

# SB84 Community Solar Act Senate Conservation Committee

January 28, 2021

## What is Community Solar?



## Why Community Solar?

### Many New Mexicans are left out of the residential solar energy market

Rooftop solar is a great option for home and business owners who wish to power their buildings with clean, solar energy, but many **New Mexicans are unable to realize the direct benefits of solar** because they are renters or cannot take on the financial expense. **Community solar increases access to the solar market**, regardless of home ownership status, income, or physical/shading limitations that prevent rooftop solar development. In 2017, 32% of NM's households were rented. 30% of families that rent fall below the poverty line in New Mexico and are unable to realize direct benefits of solar energy on their electric bills. A 2017 survey of big solar markets (CA, MA, NY, NJ) found that only 13% of installations are on households earning less than \$45,000 per year.<sup>i</sup>

### Community Solar Helps Vulnerable Communities

- Subscribers typically **save 10% per year or more on their electricity bills**. The percentage of savings for low-income participants can be even larger, especially for those with disproportionately high energy burden.<sup>ii</sup>

### Community Solar Will Benefit New Mexico's Economy and Create Job Opportunity

- A recent **University of New Mexico study**<sup>iii</sup> found that community solar can provide a major economic stimulus to New Mexico at a time when it is desperately needed.  
Community solar will:
  - Generate **\$517 million in economic benefits**
  - Create **3,760 high-quality jobs** in various sectors over the next 5 years
  - Generate over **\$2.9 million in tax revenues annually** for the state that is funded by private companies without requiring increased taxes or state investmentCommunity solar provides county-level benefit:
  - Each **county in New Mexico would benefit from \$15 million in economic output** and 117 new jobs over a 20-year period.
- Multiple statewide sectors are expected to benefit from community solar, according to the UNM's study. Many of the top statewide sectors expected to benefit are also among those hardest hit by the COVID-19 pandemic, including construction, restaurants, professional services, real estate, retail, and healthcare.

**Statewide Community Solar Programs—20 states and Washington D.C. have passed some form of legislation enabling community solar. Programs vary in scale, either through statewide programs or pilot projects.**

## Key Features of the SB84 Community Solar Program:

### Consensus-based approach through the Senate Memorial 63 Working Group Process

- The SM63 Working Group convened from July-November to review initiatives and “develop recommendations for implementation of those initiatives that result in a sustainable and scalable market-based program for the state of New Mexico.”
- The Working Group was inclusive to all interested stakeholders and consisted of utilities, state agencies, local governance, non-profits, Tribal representatives, solar developers, and New Mexican citizens.
- SB84 is drafted based upon the survey findings of SM63 stakeholders to **create consensus-based legislation**.

### 100 Megawatts of Community Solar Each Year until 2024

- Creates an **initial statewide annual program cap of 100 MW**, equivalent to ~1% of utility retail energy consumption. For example, when the 100 MW cap is allocated proportionally to investor-owned utilities (IOUs), this is approximately 50 MW/year for PNM, 40 MW/year for SPS, and 10 MW/year for EPE.
- After 2024, the cap will be set by the Public Regulation Commission (PRC) as part of the programmatic review and recommendations.

### 5-Megawatt Project Size

- Each community solar facility must have at least **10 subscribers**, and a single subscriber cannot own more than 40% of the facility’s capacity.
- Subscribers & the community solar project facility must be within **the same utility service territory**.
- 40% of the generating capacity of each community solar facility is reserved for subscriptions sized to 25 kW or less, which ensures access to resident subscribers, small business-owners, or those with a smaller electricity demand. 40% of the generating capacity is also capped for use by a single subscriber, which helps developer’s ability to get financing.

### Low-Income Participation

- Community solar is favorable to low-income participants because it offers **day-one savings, no upfront costs, and no penalty to end** the subscription to a community solar facility.
- **30% of the annual statewide program capacity** will be reserved for **low-income customers** and low-income service organizations.
- The PRC will issue guidelines to ensure the low-income carve-out is achieved each year.

