Senate Memorial 63 Community Solar Working Group

Final Report

Developed for the New Mexico Legislative Council

December 14, 2020

Contents of Report

Executive Summary

For several years, bills have been introduced to authorize a community solar program for New Mexico. Under such programs, community solar installations may be built in or near communities. They would be authorized to interconnect with the grids of electric utilities to deliver solar-generated electricity to their subscribers, making solar generation more widely available. Although no such bill has passed as of yet, the interest shown by legislators and members of the public and various organizations led the State Senate to adopt Senate Memorial 63 in the 2020 regular legislative session.

SM 63 asked the Legislative Council Service to convene a working group of stakeholders 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." A facilitator was hired to work with a volunteer coordinating team. This report describes the composition of that working group and the process they used. Many stakeholders were invited, and about fifty participated throughout the process.

Two-hour meetings were held over Zoom every other week from mid-July through early November. Most meetings featured a presentation on some aspect of community solar programs, followed by discussions among the participants. A survey was distributed to the participants at the beginning and near the end of the process. This report summarizes the essence of these presentations, participant conversations and survey responses. In addition, the coordinating team talked with several organizations to gain a better understanding of their positions; these separate discussions are also summarized.

All working group participants were encouraged to participate in the meetings and surveys. Many did both, as noted in Appendix 2. During these various occasions, representatives of communities, Tribes and the solar industry presented their views about community solar programs. The representatives of the participating rural electric cooperatives stated that they would not oppose legislation creating community solar programs to which they would be allowed to opt in, rather than having to opt out. While the state's three investor owned utilities attended all the meetings, only one, Xcel Energy, responded to the surveys as well as presented to the group their experience with community solar. PNM asked for and had a separate meeting with the coordinating team. During that meeting, the company made a presentation to the effect that it didn't have plans to integrate additional solar generation beyond what is required to replace the San Juan Generating Station capacity in the next decade.

Key takeaways identified by the coordinating team from the meetings and survey responses include:

- Most participants support enabling community solar programs because of the access they provide to solar-generated electricity for customers who otherwise cannot install rooftop solar. Low-income families, renters and Tribes, among others, were specifically identified.

- Methods to prevent cross-subsidization of community solar subscriber rates by non-participating utility customers of traditional utility services would be necessary.
- The state's IOUs and electricity cooperatives generally emphasized their position that a community solar program needs to be structured to conform to interests of ratepayers, support their obligations to provide affordable and reliable power, and should complement the Energy Transition Act's requirements.
- Cooperatives who were represented-- Kit Carson Electric Coop and members of NMRECA-- also argued that they should not be required to offer such systems unless a majority of their members want them, and it doesn't conflict with their contractual commitments and other limitations. They would not oppose the legislation if opting in is authorized in the legislation.
- Limitations on community solar projects are needed to limit potential loss of ratepayers to utility companies and cooperatives.
- It is preferable that resolution of rates and other complex issues be assigned by the legislation to the PRC.
- The Tribal Community Solar Task Force, which was held in parallel, emphasized that a community solar program shall have the following attributes and principles:
    1. Recognizes Tribal Nations' sovereignty status which holds that Tribal Nations are not subject to state jurisdiction on Indian lands, and state legislative, regulatory, taxation and judicial authorities, and others, do not extend to Tribal Nations or tribal members on tribal land.
    2. Supports the inclusion of rural electric distribution cooperatives serving Indian nations, tribes and pueblos to provide interconnection and retail electric service to community solar development on the lands of Indian nations, tribes, and pueblos. Rural electric cooperatives serving these entities would be able to opt-out of the program with approval from the Public Regulation Commission on a per-project basis for reasons such as contractual or technical limitations.
    3. Recognizes the unique governmental, communal, and land ownership status of tribal nations and structures the program so that tribes can participate in renewable energy opportunities.

The issues involved in adopting community solar programs are complex, and considerable differences remain among the participants. The working group process has confirmed, however, that many stakeholders want New Mexico to join the other 20 states and the District of Columbia that have adopted legislation enabling such programs to provide the benefits they offer. The working group coordinating team hopes that this report will help inform the conversation and ensure that all interests are fully respected; it will also serve as a guide for the development of the 2021 community solar bill.

The coordinating team expresses its thanks to the Legislative Council for its interest, to the presenters for their insights into community solar programs nationally, and most of all to the working group participants for their many hours of time and effort, their constructive participation, and above all, their candor.

Introduction

Senate Memorial 63, adopted in the 2020 regular legislative session, requested the Legislative Council to arrange for a third-party facilitator to convene a Working Group to review statewide community solar initiatives and develop recommendations for implementation of those initiatives. Although the legislature had declined to pass several bills proposing to lay a legal framework to support community solar projects, this memorial was passed to respond to expressions of continuing interest by many legislators and other parties.

SM 63 described the promise to New Mexico from community solar projects, including: environmental benefits from increased renewable energy generation; increased economic development and employment opportunities; cost savings to consumers' electricity usage; and enhanced access to renewable energy for local government and other entities, as well as for renters and low-income residents. It also noted the growing number of states supporting the development of community solar projects, few of which enjoy New Mexico's abundant sunshine. The memorial recommended participation in the Working Group by all stakeholders and entities, including legislators, investor-owned utility companies and cooperatives, renewable energy industry representatives, Indian nations, tribes and pueblos, low-income service providers, local governments, representatives of relevant state agencies, environmental groups, and community members from throughout the state.

The Working Group Process

The primary impetus for organizing the Working Group was provided by the leading House and Senate sponsors of the 2020 community solar bills, Rep. Patricia Roybal Caballero and Sen. Liz Stefanics. A 5-member coordinating team comprising representatives of the Coalition of Sustainable Communities New Mexico, Vote Solar, Coalition for Community Solar Access and Conservation Voters New Mexico volunteered to support the legislators in coordinating the Working Group. Using donated funds, the Legislative Council approved the hiring of attorney Paul Biderman, formerly New Mexico Secretary of the Energy and Minerals Department and director of the Institute of Public Law at UNM School of Law, now a consultant, as the third-party facilitator for the Working Group[1].

The coordinating team sent out invitations to representatives of all the groups identified in the senate memorial, receiving a strong response. It should be noted that the process for participating was open to all who expressed an interest in participating within the timeframe of the Working Group.

The coordinating team began by preparing an up-to-date chart analyzing community solar legislation in other states and the District of Columbia. It also gathered background data on the

[1] While the facilitator works as a bill analyst for the Senate majority analyst pool during legislative sessions, his participation as neutral facilitator in this Working Group is independent of that role. No statement by the facilitator in this report or in any presentation by the Working Group is made on behalf of any legislator or legislative office.

views of the stakeholders in this process, including current levels of support for and concerns over community solar, through a participant survey. The team later determined that a final survey was needed as well.

The team scheduled a series of two-hour online Working Group meetings, beginning July 16 and meeting bi-monthly. The last of nine meetings was conducted on November 5. Over 90 people participated in the first meeting, while over 50 continued to attend most or all of the meetings. The first half of each meeting was devoted to presentations by experts on issues surrounding community solar. Experts included representatives of the National Renewable Energy Laboratory, Xcel Energy, Vote Solar, New Mexico Public Regulation Commission, and the Tribal Community Solar Task Force, among others. The second half of each meeting focused on discussions, usually in several breakout groups, on selected topics covered in the large gathering. Findings from those discussions are included below in the summaries of each issue. The dates, topics and presentations of each working group meeting are listed in Appendix 1.

In addition to the two-hour bimonthly meetings, the team held several separate meetings with entities who needed more time to present their material than the regular meetings would allow. Such meetings were held with Xcel Energy, Public Service Company of New Mexico, the New Mexico Rural Electric Cooperative Association (NMRECA) and Kit Carson Electric Coop (not a member of NMRECA). The Tribal Community Solar Task Force, which met on alternating weeks from the Working Group and was facilitated by a member of the coordinating team, reported back to the Working Group on its policy recommendations.

The Value of This Report

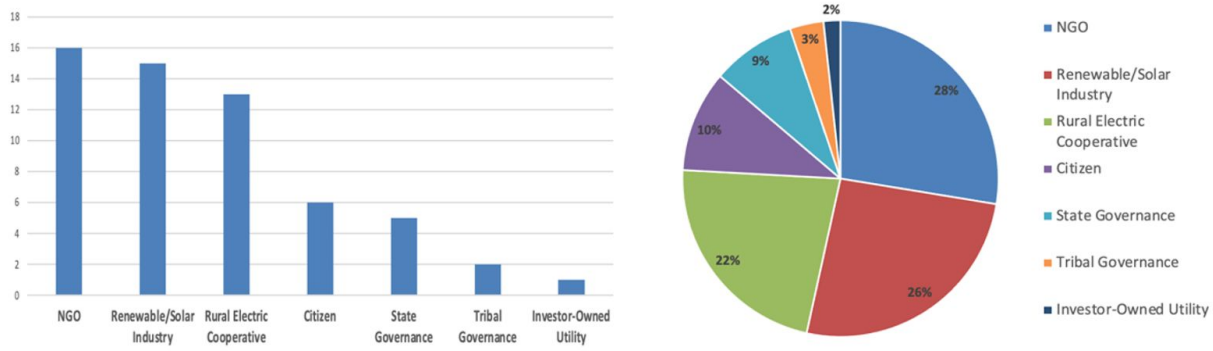
This report, prepared by the coordinating team, is based on the analyses of the surveys and notes on the various presentations and ensuing discussions. While the report notes several areas where consensus may be possible, for the most part it describes the differences that remain among the participants. The challenge that remains is to determine whether any of those differences can be reconciled, or whether winners and losers will have to be chosen on each issue if the legislation is to proceed.

The coordinating team believes that the educational presentations and candid discussions among the participants have helped to clarify those differences. These clarifications should be helpful toward resolving at least some concerns expressed by stakeholders. The opportunity for presentations and dialogue afforded by the Working Group may also reduce the likelihood of misunderstandings during legislative deliberations of positions advocated by opposing parties. But differences among the stakeholders remain and should be expected to surface during the debate on any community solar legislation.

It is important to note that this report states the percentage of respondents to the survey questions posed by the coordinators. These figures should be understood in their proper context. The members of the Working Group were invited to participate by the coordinators in

an effort to involve a cross-section of stakeholders in development of a community solar program. Those who participated in the Working Group meetings and responded to the surveys self-selected from among those invited.

The final survey, conducted in October 2020, had 58 respondents, shown by respondent type in the figure below:



A total of 58 participants answered the survey. In order of greatest to least representation: 26% of participants (15 respondents) represented the renewable/solar industry; 22% of participants (13 respondents) represented rural electric cooperatives; 12% of participants (7 respondents) represented other non governmental organizations, or NGOs; 12% of participants (7 respondents) represented Green NGOs; 10% of participants (6 respondents) were public citizens; 9% of participants (5 respondents) represented state governance; 3% of participants (2 respondents) represent Tribal Governance; 3% of participants (2 respondents) represented Low-Income NGOs; 2% of participants (1 respondent) represent Investor-Owned Utilities; and 0% of participants (0 respondents) represented Tribal NGOs.

As directed by SM 63, this process was intended to foster discussion among these interested parties. Given the complexity of the issues, it was never intended to explore general public opinion. Therefore, no representation is made that the percentages stated in the report represent a scientific sampling of public opinion.

Structure of the Report

The remainder of this report will discuss each of the issues identified among Working Group participants, drawing from survey responses, questions raised during expert presentations, and reports of conversations during breakout sessions. Each such issue will be summarized, listing the primary perspectives and justifications cited in support of each. The review of the issues will thus identify the choices available to legislators, which group of participants support each choice, and the basic factors favoring or disfavoring each choice.

To keep the length of this report manageable, while supplying the supporting detail, several appendices have been added. These address the list of participants and their affiliations; the

dates of each meeting; the topics presented at each meeting and the presenters; and issues during breakout sessions. Appendix 3 provides policy recommendations of the tribal community solar task force, and appendix 4 states the resolution of NMRECA on the position of its member cooperatives on community solar (appendix 4). The survey results will be shared in detail as well.

Abbreviations

(Each term is explained in the text of the report)

AC is alternating current

IOU is an investor-owned, regulated utility company

IRP is an integrated resource plan

KW, kilowatt, is a measure of power of 1000 watts

KWh, kilowatt hour, is a unit of energy equal to one thousand watts operating for one hour

MW, megawatt, is a measure of power of one million watts or 1000 kilowatts

MWh, megawatt hour, is a unit of energy equal to the energy of one million watts, or 1000 kilowatts, operating for one hour

NGOs non-governmental organizations

NMRECA is the New Mexico Rural Electric Cooperative Association

NREL is the National Renewable Energy Laboratory of the U. S. Department of Energy

PRC is the New Mexico Public Regulation Commission

RE is renewable energy

REC is a renewable energy certificate

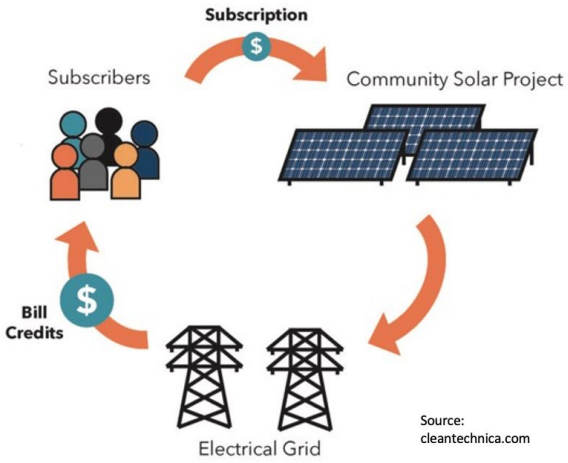
REIA is the Renewable Energy Industry Association for New Mexico

RPS is the renewable portfolio standard of a utility company or coop

TARR is the total aggregate retail rate used to calculate bill crediting

VOS is the value of solar used to calculate bill crediting

Overview of Community Solar



Community solar, also referred to as shared solar or solar gardens, is a distributed solar energy deployment model that allows customers to buy or lease part of a larger, shared solar photovoltaic (PV) facility and receive economic and, in some cases, environmental benefits from their participation. The community solar facility can be built in a remote location, adjacent to community subscribers, or even on the rooftop of a multi-family housing facility or larger commercial facility. Subscribers are usually commercial, non-profit, governmental and residential utility customers who sign up to receive credits on their utility bills for a portion of the energy generated by the community solar facility, often leading to utility bill savings.

There have been a multitude of benefits seen in the almost 40 states that have community solar projects as well as in the 20 states plus Washington DC that have community solar enabling legislation.Community solar offers equal access to the solar market for anyone with an electric bill, including low-income residents, renters, residents in multi-family buildings, schools and schools districts, municipalities, nonprofits and businesses that don't own their roof. It can also stimulate the local solar market for smaller solar developers, in comparison to larger utility-scale projects. It can provide economic stimulus for tribal nations, farmers and landowners in rural communities and small towns through land leases or sales for the community solar facilities as well as through increased property taxes. Small, local, distributed energy sources also can create a more resilient electric grid, depending upon where the facilities are sited, especially if co-located with storage systems.

However, utilities have concerns about revenue loss and added grid management challenges of increased distributed generation. Electric cooperatives may have concerns if the contractual obligations from their energy providers place limits on local generation, as well as more expensive generation costs of community solar facilities compared to larger utility scale solar facilities.

Topics Studied

The following topics were presented to the Working Group, discussed in breakout groups or in separate sub-group meetings, and were queried in the survey. Each of these topics is summarized in the sections below.

- Facility siting and participation
- Annual/system-wide capacity cap
- Project size

- Anchor tenants
- Bill credit mechanism
- Avoiding cross-subsidization
- REC ownership
- Utility participation
- Co-location with storage
- Low-income participation
- Rural electric coop participation
- Tribal participation
- Project capacity allocation process
- Program evaluation

Facility Siting and Participation

The siting of community solar facilities will likely be driven by economics, leading to siting in rural areas where land leases are more affordable, potentially providing income streams to rural landowners and farmers. However, community solar facilities can also be built directly on the roofs of the customers they serve, whether multi-family housing or a large commercial customer. A community solar facility can enlist subscribers from anywhere within the service territory of the utility where the facility is sited, or there can be restrictions on participation by geographic area or rate-payer class.

The majority of respondents to the stakeholder survey (61%) felt that a utility customer should be able to subscribe to any community solar facility within the utility's service territory. However, many of the respondents who chose "no" (11%) or "other" (14%), were from utilities, and specified that subscribers should be on the same distribution feeder of the solar facility, unless they are paying the appropriate bulk generation, transmission, and distribution costs. Some participants during break-out groups also wondered whether "community" solar referred more to community ownership or community siting. 56% of survey respondents also felt that community solar subscribers should be able to move anywhere within their service territory and take their subscription with them, while 23% said "no," with most of those responses coming from the electric cooperatives.

Annual Program Cap

The annual program cap represents the amount of community solar capacity (typically represented by a number of MWs AC) to be offered each year. Most community solar markets have some form of annual or overall cap on community solar capacity. Some, however, such as the Xcel program in Minnesota, have implemented a free market approach without any annual capacity cap.

The majority of survey respondents indicated that they preferred the annual cap to be determined by the PRC in conjunction with utility Integrated Resource Plans (IRPs). The second most popular selection was for 2% of IOU retail sales or approximately 200MW/year. Within the comments for those that responded "other" there was an interest in starting with 0.5% of IOU

retail sales (~50MW/year), then expanding capacity if the program is hitting its targets or transitioning to a PRC-led process.

Project Size

The project size cap represents the maximum size (typically represented by a number of kWs or MWs AC) of a single community solar facility. Most community solar markets have project size caps of 1 to 5 MWs AC. Actual system sizes, however, are typically driven by other constraints such as available land, interconnection upgrade costs, local zoning restrictions, etc.

The clear plurality (~ 46%) of survey respondents favored projects up to 5MW. Within the comments submitted by those that responded “other,” there was a general sentiment that project caps should be established more on a case-by-case basis, based on where the project is interconnecting and the associated load in that area.

Throughout the Working Group process most utilities, and the solar energy industry group REIA, were in favor of a 2MW project size cap. Most other participants were generally in favor of allowing project size flexibility up to 5MW. A few parties, including the State Land Office, advocated for a 10MW project size cap.

Participants that were in favor of projects up to 5MW cited economies of scale, development flexibility, and acknowledging that the actual system sizes will be largely driven by the utilities’ interconnection review process. Participants in favor of a 2MW cap cited concerns with Southwest Power Pool (for utilities that participate in that) and fears that community solar development in excess of 2MW will quickly consume available system capacity which might limit future onsite solar development in specific areas.

Anchor Tenant Limits

Anchor tenants are large customers that subscribe to a significant portion of a community solar array. Anchor tenants might be large businesses, governmental entities, hospitals, or schools. Anchor tenants can provide more revenue certainty to community solar projects, reducing lender risk and potentially increasing the ability to finance projects, leading to lower project costs. However, anchor tenants also reduce the project capacity that can be subscribed to by households and smaller businesses.

The majority of survey respondents preferred limits on the percentage of capacity that anchor tenants can subscribe to in a community solar facility. The most popular response (45%) came from respondents preferring that anchor tenants be limited to 40% of project capacity, while an additional 22% preferred a 60% limit. Only 2 respondents preferred no limits on anchor tenant participation, while 13% of respondents (all from cooperatives and an IOU) preferred that community solar be limited to residential subscribers. Cooperatives and utilities tend to favor residential-only programs because they also prefer to have the revenue security and stable load of large commercial and government customers.

