

**Hearing Report
City of Philadelphia
Office of Sustainability Regulations Governing
Solar Incentives
February 19, 2020**

Background

On January 3, 2020 the City of Philadelphia's ("City") Office of Sustainability filed regulations with the Department of Records entitled "**Regulations Governing Solar Incentives**" ("Regulations").

These Regulations were adopted to establish an incentives program for the installation of Photovoltaic Systems on Residential Property and Commercial Property in the City.

After the Department of Records published the regulations the Office of Sustainability received email correspondence from interested parties with suggestions for modification of the Regulations. These suggestions led the City to determine that in the best interests of the public and of the solar incentives program, a public hearing should be held to discuss amendment of the Regulations.

In accordance with the Philadelphia Code and 65 Pa C.S. 701-716 ("the Sunshine Act"), the Office of Sustainability advertised and held a public hearing on February 19, 2020 at 12:30 P.M. in Room 18-024, 1515 Arch Street, Philadelphia, PA, 19102 to provide persons affected by the Regulations an opportunity to express specific concerns. The City was represented at the hearing by Adam Agalloco, Energy Manager, Office of Sustainability; Kevin Birriel, Deputy City Solicitor, Philadelphia Law Department and Jim Kellett, Deputy City Solicitor, Philadelphia Law Department. Kevin Birriel recorded the minutes of the meeting pursuant to Section 711 of the Sunshine Act.

Also attending the hearing were:

- (1) Emily Schapira, Philadelphia Energy Authority;
- (2) Laura Rigell, Philadelphia Energy Authority; and
- (3) Jennifer Lessick, Philadelphia Energy Authority.

Emily Schapira submitted written and oral testimony on behalf of the Philadelphia Energy Authority. Ms. Schapira also read in comments submitted to the Philadelphia Energy Authority by POWER Philadelphia relating to the solar incentives program.

Summary of Testimony and Comments

Adam Agalloco began by explaining the solar incentives program and calling for any comments on the proposed regulations.

Emily Schapira, on behalf of the Philadelphia Energy Authority, read aloud the following contemplated changes to the regulations, based on discussions held between Philadelphia Energy Authority and the City's Managing Director's Office:

- Amending the definitions of Commercial Property and Residential Property in order to match with proposed legislation being introduced to City Council;
- Removing references to specific funding amounts within the regulations, as this could necessitate future regulation amendments when allocations change from year to year;
- Amending the application process for the program administrator to require only completed applications require processing;
- Changing the reporting frequency required by the Regulations to comply with the 3 years required by authorizing legislation, not the 4 years as currently drafted; and
- Grammatical corrections within Section 6 of the proposed Regulations.

Ms. Schapira also read aloud a comment that the Philadelphia Energy Authority had received from POWER Philadelphia supporting the solar incentives program, but stressing the importance that the Energy Authority as program administrator, and the City, must ensure that proper outreach is done within low and moderate income neighborhoods to enable those residents the best opportunity to become aware of and take part in the solar incentives program.

Discussion

The City promulgated the regulations in order to establish a solar incentive program in the City for the installation of Photovoltaic Systems on Residential and Commercial Property.

In light of the comments, the City again reviewed the proposed Regulations. The City agrees with Philadelphia Energy Authority in the need to modify the Regulations as drafted to better define the scope of properties for which incentives can be applied, better describe to programs processing and reporting requirements, and to alleviate future amendments relating to funding allocations.

Therefore, the City will incorporate the amendments and additions discussed at the meeting. Specifically:

- (1) Amending the definitions of Commercial Property and Residential Property (Sections 2.2(c) & (f)) to conform with authorizing sections of the City Code, as updated;
- (2) Removing the references to specific funding allocations within Section 5 in order to alleviate future amendment to regulations;
- (3) Amending the application process (Section 7.4) whereby only completed applications will be processed by the program administrator; and
- (4) Amending the frequency of report submissions (Section 8.1) to match with the enabling legislations requirements.

Conclusions

The City appreciates the feedback provided by all interested parties and, recognizing the important roles of all stakeholders, will continue to work with those expressing legitimate interest in the solar incentives program.

