BEFORE THE PENNSYLVANIA
HOUSE CONSUMER AFFAIRS COMMITTEE

Testimony Of

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Regarding
House Bill 531 and House Bill 1970

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Chairman Roae, Chairman Matzie
And Members of the House Consumer Affairs Committee

My name is Tanya McCloskey and I am serving as the Acting Consumer Advocate for the Office of Consumer Advocate. Thank you for inviting me to provide testimony here today on House Bill 531 and House Bill 1970. Both of these Bills seek to enable the development of community solar projects throughout Pennsylvania. While taking different approaches to the development of community solar, I see these Bills as complementary to one another and not mutually exclusive.

In my view, community solar, if designed appropriately and accompanied by appropriate consumer protections, can provide benefits to all consumers. Community solar provides the option for a broader group of consumers, particularly consumers who may not be able to afford individual rooftop solar, who rent their home, or whose property is not appropriate for a solar installation, to obtain the benefits of this renewable resource. In addition, community solar facilities could provide benefits to the electric grid such as increasing the reliability and resilience of the grid, while also reducing carbon emissions. While Pennsylvania has seen the development of individual "rooftop solar" facilities over the past few years, the deployment of community solar has the potential to significantly, if not exponentially, increase the amount of solar on our utility systems. As we move forward in this endeavor, we must be sure that our solar projects benefit all ratepayers in a fair and balanced way, and that appropriate consumer protections are in place.

Community solar projects generally have three defining elements: 1) a group of participants (generally referred to as "subscribers") voluntarily pay for a share of the electricity generation from a solar array that is located external to their properties; 2) the electricity produced flows into the electric grid; and 3) the subscribers receive the benefits for the electricity produced

by their share of the solar array.[1] Community solar projects are generally less expensive per output of energy than individual rooftop solar installations, due in part to the associated economies of scale of the larger solar array. The systems can be promoted by a local utility through tariffs, such as is contemplated by House Bill 1970, or owned and marketed by a third party (whether a profit making solar provider or a non-profit local community agency or organization) such as is contemplated under House Bill 531. A recent Report by the Smart Electric Power Alliance (SEPA)[2] noted that by the end of 2017, the total installed capacity of community solar programs across the Nation was 734 megawatts (MWs), with the majority of the installed capacity, about 67%, being administered by a third party community solar provider.[3]

As we work toward legislation on community solar projects, it is important that we have a clear definition of what constitutes a community solar project. In addition to the elements of the business model I described above, a community solar project should be located in the same service territory as the subscribers and connected to the grid of that local electric distribution company. Both House Bill 531 and House Bill 1970 appear to include this requirement, but it may be important to clarify this point in the definitions. Additionally, in my view, community solar projects, by necessity of the connection to the local distribution grid, would tend to be relatively small in size. While both HB 531 and HB 1970 contemplate projects up to 3 MW in size, most community solar projects have a size of under 2 MW.[4]

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[1] Solar Electric Power Association, *Community Solar: Program Design Models*, at page 21 (Nov. 2015)(2015 SEPA Report).

[2] The Smart Electric Power Alliance was formerly the Solar Electric Power Association. See, www.sepapower.org.

[3] Smart Electric Power Alliance, *Community Solar Update*, at page 6 (April 2018)(2018 SEPA Report).

[4] 2015 SEPA Report, Appendix A.

One of the fundamental features of a community solar project, particularly as contemplated by House Bill 531, is the bill credit that is provided to the subscriber. House Bill 531, as an amendment to the Alternative Energy Portfolio Standards Act, appears to call for a bill credit similar to that for net metering of individual solar installations, *i.e.*, using the full retail rate. The Bill also refers to "full retail value" at places, so it is not exactly clear what is intended for the bill credit. In my view, a different credit for community solar than a net metering credit at the full retail rate should be considered. In particular, it should be recognized that community solar subscribers still utilize the utility distribution grid to receive their electricity, but if full retail net metering is provided, those customers do not pay any of the costs of that distribution grid. Community solar projects make use of the grid for all electricity production and should not avoid all costs associated with the distribution system. To the extent the proper share of costs of the distribution system are not borne by the subscribers, those costs are shifted onto other distribution customers.[5]

Both House Bill 1970 and House Bill 531 call for the development of consumer protections. Developing the right set of consumer protections, and ensuring that the Public Utility Commission has full authority to enforce these consumer protections, will be critical to the success of any program. While the Commission is directed to develop the consumer protection regulations, it is not clear that the Commission has adequate authority or jurisdiction over the third party entities that will be selling the community solar shares. To ensure Commission authority and jurisdiction, it may be necessary to have a licensing or registration requirement for third party community solar providers. The Commission has experience with this type of requirement and could utilize its

[5] It is not clear how a bill credit for a retail choice customer would be developed or whether an electric generation supplier (EGS) would be willing to provide such a bill credit for its customers. Currently, EGSs do not typically serve net metered customers.

procedures for licensed Electric Generation Suppliers (EGSs) or its procedures for approving Conservation Service Providers (CSPs) for the Act 129 Energy Efficiency programs. The important point, though, is that the Commission have clear authority to implement and enforce the necessary consumer protections.