Bill Credit Mechanism

The bill credit mechanism is the methodology by which the bill credit rate(s) are determined. These rates are typically either a static rate applied to all customers or can be customer class-specific. The two most commonly used methodologies are a Total Aggregate Retail Rate (TARR) approach or a Value of Solar (VOS) approach, both coming with their own set of benefits. The TARR approach is more closely aligned with the benefits a given customer would receive through an onsite system. By contrast, the VOS approach is more closely aligned with the benefits a given project brings to the overall electric system.

A TARR methodology is generally simpler and quicker to implement. It consists of taking all of a given customer class rate components, such as generation, transmission, distribution, and administration, totalling them up, then dividing by the total number of kWh consumed to derive the total aggregate retail rate for a given customer class, on a volumetric, per kWh, basis. From there the rate components that make up the distribution system costs and sometimes the transmission system costs are subtracted out to arrive at the credit rate a given customer class will receive for their portion of energy from the community solar facility. This essentially aligns the bill credit rate with the benefits those customers would have received from an onsite solar system less the costs of delivering the energy to the subscriber via the grid. The main advantage of this method is that the calculation can typically be done easily and all inputs are usually fairly accessible. The downside is that the rates aren't necessarily representative of the benefits or value that solar facilities provide to the system.

A VOS methodology is a more complex and generally more accurate approach. It consists of evaluating all of the direct and indirect benefits (e.g., things like environmental benefits from reduced emissions) that solar can bring to the grid, as well as society as a whole. More advanced VOS rates also take into account the location of the solar on the grid and derive specific rates for each project or grid location. Unlike the TARR approach, the VOS tends to derive just a single rate that is applied to all customers regardless of what class they're in. The advantage is that this rate is a more accurate representation of the value these systems provide. The downside is that there tend to be lengthy arguments over what benefits should or should not be included in the calculation and there need to be a good number of comparable systems currently online to evaluate as part of the process.

A hybrid approach would be to start with the simpler TARR methodology, then transition to a VOS methodology after a period of time. This allows the program to get off the ground quickly and then provide the data and time necessary to work through creating a VOS methodology. As an example, this approach was successfully implemented in Minnesota which is one of the leading community solar markets today.

A fourth approach was proposed by the utilities and consisted of starting with a utility's avoided cost rate, then using subsidies to bring the rate up to a level that will allow projects to be successful. The proposal did not identify the source or scope of the associated subsidies.

The largest group of survey respondents (27%) indicated that their preference was the hybrid approach: starting with the TARR, then transitioning to a VOS methodology after several years. The second most popular (18%) was sticking to a TARR minus commission-approved distribution cost components. The majority of utility and Coop respondents indicated a preference for using the avoided cost approach.

Cross-Subsidization

Cross-subsidization, in the context of the electricity sector, is a situation where costs are unevenly distributed between groups of customers. There are countless examples of cross-subsidization within utility billing, because it is difficult for the true costs to be accurately allocated to each ratepayer as they're all in a unique situation, to some extent. For example, households living near a generating station will pay the same transmission and distribution charges as households living far away. Or households that consume very little electricity may end up paying more, per unit of electricity, since the fixed charges will comprise a higher proportion of their bill.

Within the Working Group there was interest in, and general consensus around, structuring bill language in a way that minimizes actual cost shifting (cross-subsidization) from community solar subscribers to non-participating customers. The bill credit mechanism is one of the primary mechanisms that can help minimize cost shifting amongst ratepayers. Depending upon how it is structured, it can ensure that community solar subscribers are paying for their utilization of utility assets, as well as provide compensation for any benefits that a community solar installation brings to the shared grid. Minimizing cross-subsidization will likely fall to ongoing evaluation of a community solar program and subsequent corrections within the PRC.

REC Ownership

Renewable Energy Certificates (RECs) represent the rights to the environmental, social and other non-power attributes of renewable electricity generation, and are issued when electricity is generated and delivered to the electricity grid from a renewable energy resource. IOUs demonstrate fulfillment of New Mexico's Renewable Portfolio Standard (RPS) requirements through the retirement of RECs. Energy delivered to distribution cooperatives by suppliers or generation and transmission cooperatives must also fulfill RPS requirements through demonstration of the retirement of RECs. There tend to be three approaches for allocating REC ownership in community solar projects: community solar developers retain the RECs and can sell or transfer them to customers or utilities; customers are allowed the option of retaining RECs; or utilities retain the RECs.

36% of respondents on the survey supported retention of RECs by the subscriber organization, with an option to sell or transfer them to utilities or customers. This was the most popular response, with the majority of respondents from the renewable energy/solar industry. The second most preferred option (21%) was to allow the utilities to retain the RECs, with most responses from the utilities.

There seemed to be consensus that the determination of REC ownership should be driven by the monetary value of the RECs and the manner in which the bill credit is determined within the legislation. For example, one utility respondent felt that if the bill credit was set at the utility's avoided costs, then the bill credits should be owned by the subscribers.

Utility Participation

In some community solar markets the host utility is allowed to participate in the program, developing community solar projects. In most cases this participation is limited to specific types of projects or serving specific types of customers such as low-income households. If utilities are able to participate, proper guardrails are needed to ensure they are not given an unfair advantage over other program participants.

However, community solar may find opposition from utilities who have concerns about revenue loss and added grid management challenges of increased distributed generation. PNM noted that initial modeling for their next IRP showed that they have no additional need for resources with the generation profile of solar beyond what is planned for the replacement of the San Juan Generating Station, Palo Verde lease replacement energy and Four Corners energy replacement. This would indicate that there will not be any additional solar, beyond the replacement power, added to their system for the foreseeable future. PNM is nonetheless exploring creation of its own community solar program. Electric cooperatives also may have concerns if the contractual obligations from their energy providers place limits on local generation, as well as more expensive generation costs of community solar facilities compared to larger utility scale solar facilities.

36% of respondents to the survey indicated that utilities should not be able to participate in the program, with half of those responses coming from solar industry representatives. 34% indicated that utilities should be able to participate in the program, with slightly over half of those responses coming from utility representatives. An additional 20% indicated only under certain circumstances should utilities be allowed to participate, including that the utilities create community solar projects for Low-Income residents. It should be noted that utilities currently have the ability to develop their own community solar projects, pending PRC approval.

Co-Location of Storage

Pairing renewables with energy storage has numerous economic benefits and can support both grid reliability and resilience, depending upon the specifics of how and where storage is integrated. With decreasing battery costs and increasing penetration of intermittent renewable resources, solar PV with storage installations is becoming a more common replacement for fossil fuel generation. While acknowledging the importance that paired solar and storage will have in the future grid, the majority of respondents (54%), most coming from renewable energy/solar industry and electric coops, felt that storage isn't necessary in community solar

legislation, or should be addressed in a different bill. Several participants from the renewable energy/solar industry were concerned that including storage would overly complicate the bill.

18% of respondents, most identifying as citizens and NGOs, felt that addressing storage is necessary in community solar legislation. Another 18% responded “other,” with many advocating for storage to be addressed in the legislation, but not required for community solar facilities. Past legislation has stated that solar facilities could be co-located with energy storage, though even without this language there would be no prohibition against co-location with energy storage.

Low-Income Participation

Due to barriers such as lower credit ratings, high capital costs, or not owning their own homes, most low-income households are excluded from accessing the financial benefits of rooftop solar. Community solar provides an opportunity for low-income households to benefit from electricity bill savings of lower cost solar generation. Because low-income families spend a disproportionate amount of their income on utility bills, and thus have a higher energy burden, they receive greater economic benefit from bill savings. There are examples of various programs, without subsidies, that target upwards of 15% bill savings, created by shifting some of the economic benefits from non-low-income community solar subscribers. For example, a modeling study carried out by the National Renewable Energy Laboratory found that a 10% price discount on panel lease price for low-income subscribers resulted in a 2.5% price increase for non-low-income subscribers. There are also many state programs that utilize additional funding sources to increase savings and partner with other low-income programs that can provide additional services, such as energy efficiency retrofits.

However, due to the higher cost of recruiting and retaining lower income customers, legislatively enacted programs need to require project developers to include some level of low-income participation. 70% of survey respondents felt that a community solar program should have a carve-out requiring a certain percentage of total program capacity to serve qualifying low-income customers. There was a wide range of opinions regarding what the size of the program carve-out should be. The largest group of respondents (28%) chose “other,” with three comments suggesting that the carve-out size should match the percentage of low-income residents in the community. 15% of respondents answered “10%,” primarily from the renewable/solar energy industry; 13% answered “20%,” primarily green NGOs and citizens; 6% answered “25%,” and 13% answered “30%.” Eight per cent, composed solely of respondents from renewable energy/solar industry and electric cooperatives, answered “greater than 30%.” 17% of respondents had no preference.

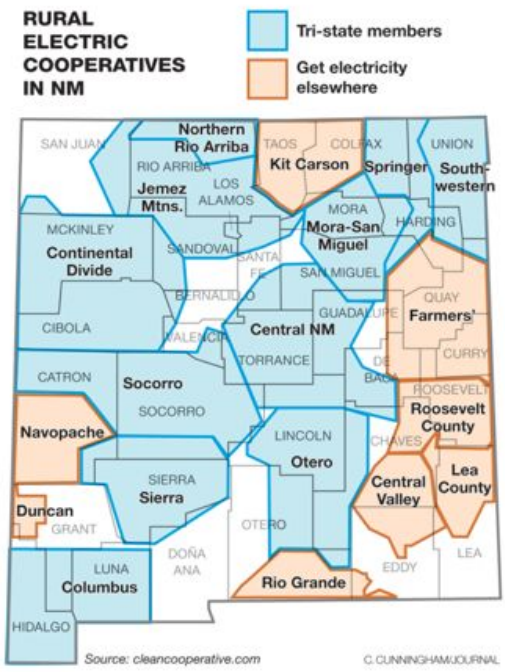
Survey participants were also asked if legislation should create a committee representing a diverse array of stakeholders, including those who serve low-income groups, to advise the PRC on the development of low-income programs and/or project requirements. The majority of respondents (53%) responded “yes,” while 15% said “no,” and another 15% had no preference.

17% also checked “other,” with many expressing concern that creating such a committee might add too much complication to the bill and process.

Most survey respondents (51%) thought that legislation should provide a subsidy fund to receive money for low-income projects. However, several comments stated that subsidies are not necessary to serve low-income participants so long as anchor tenants are allowed and there is a meaningful bill credit rate. 40% of respondents felt that the legislation should identify financing mechanisms through the New Mexico Finance Authority for low-income projects, though several comments expressed concern that this could unnecessarily complicate the bill and isn’t necessary.

Rural Electric Cooperative Participation

New Mexicans are served by 22 electric utilities, 19 of which are rural electric cooperatives. Approximately 80% of New Mexico’s land area and 20% of customers are served by rural electric cooperatives. Rural electric cooperatives are different from IOUs in that they are member-owned and operated. As distribution cooperatives, they are also supplied electricity from wholesale electric providers, such as Tri-State Generation and Transmission and Western Farmers Electric Cooperative. Eleven distribution cooperatives in New Mexico receive power from Tri-State Generation and Transmission, Inc., four distribution cooperatives from Western Farmers Electric Cooperative, and three distribution cooperatives receive their electricity supply from elsewhere. Rural electric cooperatives have different concerns than investor-owned utilities in community solar program legislation. The Working Group had large representation from rural electric cooperatives. Of survey participants, 29% were representatives from rural electric cooperatives.



Primary concerns revolved around the participation of rural electric cooperatives in the community solar program through mandated or voluntary participation. In the survey, participants were asked how bill language should consider rural electric cooperatives in the community solar program. Answer options included: “Mandated unless a cooperative opts-out of the program with fair reasoning provided to the Public Regulation Commission,” “Voluntarily through the option to opt-in to the community solar program,” and “Other (please specify).” The majority of respondents (62%) responded in favor of voluntary participation (opt-in), 22% responded in favor of mandated participation (opt-out), and 16% indicated “other.” Of the “other” comments, several stated concerns for cooperative participation on the lands of tribal nations:

“Voluntarily except for tribal entities. They can supersede co-op”; “Tribes and Pueblos in co-op territory should maintain their own right to CS regardless of the Co-op’s position”; “Opt-in except for tribal projects”; and “This is a question I leave to the experts within the Navajo Nation.” Comments within the “other” category also indicated that cooperatives need different legislation due to the difference in being self-governed, member cooperatives that function differently than the IOUs.

In the following question, participants were asked “Which, if any, program requirements should be different for investor-owned utilities (IOUs) and rural electric cooperatives?” Respondents were able to select all applicable answers, including “Statewide capacity program cap” “Anchor tenant,” “Low-income carve-out and participation,” “None” and “Other (please specify).” The majority of respondents (35%) indicated “Other (please specify).” Common themes within these responses indicated the need to accommodate the differences in structure between cooperatives and IOUs; and possible contractual limitations with wholesale electric providers.

The New Mexico Rural Electric Cooperative Association (NMRECA) developed a resolution in response to conversations in the Working Group and with organizers. The resolution can be found in Appendix 4. The resolution essentially states that the member coops will not oppose a community solar bill that permits them to opt-in but does not mandate that they participate. A majority of members of the board of directors will have to support opting in.

Tribal Participation

The Senate Memorial explicitly calls for representation from Indian Nations, Tribes, and Pueblos. The Tribal Community Solar Task Force has actively participated in the Senate Memorial 63 Working Group as an independent subgroup to focus upon and elevate tribal interests in the development of community solar legislation. The goals and objectives of the Tribal Community Solar Task Force are: to develop tribal consultation and outreach processes to develop policy recommendations for the Senate Memorial 63 Working Group and interim legislative committees; and to prepare for and debrief from Senate Memorial 63 Working Group Meetings. The Task Force met bi-weekly since July 2020 to learn more about community solar and tribal models of community solar development and to meet with subject matter experts and legal counsel. The Task Force is composed of appointed representatives acting on behalf of tribes, state agencies, rural electric cooperatives, native-led advocacy organizations, and tribal members. Its mandate is to discuss community solar and the direct implications upon tribal nations and native communities of New Mexico.

The Tribal Community Solar Task Force created policy recommendations in consideration of tribal sovereignty status, economic development, and national best practices relating to community solar legislation. In the development of policy recommendations, the Task Force has considered tribal nations’ wants and needs in the community solar legislation, the vision for community solar on reservations, top policy priorities for tribes, and legal or contractual obligations of respective electric utilities.

Policy recommendations include:

- The bill language must contain language declaring explicit exemptions for community solar development within tribal lands under tribal jurisdiction. Community solar development on tribal land shall not be included in annual or statewide program capacity caps. Tribal exemptions shall exist explicitly within the bill language for exemptions relating to community solar facility requirements, including location siting, amount of subscribers per facility, subscription size limitations, anchor tenant use, and low-income participation.
- Rural electric distribution cooperatives shall provide interconnection and retail electric service to community solar development on the lands of Indian nations, tribes, and pueblos. Rural electric cooperatives unable to provide this service on the lands of Indian nations, tribes, and pueblos may opt-out from this program on a per-project basis for reasons such as contractual limitations, and shall provide justification before the Public Regulation Commission. The Commission shall create the requirements for the opt-out procedure in the rulemaking process and provide transparency regarding what factors are considered and how factors are evaluated.
- The legislation shall not preclude Indian nations, tribes, and pueblos, local tribal governance structures, or tribal entities from hosting a community solar facility on the land of Indian nations, tribes, or pueblos in partnership with third-party entities or subscribers. The legislation shall explicitly clarify tribal jurisdiction over third-party entities and subscriber organizations on land of Indian nations, tribes, or pueblos.
- Community solar legislation shall clarify access to virtual and aggregate net metering and other financial models for Indian nations, tribes and pueblos, local tribal governance structures, and tribal entities in community solar legislation.
- The Task Force recommends community solar legislation to create a mechanism in the Public Regulation Commission rulemaking process to provide frequent opportunity for rural electric cooperatives to opt-in to the community solar program and provide public clarification of the procedural process. This does not pertain to rural electric cooperatives serving Indian nations, tribes or pueblos.
- The Public Regulation Commission should solicit input from Indian nations, tribes, and pueblos in the rulemaking process.

See Appendix 3 for details on those recommendations, legal reasoning, and example legislative language.

The survey shared with the larger Working Group asked participants: “Should tribal entities served by rural electric cooperatives be able to develop individual community solar projects on the cooperative distribution grid, even if served by a cooperative that has not opted into the program?” The majority of participants (58%) responded “Yes,” 9% of participants, composed solely of cooperatives, responded “No,” 13% of participants indicated “No Preference,” and 20% of participants responded “Other (please specify).” A theme within the “Other (please specify)”

category, for which almost half of respondents were cooperatives, is the need for the collaboration between tribes and rural electric cooperatives.

Project Capacity Allocation Process

In some community solar programs, the aggregate capacity of the program can be allocated by the state's regulatory agency. Past community solar legislation introduced in New Mexico proposed giving this ability to the PRC. Additionally, on October 22, Commission Chair Stephen Fischmann spoke to the Working Group about the PRC's potential involvement in the implementation of community solar legislation.

Survey participants were asked if legislation should direct the Public Regulation Commission to run the project capacity and allocation process. The majority of respondents (52%) answered "yes," 12% responded "no," 21% responded "No preference," and 15% responded "Other (please specify)." Common themes within comments in "Other (please specify)" allude to entrusting this responsibility to the PRC or possibly making this the role of an independent administrator.

A follow-up question asked participants to elaborate upon underlying reasoning. Of the 36 participants who voluntarily responded to this question, themes include: capacity of the PRC, trust of the PRC to oversee a community solar program, and the need for the PRC to act as the regulatory body in the program.

Program Evaluation

Many states direct the state regulatory agency to evaluate the community solar program. Survey participants were asked "After what period should the PRC evaluate the overall effectiveness of the program's rulemaking process and possible changes to applicable rules?" The average number from all respondents was "3 years." It is important to note that "overall effectiveness" was not clearly defined and could have some room for interpretation.

Summary of Survey Results

The following table summarizes survey results. It shows the question asked and the most popular choice as well as percent of total answers that choice represented. Further details regarding the survey can be found in Appendix 6.

