**STATE OF NEW YORK**
**PUBLIC SERVICE COMMISSION**

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**In the Matter of the Advancement of Distributed Solar** — **Case 21-E-0629**

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# COMMENTS OF THE NEW YORK SOLAR ENERGY INDUSTRIES ASSOCIATION (NYSEIA), COALITION FOR COMMUNITY SOLAR ACCESS (CCSA), AND SOLAR ENERGY INDUSTRIES ASSOCIATION (SEIA) IN SUPPORT OF THE NYSERDA PROPOSAL TO REINVEST SURPLUS NY-SUN FUNDS TOWARD ADDITIONAL DISTRIBUTED SOLAR CAPACITY

**April 29, 2024**

## I. Introduction

Over the last decade, New York's distributed solar market has grown significantly. To date, the solar industry has installed approximately 5.5 gigawatts-DC of distributed solar generating capacity in New York[1], and is on track to surpass 6 gigawatts (GW) this year, achieving the first goal in the Climate Leadership and Community Protection Act (CLCPA) one year ahead of schedule. The passage of the federal Inflation Reduction Act (IRA) in 2022, which strengthened federal support for clean energy, has allowed New York to make rapid progress toward New York's expanded 10 GW by 2030 goal ahead of schedule and under budget. New York State Energy Research and Development Authority's (NYSERDA) NY-Sun program has been, and continues to be, foundational to New York's distributed solar market. NYSERDA's flexible, adaptive approach has resulted in a robust, cost-effective Megawatt Block program that is now supporting nearly one gigawatt of distributed solar per year, primarily community solar and increasingly community solar for low-income subscribers.

While New York is ahead of schedule toward its goal of deploying 10 GW of distributed solar by 2030, the state is behind schedule on the more ambitious goals of generating 70% of the state's electricity from renewable sources by 2030[2], and ensuring that 40% of clean energy benefits accrue to low- to moderate-income households and residents of disadvantaged communities (DAC). Expanding the NY-Sun program beyond 10 GW will help New York close the gap on its 2030 and 2040 renewable electricity goals. NYSERDA's proposal to reinvest surplus funds in NY-Sun is an important incremental step forward, and will provide the distributed solar industry another year of runway to develop projects that support progress toward the CLCPA. In addition to this near-term proposal, New York Solar Energy Industries Association (NYSEIA), Coalition for Community Solar Access (CCSA), and Solar Energy Industries Association (SEIA), (collectively the "Solar Parties"), encourage the Commission to begin considering a longer-term plan to sustain distributed solar deployment in New York. The Solar Parties strongly support NYSERDA's proposal, and offer the following comments and recommendations for the Commission's consideration.

## II. Background

On September 20, 2021, Governor Hochul announced her plan to raise New York's distributed solar goal from 6 GW by 2025 to 10 GW by 2030[3]. On December 17, 2021, NYSERDA and Department of Public Service (DPS) Staff filed *New York's 10 GW Distributed Solar Roadmap: Policy Options for Continued Growth in Distributed Solar* (10 GW Solar Roadmap). On April 14,

[1] New York State Department of Public Service. SIR Inventory. Accessed April 18, 2024.
[2] DiNapoli, Thomas. Renewable Electricity in New York State: Review and Prospects. https://www.osc.ny.gov/files/reports/pdf/renewable-electricity-in-nys.pdf. August 2023.
[3] https://www.governor.ny.gov/news/governor-hochul-announces-expanded-ny-sun-program-achieve-least-10-gigawatts-solar-energy-2030.

2022, following a public comment period, the New York Public Service Commission (PSC) issued an "Order Expanding NY-Sun Program"[4] (10 GW Order), authorizing $1.474 billion in incremental funding to implement the 10 GW Solar Roadmap. In addition to extending the NY-Sun program to 2030 and increasing the overall size of the program, the 10 GW Order included new Prevailing Wage requirements and funding for projects above 1 MW-AC as well as funding for solar energy projects that serve low-income households and disadvantaged communities through the Solar Energy Equity Framework (SEEF). In August 2022, approximately four months after the 10 GW Order, the United States Congress and President Biden enacted the Inflation Reduction Act (IRA), federal legislation that extended and expanded federal incentives for clean energy, including distributed solar.

In January 2023, following the reservation of more than 50% of the total available NY-Sun capacity in the Upstate Commercial Megawatt Block program (one of the Mid-Point Review triggers outlined in the 10 GW Order), NYSERDA filed the required Mid-Point Review. The Mid-Point Review discussed the potential impacts of the IRA on the NY-Sun program, however, NYSERDA indicated that there was significant uncertainty regarding expanded federal incentives until further federal guidance was provided by the Internal Revenue Service (IRS) and Treasury Department.