Accordingly, the Office of Sustainability adopts the Amended Regulations attached hereto as Exhibit “A” as the final Office of Sustainability “Regulations Governing Solar Incentives.”

Exhibit “B” hereto shows the changes made from the Regulations as originally filed with the Department of Records.

This Report pertains to written correspondence and public comment regarding the City’s promulgation of the regulations discussed herein.



CITY OF PHILADELPHIA OFFICE OF SUSTAINABILITY

Regulations Governing Solar Incentives

Section 1. Authority.

These Regulations Governing Solar Incentives (“Regulations”) are promulgated pursuant to Bill No. 190378, effective August 14, 2019 and codified at Section 9-3403 of the Philadelphia Code.

Section 2. Definitions.

- (1) In these Regulations, the following definitions shall apply:
- (a) Applicant: The property owner that applies for any incentive under these Regulations;
 - (b) City: The City of Philadelphia;
 - (c) Commercial Property: Any property as defined in Section 9-3403 of the Philadelphia Code, as may be updated from time to time.
 - (d) Photovoltaic System: Those total components, systems and subsystems that, in combination, convert solar energy into electrical energy for a connection to a utilization load.
 - (e) Program Administrator: The Office of Sustainability (“OOS”) or the Philadelphia Energy Authority (“PEA”);
 - (f) Residential Property: Any property as defined in Section 9-3403 of the Philadelphia Code, as may be updated from time to time.

Section 3. Scope of Regulations

These Regulations apply to the issuance of incentives for the installation of Photovoltaic Systems on Residential and Commercial Property in the City.

Section 4. Incentives.

- (1) Residential properties where Photovoltaic Systems have been installed are eligible to receive an incentive of \$0.20 per watt not to exceed a total payment of One Hundred

Thousand Dollars (\$100,000) per project, subject to availability of funds and the other requirements of these Regulations.

(2) Commercial properties where Photovoltaic Systems have been installed are eligible to receive an incentive of \$0.10 per watt not to exceed a total payment of One Hundred Thousand Dollars (\$100,000) per project, subject to availability of funds and the other requirements of these Regulations.

Section 5. Availability of Funds.

(1) The City is making funds available annually beginning in 2020 and expiring December 31, 2024.

(2) Program Priorities.

(a) Low- and Moderate-Income (“LMI”) Set Aside. In order to ensure that solar incentives are available on an equitable basis citywide, in the first year ten percent (10%) of allocated budget will be reserved for LMI households.

(b) Applications from homeowners who are earning up to eighty percent (80%) of Area Median Income (“AMI”) will be prioritized. LMI Applicants must have household income verified through the Energy Coordinating Agency’s Neighborhood Energy Center network or demonstrate that their income is under this threshold through their enrollment in another assistance program with an income cap that is at or below 80% AMI. These could include federal, state or municipal assistance programs, or PEA’s LMI solar financing program.

(c) The LMI Set Aside funds will be reserved until May 1 of each fiscal year, at which point any remaining funds will become available to other eligible Applicants.

Section 6. Eligibility

(1) Applicants must be owners of property located in the geographic boundaries of the City;

(2) Applicants must be current with or in a payment agreement for all taxes and other indebtedness to the City;

(3) Applicants may not have any unresolved building code or other property related code violations;

(4) Applicants must have a Photovoltaic Systems installed on their property that received Permission to Operate (“PTO”) from PECO on or after July 1, 2019.

Section 7. Application Process

(1) Applications will be accepted online or by a hard copy submitted on the required form in accordance with the application instructions.

(2) Application information will be posted on the OOS website. The application information will include any information that the Program Manager determines is necessary or in best interests of the City to be collected, including without limitation, the information listed in Exhibit A and Exhibit B.

(3) Applications must be complete prior to processing.

(4) Completed applications will be processed in the order in which they are received until funds are exhausted (other than the LMI set-aside).

(5) Any applications for which insufficient funds are available in a given fiscal year shall be considered to have been filed on the first day of the following fiscal year.

Section 8. Reports

(1) Commercial property owners that have received incentive payments are required to submit an annual solar energy production report (monthly production for previous 12 months) submitted no later than 13 months after receiving the solar incentive and annually for two additional years. The annual report shall be in a format approved by the Program Administrator.