Suvey Questions	Most Popular	Most Popular
# of Participants in Survey	*Choice*	*% of Total*
Do you intend to support community solar legislation in the 2021 legislative session?	Yes	64%
What do you think should be the annual statewide capacity program cap for Investor Owned Utilities (IOUs)?	PRC	27%
What do you think should be the cap on community solar facility size?	5 MW	46%
Preferences for language regarding co-location with storage?	Not Necessary	30%
How should Renewable Energy Credits (RECs) be handled?	Sub Org	36%
Should utilities be allowed to participate in the community solar program as owners or subscriber organizations	No	36%
If utilities do participate in the community solar program, should their projects be included in annual statewide capacity caps?	No	45%
Should there be restrictions on participation by anchor tenants?	40% Capacity	44%
Should the program explicitly permit portability (i.e. allow participants to move within the utility service territory and take their subscription with them)?	Yes	57%
Should the program permit utility customers to subscribe to any community solar facility within the service territory of their utility?	Yes	61%
How should subscribers be credited on their bills for the electricity generated from a community solar facility?	TARR/VoS	27%
How should bill language address participation in the community solar program for rural electric cooperatives?	Opt-In	62%
Should tribal entities served by rural cooperatives be able to develop individual community solar projects on the cooperative distribution grid, even if served by a cooperative that has not opted in to the program?	Yes	58%
Should the program have a carve-out requiring a certain percentage of total program capacity to serve qualifying low-income customers?	Yes	70%
If selected yes, what do you believe the low-income carve-out of the total program capacity should be?	Other	28%
Should the bill create a committee representing a diverse array of stakeholders, including those who serve low-income groups, to advise the PRC on the development of low-income programs and/or project requirements?	Yes	53%
Should community solar legislation create a subsidy fund for the development of projects serving low-income customers?	Yes	51%
Should community solar legislation identify financing mechanisms through the New Mexico Finance Authority for the development of projects serving low-income customers?	Yes	42%
Should the PRC run the project/capacity allocation process?	Yes	52%
After what period should the PRC evaluate the overall effectiveness of the program's rulemaking process and possible changes to applicable rules?	3	46%

Conclusion: How to Move Ahead

The Working Group process has generated a great deal of information about the positions and supporting arguments on community solar legislation from the perspectives of the range of stakeholders. Many of the participants, especially those who contributed the most during the process, have been active in the deliberations over past community solar proposals. Throughout the process, both during deliberations and in responding to surveys, participants were open, respectful of one another, and very generous with their time and information. That said, the coordinators of the process did not see a great deal of movement by most participants from their opening perspectives.

There are nevertheless several important lessons that have been learned concerning how to move forward with community solar legislation.

First, the legislation should address concerns that have been raised by various stakeholders. One important example is the need to prevent subsidization of community solar subscribers by non-subscribers. This requires that the bill include mechanisms to ensure that rates charged to subscribers encompass the appropriate costs borne by the electric utility from which they receive their service, unless costs are subsidized by other sources. Another example is that investor-owned utilities and cooperatives should be treated differently as appropriate. A third: an appropriate level of access to community solar should be made available to low income families.

Second, the legislation should not attempt to mandate too many terms and conditions for community solar projects. Rather, the bill should set general guidelines for such a program, leaving the specifics to the Public Regulation Commission and negotiations among the parties.

Third, the sovereignty of tribal governments must be respected, and these entities given the opportunity to access community solar resources for their communities without the restrictions appropriate for other potential subscribers.

Finally, since issues will continue to arise throughout the deliberations on this legislation, the legislative advocates should draw upon the experience of impartial experts who are familiar with community solar projects undertaken in other states.

The working group process resulting from SM 63 has afforded the stakeholders the opportunity to understand one another's perspectives and stimulate thinking on how to address many legitimate concerns. It has also helped explain the advantages and challenges of community solar programs and how those have been experienced in other states. It is the hope of the coordinating team that this background will facilitate informed and constructive deliberations among the stakeholders during the 2021 legislative session and that it will serve as a foundation for the drafting of community solar legislation.

Appendices

Appendix 1: Meeting Dates, Topics, and Presentations (with links to the full presentations)

Meeting Date	Topics Covered	Relevant Material
July 16, 2020	● Introduction to SM63 Working Group ○ Background of SM63 ○ Goal of Working Group ○ Role of Facilitator ○ Overview of Process ● Background of Community Solar ● Discussion on HB9 and Areas of Concern	Presentation Minutes See NREL's Community Solar 101 presentation: https://www.nrel.gov/docs/fy20osti/75982.pdf NREL's summary of community solar subscription/deployment models: https://www.nrel.gov/docs/fy20osti/75438.pdf One overview of best practices for community solar legislation:http://www.communitysolaraccess.org/wp-content/uploads/2019/04/2019CommunitySolarPolicyMatrix-2.pdf
July 30, 2020	● Meeting Logistics ● Goals of SM63 ● Review Community Solar Acts (HB9 and SB80) introduced in 2020 Legislative Session ● Breakout Groups to Discuss Values in Community Solar Round 1 ● General Discussion on Reports	Presentation Meeting Notes--Breakout Group
August 13, 2020	Community Solar 101 ● Breakout Group to Discuss Values in Community Solar Round 2	Meeting Notes--Breakout Group
August 26, 2020	● Roadmap for Upcoming	Presentation

	Meetings ● Presentation--Rick Gilliam (Vote Solar) ○ Community Solar Facility Pricing Issues ○ Bill Credit Mechanism ○ Economies of Scale ○ Subsidization ● Q&A ● Breakout Groups & Report Back	Meeting Notes--Breakout Groups
September 10, 2020	● Presentation by NREL (Jenny Heeter): Low-Income Community Solar Program Design ● Presentation: Delivering Solar Power & Energy Bill Relief to Low- and Moderate-Income Households with Community Solar Financing ○ Prepared by Coalition for Green Capital and The Climate Access Fund. Presented by Paul Scharfenberger. Bill Crediting Breakout Group	NREL Presentation Presentation: Delivering Solar Power & Energy Bill Relief to Low- and Moderate-Income Households with Community Solar Financing Bill Crediting Brief Bill Crediting Breakout Group
September 17, 2020	Low-Income Breakout Group ● Should the community solar program provide additional support for only Low Income (LI) or Low and Moderate Income (LMI) households? ● How should program design encourage LI/LMI participation? ● How should affordable housing operators and low-income services providers be included in the program? ● What financing mechanisms should be considered based upon potential to provide significant discounts and feasibility for implementation? ● What financing mechanisms should be considered based upon potential to provide	Low-Income Participation Brief Meeting Notes

	significant discounts and feasibility for implementation? ● Should the bill create a Community Solar Advisory Committee or something similar?	
September 15, 2020	Xcel Energy--Community Solar Discussion with Legislators & Planning Committee	Presentation
September 24, 2020	● Review of Goals ● Presentation by Xcel Energy ● Presentation by Pivot Energy ● Q&A ● Breakout Groups & Report Back ○ To discuss: Facility siting (including co-location of energy storage), facility size, statewide annual cap, the participation of anchor tenants, and ownership	Xcel Presentation Pivot Energy Presentation Meeting Notes--Breakout Groups
October 8, 2020	● Presentation by NREL (Jenny Heeter)--Community Solar Program Design ○ Transmission as it relates to bill credit and siting ○ Ownership of RECs ○ Project Size Limitations ○ Anchor Tenant Limitations ○ Utility Ownership of Community Solar Facilities ● Schedule of Interim Committee Presentations ● Overview of Survey and Creation of Final Report	NREL Presentation (Jenny Heeter) Meeting Notes--Breakout Groups
October 22, 2020	● Overview of Survey ● Possible Role of PRC--Commissioner Stephen	Presentation--Overview of Survey and Review of Tribal Community Solar Task Force

	Fischmann ● Review of Tribal Community Solar Task Force	Meeting Notes--Breakout Groups
November 5, 2020	● Overview of Survey Results ● Delivery of Tribal Community Solar Task Force Policy Recommendations (See Appendix 3)	Tribal Community Solar Task Force Presentation--Policy Recommendations to SM63 Working Group

Appendix 2: List of SM63 Working Group Participants

The following list is of all participants who registered and identified their affiliation for the Working Group meetings. Not all working group members participated in the survey, and a number of survey participants (primarily from electric cooperatives) weren't registered as working group members.

Name	Affiliation	Type
Claudia Risner	Dem candidate for SD 19	Citizen
Diane F Brown	Community member / consumer	Citizen
Eric Gold	None	Citizen
Merrie Lee Soules	self	Citizen
Rebecca Puck Stair	Stair for Senate (former candidate)	Citizen
Siah Correa Hemphill	Democratic Nominee for Senate District 28	Citizen
Antonio R Sanchez, Jr.	Roosevelt County Electric Cooperative, Inc.	Coop
John Tapia	Jemez Mountain Electric Cooperative	Coop
Keven Groenewold	New Mexico Rural Electric Cooperative Association	Coop
Luis A. Reyes	Kit Carson Electric Cooperative, Inc	Coop
Vince Martinez	Tri-State Generation and Transmission Association	Coop
Abbas Akhil	State Representative	Government
Anna Hansen	Santa Fe County	Government
Caitlyn Wan	Legislative Finance Committee	Government
Claudia Borchert	Santa Fe County	Government
Jeremy Lewis	State Land Office	Government
John Reynolds	NM Public Regulation Commission	Government
Joseph Montoya	Santa Fe County Housing Authority	Government
Julia Barnes	Speaker Egolf's office	Government
Lisa LaRocque	City of Las Cruces	Government
Liz Stefanics	NM State Senate	Government
Mark Gaiser	NM EMNRD/ECMD	Government
Pat Woods	NM Senate	Government
Patricia (Pat) Walsh	N.M. State Parks	Government
Patricia Roybal Caballero	State Representative	Government
Rachael Lorenzo	NM State Land Office	Government
Rep. Andrea Romero	NM House of Representatives	Government
Tarin Nix	State Land Office	Government
Alejandra Chavira	El Paso Electric	IOU

Bernarr Treat	Xcel Energy	IOU
Carlos Lucero	Public Service Company of New Mexico (PNM)	IOU
Clay Doyle	El Paso Electric	IOU
Jared Luner	Xcel Energy - Southwestern Public Service	IOU
Jennifer Ortiz	El Paso Electric	IOU
Matthew Jaramillo	PNM Resources	IOU
Michael D'Antonio	Xcel Energy	IOU
Ricardo Gonzales	El Paso Electric	IOU
Sayuri Yamada	PNM	IOU
Ahtza D Chavez	NAVA Education Project - NM Native Vote	NGO
Andrew Stone	PACE Fund NM	NGO
April Elliott	Western Resource Advocates	NGO
Ben Shelton	Conservation Voters New Mexico	NGO
Beth Beloff	Coalition of Sustainable Communities	NGO
Christian Casillas	Coalition of Sustainable Communities	NGO
Chuck Watkins	ICAST	NGO
Cydney Beadles	Western Resource Advocates	NGO
David Breecker	Microgrid Systems Laboratory	NGO
Glenn Schiffbauer	Santa Fe Green Chamber of Commerce	NGO
Joan Brown	Interfaith Power and Light	NGO
John Ammondson	Environment New Mexico	NGO
Kathleen Sanchez	Tewa Women United	NGO
Ken Hughes	Coalition of Sustainable Communities	NGO
Kevin Cray	CCSA	NGO
Mariel Nanasi	New Energy Economy	NGO
Mayane Barudin	Vote Solar	NGO
Melinda Smith	Sierra Club Middle Rio Grande Chapter	NGO
Muriel Carpenter	Bernalillo County Democrats	NGO
Ona Porter	Prosperity Works	NGO
Patrick O'Connell	Western Resource Advocates	NGO
Paul Gibson	Retake Our Democracy	NGO
Rikki Seguin	Interwest Energy Alliance	NGO
Sophia Jeffery	Sunrise Northern New Mexico	NGO
Tom Figel	GRID Alternatives	NGO
Greg Sonnenfeld	Sonnenfeld Technical Consulting / 350SF	Other

Derrick Toledo	Western Leaders Network	Other
Jeffrey Atencio	Rainstorm Consulting	Other
Jill Cliburn	Cliburn and Associates, LLC	Other
Joyce Bogosian	JB Eco-sustainable Development Consultant	Other
Kim Legant	Hull Consulting	Other
Paul Biderman	Facilitator	Other
Robert Romero	Strategies 360	Other
Tiffany Rivera	NM Farm and Livestock Bureau	Other
Adam Harper	OE Solar	RE/Solar Industry
Athena Christodoulou	Solargetic Designs LLC & NMSEA	RE/Solar Industry
Corrina Kumpe	SunShare, LLC	RE/Solar Industry
Dale Lyons	Souder, Miller and Associates	RE/Solar Industry
Dana Koller	OE Solar	RE/Solar Industry
Doug Lucas	SunVest Solar, Inc.	RE/Solar Industry
Eric Phillips	Pivot Energy	RE/Solar Industry
Galina Kofchock	REIA	RE/Solar Industry
Jake Bobro	SunShare	RE/Solar Industry
Jarryd Commerford	Summit Ridge Energy LLC	RE/Solar Industry
Jim DesJardins	Sol Luna Solar	RE/Solar Industry
Joe Henri	Dimension Renewable Energy	RE/Solar Industry
John Bernhardt	Pivot Energy	RE/Solar Industry
Jon Sullivan	Pivot Energy, Community Solar	RE/Solar Industry
Madeline Gould	Arcadia	RE/Solar Industry
Peter Lund	Nautilus Solar	RE/Solar Industry
Rachel Bird	Borrego Solar	RE/Solar Industry
Ryan Centerwall	Affordable Solar	RE/Solar Industry
Scott Risley	Nautilus Solar Energy LLC	RE/Solar Industry
J.D. Bullington	Pueblo of Laguna	Tribal Government
Laura Vanoni	Pueblo of Sandia	Tribal Government
Mario Atencio	Eastern Navajo-Daniel Tso Staff	Tribal Government
Sharon Hausam	Pueblo of Laguna	Tribal Government

Appendix 3: Tribal Community Solar Task Force Policy Recommendations

Policy Recommendations
New Mexico Community Solar Program
Submitted by the Tribal Community Solar Task Force

The Tribal Community Solar Task Force has actively participated in the Senate Memorial 63 Working Group as a subgroup to focus upon and elevate tribal interests in renewable energy development. The goals and objectives of the Tribal Community Solar Task Force are: to develop tribal consultation and outreach processes to develop policy recommendations for the Senate Memorial 63 Working Group and interim legislative committees; and to prepare for and debrief from Senate Memorial 63 Working Group Meetings. The Task Force has met bi-weekly since July 2020 to learn more about community solar and tribal models of community solar development and to meet with subject matter experts and legal counsel. The Task Force is composed of appointed representatives acting on behalf of tribes, state agencies, rural electric cooperatives, native-led advocacy organizations, and tribal members. The mandate is to discuss community solar and the direct implications upon tribal nations and native communities of New Mexico.

In the development of policy recommendations, the Task Force has considered tribal nations' wants and needs in the community solar legislation, the vision for community solar on reservations, top policy priorities for tribes, and legal or contractual obligations of respective electric utilities. Policy recommendations supported by the Tribal Community Solar Task Force prioritize tribal nations' inherent sovereignty status, economic development, and national best practices relating to community solar legislation. Policy recommendations are sequenced in relation to: general language of community solar legislation, tribal sovereignty, access and equity in community solar development for tribal nations and native populations of New Mexico, and the rulemaking process.

Mayane Barudin, Interior West Manager & Tribal Liaison with Vote Solar, served as the facilitator of the Tribal Community Solar Task Force. Contact information is mayane@votesolar.org or (505) 917-1984. Pilar Thomas, Partner of Quarles & Brady LLP, served as legal counsel. Contact information is pilar.thomas@quarles.com or (520) 770-8744.

In Relation to: General Language

In consideration of: Community solar legislative language pertaining to Indian nations, tribes, or pueblos and tribal entities

Task Force Recommendation with Relevant Legal Reasoning if Applicable	Inclusion of the following definitions in community solar legislation. General purpose and/or legal reasoning is provided, as applicable: ● "Indian nation, tribe or pueblo" means a federally recognized Indian nation, tribe or pueblo located wholly or partially in New Mexico. ○ The twenty-three federally-recognized nations in the state of New Mexico hold unique sovereignty status which supersedes state jurisdiction. Tribal Entities as recognized by the U.S. Department of Interior, Federal Register Vol. 79, No 19, 4748-4753 include the Navajo Nation; Jicarilla Apache Nation; Mescalero Apache Nation; and the Pueblos of Acoma, Cochiti, Isleta, Jemez, Laguna, Nambe, Ohkay Owingeh, Picuris, Pojoaque, San Felipe, San Ildelfonso, Sandia, Santa Ana, Santa Clara, Santo Domingo (Kewa), Taos, Tesuque, Zia, and Zuni. ● "Low-income service organization" means an organization that certifies to a qualifying utility that it provides services, assistance, or housing to low-income customers and includes a local or central tribal government, a chapter house, or *tribally-designated housing entity*. ○ "Tribally-designated housing entities." Under the Native American Housing Assistance and Self-Determination Act of 1996, Indian housing authorities are officially known as "tribally-designated housing entities." ● "Native community solar project" means a community solar facility that is sited in New Mexico on the land of an Indian nation, tribe or pueblo and that is owned or operated by a subscriber organization that is an Indian nation, tribe or pueblo or a tribal entity." ● "Subscriber Organization" means an entity, including a municipality, county, Indian nation, tribe or pueblo, *local tribal governance structure*, or other tribal entity authorized to transact business in New Mexico, that owns or operates a community solar facility. ○ Inclusion of local tribal governance in reference to tribal entities: ■ "Navajo Nation Local Governance Act", codified as Title Twenty Six (26) of the Navajo Nation Code, recognizes governance at the local level. In this Act, "the Navajo Nation Council allows Chapters to make decisions over local matters. This authority, in the long run, will improve community decision making, allow communities to excel and flourish, enable Navajo leaders to lead towards a prosperous future, and improve the strength and sovereignty of the

	Navajo Nation." ■ Other tribal governance structures may be authorized through tribal constitutions, e.g., six of the Pueblo of Laguna villages, or traditional authority. ● "Tribal Entity" means any and all enterprises formed under the inherent sovereignty of the Indian nation, tribe or pueblo.

In Relation to: Tribal Sovereignty

In consideration of: Tribal sovereignty status in relation to state renewable energy program legislation and utility regulation

Task Force Recommendation	The bill language must contain language declaring explicit exemptions for community solar development within tribal lands under tribal jurisdiction. Community solar development on tribal land shall not be included in annual or statewide program capacity caps. Tribal exemptions shall exist explicitly within the bill language for exemptions relating to community solar facility requirements, including location siting, amount of subscribers per facility, subscription size limitations, anchor tenant use, and low-income participation.
Legal Reasoning	Since 1834, sovereign status holds that tribal nations are not subject to state power on Indian lands, and state legislative, regulatory, taxation and judicial authorities, and others, do not extend to Tribal Nations or tribal members on tribal land. Tribal Nations self determination is clarified by the Indian Self-determination and Education Assistance Act of 1975, as amended (25 U.S.C. 450 *et. seq*.) and the Tribal Self-Governance Act of 1994 (25 U.S.C. 458aa et seq.) Legal foundation further set by: *Worcester v. Georgia*, 31 U.S. 515 (1832); *Williams v. Lee*, 358 U.S. 217 (1959); *Bryan v. Itasca County*, 426 U.S. 373 (1976); *cf*. *Mescalero Apache v. Jones*, 411 U.S. 145 (1973); *New Mexico v. Mescalero Apache Tribe*, 462 U.S. 324 (1983).
Example Legislative Language	Exemptions from legislative pieces referring to the terms of an annual or statewide program capacity cap; community solar facility requirements, including location siting, amount of subscribers per facility, and limitations related to anchor tenant use and low-income participation. “The provisions of this section do not apply to Indian nations, tribes or pueblos.”