In its June 2023 *Order Authorizing Certain Mid-Program Modifications to NY-Sun (Mid-Point Review Order)*, the Commission directed NYSERDA to "file a report detailing the federal guidance that has been issued to-date on the Inflation Reduction Act of 2022, its impacts on the NY-Sun program, and NY-Sun program adaptations that have been and will be undertaken in response to that guidance, as discussed in the body of this Order."[5] The Mid-Point Review Order also directed NYSERDA to include "an estimate of the amount of incremental distributed solar capacity that NYSERDA could achieve beyond the Incremental 4 GW Target while remaining within the 10 GW Order's approved budget…The Commission expressly requires that such additional capacity must consist only of CDG (Community Distributed Generation) projects that commit at least 40% of project capacity to residential subscribers within DACs. While we are setting the 40% DAC requirement for this particular NYSERDA filing, the Commission may revise the requirements for any capacity that NYSERDA may be authorized to procure beyond the incremental 4 GW."[6]

In January 2024, NYSERDA filed the required post-IRA report; the subject of these comments. The post-IRA report includes the required discussion regarding the impacts of IRA incentives and guidance on the NY-Sun program. The report also estimates that, after 10 GW of capacity is reserved through NY-Sun, NYSERDA will still have a $421M surplus that could be reallocated

[4] Case 21-E-0629. Order Expanding NY-Sun Program. April 14, 2022.
[5] Case 21-E-0629. Order Adopting NY-Sun Mid-Program Modifications. June 23, 2023.
[6] Case 21-E-0629. Order Adopting NY-Sun Mid-Program Modifications. June 23, 2023.

to the New York Green Bank ($75M), with the balance ($346M) reinvested in NY-Sun to support between 557 and 1,254 MW of additional low-income community solar capacity. The wide capacity range can be attributed to the many scenarios that NYSERDA included in its analysis, including varying distributions of capacity between the proposed Statewide Solar for All (SSFA) program and opt-in community solar (supported by the Inclusive Community Solar Adder), and whether the solar projects will provide a 10% or 20% subscriber discount.

Finally, the NYSERDA proposal outlines five requested actions for the Commission to consider. NYSERDA's requested actions are that the Commission:

i. *Commit and expend the NY-Sun program budget of $3,266,846,000 approved in the 10 GW Order to achieve deployment of eligible distributed solar beyond the 10 GW goal;*
ii. *Allow for up to $75,000,000 of the authorized Incremental 4 GW collections to be utilized to fund the current shortfall associated with the NY-Sun 6GW Order as discussed in this filing;*
iii. *Include all program funds above and beyond those necessary to achieve the 10 GW goal, estimated at $346,000,000, within the Solar Energy Equity Framework, with this amount targeted to community solar projects that each dedicate no less than 40% of their capacity to residential customers who are members of disadvantaged communities (and/or have household income at or below 80% of Area Median Income);*
iv. *Continue to include residential customers with household incomes between 60%-80% of Area Median Income, as well as members of disadvantaged communities, within the 40% capacity minimum for community solar projects supported through the Solar Energy Equity Framework as approved in the 6 GW and 10 GW Orders;*
v. *Continue to support onsite residential, affordable, and predevelopment/technical assistance within the Solar Energy Equity Framework as approved in the 6 GW and 10 GW Orders with a portion of additional funds as discussed herein based on future market conditions, program uptake, and in discussion with DPS Staff and stakeholders. For clarity, any such adjustments would not significantly impact the total additional program capacity achieved within the budget.*

## III. Solar Parties Comments in Response to NYSERDA's Requested Actions

The Solar Parties are overall supportive of NYSERDA's proposal. The following section includes the Solar Parties' positions on each of the five requested actions outlined in NYSERDA's report.

*Recommendation 1: Commit and expend the NY-Sun program budget of $3,266,846,000 approved in the 10 GW Order to achieve deployment of eligible distributed solar beyond the 10 GW goal*

The Solar Parties' strongly support this recommendation. When the PSC issued its 10 GW Order, the Commission authorized $1.474B of incremental funding to procure 4 GW of additional distributed solar capacity. NYSERDA's proposal would stretch the previously approved funding to procure an additional 557 MW to 1,254 MW of distributed solar capacity at no incremental cost to ratepayers, with the associated utility bill savings accruing to low- to moderate-income households and residents of disadvantaged communities. Leveraging previously allocated funds to accelerate progress toward New York's clean energy and equity goals is smart policy, a strong investment, and wholly in the public interest. Reinvesting these surplus funds back into the NY-Sun program will also support New York's economy and workforce by providing market continuity to New York's solar companies and the state's more than 13,400 solar workers.

According to NYSERDA's 10 GW proposal, an additional 1 GW of distributed solar will leverage approximately $1B in private investment and provide immense benefits to New Yorkers, including more than $100 million in annual utility bill savings for participating ratepayers (a growing percentage of whom are low- to moderate-income) while eliminating air pollution and supporting New York's solar workforce.[7,8] A little known fact is that New York's distributed solar and storage industry is contributing substantially toward New York's grid modernization, having invested hundreds of millions of dollars into utility infrastructure upgrades in NY over the last decade[9]. A significant portion of NYSERDA's NY-Sun incentives get pumped right back into the electric distribution system through substation upgrades and other utility system modernization which is needed not only for clean energy integration, but also to enhance system reliability by replacing aging equipment and to support load growth due to electrification. This distributed solar capacity will also provide: significant cost savings to non-participating ratepayers in the form of wholesale price suppression; recurring revenue to rural landowners and municipalities hosting clean energy projects through lease payments, property taxes and PILOTs; and reduced localized air pollution from fossil fuel combustion, mitigating adverse health impacts borne by New Yorkers in environmental justice communities across the state.

