

**NOTICE OF PROPOSED RULEMAKING
DOCKET NO. 21-00112-UT**

The New Mexico Public Regulation Commission (the “commission”) hereby gives notice of its initiation of a proposed rulemaking to adopt a new rule, **17.9.573 NMAC, “Community Solar.”**

Summary of the full text of the proposed rule and short explanation of its purpose: The commission intends to adopt a new rule concerning community solar projects. The Community Solar Act (the “act”), Sections 62-16B-1 *et seq.* NMSA 1978, enacted in 2021, requires the commission to adopt rules to establish a community solar program no later than April 1, 2022, which rules must: (1) provide an initial statewide capacity program cap of two hundred megawatts alternating current proportionally allocated to investor-owned utilities until November 1, 2024, which cap must exclude native community solar projects and rural electric distribution cooperatives; (2) establish an annual statewide capacity program cap to be in effect after November 1, 2024; (3) require thirty percent of electricity produced from each community solar facility to be reserved for low-income customers and low income service organizations, including guidelines to ensure that the thirty percent is achieved every year and development of a list of low-income service organizations and programs that may pre-qualify low-income customers; (4) establish a process for the selection of community solar facility projects and allocation of the statewide capacity program cap, consistent with Section 13-1-21 NMSA 1978 regarding resident business and resident veteran business preferences; (5) require a qualifying utility to file the tariffs, agreement or forms necessary for implementation of the community solar program; (6) establish reasonable, uniform, efficient and non-discriminatory standards, fees and processes for the interconnection of community solar facilities that are consistent with the commission’s existing interconnection rules and interconnection manual that allows a qualifying utility to recover reasonable costs for administering the community solar program and interconnection costs for each community solar facility, such that the qualifying utility and its non-subscribing customers do not subsidize the costs attributable to the subscriber organizations by more than three percent; (7) provide consumer protections for subscribers, including disclosures described in the act, as well as grievance and enforcement procedures; (8) provide a community solar bill credit rate mechanism for subscribers as described in detail in the act; (9) reasonably allow for the creation, financing and accessibility of consumer solar facilities; and (10) provide requirements for the siting and co-location of community solar facilities with other energy resources, provided that community solar facilities shall not be co-located with other community solar facilities. Subsection B of Section 62-16B-7 NMSA 1978. The act further provides that the commission “may through rule establish a reasonable application fee for subscriber organizations that is designed to cover a portion of the administrative costs of the commission in carrying out the community solar program.” Subsection C of Section 62-16B-7 NMSA 1978. The commission intends to adopt a community solar rule that meets the requirements set out in the act. The commission will also consider adopting rule provisions not required by the act but related to the community solar program.

Legal authority authorizing the proposed rule and the adoption of the rule: The commission has the authority to promulgate and adopt the proposed rule under the New Mexico Constitution, Article XI, Sec. 2, under Paragraph 10 of Subsection B of 8-8-4 NMSA 1978, Sections 62-16-7, 62-8-13, and 62-16B-7, NMSA 1978.

How a copy of the full text of the proposed rule can be obtained: A copy of the full text of the proposed rule and instructions for accessing the complete rulemaking record can be obtained from the rulemaking page on the commission’s website at <https://www.nm-prc.org/rulemaking-proceedings/> or by calling Isaac Sullivan-Leshin of the commission’s office of general counsel at (505) 670-4830. From the same sources, any person can obtain the commission’s *Additional Issues to be Addressed in Formal Comment Process*, which should be reviewed and considered in conjunction with the proposed rule.

How a person can comment on the proposed rule, where comments will be received and when comments are due: Any person wishing to comment on the proposed rule or the *Additional Issues to be Addressed in Formal Comment Process* may do so by submitting written initial comments no later than **December 9, 2021**. Any person wishing to respond to initial comments may do so by submitting written response comments no later than **December 29, 2021**. Any person wishing to reply to response comments or comments made at the hearing may do so by submitting written reply comments no later than **January 21, 2022**. Comments can be electronically filed by sending them in

PDF format to prc.records@state.nm.us. Comments must refer to Docket No. 21-00112-UT. All written comments will be posted on the commission's website within three days of their receipt by the records bureau. The record closure date for this proceeding is **January 26, 2022**. From that date through the completion of this proceeding, rulemaking participants will be forbidden from communicating with the commission or its representatives concerning substantive issues in this proceeding.

When and where a public rule hearing will be held and how a person can participate in the hearing: A public hearing on the proposed rule and the *Additional Issues to be Addressed in Formal Comment Process*, to be presided over by the commission or its designee, will be held beginning at **10:00 a.m. on January 6, 2022**, via the Zoom online platform. Any person who wishes to make a comment at the hearing must contact Isaac Sullivan-Leshin at (505) 670-4830 or isaac.sullivan-leshin@state.nm.us by no later than **12:00 noon on January 5, 2022** to sign up as a hearing participant. The commission's office of general counsel will email a Zoom invitation to all hearing participants the day before the hearing. The Zoom invitation will include a call-in number for those participants who are unable to access the Zoom platform via computer. The hearing will be held in order to receive oral comments. In the interest of administrative efficiency, only commenters who have not submitted written comments will be allowed to speak. In addition, any commenter may be limited to five minutes to speak, subject to the discretion of the commission or its designee. The commission or its designee may also determine that a spokesperson should be designated to speak on behalf of an organization, a group, or a group of individuals that shares the same message or seeks the same goals, in order to maximize the efficiency of the public comment hearing. No testimony or other evidence will be taken at the hearing as this is a rulemaking proceeding. A court reporter will prepare a transcript of the hearing for filing the rulemaking docket, Docket No. 21-00112-UT. Any person with a disability requiring special assistance in order to participate in the hearing should contact Renada Peery-Galon at (505) 467-9116 at least 48 hours prior to the commencement of the hearing.

Technical information that served as a basis for the proposed rule and how the information can be obtained: When adopting the proposed rule, the commission considered the report titled "*New Mexico Community Solar - Stakeholder Participation Pre-Rulemaking Status Report*," prepared by Strategen Consulting, LLC, the commission's contracted consultant in this matter, which was filed in Docket No. 21-00112-UT on October 15, 2021. The Commission also considered the report titled "*New Mexico Interconnection Rules: Report and Recommendations to the New Mexico Public Regulation Commission*," prepared by the interconnection rulemaking working group, which was filed in Docket No. 20-00171-UT on October 15, 2021. The commission also considered the presentation materials from the second workshop held in this proceeding, which materials were filed in Docket No. 21-00112-UT on August 30, 2021. Copies of this technical information can be obtained from the rulemaking page on the commission's website at <https://www.nm-prc.org/rulemaking-proceedings/> or by calling Isaac Sullivan-Leshin of the commission's office of general counsel at (505) 670-4830.

Instructions on how to access the complete rulemaking record, reports and other items filed in the commission's e-docket system can be found at <https://www.nm-prc.org/rulemaking-proceedings/>. Additional information about the community solar rulemaking can be found at <https://www.nm-prc.org/utilities/community-solar/> or by calling Isaac Sullivan-Leshin at (505) 670-4830.