new energy economy
Addressing the Climate Challenge
With Bold Solutions

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Community Solar poison pill amendments derail the bill's purpose

The purpose of community solar: to create competition in the market and to carve out protection for customers of all kinds to invest in low-cost solar as a hedge against rising utility rates.

The "Community Solar" bill has moved forward without the community. New Energy Economy believes the **Ivey Soto/Duhigg amendments (made on the Senate floor yesterday) actually EXPAND utility control over the market** and **stifle competition** because of all the economically prohibitive restrictions and limitations added for project developers. These amendments systematically strip the Community benefits from the bill and curtail the bill's ability to expand the solar market in New Mexico.

In order for a community solar project to be viable - it needs to be competitive. Solar developers of projects only have so much margin to make a project economically feasible. To require PRC regulatory oversight for instance, will be so costly that this single MAJOR requirement could make the development of a community solar project impossible. This is just one of four poison pill amendments that threaten the integrity of the Community Solar vision.

Poison Pill #1: The Utilities can own a "community solar" project.

That defeats the whole purpose: A true community solar program, means that a subscriber owns shares in the system, gets the electric-generated offset, and gets the tax advantages. The community solar subscriber is an investor, an owner, and has a say in the process and gets the direct benefits as they occur. Whether a low-income resident or a business owner!

The term "community solar" has been around for more than a decade in 20 states and refers to projects with shared ownership in which participants receive direct financial benefits, including reduced utility bills.

The National Renewable Energy Lab defines community or shared solar as models that "allocate the electricity of a jointly owned or leased system to offset individual consumers' electricity bills, allowing multiple energy consumers to share the benefits of a single solar array."

A utility-owned solar system doesn't meet the definition of community solar because customers won't own the panels or accrue enough of the benefits. PNM or Ivey Soto/Duhigg amendments are community solar without the community. The bill retains the "community" name but has effectively been stripped of all the community benefits.

Why has this happened? The investor owned utilities have been fighting New Mexican's efforts to create community solar for 15 years. The utilities see community solar as a huge revenue drain. And they are right - it will be, because community solar will make competitive solar markets available to residents and businesses across our state and allow customers to protect themselves against rising

utility costs. Just like local choice energy; community solar will introduce CHOICE into our New Mexican energy markets. When New Mexicans are allowed to choose we will see faster progress on climate, environmental benefits, lower cost, and community control. (Sprinkle on top: accelerated job development.) Call it responsive democracy in action.

Poison Pill #2: Requires community solar projects to be subject to PRC Regulation.[1]

The legal rationale for PRC oversight for an Investor Owned Utility ("IOU") is that in exchange for NO competition and 100% geographic control, the electric monopoly must be regulated. The IOU must provide service to all those members (500,000+ customers) of the public within that geographic boundary. There is NO corresponding legal rationale for community solar oversight.

Community solar gardens should NOT be owned by the utilities and should be treated under the law the same way roof top solar is treated -- under a market regime rather than a regulated regime. Under NMSA §62-13-13.1, renewable energy distributed generation facilities (rooftop solar) are not built or operated by the IOU and are NOT a "public utility." Therefore, rooftop solar is not subject to the jurisdiction, control or regulation of the Public Regulation Commission because the projects are driven by a consumer market. Distributed rooftop solar only pertains to the solar purchasers with terms and conditions set by the solar installation business providers, subject to the "free" market. It has been a huge success in New Mexico (and all over the country).

The projects are not regulated by the PRC because solar developers do not have to provide to all customers, and only serve customers that subscribe based on market terms & conditions (like any other service, *i.e.,* plumbing, home builders, etc.) and *are* subject to other competitors. The rooftop solar owner pays for the electric generation system and the system is not a financial burden in any way to the IOU system. In fact, distributed generation solar systems often provide system and security benefits. The rooftop solar owner does not own or control all or any part of the IOU's system.

The law for rooftop solar is designed to enable the industry and solar adoption to flourish – which it has – successfully. New Mexican residents, businesses and schools have installed hundreds of megawatts since adoption - offsetting emissions, building a thriving solar market (businesses, solar installers, etc.), creating hundreds of jobs, creating low cost solar and a hedge against rising electric utility rates.

Community solar (before the Ivey Soto/Duhigg amendments) is rooftop solar at a larger, collective scale, allowing a number of subscribers to enjoy the benefits of off-site solar. If for instance, a community solar developer had to be subjected to the same conditions as an IOU they would have to have lawyers, regulatory experts, and provide minimum data requirements for *each* project; this would be prohibitive at such a small scale of production. There is not enough "profit" built into these projects to afford this regulatory overlay and expense. Given that solar developers are fully funding this enterprise *in advance,* it is economically infeasible for them to bear this excessive and unnecessary burden.

[1] Eliminates Section 9 of the bill.

Poison Pill #3: Limits subscribers only to:
1) A residential retail customer or
2) "a small commercial retail customer," that cannot consume more than 40% of the total of each solar facility.

"Small commercial retail customer" is undefined in the bill. I think there is virtually NO chance that these Senators came up with this definition. These are prescribed rate class definitions on the PRC website.[2] These rate classes are defined by how much power they use. Rate 1A is residential service. Rate 2A is "small power" service (defined by PNM) as "50kW for at least 10 months during the previous 12 continuous months" – these are very small business users (*i.e.*, small commercial retail).

While we don't know exactly who this excludes, because only the IOUs have access to this info, these amendments practically prohibit nearly all state agencies, municipalities, supermarkets, schools, larger fire departments, counties, movie theatres, places of entertainment, churches, mosques, and synagogues, bowling alleys, and any large retail customer.

Poison Pill #4: ALLEGED enforcement of no cross-subsidization.

The Ivey Soto/Duhigg amendments demand NO "cross-subsidization". We wonder if they even know what that means. What they are inviting are utility fights for *every* solar project that will disproportionately disadvantage scrappy solar developers who don't have the heft of years-long experienced regulatory lawyers (which the utilities get to bill us for). An often-repeated trope: *if a customer leaves their system, other customers will have to absorb their defection*.

Okay, hold onto your wonky seat belts: the amazing thing with rooftop and community solar is that it places NO burden on the system and only uses distribution lines that are already there. PNM and company allege that solar/storage doesn't produce enough and the subscribers rely on the IOU on gray days. Well what about when the system benefits from the *community-solar-generated power*? Solar adds stabilization to the grid all the time, and especially during peak demand in the summer. Bring on the alleged differential! We suspect IOUs will actually owe community solar providers.

But to make solar providers prove in advance that there will be no cross-subsidization will cause solar providers (and their lawyers) to be caught in a dragnet of utility obfuscation for years on every project.

IOU's purpose is to slow deployment and implementation of community solar and undermine the very purpose of community solar: local control and energy democracy.

[2] http://www.nmprc.state.nm.us/consumer-relations/company-directory/electric/pnm/index.html#gsc.tab=0
Select "consumer relations" then press "company directory" then press "Electric (Investor Owned) Utilities" then press PNM. Scroll down to "Rates".