*ii. Allow for up to $75,000,000 of the authorized Incremental 4 GW collections to be utilized to fund the current shortfall associated with the NY-Sun 6 GW Order as discussed in this filing*

[7] https://www.governor.ny.gov/news/governor-hochul-announces-new-framework-achieve-least-10-gigawatts-distributed-solar-2030. April 2022.
[8] Case 21-E-0629. New York's 10 GW Distributed Solar Roadmap: Policy Options for Continued Growth in Distributed Solar. December 2022.
[9] New York State Department of Public Service. SIR Inventory. Accessed April 18, 2024.

The Solar Parties oppose this recommendation. The New York Green Bank play a critical role in New York's clean energy transition and the Solar Parties support continued investment in the New York Green Bank. However, the Solar Parties do not believe it is prudent for the Commission to take action to reverse its prior funding allocation decision[10] that would result in a reduction to the available NY-Sun budget. New York's distributed solar industry faces rising interconnection costs, increasingly restrictive local laws, and other headwinds that impose market uncertainty that threaten both near-term and long-term progress. The NY-Sun program is a strong bulwark against this uncertainty, providing all eligible industry participants with clear, direct, as-of-right incentives to support rooftop and community solar projects. Rather than taking action to reverse the Commission's prior decision in order to reallocate $75M of NY-Sun funding toward the New York Green Bank, the Solar Parties recommend that these funds remain within the NY-Sun program to support additional distributed solar capacity, as proposed in the Commission's Mid-Point Review Order.

*iii. Include all program funds above and beyond those necessary to achieve the 10 GW goal, estimated at $346,000,000, within the Solar Energy Equity Framework, with this amount targeted to community solar projects that each dedicate no less than 40% of their capacity to residential customers who are members of disadvantaged communities (and/or have household income at or below 80% of Area Median Income)*

The Solar Parties support this recommendation, with minor modification. The Solar Parties support investing the majority, but not all, of the surplus funds into SEEF-eligible community solar projects. The Solar Parties appreciate and share the Commission's commitment to delivering utility bill savings to low-income New Yorkers. We agree that community solar is uniquely capable of delivering direct bill savings to LMI households and DAC residents, and these programs should continue to grow as New York strives to make its overall clean energy portfolio compliant with the CLCPA's DAC requirements. We strongly support this NY-Sun reinvestment exceeding CLCPA compliance requirements, i.e., more than 40% of the total benefits should accrue to LMI and DAC customers. However, it is also important for the NY-Sun program to support other key under-served market segments, including solar for homeowners and businesses Upstate, agrivoltaics and carports, and solar for non-profit and affordable housing properties. A thriving solar market requires diversity, and each of these are important sectors that should be supported in New York.

The rooftop residential and onsite commercial & industrial (C&I) market segments have been neglected Upstate for years, where onsite solar installation volume peaked in 2015 and has not yet recovered.[11] This can be corrected, and NYSERDA has an important role to play in this course correction. In Con Edison territory, where it is challenging to identify suitable sites for

[10] Cases 19-E-0735, et al. Order Approving Clean Energy Fund Modifications. September 9, 2021.
[11] New York State Department of Public Service. SIR Inventory. Accessed April 18, 2024.

large community solar projects, creativity is necessary; the Solar Parties support a more expansive approach that includes an enhanced carport adder (for LMI community solar projects) and additional incentives for nonprofits in DACs or other SEEF eligible projects. Finally, the Solar Parties encourages NYSERDA to invest some of the surplus funding into an agrivoltaics program. New York stakeholders are increasingly concerned about the impacts of ground-mounted solar on agricultural retention. At the same time, solar developers are increasingly interested in developing dual-use projects that support co-location of solar PV and agricultural activities. While they are not a panacea, beneficial siting and dual-use applications such as agrivoltaics should be strongly supported and encouraged, either through a well-designed RFP for Agrivoltaics Research and Demonstration and through a NY-Sun agrivoltaics adder in the future. The Solar Parties offer additional details on these recommendations in the following section.

*iv. Continue to include residential customers with household incomes between 60%-80% of Area Median Income, as well as members of disadvantaged communities, within the 40% capacity minimum for community solar projects supported through the Solar Energy Equity Framework as approved in the 6 GW and 10 GW Orders*

The Solar Parties support this recommendation. The NY-Sun program's current LMI program eligibility requirements align with federal Low Income Communities Bonus Credit requirements and align with other state and utility programs. This alignment of state and federal policy is valuable and should be preserved.

*v. Continue to support onsite residential, affordable, and predevelopment/technical assistance within the Solar Energy Equity Framework as approved in the 6 GW and 10 GW Orders with a portion of additional funds as discussed herein based on future market conditions, program uptake, and in discussion with DPS Staff and stakeholders. For clarity, any such adjustments would not significantly impact the total additional program capacity achieved within the budget.*

The Solar Parties strongly support the recommendation to provide NYSERDA with flexibility to be responsive to future market conditions. This flexibility will enable NYSERDA to optimize the NY-Sun program and efficiently deploy funding to support additional distributed solar projects.

