

Renewable Energy Program and Community Solar Projects

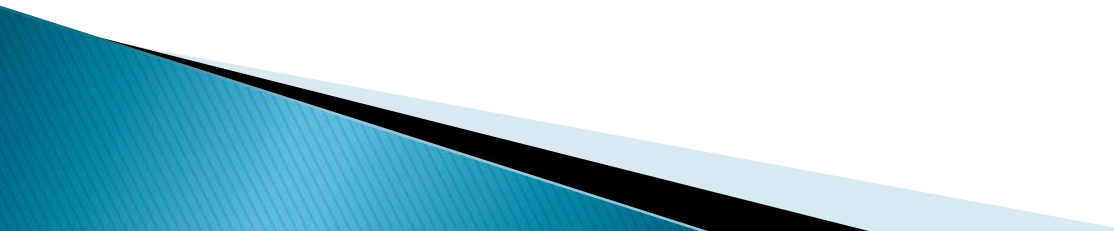
May 24, 2010

By Mark Bohe

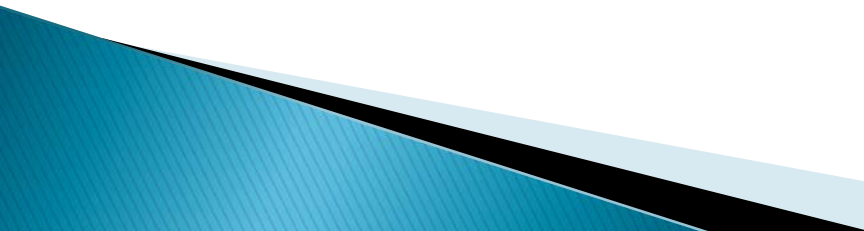
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Background Concerning ESSB 6658

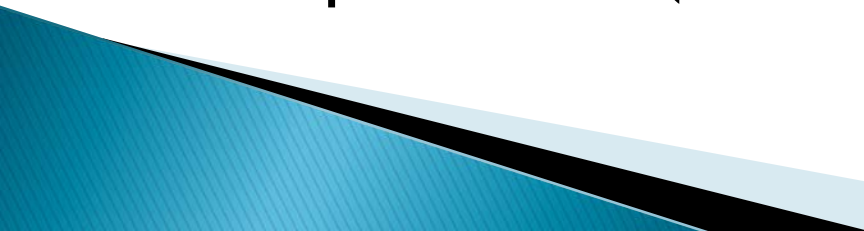
ESSB 6658, which passed this last legislative session, makes numerous changes including:

- ▶ Participants in community solar projects (“CSPs”) that are owned by limited liability companies, cooperatives, or mutual associations are eligible for incentive payments.
 - ▶ The eligibility of a community solar project (“CSP”) to receive incentive payments is limited to those projects capable of generating a maximum of 75 kilowatts of electricity.
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Background Concerning ESSB 6658 (continued)

- ▶ The maximum amount of credit for incentive payments made that a light and power company is allowed to apply against their tax liability during a fiscal year is reduced from one percent of taxable sales to 0.5 percent of taxable sales. The annual dollar limit remains at \$100,000.
 - ▶ There is a special five percent limitation of the above-described limit for company-owned CSPs.
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Rulemaking Schedule

- ▶ An initial stakeholders' meeting was held on August 13, 2009.
 - ▶ Public meeting (CR-101 Meeting) held on September 22, 2009;
 - ▶ First public hearing (CR-102 Hearing) held on January 6, 2010;
 - ▶ Second public hearing (CR-102 Hearing) held on May 11, 2010; and
 - ▶ Next step is to file the CR-103 with the adopted rule (WAC 458-20-273).
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Controversies!

- ▶ The newly added limitation to CSPs restricting the system's generation of electricity to 75 kilowatts or less will present two contested issues.
- ▶ CSP promoters are already discussing ways to work around this limitation.
 - The Department is focusing on language that if two or more systems are placed on the same property or contiguous properties, then they will be considered separate only if they have:
 - Separate inverters,
 - Separate meters,
 - Separate certification with the Department, and
 - Separate owners.

Controversies (continued)

- ▶ If the limit of 75 kilowatts of generation is exceeded, the issue becomes whether the entire project is ineligible for incentive payments or is it still allowed to receive incentive payments based on the system's generation of up to 75 kilowatts?
 - The Department presently interprets the statute as making the entire project ineligible once the 75 kilowatt limit is exceeded.
 - Some stakeholders hold the opposite view.

Controversies (continued)

- ▶ There is a limitation of five percent of the total allowable light and power business's PUT credit for the company-owned CSPs, which raises one issue.
- ▶ Is this five percent limitation applied to each company-owned CSP or is it applied to all such CSPs in one utility's service area?
 - The stakeholders' position at the public hearing (43 out of 44) was that the five percent limitation applies to each such company-owned CSP.

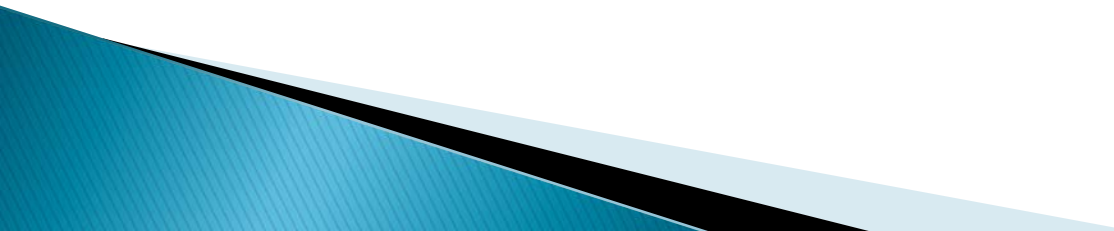
Controversies (continued)

“Local governmental entities” does not include state entities?

- The Department’s prior position is that community colleges, along with public universities, are not “local governmental entities.”
- This means, community colleges cannot have systems located on their campuses that qualify as CSPs.
- Shoreline Community College has a planned CSP and received significant stakeholder support at the public hearing.

“It ain’t over till its over.”

The Department presently believes the finalized rule will be adopted and the CR-103 filed with the Code Reviser’s Office on June 15th.



Questions?

Start asking.

If you have one later, send me an e-mail message at markbohe@dor.wa.gov.