with offsite subscribers.

Although parallel bills were previously introduced in 2019 in both the Pennsylvania House of Representatives and Senate, neither passed despite apparent bipartisan support. HB 1555 and SB 472 represent a renewed effort to bring community solar projects to the Commonwealth. The House Consumer Affairs Committee held a hearing for HB 1555 on August 26, 2021, at the Penn

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State Brandywine Campus. Testimony was received by individuals from the Solar Energy Industries Association (SEIA), PECO Energy Company, SOL Systems, IGS Energy, Enel North America, Community Energy, Coalition for Community Solar Access, and ARM Group. House Consumer Affairs Committee Chairman Jim Marshall (R-Beaver/Butler) stated in connection with the hearing that “[w]ith solar energy rising in popularity for customers, it is critical to hear how it could benefit the Commonwealth Our goal is to gather as much information on technology and energy in order to provide our consumers with reliable energy and reliable information for them to make an informed energy choice.”

As in 2019, the current bills are receiving a bipartisan push toward passage. Based on a report made available by the PA Community Solar Economic Alliance, there are 235 community solar projects already planned across 48 Pennsylvania counties with a projected economic impact of \$1.8 billion dollars. With community solar providing a potential direct benefit to constituents in so many counties, it is understandable to see why there is bipartisan support for community solar. According to openstates.org, HB1555 has 46 sponsors (16 Republican and 30 Democrat) while SB472 has 20 sponsors (8 Republican and 12 Democrat).

If either HB1555 or SB472 is signed into law, Pennsylvania will likely experience an influx in community solar projects. Those projects generally involve land title work along with leasing and acquisition negotiations. Developers will find that the permitting process in the Commonwealth is very local—even though these projects are allowed by state law, siting and land use regulations are set at the county or municipal level. As such, there may be a lot of opportunity for land and legal professionals to assist developers with obtaining options for projects in multiple jurisdictions.