## IV. The Solar Parties' Detailed Recommendations

### The Solar Parties Support the Implementation of Scenario #3 with Minor Modifications

NYSERDA's Analysis of Incremental Solar Capacity Potential outlines six scenarios with different investment approaches assuming $75M is reallocated to the New York Green Bank and the remaining $346M surplus funds are reinvested into the NY-Sun program.

| Scenario Number | Project Configuration | Customer Bill Discount | Upstate MW Funded | ConEd MW Funded | Statewide MW Funded |
|---|---|---|---|---|---|
| **#1** | 100% ICSA | 10% | 670 | 94 | 784 |
| **#2** | 100% Statewide Solar For All | 10% | 1,102 | 132 | 1,254 |
| **#3** | 50%-50% ICSA/SSFA Split | 10% | 833 | 110 | 963 |
| **#4** | 100% ICSA | 20% | 456 | 81 | 557 |
| **#5** | 100% Statewide Solar For All | 20% | 621 | 108 | 750 |
| **#6** | 50%-50% ICSA/SSFA Split | 20% | 526 | 93 | 639 |

The Solar Parties acknowledge that NYSERDA published these figures for illustrative purposes only. However, of the scenarios outlined, the Solar Parties support scenario #3. This scenario includes an appropriate balance between community solar and Statewide Solar for All (SSFA) while supporting nearly one gigawatt of incremental solar capacity.

**The Solar Parties support an even 50/50 split between low-income community solar and SSFA.** In August 2023, the Solar Parties submitted joint comments in response to DPS and NYSERDA's SSFA proposal. These comments voiced conditional support for SSFA, noting that SSFA "must not detract from New York's successful opt-in community solar program".[12] The Solar Parties' comments recommended that SSFA be rolled out in conjunction with significant Inclusive Community Solar Adder (ICSA) capacity to ensure that solar developers still consider implementing community solar projects despite the higher cost structure vs projects that do not include any community outreach & engagement, customer enrollment, and ongoing customer service. A 50/50 split between SSFA and ICSA will allow New York State to realize the cost-savings of SSFA while sustaining New York's nation-leading opt-in community solar market and continuing to provide New Yorkers who can't install solar on their own homes with a local clean energy option that provides guaranteed utility bill savings.

The ICSA and SSFA programs serve unique functions in the market, and it is appropriate to support both. While SSFA reaches more Energy Assistance Program (EAP) customers at a lower cost per MW, it only serves the subset of low-income and disadvantaged New Yorkers who are enrolled in EAP. As the Solar Parties noted in our SSFA comments, EAP unfortunately only serves a minority of the eligible population that would benefit from greater energy savings.[13]

[12] CASE 14-M-0224 Proceeding on Motion of the Commission to Enable Community Choice Aggregation Programs. COMMENTS OF THE NEW YORK SOLAR ENERGY INDUSTRIES ASSOCIATION (NYSEIA), SOLAR ENERGY INDUSTRIES ASSOCIATION (SEIA), AND COALITION FOR COMMUNITY SOLAR ACCESS (CCSA). August 21, 2023.
[13] Ibid

This feature of SSFA results in a critical gap that third party, opt-in community solar can effectively address. The ICSA supports projects that reach a wider population of eligible customers, including residents of DACs as geographically defined by the Climate Justice Working Group. While EAP is available to customers based on income status, the geographically defined DACs identify communities who have borne high environmental and economic burdens, and are also a key and intentional target of CLCPA requirements and SEEF programs. Opt-in programs also provide the opportunity to educate and engage customers on energy issues more broadly, and connect customers with additional tools and resources to address their energy burden.

**The Solar Parties support a baseline 10% customer bill discount, with a deeper bill discount for projects that receive federal Low-Income Communities Bonus Credits (LICBC) or EPA Solar for All funding.** While community solar providers would love to offer all CDG customers with a 20% discount, the deeper customer savings rate would reduce the overall amount of CDG capacity that the budget surplus could support. Meanwhile, a 10% discount would support significantly more total CDG capacity, allowing the surplus funding to serve more customers and provide more local workforce, economic development, and environmental benefit. NYSERDA has already established a process whereby projects that receive an LICBC award are required to provide a deeper discount through the ICSA program rules. The Solar Parties support this approach, and support expanding the 20% customer bill discount requirement to apply to projects that receive enhanced incentives through EPA Solar for All funding. NYSERDA's program rules should remain aligned with federal guidelines for enhanced tax credits and the EPA Solar for All program, while allowing flexibility to account for the limited and competitive nature of those incentives.

The Commission should also consider that the 10% discount is a minimum requirement, and a competitive market for community solar will encourage providers to offer customers the most attractive offering they are able. Further, combining community solar subscriptions with additional energy assistance programs can deepen LMI customers' discount beyond 10%. The proposed Statewide Solar for All program is designed to be additive to EAP discounts and opt-in community solar subscriptions.