(2) All recipients of solar incentives must agree to supply a solar production report upon request of the City.

Section 9. Repayment of Incentives.

Property owners receiving incentives must agree to repay to the City any solar incentive payments received if (1) the photovoltaic system does not remain in operation on the subject property for at least thirty-six (36) months following installation; or (2) if solar energy production is less than 80% of the quantity projected in the application on an annual basis for any year during the first three years of operation. All projects that have received incentives are subject to compliance checks by the City or PEA.

Section 10. Effective Date.

These Regulations shall be effective upon completion of the procedures required by Section 8-407 of the Philadelphia Home Rule Charter.

A handwritten signature in black ink, appearing to read "Christine Knapp". The signature is fluid and cursive, with the first name "Christine" and last name "Knapp" clearly distinguishable.

CHRISTINE KNAPP
Office of Sustainability

EXHIBIT A

Residential Solar Incentives Application Information*

Name of property owner

Contact information including day-time phone number, email address and mailing address

Address where Photovoltaic System is installed

Certificate of Inspection (“COI”) displaying DC system size

Projected annual kWh production

Name and contact information, including day-time phone number, email address, and mailing address, of solar installer

Copy of the Interconnection Application Agreement – Part 2 Certificate of Completion. (This Agreement is signed by PECO, authorizing the customer Permission to Operate (“PTO”), upon PECO’s receipt of a Certificate of Inspection (“COI”). The COI is issued by a third-party inspector that has gone onto the site and confirmed that the system was installed as proposed.)

Certification by applicant that the project will operate for at least 36 months.

Household size

Annual income if applying for LMI Set Aside

Annual electricity consumption

Project financing instrument (solar loan, Power Purchase Agreement (“PPA”)) , if any

* The application information will include any additional information that the Program Manager determines is necessary or in best interests of the City to be collected.

EXHIBIT B

Commercial Solar Incentives Application Information*

Name of property owner

Company name

Contact information including day-time phone number, email address and mailing address

Address where Photovoltaic System is installed

Certificate of Inspection displaying DC system size

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~~(c)~~ Commercial Property: Any property as defined in Section 9-3403 of the Philadelphia Code, as may be updated from time to time. Any building designed for office use, retail

~~(c)~~ sales use, or commercial services use, as those terms are used in the Zoning Code, § 14-601(5), (6), (7).

(d) Photovoltaic System: Those total components, systems and subsystems that, in combination, convert solar energy into electrical energy for a connection to a utilization load.

~~(e)~~ Program Administrator: The Office of Sustainability (“OOS”) or the Philadelphia Energy Authority (“PEA”);

~~(e)~~ _____

~~(f)~~ Residential Property: Any property as defined in Section 9-3403 of the Philadelphia Code, as may be updated from time to time. Any building designed for residential use,

as that term is used in the Zoning Code, § 14-601(2).

~~(f)~~ _____

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Section 5. Availability of Funds.

(1) The City is making funds available annually beginning in 2020 and expiring December 31, 2024, ~~with an initial allocation of \$500,000 for Fiscal Year 2020. If additional funding is allocated for incentives, these Regulations will remain in effect.~~

(2) Program Priorities.

(a) Low- and Moderate-Income (“LMI”) Set Aside. In order to ensure that solar incentives are available on an equitable basis citywide, in the first year ten percent (10%) of allocated budget ~~(\$50,000 in FY2020)~~ will be reserved for LMI households.

(b) Applications from homeowners who are earning up to eighty percent (80%) of Area Median Income (“AMI”) will be prioritized. LMI Applicants must have household income verified through the Energy Coordinating Agency’s Neighborhood Energy Center network or demonstrate that their income is under this threshold through their enrollment in another assistance program with an income cap that is at or below 80% AMI. These could include federal, state or municipal assistance programs, or PEA’s LMI solar financing program.

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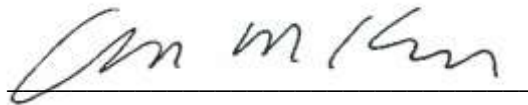
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