There are several aspects to community solar programs that raise consumer protection issues and concerns, some of which are unique to community solar and some of which are similar to offers for rooftop solar systems. The community solar model will be fairly new to Pennsylvania and may not be well understood by consumers. In addition, it may not be easy to comparison shop for community solar projects, and the promises and expectations of savings or benefits may depend on a variety of factors that will need to be clearly explained and disclosed to the consumer.

Both House Bill 531 and House Bill 1970 provide for the establishment of consumer protections. Section 10(d)(2) of House Bill 531 requires the Commission to develop a standardized disclosure form. I view this as a critical consumer protection. As I mentioned earlier, consumers will not be familiar with this new resource and may not have a clear means to compare the offer to other service offerings. A standard disclosure form that clearly informs consumers of the key elements of the transaction will promote understanding and informed choice. A disclosure form, however, is only one part of the necessary consumer protections. The legislation should also specify that the Commission is to adopt regulations that, at a minimum, address the full requirements for disclosure; the acceptable contract terms and conditions, including standard contract term language; the standards for sales and marketing conduct; the procedures for enforcement of the regulations, and penalties for non-compliance. These areas would be in addition to the licensing or registration requirements that I mentioned above and the development

of a disclosure form. I think it is important that these areas be specified in the proposed legislation to avoid any confusion over the areas of responsibility of the Commission in regard to these transactions or the authority of the Commission to take action.

The Commission is well-positioned to address these issues. The sale of shares, or kilowatthours, from a community solar project is comparable in many ways to the sale of electric generation supply from a licensed electric generation supplier.[6] The Commission has done extensive work on regulations in each of these areas that can serve as a starting point for consideration of regulations governing consumer protections for community solar supply. There certainly will be some unique features with community solar. One area that may require some additional attention is the use of a sign-up fee, or upfront payment, that is sometimes charged to guarantee a subscriber's share before a project is completed. The Commission should have the full authority to require these fees to be placed in an escrow account so they are available to return to customers in the event that the project is not completed.

There is one other provision in House Bill 531 that gives me pause when considering consumer protections. In Section 10(e), there is a prohibition against removing a customer from a customer class in order to participate in a community solar facility. When setting utility rates, we attempt to place customers into customer classes, or onto rate schedules, that best reflect the customer's usage of the system. Rate classes and rate structures reflecting different usage of the utility system work to limit cross-subsidization and ensure that the benefits a customer may be entitled to due to the customer's usage characteristics are reflected in the rate paid. For

[6] The OCA would note that there currently exists a regulatory gap related to rooftop solar providers as these providers do not appear to fall under the Commission's jurisdiction despite the similarity to the sale of electric generation supply. The General Assembly may wish to close this regulatory gap as it concerns individual rooftop solar installations.

residential customers, a good example of this was the Residential Heating rates that were developed many years ago to reflect the lower cost to serve these customers at non-peak times on the utility system. Our current penetration of solar systems, and the impact of community solar systems, may not yet be sufficiently known to address the most appropriate rate structure. But I think it is unsound to tie the Commission's hands through legislation at this juncture.

Before concluding, I wanted to talk for a moment about low income consumers. Community solar can provide an important way for low income customers to receive the benefits of solar development even if they cannot afford to place a solar array on their home.[7] But I am concerned that this not come at the expense of affordability of service for low income customers, or a diversion of scarce resources from other residential ratepayers that support our critical Customer Assistance Programs (CAP) and Low Income Usage Reduction Programs (LIURP). I would not support provisions of any proposed legislation that would result in CAP customers paying more than the utility default service price for their service or charging any excess costs to other ratepayers, many of whom also struggle to pay their electric bills. The cost of solar is decreasing and it is reaching competitive levels with many other generation resources. We should not encourage low income customers to enter into a contract that will compromise the affordability of their electric service. To that end, I would recommend that the proposed legislation include a provision that ensures that residential customers in the Customer Assistance Program (CAP) have a bill no higher than the utility default service bill if subscribing to a community solar program. We should also ensure that funds for universal service programs are not diverted away from those programs.

[7] The definition of a low income customer in House Bill 531 differs from that used by the Public Utility Commission. The use of a different definition for a program administered by the Public Utility Commission may be confusing for customers. I would recommend that the definition be conformed to that used by the Public Utility Commission.

Thank you again for the opportunity to discuss community solar projects and House Bills 531 and 1970. I look forward to working with the Members of the Committee and the Staff on this important initiative and the development of community solar projects in Pennsylvania in a manner that improves the environment and returns value to all ratepayers in an equitable manner.