**The Commission Should Ensure that 100% of NY-Sun SSFA Funding be Allocated to Solar.** In NYSERA and DPS Staff's 2023 SSFA proposal, the agencies recommend allowing standalone battery energy storage projects in Con Edison territory to participate in SSFA in order to increase the supply of SSFA credits for Con Edison's LMI Energy Assistance Program customers. The Solar Parties support this recommendation, but request that the Commission ensure that any funds for incentives to support energy storage projects come from the forthcoming energy storage program rather than NY-Sun funding.

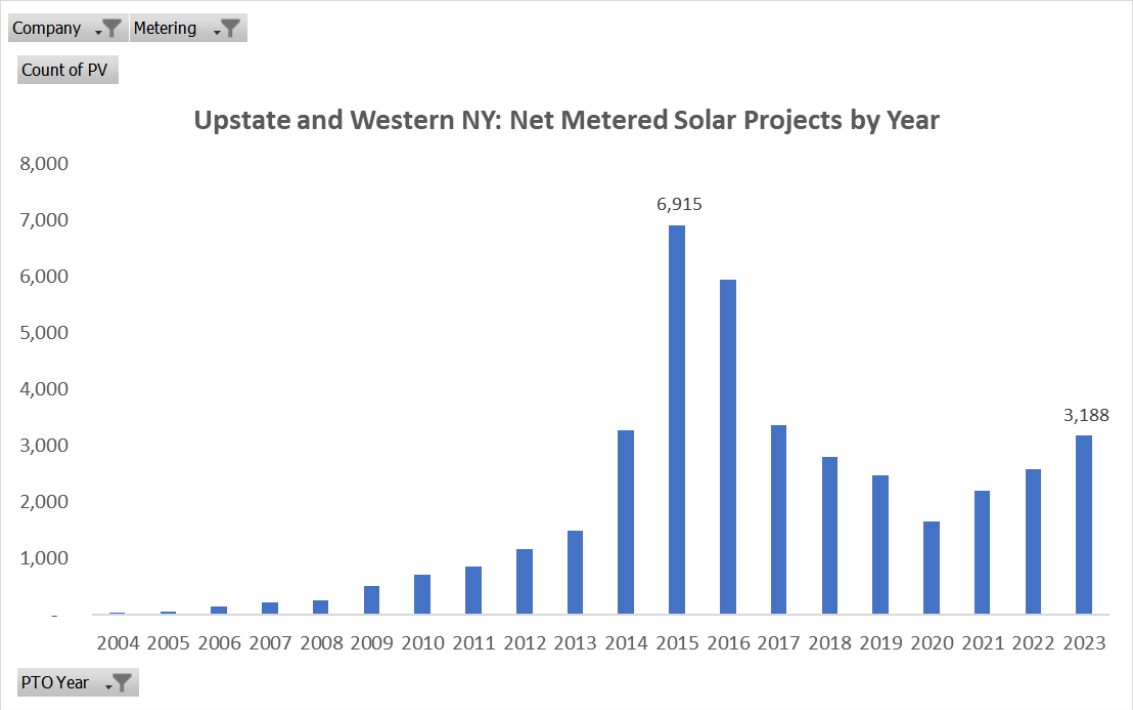
**The Commission Should Direct NYSERDA to Consider Increasing the Maximum DC Nameplate Rating for Projects that Include Energy Storage.** Currently, the NY-Sun program manual limits NYSERDA NY-Sun funding to the first 7,500 kW-DC of each community distributed generation project. However, as interconnection costs rise and energy storage costs decline, distributed solar developers are increasingly pairing their solar projects with energy storage, allowing them to increase the overall capacity factor of the solar energy system, thereby increasing their utilization of the available interconnection hosting capacity. The current NY-Sun program's DC nameplate rating cap is appropriate for solar-only applications, where high DC/AC ratios can result in clipping, i.e., PV production curtailment midday when the PV modules can produce more than the 5 MW-AC rating of the inverters. However, hybrid solar + energy storage projects can store this "excess" production for export in the late afternoon/evening; a practice that should be encouraged.

**The Commission Should Direct NYSERDA to Support Onsite Solar Upstate**

During the same time period that New York established its nation-leading community solar program, the Upstate onsite solar market for homes and businesses atrophied. Community solar is one of the fastest and most cost-effective ways to achieve New York's clean energy and equity goals. However, siting solar on rooftops is also critical, and provides unique benefits to the grid, communities, and ratepayers. By co-locating solar PV with existing large electric customers, the solar PV systems directly reduce strain on existing electrical utility infrastructure built to serve that load. And while a growing number of New York municipalities have passed restrictive local laws that effectively ban community solar, fewer have banned rooftop solar, which enjoys wide public support.[14] The Solar Parties strongly oppose restrictive local laws that discriminatorily prohibit community solar (laws that are frequently waived by the Office of Renewable Energy Siting for utility-scale projects), but also support efforts to increase the deployment of rooftop solar.

In Upstate New York, onsite solar deployment actually peaked in 2015, and has not yet recovered; across NYSEG, RG&E, and National Grid territory, more than twice as many net energy metered solar projects were installed in 2015 than 2023. Onsite solar deployment has modestly increased each year since 2020, but has not yet recovered to its 2015 peak. While this trend is positive, the rates of deployment are still quite low and there is no guarantee that growth will continue without support through NY-Sun.