In consideration of: Tribal nations served by rural electric cooperatives

Task Force Recommendation	Rural electric distribution cooperatives shall provide interconnection and retail electric service to community solar development on the lands of Indian nations, tribes, and pueblos. Rural electric cooperatives unable to provide this service on the lands of Indian nations, tribes, and pueblos may opt-out from this program on a per-project basis for reasons such as contractual limitations, and shall provide justification before the Public Regulation Commission. The Commission shall create the requirements for the opt-out procedure in the rulemaking process and provide transparency

	regarding what factors are considered and how factors are evaluated.
Legal Reasoning	This recommendation prioritizes the inherent sovereignty status of Indian nations, tribes and pueblos and tribes' control over on-reservation resources. Legal foundation set by: *Merrion v. Jicarilla Apache,* 455 U.S. 130 (1982) -- recognizes tribes' inherent sovereign authority to regulate economic activity on tribal trust lands, including the authority to tax; *New Mexico v. Mescalero Apache*, 462 U.S. 324 (1983) -- rules that United States federal and tribal regulatory interests outweigh conflicting state regulatory interests; *Devils Lake Sioux Tribe v. North Dakota Public Service Commission,* 896 F.Supp. 955 (1995) -- rules that the tribe has inherent sovereignty to contract power directly, regardless of state law and regulation, and the tribe has authority to regulate utilities on reservation determined by Montana analysis; and *North Central Electric Cooperative v. North Dakota Public Service Commission,* 877 N.W.2d 304 (2016) -- rules that the state lacks regulatory authority over a utility providing service directly to the tribe on tribal trust lands. Five of New Mexico's nineteen rural electric cooperatives provide electric service to a total fourteen Indians nations, tribes and pueblos. Cooperatives include Continental Divide Electric Cooperative, Inc., Jemez Mountains Electric Cooperative, Inc., Kit Carson Electric Cooperative, Inc., Northern Rio Arriba Electric Cooperative, Inc., and Otero County Electric Cooperative, Inc. This recommendation recognizes possible technical limitations or contractual obligations of rural electric cooperatives by wholesale transmission providers. The recommendation also prioritizes transparency in the opt-out procedural process and how the Commission considers evaluative factors. This recommendation will create standard procedures for all community solar development for Indian nations, tribes, and pueblos with their respective rural electric cooperative service providers.
Example Legislative Language	"Rural electric distribution cooperatives serving Indian nations, tribes, and pueblos shall provide interconnection and retail electric service to community solar development on the lands of Indian nations, tribes, and pueblos. Rural electric cooperatives unable to provide this service on the lands of Indian nations, tribes, and pueblos may opt-out from this program on a per-project basis for reasons such as contractual limitations, and shall provide justification before the Public Regulation Commission. The Commission shall create the requirements for the opt-out procedure in the rulemaking process and provide transparency regarding what factors are considered and how factors are evaluated."

In consideration of: Partnerships between sovereign tribal nations and third-party entities

Task Force Recommendation	The legislation shall not preclude Indian nations, tribes, and pueblos, local tribal governance structures, or tribal entities from hosting a community solar facility on the land of Indian nations, tribes, or pueblos in partnership with third-party entities or subscribers. The legislation shall explicitly clarify tribal jurisdiction over third-party entities and subscriber organizations on land of Indian nations, tribes, or pueblos.
Legal Reasoning	Tribal governments have the inherent sovereign authority to govern, through the execution of sovereign rights to determine tribal law, regulations, and taxation, where and how renewable energy development will occur on tribal land. Sovereign rights include tribal nations' rights to regulate the behavior of Indians and non-Indians alike on tribal lands and territory. Legal foundation set by: *Montana v. United States*, 450 U.S. 544 (1981); *Merrion v. Jicarilla Apache Tribe*, 455 U.S. 130 (1982); and *Oliphant v. Suquamish Indian Tribe*, 435 U.S. 191 (1978). Non-Indian commercial project developers and owners that build and operate energy projects on Indian lands are subject to triple sovereign authorities (tribal, state, and federal). In community solar development, third party entities are entering consensual commercial relationships with the tribal nation or tribal entity.
Example Legislative Language	"Nothing in the Act shall preclude an Indian nation, tribe or pueblo, tribal governance, or tribal entities from hosting a community solar facility on the land of the Indian nation, tribe or pueblo in partnership with a third-party entity or subscribers.Third-party entities and subscriber organizations developing projects on the land of an Indian nation, tribe, or pueblo are subject to tribal jurisdiction."

In consideration of: The ability for tribal nations, as sovereign entities, to pursue all financial models available by community solar legislation

Task Force Recommendation	Community solar legislation shall clarify access to virtual and aggregate net metering and other financial models for Indian nations, tribes and pueblos, local tribal governance structures, and tribal entities in community solar legislation.
Legal Reasoning	The inclusion of this language clarifies tribal nations sovereign ability to pursue flexibility in financial models beyond subscription models. This recommendation recognizes the unique governmental, communal, and land ownership status of tribal nations and structures the program so that tribes can participate in renewable energy opportunities in accordance with Resolution No. APCG 2018-32 passed by the All Pueblo Council of Governors.

	Legal foundation set by: *Merrion v. Jicarilla Apache,* 455 U.S. 130 (1982) -- recognizes tribes' inherent sovereign authority to regulate economic activity on tribal trust lands, including the authority to tax; *New Mexico v. Mescalero Apache*, 462 U.S. 324 (1983) -- rules that United States federal and tribal regulatory interests outweigh conflicting state regulatory interests; *Devils Lake Sioux Tribe v. North Dakota Public Service Commission,* 896 F.Supp. 955 (1995) -- rules that the tribe has inherent sovereignty to contract power directly, regardless of state law and regulation, and the tribe has authority to regulate utilities on reservation determined by Montana analysis; and *North Central Electric Cooperative v. North Dakota Public Service Commission,* 877 N.W.2d 304 (2016) -- rules that the state lacks regulatory authority over utility providing service directly to the tribe on tribal trust lands. Picuris Pueblo's one-megawatt community solar array is an example of a virtual net-metering project with the rural electric service provider, Kit Carson Electric Cooperative, Inc. With virtual net metering of the project, tribal leadership of Picuris Pueblo is able to distribute benefits of the community solar facility as appropriate.
Example Legislative Language	"Nothing in the Act shall preclude Indian nations, tribes or pueblos from participating in financial mechanisms beyond subscription models, including virtual and aggregate net-metering." ● [Definition]: "Virtual net metering" means measurement of the difference between the kilowatt–hours or value of electricity that is supplied by the electric utility and the kilowatt–hours or value of electricity attributable to a subscription to a community solar energy generating system and fed back to the electric grid over the subscriber's billing period, as calculated under the tariff agreement of the electric utility. ● [Definition]: "Aggregate net metering" means the aggregation of multiple ratepayer meters to combine energy offset across electrical meters for the purpose of net metering.

In Relation to: Access and Equity for Tribal Nations and Native Populations of New Mexico

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In consideration of: Ensuring access and equity to ratepayers served by rural electric cooperatives and changing contractual arrangements with wholesale providers

Task Force Recommendation	The Task Force recommends community solar legislation to create a mechanism in the Public Regulation Commission rulemaking process to provide frequent opportunity for rural electric cooperatives to opt-in to the community solar program and provide public clarification of the procedural process. This does not pertain to rural electric cooperatives serving Indian nations, tribes or pueblos.
Reasoning	According to the New Mexico Rural Electric Cooperative Association, New Mexico cooperatives serve approximately 80% of the land area of the state and approximately 22% of the population. If rural electric cooperatives are not mandated to participate in the program, ratepayers served by rural electric cooperatives need equal opportunity to benefit from community solar development. Furthermore, rural electric cooperatives' contractual limitations of self-generation by wholesale generation and transmission providers, such as Tri-State, continue to change and may provide increased opportunity for self-generation through community solar.
Example Legislative Language	"The rules shall: make the opt-in process for rural electric cooperatives publicly available with ongoing opportunity to opt-in to the program. The provisions of this section do not apply to rural electric cooperatives providing electric service to Indian nations, tribes or pueblos and must opt-out from the community solar program on a per-project basis subject to approval from the Public Regulation Commission."

In Relation to: Public Regulation Commission Rulemaking Process

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In consideration of: Equitable rulemaking process by the Public Regulation Commission

Task Force Recommendation	The Public Regulation Commission should solicit input from Indian nations, tribes, and pueblos in the rulemaking process.
Reasoning	Energy development from past to present relies upon involvement of Indian nations, tribes and pueblos as sovereign nations and holders of a critical land base. Additionally, Indian nations, tribes, and pueblos hold right-of-way agreements with energy utilities, and energy development across New Mexico relies upon transmission and distribution infrastructure through tribal land.
Example Legislative Language	“The commission shall solicit input from relevant state agencies, utilities, low-income stakeholders and disproportionately impacted communities, potential owners or operators of community solar facilities, Indian nations, tribes and pueblos and other interested parties in its rulemaking process.”

In consideration of: Rate-setting requirements by the Public Regulation Commission

Task Force Recommendation	Include clear rate-setting requirements in the Public Regulation Commission rulemaking process to establish a bill credit rate to ensure rate parity.
Reasoning	The inclusion of clear rate-setting requirements by the Public Regulation Commission will serve as a mechanism for consumer protection and to promote low-income participation. This recommendation recognizes requirements called for by All Pueblo Council of Governors’ Resolution No. APCG 2018-31 that all renewable energy legislation should ensure that the Public Regulation Commission can implement and oversee consumer protections.
Example Legislative Language	“The rules shall: review bill credit rates for each jurisdictional electric utility that ensures rate parity for ratepayers in the successful creation, financing, and accessibility of community solar facilities in a way that encourages robust consumer participation across the utility’s customer classes.”

Appendix 4: New Mexico Rural Electric Cooperatives Association (NMRECA) Community Solar Resolution

WHEREAS, New Mexico distribution electric cooperatives ("New Mexico Cooperatives") are not-for-profit, consumer-owned and consumer-governed corporations;

WHEREAS, New Mexico Cooperatives serve approximately 80% of the land area of the state and approximately 22% of the state's population;

WHEREAS, the New Mexico Cooperatives serve some of the lowest income populated areas in the state;

WHEREAS, the New Mexico Cooperatives who are members of the New Mexico Rural Electric Cooperative Association ("NMRECA") are strong supporters of utilizing renewable energy resources;

WHEREAS, by 2024 all the distribution cooperative members of the NMRECA will provide their consumer-members with electric service comprised of at least 50% renewable energy that is reliable and affordable; and,

WHEREAS, the NMRECA and its members appreciate being involved with the Senate Memorial 63 working group to study the issues surrounding implementation of a proposed "Community Solar" initiative.

NOW THEREFORE BE IT RESOLVED that:

NMRECA Members will support a Legislative Community Solar initiative that meets the following conditions, which are designed to protect the interests of the consumer-members of these NMRECA Member cooperatives:

a. Any legislation must include a separate section specific to the New Mexico Cooperatives.
b. The legislation must allow New Mexico Cooperatives to opt-in to a community solar program, rather than mandate participation.
c. The opt-in decision for each NM Cooperative shall be determined by a majority vote of its board of directors.
d. A New Mexico Cooperative, opting into the Community Solar program shall not be required to participate in a community solar program at levels that will result in a violation of the New Mexico Cooperatives' existing or future wholesale power supply contracts.
e. Any Community Solar program opted into and implemented by a New Mexico Cooperative shall not result in any subsidies being provided by and between members of the New Mexico Cooperatives.

Appendix 5: Senate Memorial 63: Community Solar Working Group

54th legislature - STATE OF NEW MEXICO - second session, 2020
INTRODUCED BY Elizabeth "Liz" Stefanics and Patricia Roybal Caballero

A MEMORIAL REQUESTING THE NEW MEXICO LEGISLATIVE COUNCIL TO ARRANGE FOR A THIRD-PARTY FACILITATOR TO CONVENE A WORKING GROUP TO REVIEW STATEWIDE COMMUNITY SOLAR INITIATIVES AND DEVELOP RECOMMENDATIONS FOR IMPLEMENTATION OF THOSE INITIATIVES.

WHEREAS, solar energy production installations convert energy from sunlight into electricity through the use of photovoltaics or concentrated solar power; and
WHEREAS, solar energy is an environmentally friendly renewable energy source that can help reduce electricity bills and has diverse applications; and
WHEREAS, solar energy production has risen over the course of the past several years, and this trend is expected to continue; and
WHEREAS, by the middle of 2018, five and three-tenths gigawatts of solar capacity had been installed in the United States, producing enough energy to power eleven million homes; and WHEREAS, employment in the solar energy sector more than doubled between 2010 and 2017, from approximately ninety-three thousand to two hundred fifty thousand jobs; and
WHEREAS, in 2017, thirty-two percent of households in New Mexico were renting, and thirty percent of those households fell below the federal poverty line; and
WHEREAS, rooftop solar is generally not affordable nor accessible to low-income families and renters; and
WHEREAS, community solar allows for low-income families and renters to access solar energy and reduce their electricity bills; and
WHEREAS, nineteen states and the District of Columbia have policies and programs supporting community solar development; and
WHEREAS, with its abundance of sunshine, New Mexico is among the states that can derive the greatest benefits from solar energy production; and
WHEREAS, community solar initiatives would allow for local governments, multiple individuals and entities to share the benefits of a single solar facility to which they subscribe and obtain monetary credit on their utility bills for a portion of the solar power produced; and
WHEREAS, participation and recommendations from the energy, minerals and natural resources department, the public regulation commission, utility companies, electric cooperatives, renewable energy industry representatives, Indian nations, tribes and pueblos, low-income service providers, local governments and community members from all regions of the state would be a key component to the success of community solar initiatives statewide;
NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF NEW MEXICO that the New Mexico legislative council be requested to arrange for a third-party facilitator to convene a working group no later than March 21, 2020 to review statewide community solar 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; provided that the third-party facilitator shall facilitate without compensation from the state; and
BE IT FURTHER RESOLVED that the working group be composed of representatives from the energy, minerals and natural resources department; the public regulation commission; utility companies; electric cooperatives; renewable energy industry representatives; the New Mexico municipal league; environmental organizations; Indian nations, tribes and pueblos; low-income service providers; and local governments, cities, counties and interested community members from throughout the state; and
BE IT FURTHER RESOLVED that the working group be requested to report its findings and recommendations to the appropriate interim legislative committee by October 1, 2020; and
BE IT FURTHER RESOLVED that copies of this memorial be transmitted to the co-chairs of the New Mexico legislative council.

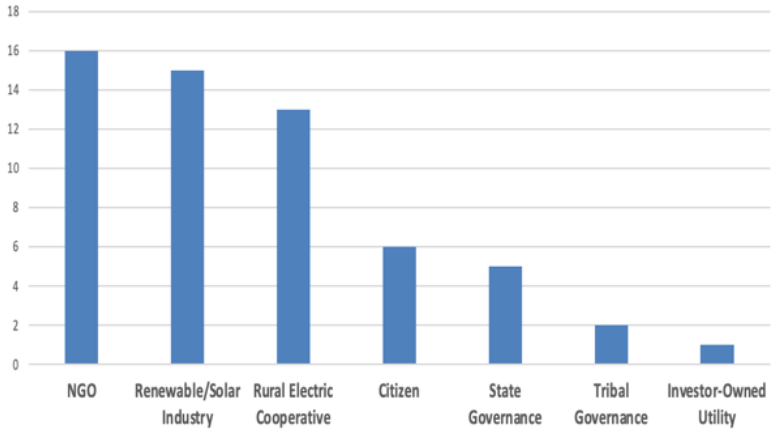
Appendix 6: October 2020 Stakeholder Survey Results

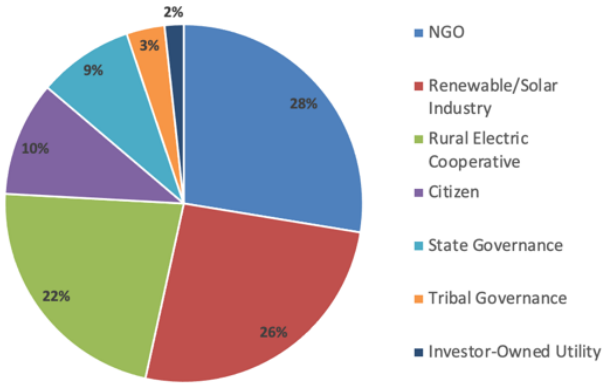
The following table provides a brief summary of the participant survey, conducted in October 2020, followed by each question and tables of participant responses.

Suvey Questions	Electric Coop	IOU	Renewable Energy/Solar	NGO	State Gov	Tribal Gov	Citizen	Most Popular	Most Popular
# of Participants in Survey	*13*	*1*	*15*	*15*	*5*	*2*	*6*	*Choice*	*% of Total*
Do you intend to support community solar legislation in the 2021 legislative session?	Undecided	Undecided	Yes	Yes	Yes	Yes	Yes	Yes	64%
What do you think should be the annual statewide capacity program cap for Investor Owned Utilities (IOUs)?		Other	200 MW	PRC Determine			Other	PRC	27%
What do you think should be the cap on community solar facility size?	Other	2 MW	5 MW	5 MW	5 MW		5 MW	5 MW	46%
Preferences for language regarding co-location with storage?	Not Necessary	Other	Separate Bill			No Preference	Necessary	Not Necessary	30%
How should Renewable Energy Credits (RECs) be handled?	Utility	Other	Subscriber Org	Subscriber Org			Customers	Sub Org	36%
Should utilities be allowed to participate in the community solar program as owners or subscriber organizations	Yes	Yes	No		Yes			No	36%
If utilities do participate in the community solar program, should their projects be included in annual statewide capacity caps?	Yes	Yes	No	No	No Preference		No	No	45%
Should there be restrictions on participation by anchor tenants?	Res Only	Res Only	40% Capacity	40% Capacity	40% Capacity		40% Capacity	40% Capacity	44%
Should the program explicitly permit portability (i.e. allow participants to move within the utility service territory and take their subscription with them)?	No	No Preference	Yes	Yes	Yes		Yes	Yes	57%
Should the program permit utility customers to subscribe to any community solar facility within the service territory of their utility?	No	Other	Yes	Yes	Yes		Yes	Yes	61%
How should subscribers be credited on their bills for the electricity generated from a community solar facility?	Avoided Cost	Avoided Cost	TARR/VoS	TARR/VoS				TARR/VoS	27%
How should bill language address participation in the community solar program for rural electric cooperatives?	Opt-In	Opt-In	Opt-In	Opt-In	Opt-In	Other	Opt-In	Opt-In	62%
Should tribal entities served by rural cooperatives be able to develop individual community solar projects on the cooperative distribution grid, even if served by a cooperative that has not opted in to the program?		No Preference	Yes	Yes	Yes	Yes	Yes	Yes	58%
Should the program have a carve-out requiring a certain percentage of total program capacity to serve qualifying low-income customers?	Other	No	Yes	Yes	Yes	Yes	Yes	Yes	70%
If selected yes, what do you believe the low-income carve-out of the total program capacity should be?	Other	Other	10%	30%	Other	Other	20%	Other	28%
Should the bill create a committee representing a diverse array of stakeholders, including those who serve low-income groups, to advise the PRC on the development of low-income programs and/or project requirements?	Yes	No Preference	Yes	Yes			Yes	Yes	53%
Should community solar legislation create a subsidy fund for the development of projects serving low-income customers?		No Preference		Yes	Yes		Yes	Yes	51%
Should community solar legislation identify financing mechanisms through the New Mexico Finance Authority for the development of projects serving low-income customers?		No Preference		Yes	Yes		Yes	Yes	42%
Should the PRC run the project/capacity allocation process?	Yes	No	Yes	Yes	Yes			Yes	52%
After what period should the PRC evaluate the overall effectiveness of the program's rulemaking process and possible changes to applicable rules?	5	3	3	3	3	2	3	3	46%