### Renewable Energy Credits/Certificates (RECs)

- The **RECs remain the property of the subscriber organization** (developers of community solar facilities) with the **option to transfer or sell them to the service utility**.

### Public Regulation Commission Rulemaking

- The **Senate Memorial 63 Working Group consulted with the Commissioner Fischmann** to help determine the PRC’s involvement in a future community solar program.
- SB84 reflects those conversations and guides the PRC to:
  - Adopt rules that include **consumer protections for subscribers**
  - Ensure **utilities are fairly compensated** for interconnection and administrative costs
  - Determine the **subscriber bill credit rates** based on total aggregate retail rate methodology

### Comprehensive Community Solar Program Review

- The PRC will provide a **comprehensive evaluation of the program** by November 1, 2024.
- The report on the status of the community solar program will evaluate:

- Participation of investor-owned utilities and rural electric distribution cooperatives
- Low-income participation
- Adequacy of facility size
- Proposals for alternative rate structures and bill-credit mechanisms
- Cross-subsidization issues
- Community solar facilities' effect on utility compliance with the renewable portfolio standard
- Evaluation of the effectiveness of the PRC's rules to implement the community solar program and any recommended changes

### Involvement of Rural Electric Distribution Cooperatives

- **Rural electric distribution cooperatives are exempt from participation** in the program unless they decide to **opt-in, on a per-project or service territory-wide basis.**
- The "opt-in" language reflects the **resolution passed by the New Mexico Rural Electric Cooperative Association (NMRECA)** which supports community solar legislation that allows "New Mexico Cooperatives to opt-in to a community solar program, rather than mandate participation."
- This language was **reviewed by the Tribal Community Solar Task Force and in accordance with the All Pueblo Council of Governors Resolution No. APCG 2020-06** "Support for Community Solar Legislation That Benefits Pueblo Nations."

### Tribal Community Solar Development

- **Tribes have sovereign jurisdiction over their lands** while having electric service provided by their respective electric service utilities. Sovereign status holds that Tribal Nations are not subject to state power on Tribal lands, and state legislative, regulatory, taxation and judicial authorities, and others, do not extend to Tribal Nations or Tribal members on Tribal land. Despite sovereign status, **Tribal Nations do not have equal opportunity to pursue community solar without enabling legislation to create a statewide market and set equal standards for electric utilities.**
- Exemptions exist for Native Community Solar Projects in line with Tribal sovereignty status for:
  - Facility size
  - Requirements for the amount of subscribers or size of subscription, including anchor tenant limitations and the 40% carve-out for subscriptions sized 25 kW or less
  - Statewide annual program cap
- Tribal Nations stand to **benefit from community solar legislation** through **economic development and lowering the disproportionate energy costs born by Tribal communities.**

## How is Senate Bill 84 Different from Previous Community Solar Bills?

### SB84 (and duplicate HB106) resulted from:

- The SM63 Working Group was composed of over 90 stakeholders to address community solar best practices, review past community solar bills, and find Working Group consensus through survey findings. SB84 and HB106 are based on the output of those meetings and incorporate findings on capacity cap, project size, and placing greater authority in PRC rulemaking.
- Feedback from the NMRECA and their resolution which requested voluntary participation for the cooperatives reflective of resources, legal obligations, and technical capacity.
- Policy recommendations from the Tribal Community Solar Task Force, which acted as a subgroup of SM63 Working Group to focus upon and elevate Tribal interests in renewable energy development. The Task Force met bi-weekly since July 2020 to learn more about community solar and Tribal models of community solar development and meet with legal counsel. The Task Force was composed of representatives acting on behalf of Tribes, state agencies, rural electric cooperatives, Native-led advocacy organizations, and Tribal members.
- Feedback from the PRC and Commissioner Fischmann with how prescriptive the bill needed to be.

## Will Community Solar Burden Non-Participating Customers?

No, it will not.