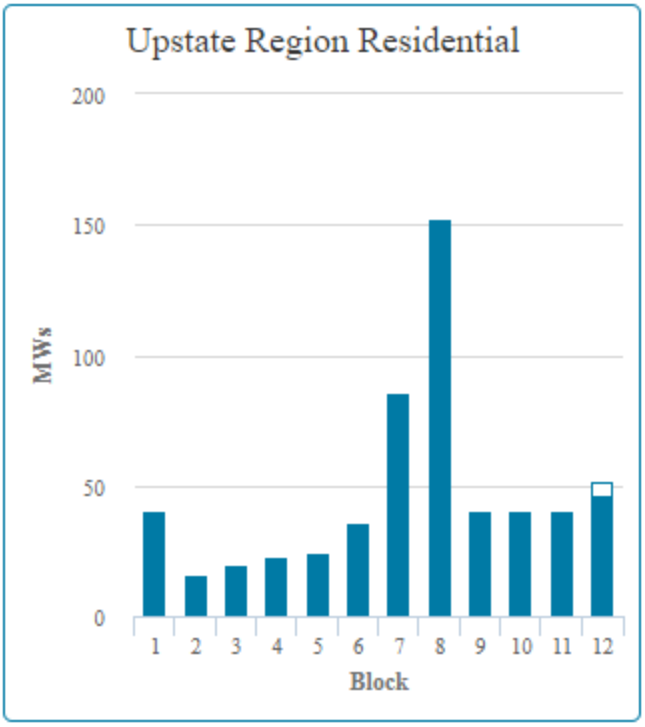
[14] New York Solar Energy Industries Association qualitative analysis of recent solar local laws. New York Department of State website. https://locallaws.dos.ny.gov/.




Source: Department of Public Service. SIR Inventory Data through 2023. Accessed February 2024.

The economics for onsite solar Upstate are challenging and not getting easier. Residential rates are relatively low on a per kWh basis Upstate, and residential customers that install solar are now subject to the Customer Benefit Contribution, a fixed monthly fee based on the DC nameplate rating of the solar PV system; a fee that erodes solar customer savings. Additionally, many homeowners Upstate are not able to fully monetize the available federal and state income tax credits because they are more likely to be low-income than homeowners in the NYC and Long Island regions.[15] Finally, the Upstate Residential NY-Sun incentive has declined from $0.50/Watt-DC in 2022 to $0.20/Watt today, and the remaining incentive is at risk; NYSERDA has already fully allocated the Upstate residential NY-Sun funding approved in the 10 GW Order. The small amount of additional funding that NYSERDA reallocated to the program in early 2024 extended the program for a few months, but will be exhausted in a matter of weeks barring additional intervention by the Commission and/or NYSERDA.

[15] New York State Division of Homes and Community Renewal. AHC Income Limits. https://hcr.ny.gov/income-limits. Accessed April 25, 2024.




Source: NYSERDA NY-Sun Upstate Dashboard. Accessed April 29, 2024.

The economics for onsite solar for Upstate businesses are similarly challenging today. In Upstate New York, solar energy is actually better compensated when it is exported to the grid under the Value of Distributed Energy Resource (VDER) tariff than when consumed behind-the-meter for commercial and industrial electric customers. Last year, NYSERDA's Non-Residential NY-Sun incentive declined from $0.35/Watt-DC to $0.25/Watt-DC. This incentive, which is limited to the first 750 kW-DC of an onsite solar project, is often insufficient to induce commercial building owners to install rooftop solar. In August of 2023, following discussion with NYSERDA staff, NYSEIA submitted a proposal to strengthen the Non-Residential MW Block program. NYSERDA has not yet taken action on these recommendations, which are restated with minor modification in the following section.

**NYSERDA Should Allocate 5% of the Budget Surplus Toward Upstate Residential Solar**

Throughout 2023, the Upstate Residential MW Block program supported a bit more than 65 MW of residential solar applications with $16.4M in funding. The Solar Parties recommend that the Commission direct NYSERDA to allocate $17M-$21M, or 5% of the total surplus funding budget to support an additional residential solar Upstate. This level of funding will sustain the Upstate market for approximately 12 months following an authorizing order. This timeline closely aligns with the anticipated reservation timeline for the Upstate C&I portion of the surplus funds. At $0.20/Watt-DC, this proposed reallocation would actually support lower-cost PV capacity than any other program included in NYSERDA's proposal. While this 5% budget allocation will not exclusively support LMI and DAC customers, a portion of it will. The Solar Parties support efforts

to modify existing incentive programs to better serve LMI homeowners as well as the targeted deployment of EPA Solar for All funding. These efforts could steer more of this proposed allocation toward LMI homeowners and DAC residents.

**NYSERDA Should Raise the Upstate Non-Residential Maximum System Size from 750 kW to 1.5 MW, Create a $0.20/Watt-DC Rooftop Beneficial Siting Adder, and Allow Prevailing Wage Opt-In for Non-Residential Projects**

Today, many Upstate commercial building owners that install solar are artificially capping their system size at 750 kW-DC due to the significant drop in incentive level for systems above 750 kW-DC. This represents a missed opportunity to deploy more rooftop solar and improve the project economics for onsite commercial projects in the region. There are currently almost no projects between 750 kW and 1,500 kW, as the lower base incentive is insufficient. By adjusting the system size threshold from 750 kW to 1,500 kW, NYSERDA will increase the economic feasibility of large commercial rooftop solar projects Upstate, strengthening this important but under-served market segment.