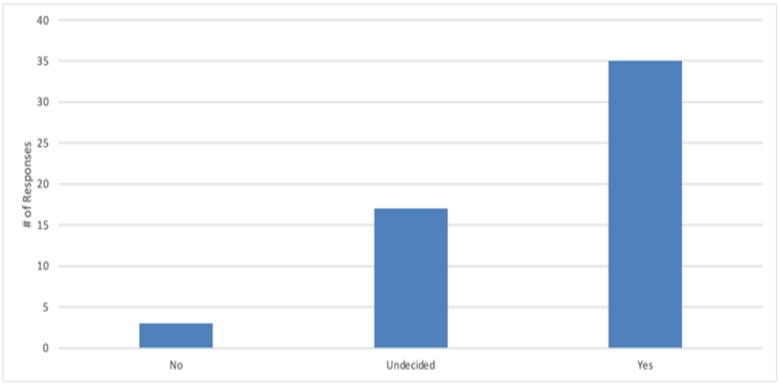
SM 63 Community Solar Stakeholder Survey

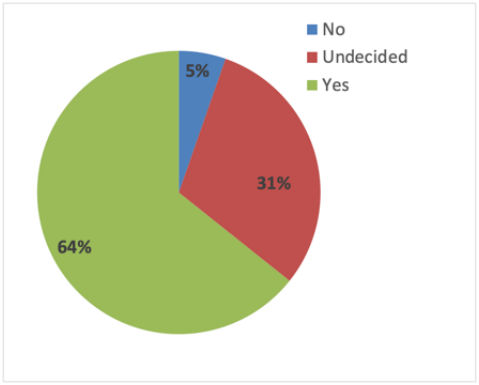
- Time of Survey: October 20th – October 30th 2020
- 58 respondents

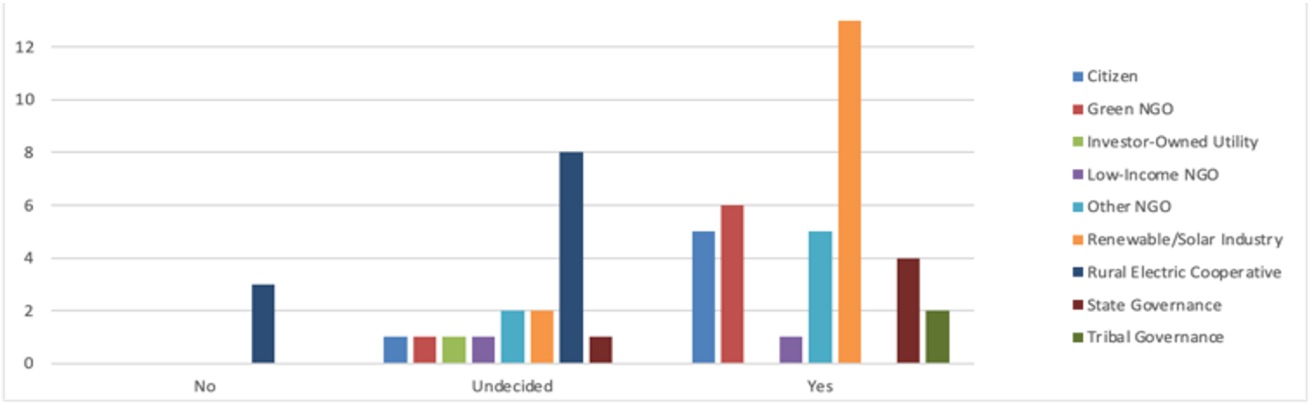




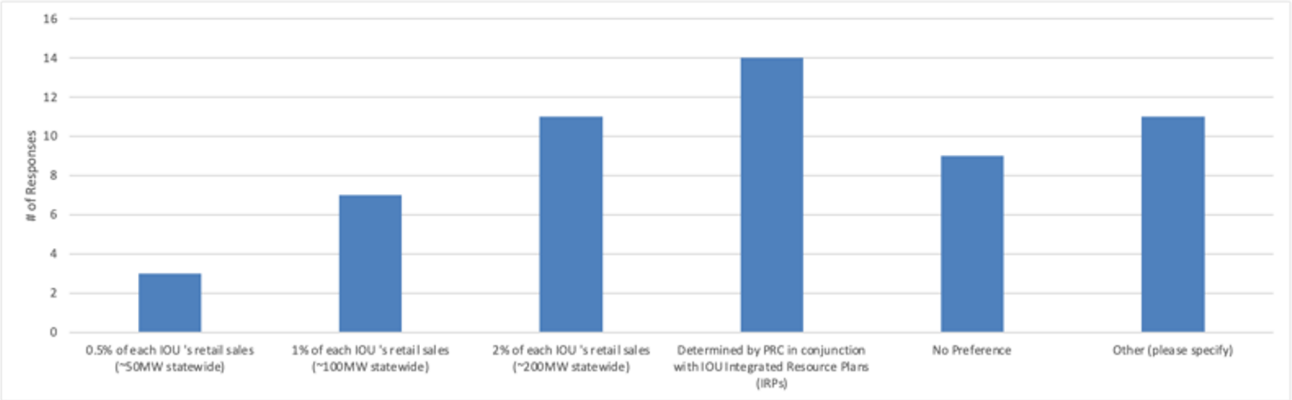
Q5: Do you intend to support community solar legislation?

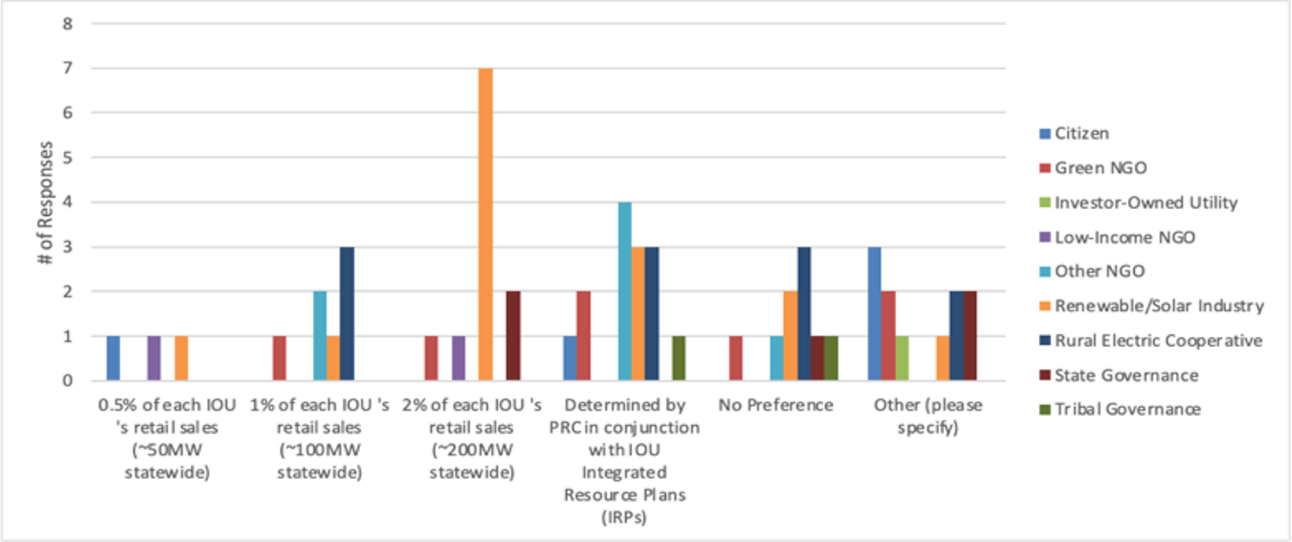




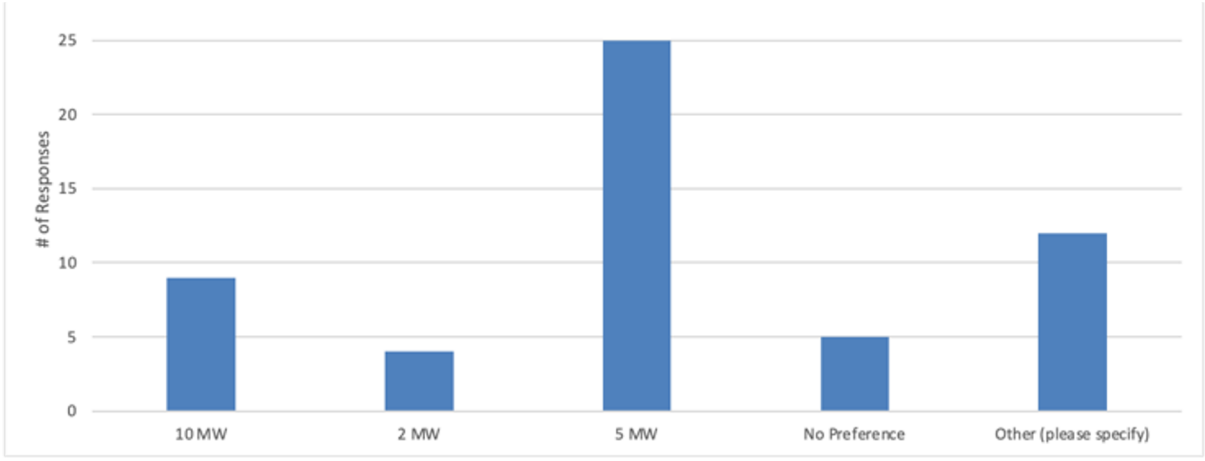


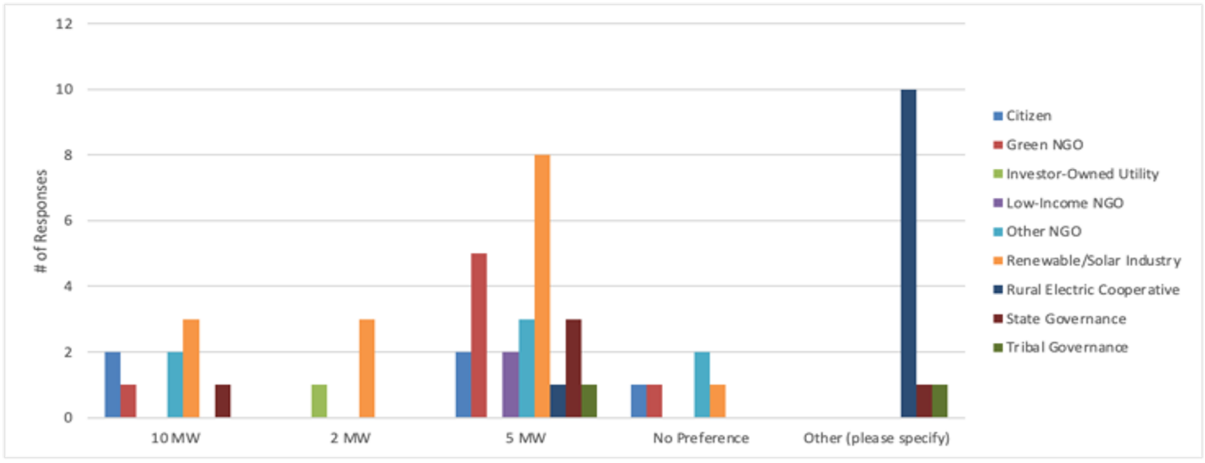
Q7: What should be the annual statewide capacity cap for IOUs?



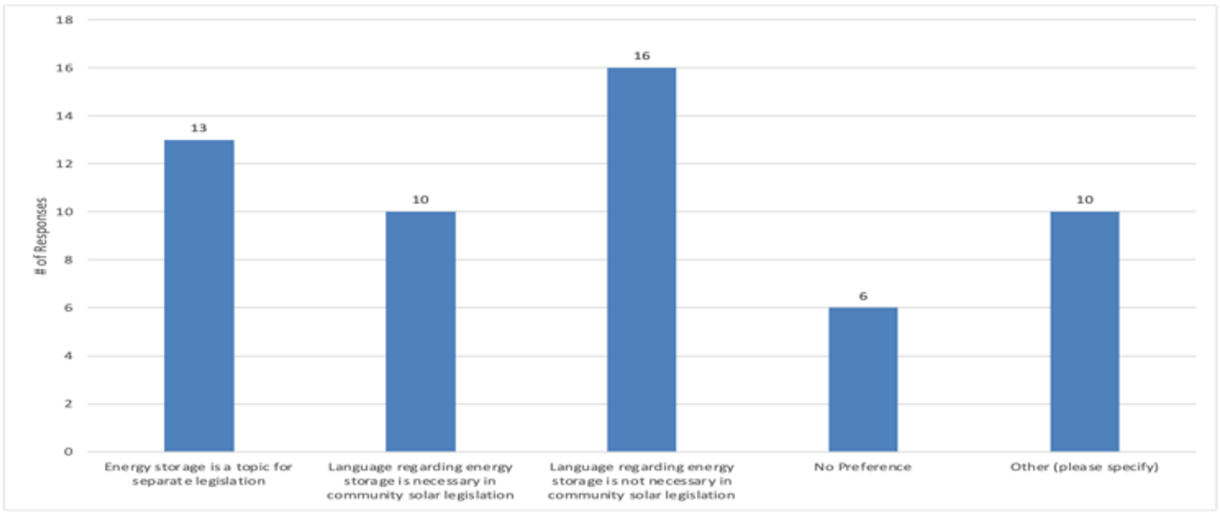


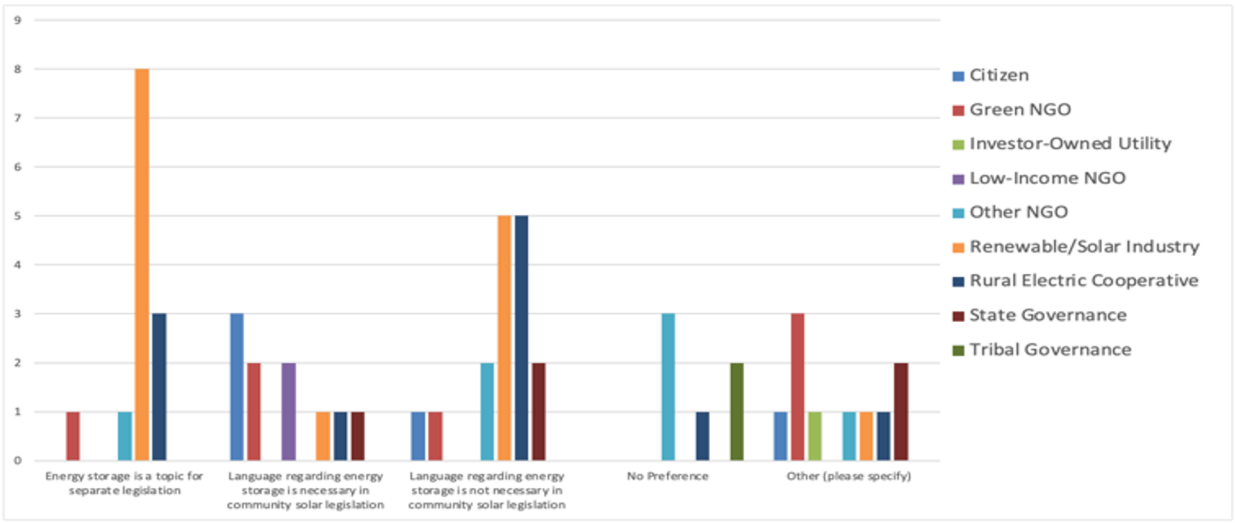
Q8: What do you think should be the cap on community solar facility size?



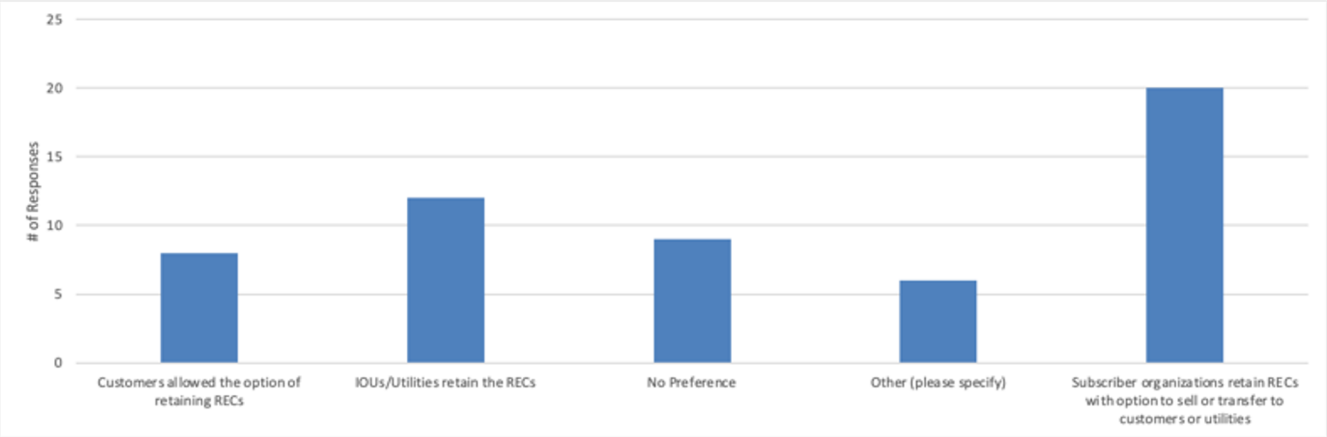


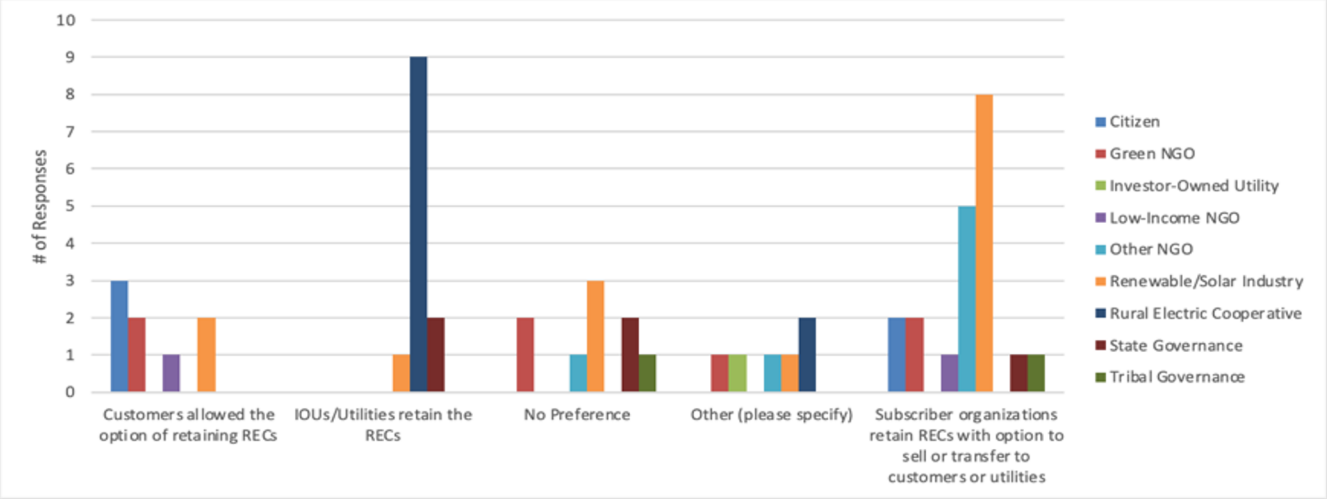
Q9: Preferences for language regarding co-location with storage