- A new [national modeling study](#)<sup>iv</sup> shows that scaling community solar actually reduces grid costs and can translate into lower rates for consumers. Cost savings come from reducing transmission constraints and losses, flattening local load, reducing risk by increasing diversity of electric generation across the grid, and delaying the need for investing in near-term generation assets.
- For SB84 specifically--Through bill credit rates set by the PRC, utilities will recover appropriate program administration and distribution-level costs from subscribers. Project developers will pay the full interconnection costs and any required distribution system upgrades. The program and project costs and benefits will be evaluated by the PRC no later than 2024 and adjusted as necessary to ensure the program is benefitting all ratepayers.

## Can Community Solar Help Satisfy the Renewable Portfolio Standards (RPS) of the Energy Transition Act (ETA)?

The value and ownership of RECs will be determined during the PRC rulemaking processes, but utilities will have the option to retain RECs from the community solar projects to meet their RPS obligations. The statewide annual program cap of 100 MW is just a small portion of the total renewable energy generation that is needed to come online to replace current fossil fuel generation and meet the RPS requirements of the ETA.

## How Does Community Solar Compare to Utility Scale Projects?

**Ratepayers generally do not see bill savings from utility-scale solar.** When a new generation asset is built (like a 50 MW solar array), it typically impacts ratepayer costs in a marginal way, as the cost-savings are impacted by all of the utility's debts and assets spread across all ratepayers.

**Community solar subscribers will see bill savings.** Community solar, in contrast, will be built at a smaller scale and funded by private capital, but the savings—relative to utility rates—are shared among a smaller pool of subscribers and, therefore, savings would be more significant for community solar facilities. Community solar programs are designed to provide 10% savings for consumers and businesses on their electric bills. With a project lifespan of 25-30 years, customers can expect long-term savings and cost certainty through their subscriptions.

## Why are Utilities Required to Purchase Excess Unsubscribed Energy from a Community Solar Provider?

Every unit of energy produced by a community solar facility feeds into the electric grid, meeting nearby consumer demands and going towards the state's renewable energy goals. Therefore, **every unit of energy from a community solar facility is a unit of energy that the utility's generation sources do not have to produce (leading to total system savings)**. The "avoided cost" is the price the utility would have otherwise paid to produce the same unit of energy itself or purchase it from another source, which is the fair market-based price. The avoided cost rate is significantly less than what subscribers pay. **Community solar developers strive to have fully subscribed facilities, and the legislation is written so that developers are able to carry unsubscribed energy forward for up to one year to find subscribers to use the credits and prevent credits paid out at the avoided cost rate.** For example, in [Xcel's 2018 Renewable Energy Standard Compliance Report](#)<sup>v</sup> for Colorado, 32 of 40 community solar facilities had over 98% subscribed energy, with only 1 facility having less than 89% of energy subscribed.

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<sup>i</sup> <https://www.woodmac.com/our-expertise/focus/Power--Renewables/How-Wealthy-Are-Residential-Solar-Customers/>

<sup>ii</sup> See, for example, <https://www.forefrontpower.com/md-cs-costs-explained>

<sup>iii</sup> <https://www.sol-utionnm.org/wp-content/uploads/2021/01/NM-2021-Community-Solar-Impact-Report.pdf>

<sup>iv</sup> [https://www.vibrantcleanenergy.com/wp-content/uploads/2020/12/WhyDERs\\_TR\\_Final.pdf](https://www.vibrantcleanenergy.com/wp-content/uploads/2020/12/WhyDERs_TR_Final.pdf)

<sup>v</sup> [https://www.xcelenergy.com/staticfiles/xe-responsive/Company/Rates%20&%20Regulations/16A-0139E\\_2018%20Renewable%20Energy%20Compliance%20Report\\_FINAL.pdf](https://www.xcelenergy.com/staticfiles/xe-responsive/Company/Rates%20&%20Regulations/16A-0139E_2018%20Renewable%20Energy%20Compliance%20Report_FINAL.pdf)