Additionally, the Solar Parties encourage the Commission to authorize a $0.20/Watt rooftop adder. NYSERDA has established a number of beneficial siting adders, including an adder for brownfields, carports in Con Edison territory, and, most recently, floating solar. The Solar Parties strongly support these adders, but believe the Commission should not overlook the immense potential to install solar on C&I rooftops Upstate.

In combination, these two recommendations will shorten the payback period for onsite solar for Upstate businesses and institutions by 2-3 years. These changes could also stimulate an Upstate rooftop community solar market, allowing projects to be built quickly by leveraging existing electrical infrastructure and with no land use impacts or community opposition.

Finally, the Solar Parties also encourage the Commission to enable Upstate Non-Residential solar projects to opt-in to the NY-Sun's Prevailing Wage Adder, provided that the solar company pays prevailing wages to their workforce and complies with all relevant program requirements. Currently, prevailing wage requirements and the associated adder only apply to projects above 1 megawatt-AC. The Solar Parties agree with NYSERDA and the federal government that 1 MW-AC is an appropriate threshold above which prevailing wage should be required. However, the Solar Parties believe that prevailing wages should be encouraged for smaller projects as well. Additionally, allowing use of the Prevailing Wage Adder on an opt-in basis will simplify payroll procedures for companies that primarily construct larger projects but occasionally complete smaller rooftop projects (and vice a versa). For these reasons, we recommend that the Commission direct NYSERDA to allow Upstate Non-Residential solar projects to opt-in to the NY-Sun Prevailing Wage adder.

## The Commission Should Direct NYSERDA to Support Agrivoltaics

As New York scales up solar deployment to makes progress toward its ambitious clean energy goals, a growing number of stakeholders are concerned about the impacts that solar deployment will have on agricultural production. At the same time, New York solar developers have a growing interest in deploying agrivoltaics, or dual-use solar and farming applications. According to the American Farmland Trust (AFT), agrivoltaic projects "maintain, rather than displace, farming activity by making agricultural production an integral part of the project design and operation".[16] While agrivoltaics may be new to New York, agrivoltaic projects have been developed successfully across the region and around the world. Agrivoltaic projects have a cost premium, as they require significant design modifications to accommodate agricultural production activities. Examples of design changes for agrivoltaic projects that increase costs include: elevating solar PV arrays to provide sufficient clearance for grazing/livestock, managing equipment use to avoid soil compaction, and increasing row spacing to allow farming equipment and sunlight between rows.

The Solar Parties encourage NYSERDA to expeditiously launch its planned RFP for Agrivoltaics Research and Demonstration, which can help catalyze the market for agrivoltaics. We provided feedback to NYSERDA regarding the proposed RFP, advocating for NYSERDA to prioritize commercial-scale demonstrations and adopting a standardized approach to project evaluation so more developers will be able to respond to this RFP and it will support a rapid transition from research & development to full-scale implementation. The Solar Parties commend NYSERDA for including a $5M allocation of Regional Greenhouse Gas Initiative (RGGI) funds toward agrivoltaics in their 2023 Operating Plan[17]. We also encourage the Commission to direct NYSERDA to develop a proposal for an as-of-right agrivoltaics adder to support the long-term growth of this market. Any agrivoltaics program should be developed in consultation with experts from the agricultural, academic and solar sectors, such as the stakeholders participating in NYSERDA's Agricultural Technical Working Group.

## A Flexible Approach is Needed for Con Edison Territory

NYSERDA's report recommends investing 40% of the total surplus funds in Con Edison territory, presumably to achieve a level of geographic equity based upon Con Edison ratepayer contributions toward the System Benefit Charge (SBC). This allocation could support a significant amount of distributed solar capacity in New York. At the same time, Con Edison is the most densely populated utility service territory in the State, and it is challenging to secure suitable

[16] Levy, Samantha; Ruiz-Ramón, Mikaela; Winter, Ethan. Smart Solar Siting on Farmland: Achieving Climate Goals While Strengthening the Future for Farming in New York. American Farmland Trust. February 2022.
[17] NYSERDA. New York State's Regional Greenhouse Gas Initiative Investment Plan. 2023 Operating Plan.

sites for large CDG projects in the territory. In its MPR Filing, NYSERDA acknowledged that solar capacity discrepancy between Con Edison territory and Upstate New York, noting that "there was a larger variety of projects in the Con Edison service territory, with almost half of Con Edison nonresidential projects receiving NY-Sun incentive commitments during the Review Period coming from behind-the-meter installations."[18] Behind-the-meter installations provide significant benefit to SEEF-eligible properties, e.g., affordable housing and non-profit organizations in DACs, by reducing operating expenses and serving as a hedge against rising electricity rates. In addition to LMI CDG, onsite SEEF-eligible projects should be supported. The Solar Parties assert that a flexible approach is required in Con Edison territory, and offer the following recommendations for the Commission's consideration.