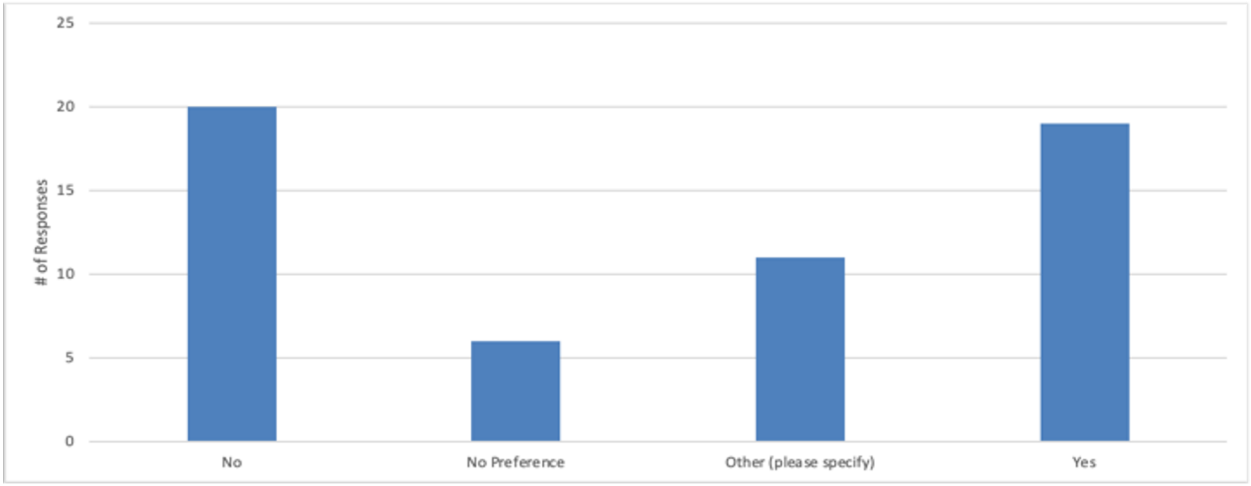


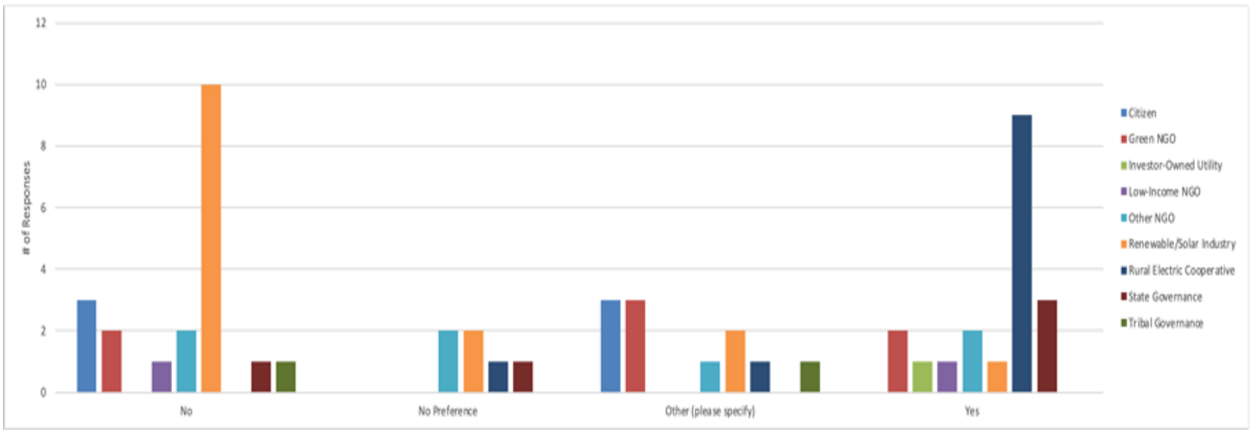
Q10: How should RECs be handled?



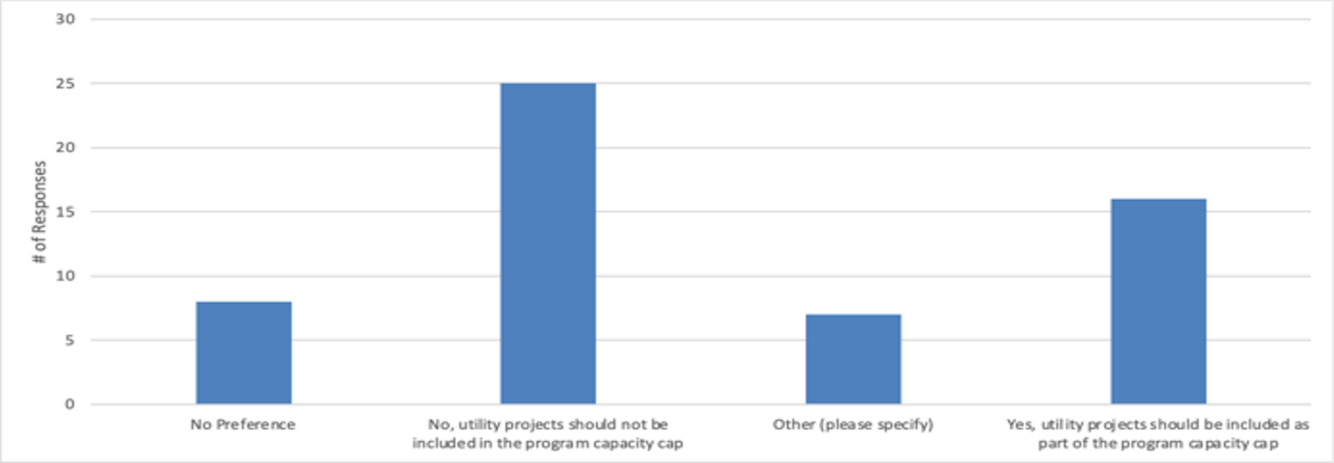


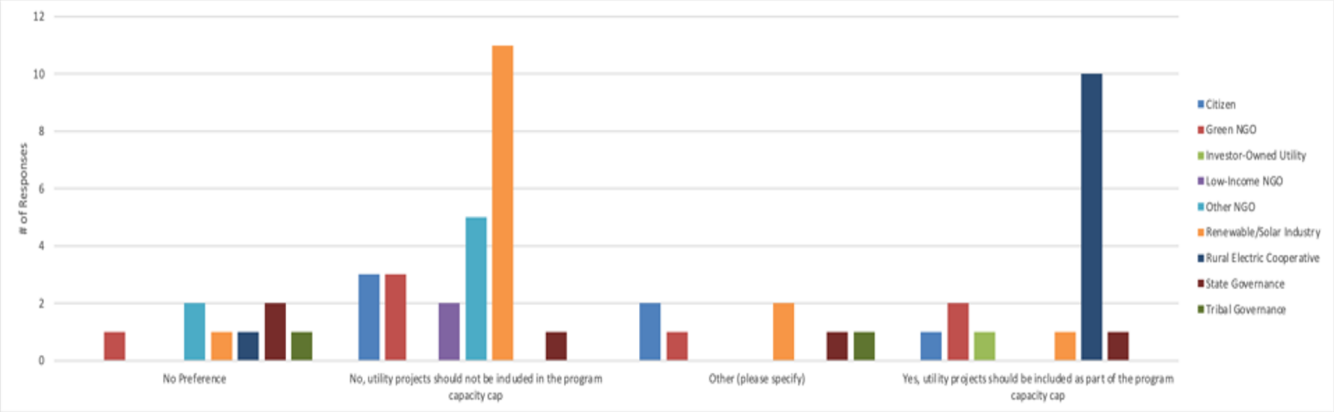
Q11: Should utilities be allowed to participate in the community solar program as owners or subscriber organizations?



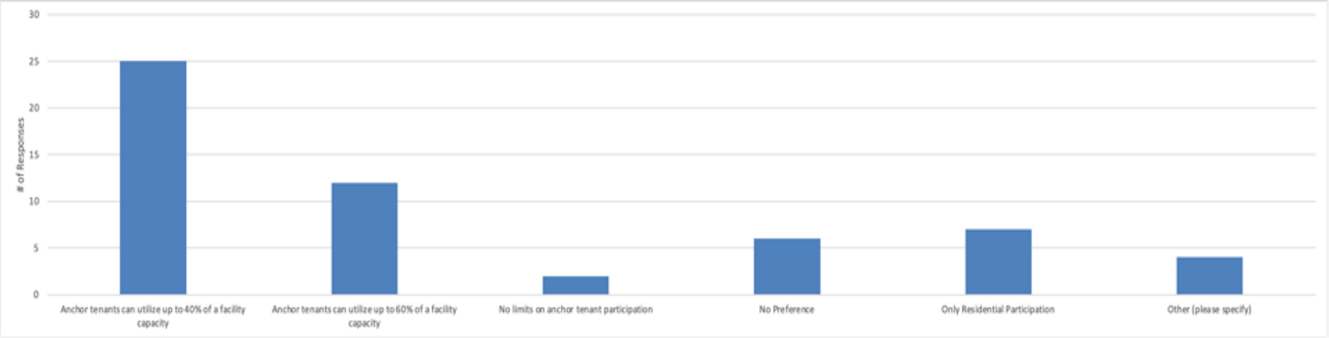


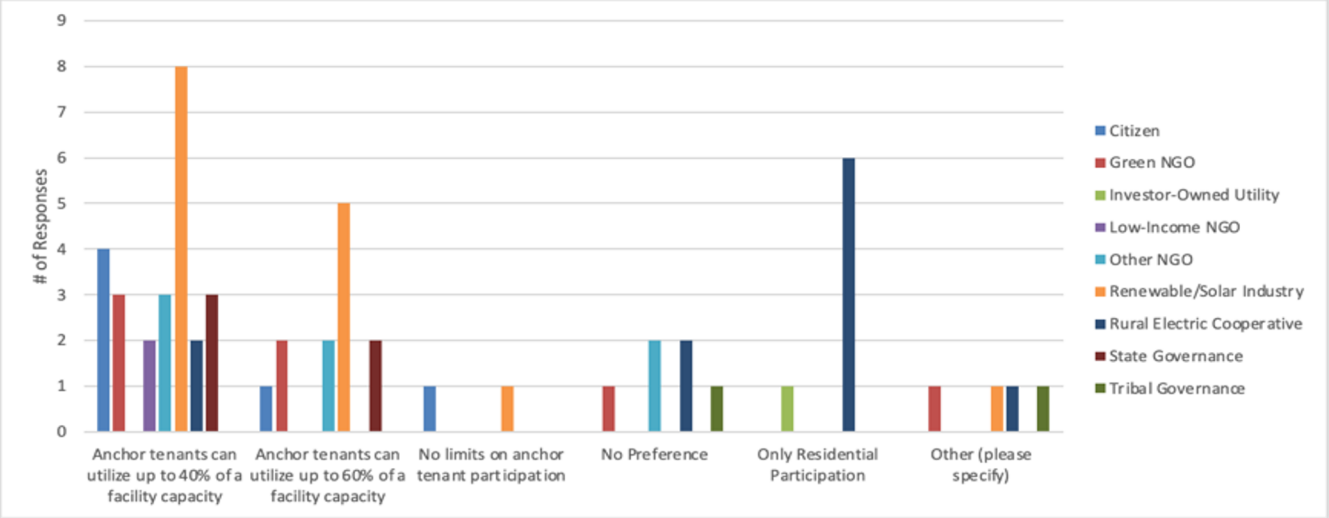
Q12: If utilities do participate in the community solar program, should their projects be included in annual capacity caps?



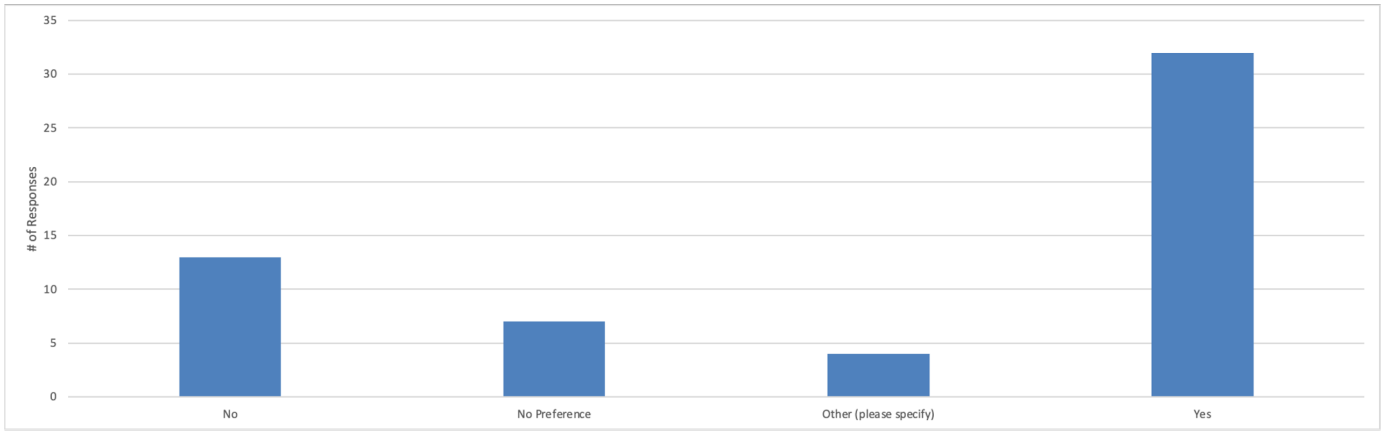


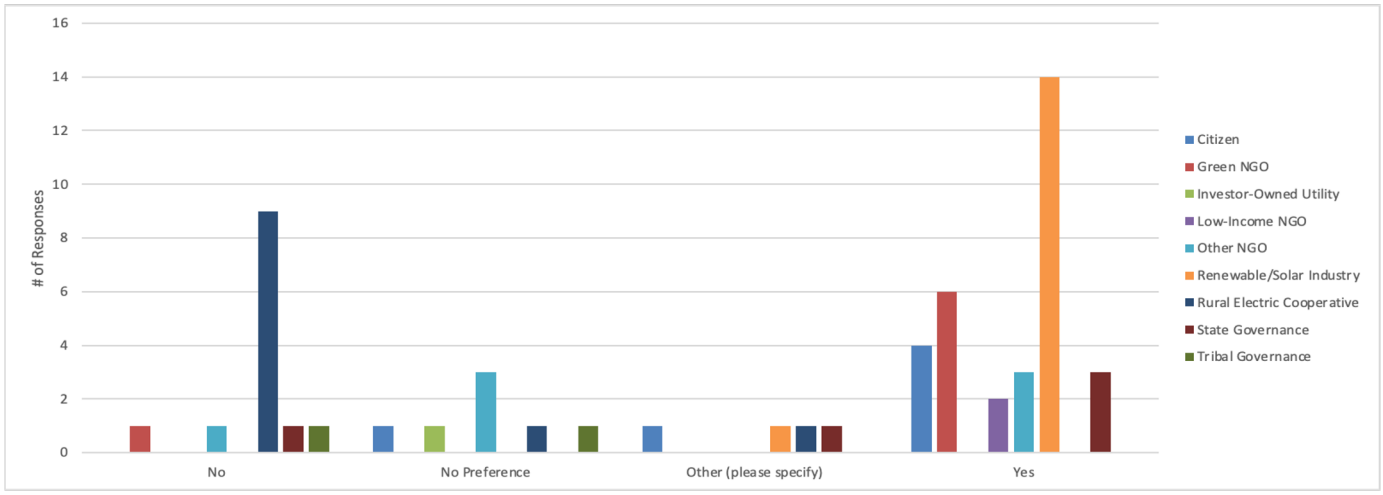
Q13: Should there be restrictions on participation by anchor tenants?



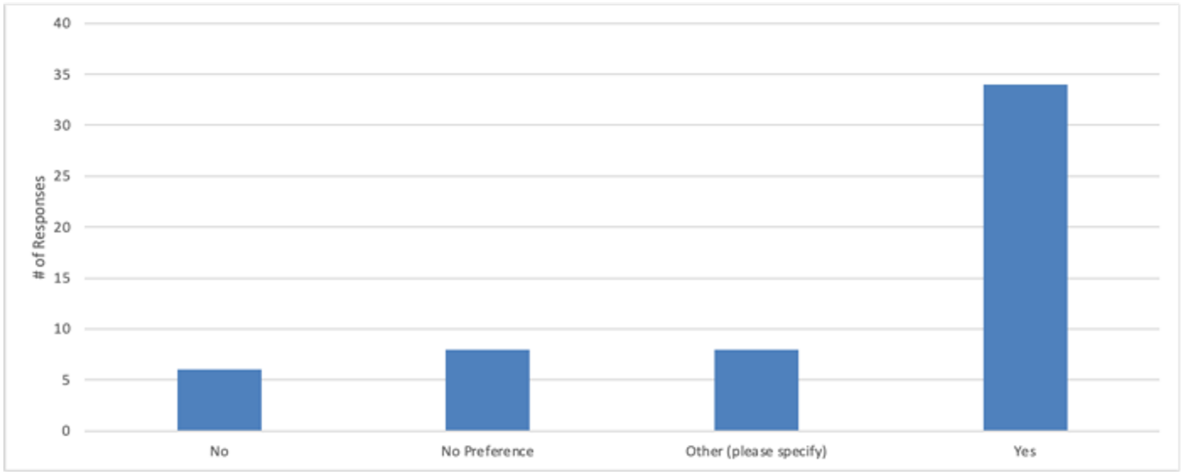


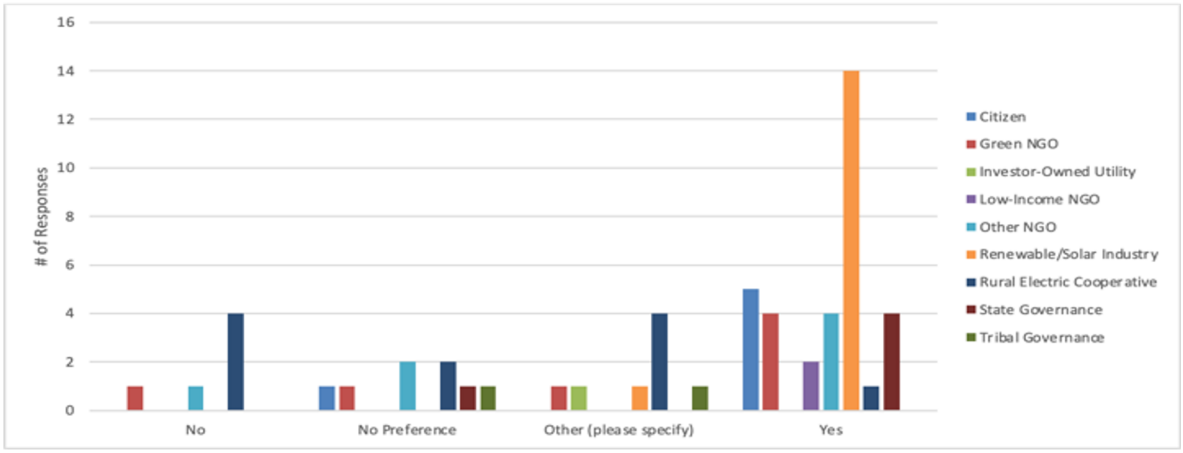
Q14: Should the program explicitly permit portability (i.e. allow participants to move within the utility service territory and take their subscription with them)?



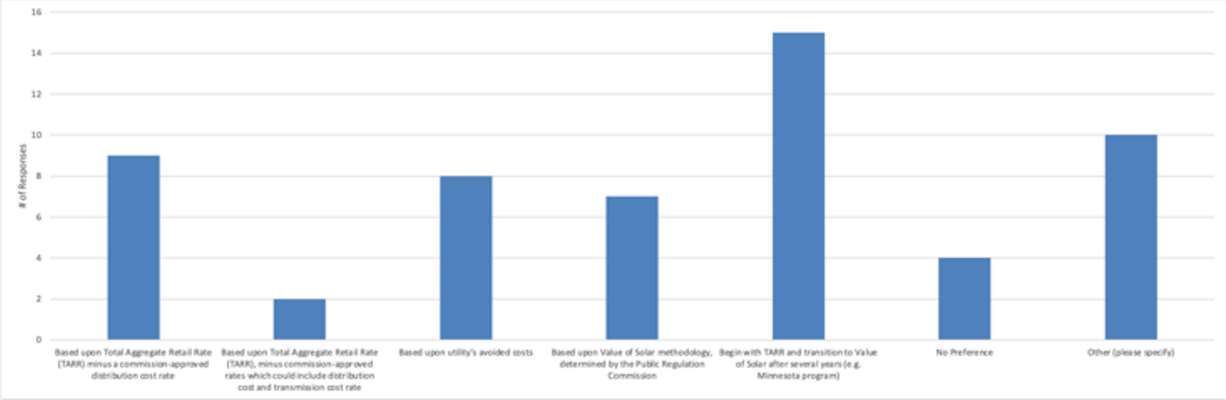


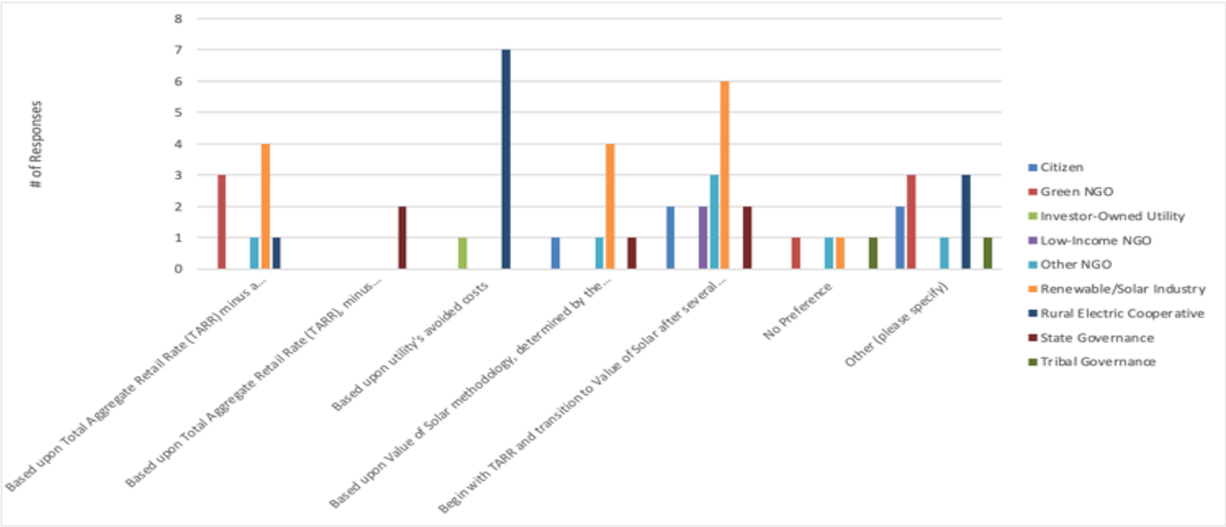
Q15: Should the program permit utility customers to subscribe to any community solar facility within the service territory of their utility?



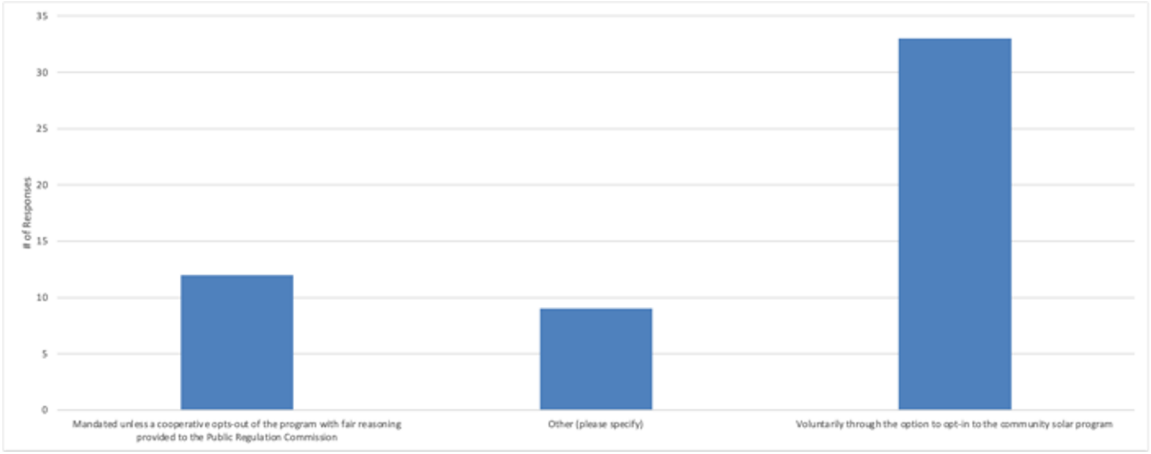


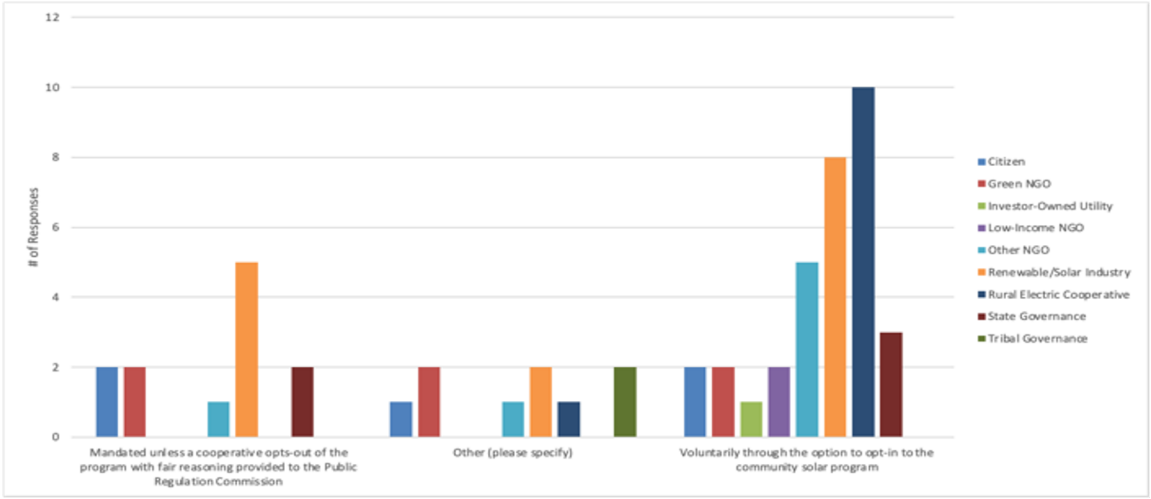
Q16: How should bill credit mechanism be determined?



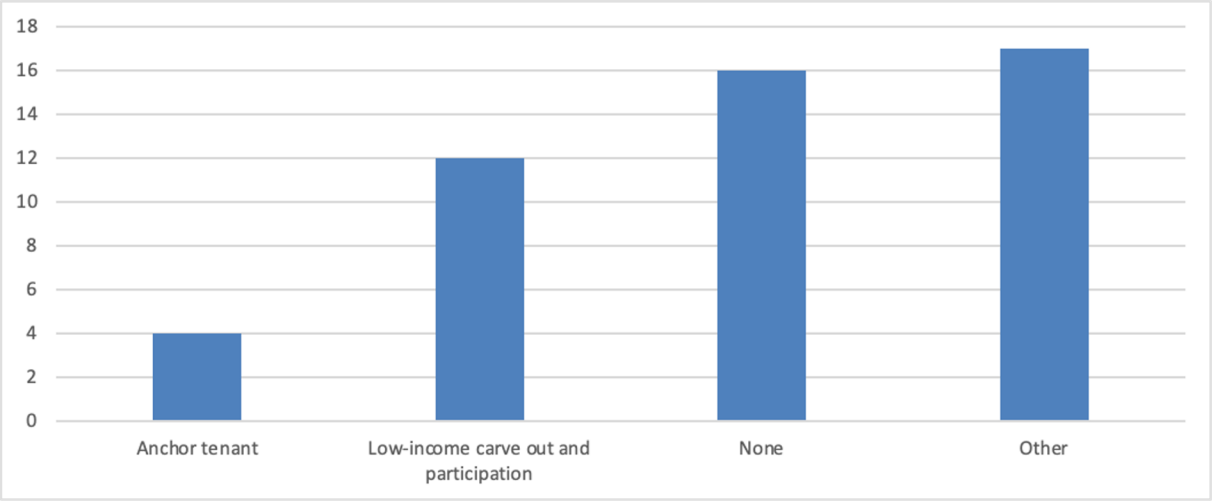


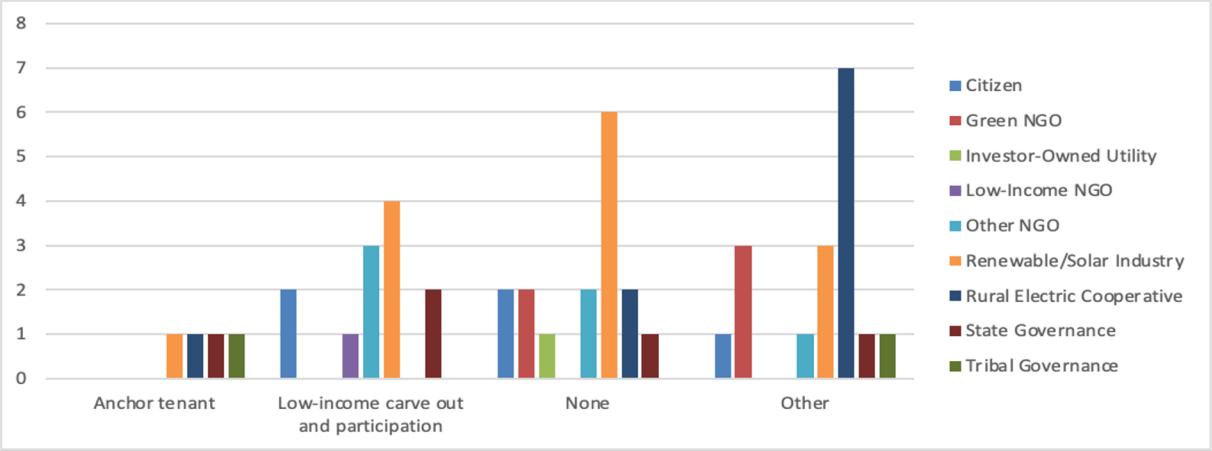
Q17: How should bill language address participation in the community solar program for rural electric cooperatives?



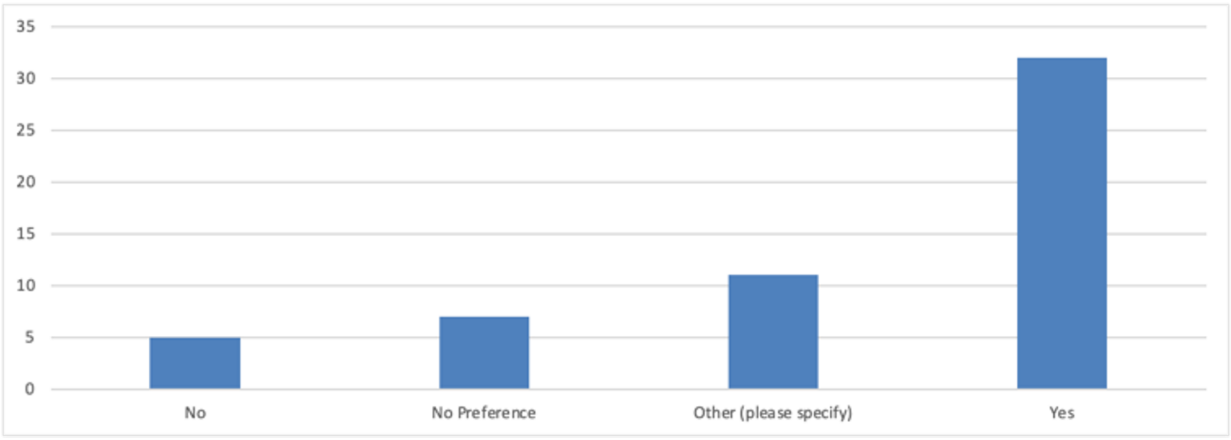


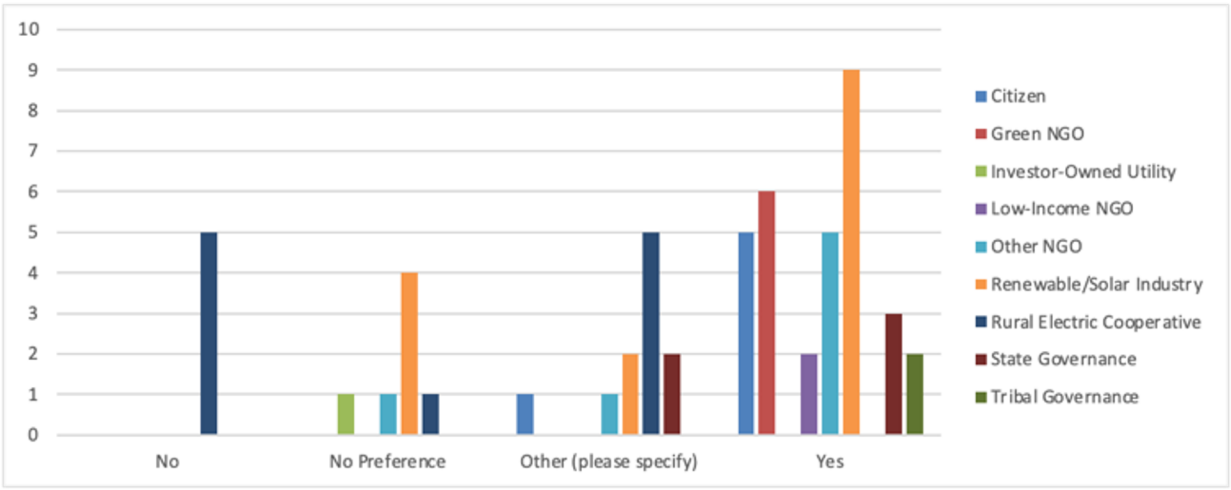
Q18: Which, if any, program requirements should be different for investor owned utilities (IOUs) and rural electric cooperatives



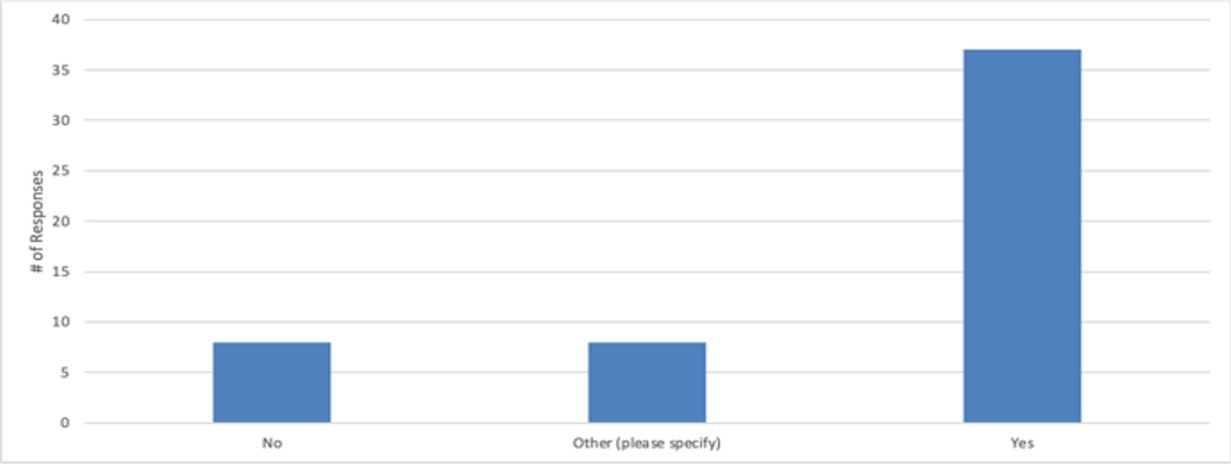


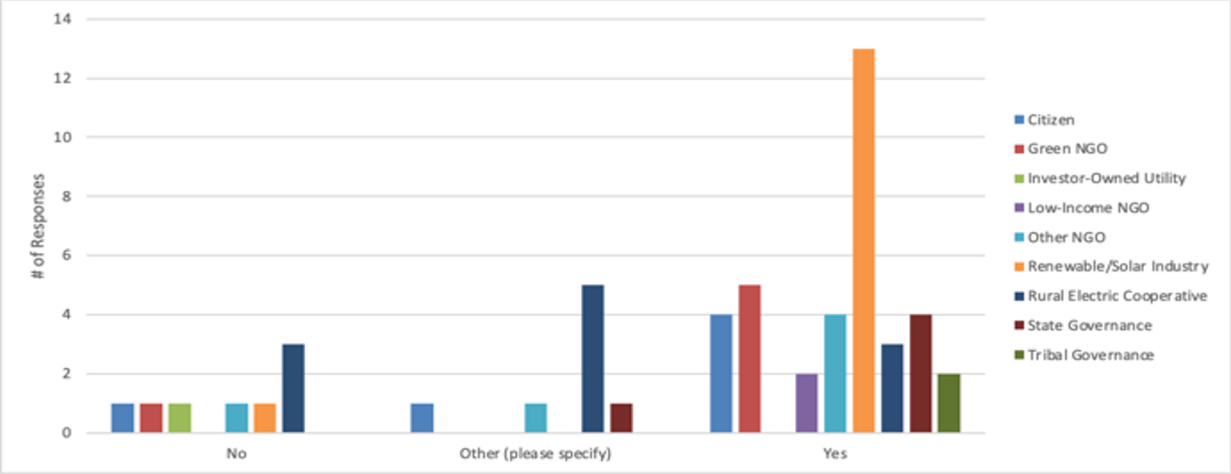
Q20: Should tribal entities served by rural cooperatives be able to develop individual community solar projects on the cooperative distribution grid, even if served by a cooperative that has not opted in to the program?