***The Commission Should Direct NYSERDA to Create an Enhanced Carport and Canopy Adder for LMI Community Solar in Con Edison Territory***

Con Edison's dense built environment leaves few suitable sites for large community solar projects. The one notable exception is parking lots. NYC has approximately 8,500 acres of surface parking lots that could be covered with solar parking canopies[19]. In 2023, New York City enacted City of Yes: Zoning for Carbon Neutrality, a zoning text amendment that removed impediments to clean energy project development in NYC. Thanks to the City of Yes, NYC now offers as-of-right zoning approval for solar parking canopies above off-street parking and permits roofs to be fully covered by solar canopies.

New York City has successfully removed one of the key barriers to solar canopies. However, the cost premium for solar canopy structures is prohibitive in most cases. NYSERDA can address the remaining economic barrier by creating an enhanced solar canopy adder, including both solar carports and rooftop canopies, for LMI community solar, SSFA, and behind-the-meter SEEF-eligible projects in Con Edison territory. The Solar Parties encourage the Commission to direct NYSERDA to create an enhanced LMI canopy adder of $1.00/Watt-DC, supporting up to 40 MW of solar canopies in Con Edison territory. This proposed LMI canopy adder should be stackable with other incentives to ensure it is accessible to affordable housing. This incentive level would cover the incremental cost of carport/canopy structures, and will catalyze a significant number of solar canopies in New York City and Westchester. Not only would this adder allow the Commission to deliver many megawatts of LMI solar to Con Edison customers, it will also support the City of New York to achieve its policy objective and help foster a vibrant market for solar carports in New York.

[18] PSC order "In the Matter of the Advancement of Distributed Solar", pp. 8-9, June 23, 2023 https://documents.dps.ny.gov/public/MatterManagement/MatterFilingItem.aspx?FilingSeq=308520&MatterSeq=67011

[19] https://www.nyc.gov/office-of-the-mayor/news/935-23/mayor-adams-speaker-adams-celebrate-passage-zoning-changes-fights-climate-change-by

**The Commission Should Authorize NYSERDA to Flexibly Allocate Con Edison Funding Toward Any SEEF-Eligible Projects**

While the Mid-Point Review Order directed NYSERDA to file a plan to invest surplus funds into low-income community solar, the Solar Parties recommend that the Commission grant NYSERDA with flexibility to support any SEEF-eligible projects in Con Edison territory, including both behind-the-meter and CDG projects. In Con Edison territory, there are many DACs, LMI homes, affordable housing and nonprofit facilities. Siting constraints limit the number of suitable sites for large CDG projects, however, installing onsite/behind-the-meter solar on SEEF-eligible properties also achieves the Commission's goal of bringing clean energy benefits to LMI households and DACs. These kinds of projects can provide deep savings to LMI and DAC customers, and should be encouraged. As such, the Solar Parties recommends that the Commission grant NYSERDA with explicit authorization to flexibly allocate 10 GW surplus funding toward any SEEF-eligible projects.

**The Commission Should Grant NYSERDA Flexibility to Adjust the Program and Reallocate Funding in Response to Market Conditions**

Between inflation, supply chain issues, and changing federal and state incentives and regulations, New York's distributed solar market is dynamic and fluid. The NY-Sun program has proven to be an important tool to maintain the distributed solar market's stability and continuity. The Solar Parties encourage the Commission to grant NYSERDA with the flexibility to adjust the NY-Sun program and reallocate funding in response to changing market conditions.

**New York State Needs a Plan to Support Distributed Solar Beyond the 10 GW Roadmap**

NY-Sun is supporting meaningful progress toward New York's clean energy and equity goals, and should be continued over the long term. Expanded federal support due to the IRA, including the surplus discussed in NYSERDA's report and the recently awarded EPA Solar for All grant, will provide a 12- to 24-month extension to the NY-Sun program. The solar industry appreciates this extension, which provides near-term market certainty and will support continued distributed solar deployment. However, the incremental capacity does not provide the industry with the long-term market certainty necessary to sustain deployment over the next decade. The next few years will be pivotal, and the Solar Parties encourage the Commission, DPS Staff, and NYSERDA to utilize this brief runway to develop policies and programs that allow distributed solar to support long-term, sustained progress toward New York's CLCPA goals. We look forward to partnering on these efforts.

## V. Conclusion

New York's pipeline of advanced stage distributed solar projects is rapidly approaching 10 GW ahead of schedule, and New York deployed more distributed solar in 2023 than ever before. At the same time, inflation, rising interest rates, rising interconnection costs and restrictive local laws threaten to undermine that momentum. The NY-Sun program is a powerful tool to counteract these headwinds and support continued progress toward New York's nation-leading clean energy goals. The IRA has created an estimated $421M program surplus in the NY-Sun program, which NYSERDA recommends reinvesting into additional distributed solar capacity for low-income New Yorkers. The Solar Parties strongly support this proposal, with minor modifications to support key under-served market segments.

The Solar Parties thank the Commission for its attention to this important matter, and encourage the Commission to issue an order authorizing NYSERDA to reinvest the surplus funds into the NY-Sun program without delay.