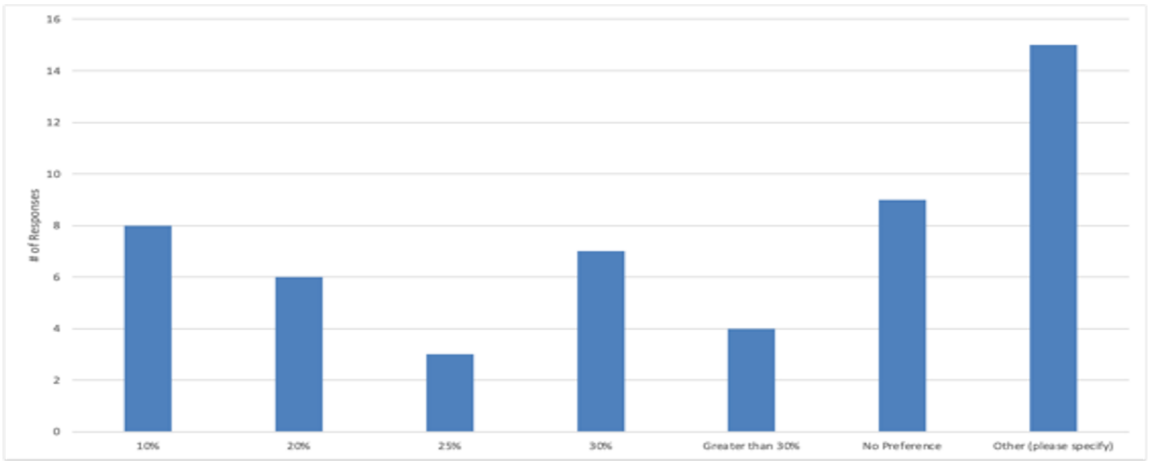


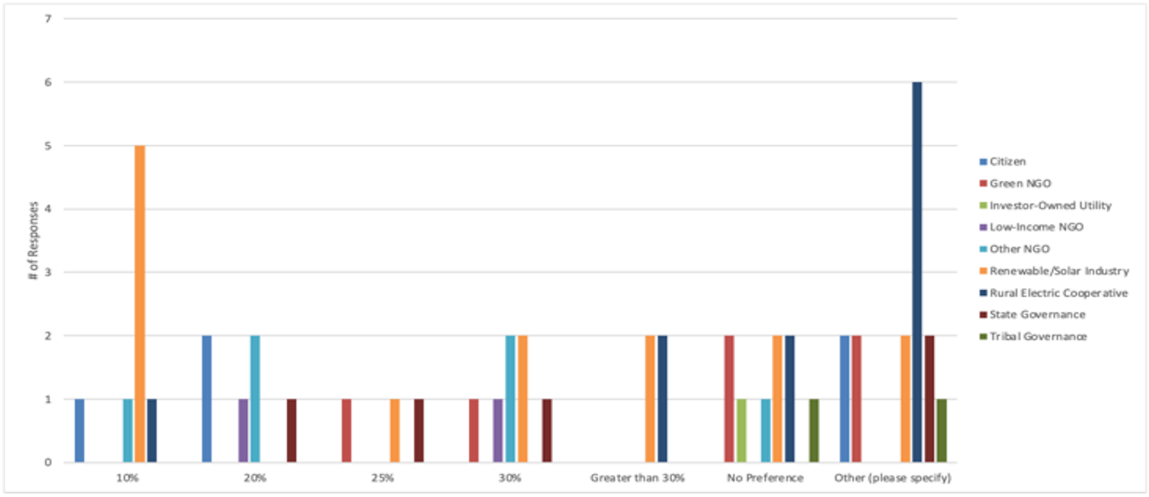
Q21: Should the program have a carve-out requiring a certain percentage of total program capacity to serve qualifying low-income customers?



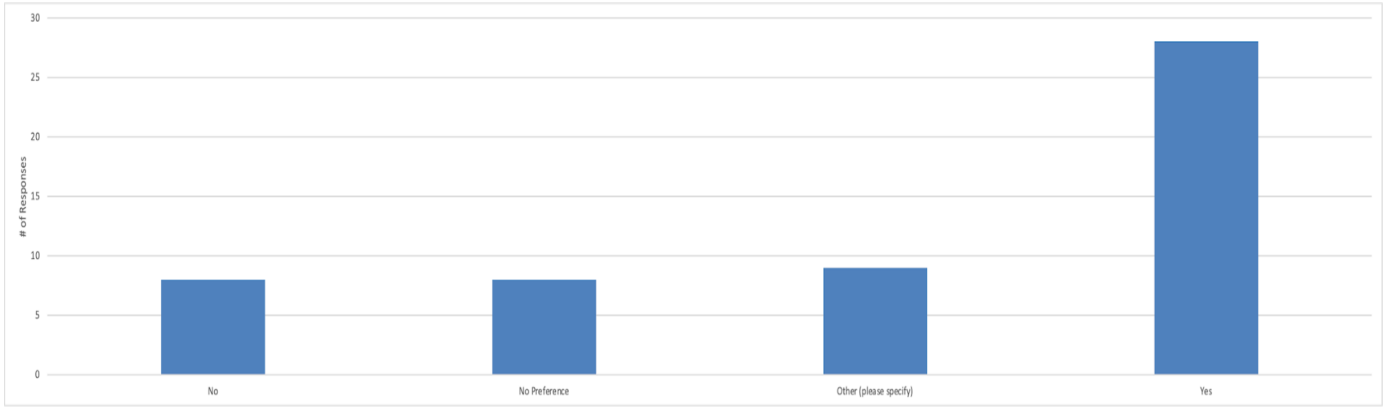


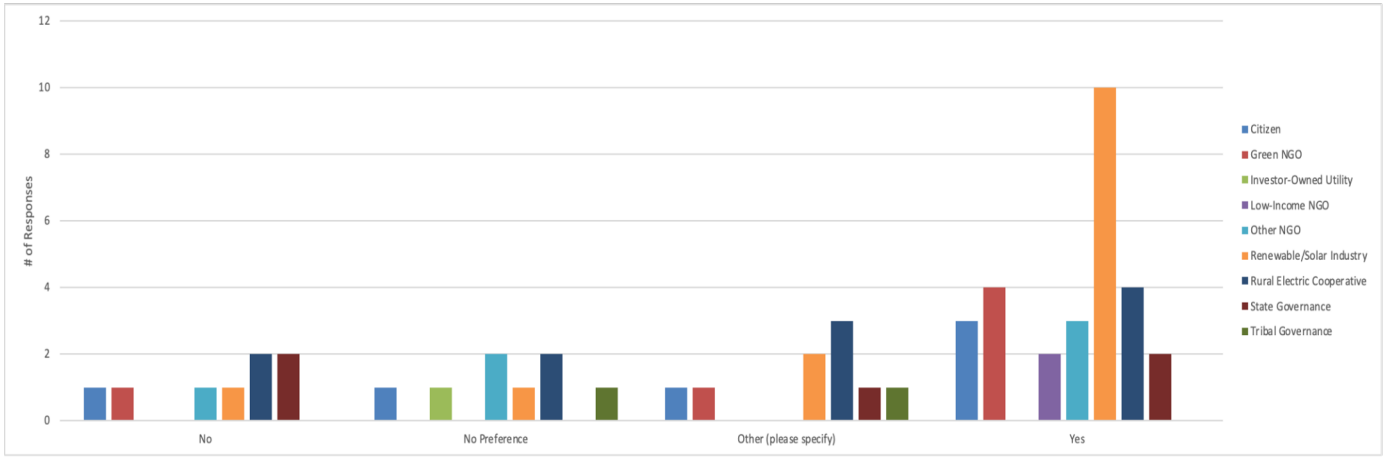
Q22: If selected yes, what do you believe the low-income carve-out of the total program capacity should be?



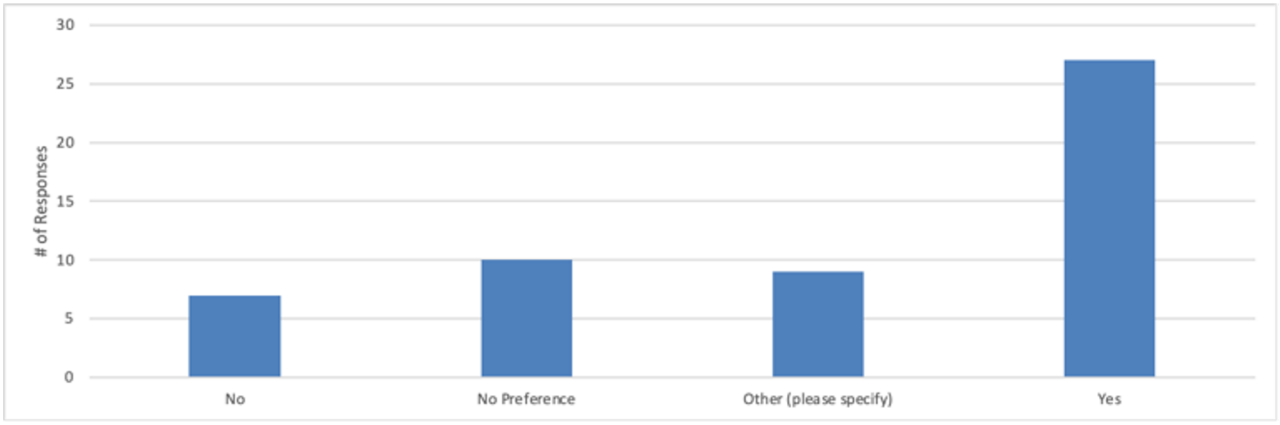


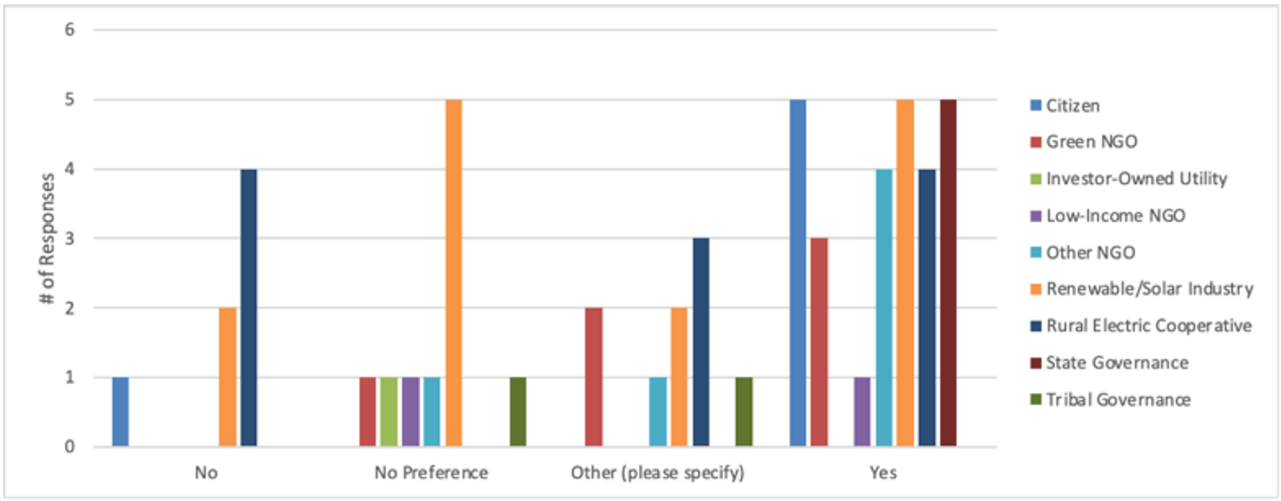
Q23: Should the bill create a committee representing a diverse array of stakeholders, including those who serve low-income groups, to advise the PRC on the development of low-income programs and/or project requirements?



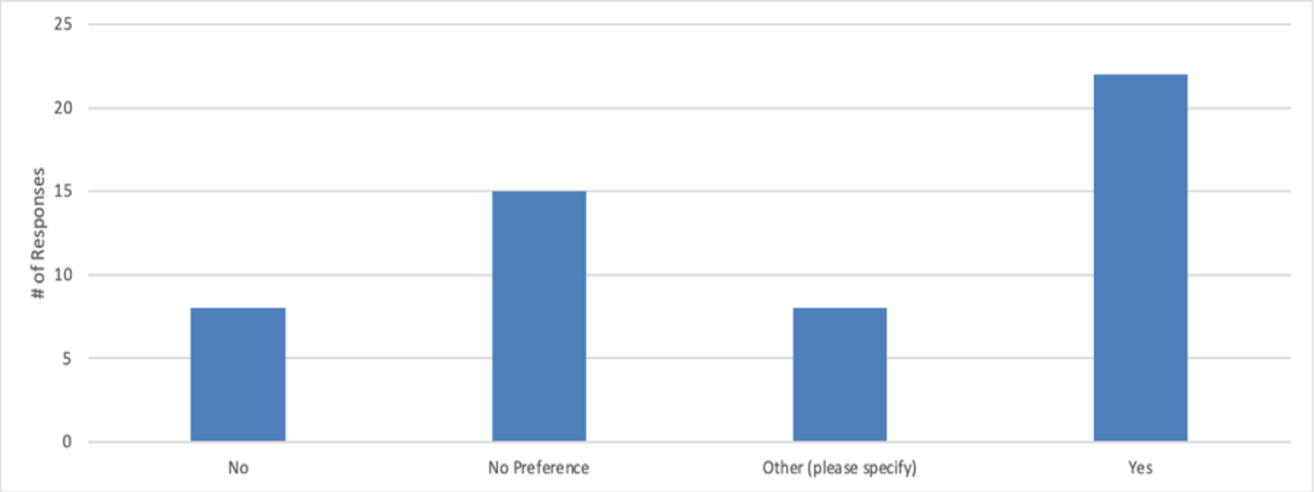


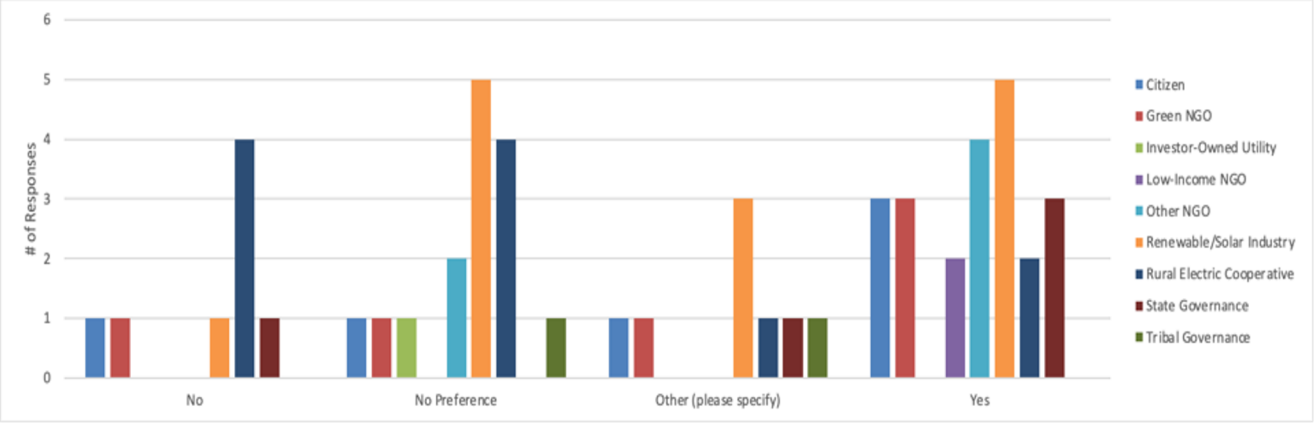
Q24: Should community solar legislation create a subsidy fund for the development of projects serving low-income customers?



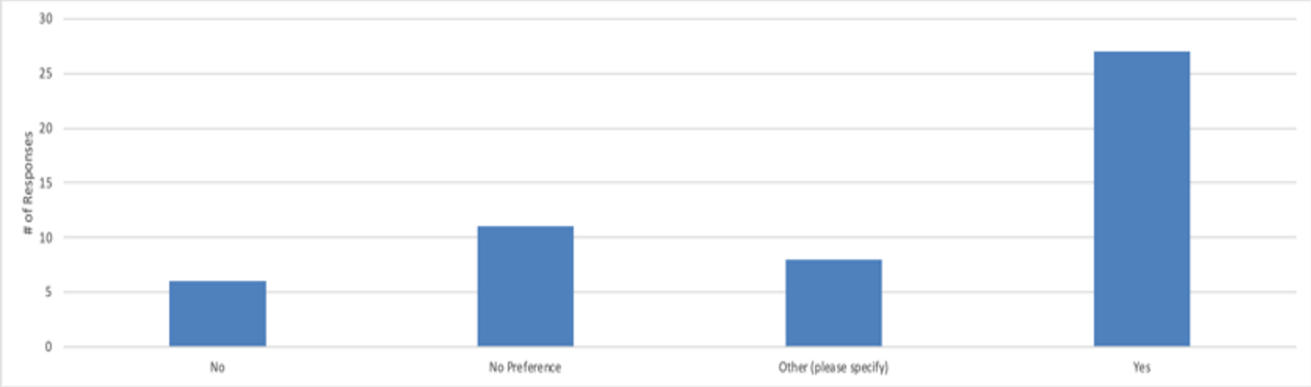


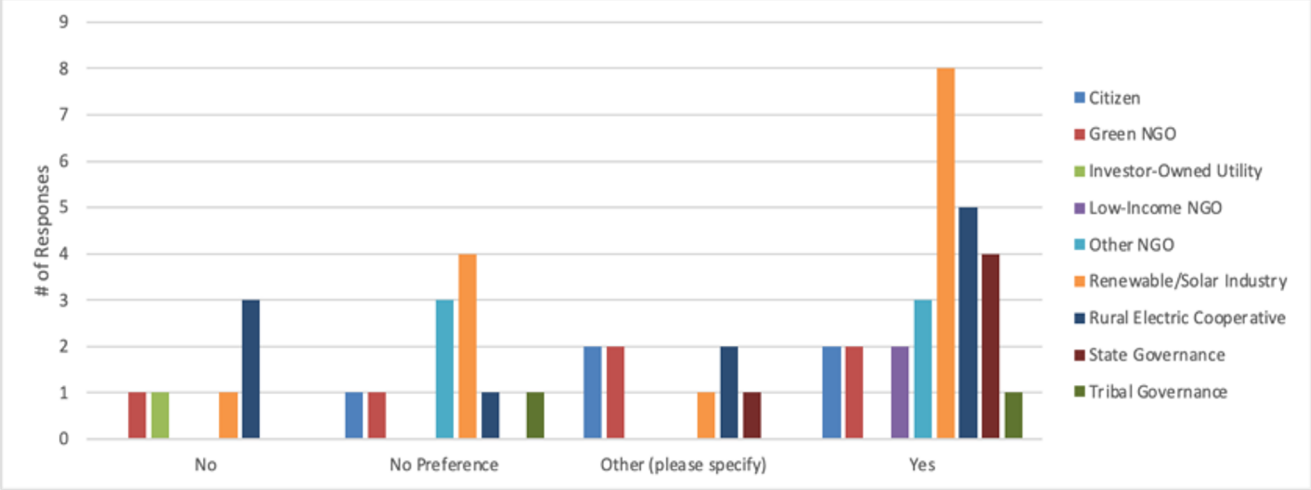
Q25: Should community solar legislation identify financing mechanisms through the New Mexico Finance Authority for the development of projects serving low-income customers?





Q26: Should the PRC run the project/capacity allocation process?





Q28 After what period should the PRC evaluate the overall effectiveness of the program's rulemaking process and possible changes to applicable rules?