

Anthony J. Picente Jr.  
County Executive

Shawna M. Papale  
Secretary/  
Executive Director

Jennifer Waters  
Assistant Secretary

ONEIDA COUNTY INDUSTRIAL  
DEVELOPMENT AGENCY



584 Phoenix Drive  
Rome, New York 13441-4105  
(315) 338-0393, fax (315) 338-5694

David C. Grow  
Chairman

Michael Fitzgerald  
Vice Chairman

Mary Faith Messenger  
Treasurer

Ferris Betrus Jr.  
Eugene Quadraro  
Stephen Zogby

TO: OCIDA Board of Directors

FROM: Mark Kaucher

DATE: March 1, 2022

RE: Public Hearing Minutes: Proposed Amendments to Agency's Community Solar Policy (the "Policy"). Held at 584 Phoenix Drive and via WebEx, February 25th, 2022

Representing the Agency: Shawna Papale, Jennifer Waters, Mark Kaucher, Laura Cohen (all via Webex); Tim Fitzgerald, in person.

Others in Attendance via Webex: David Stockloosa, Town of Boonville Supervisor; Jim Moseman, attorney for the Town of Boonville; Edward Davis, planner for the Town of Lee.

Tim Fitzgerald opened the hearing at 11:00 AM, and noted that it was being recorded.

Reading of the public hearing notice was waived at the consensus of the attendees, followed by Mr. Fitzgerald inviting comments from the attendees.

Jennifer Waters noted that the Agency received two comment letters from Genevieve Trigg, from the law firm of Barclay-Damon. One, subject matter titled "Solar Policy Modification"; and the other a letter to the IDA titled a "Petition for a Uniform Tax Exemption Policy Modification for Community Solar Projects". These two letters will be entered into the public hearing record, attached to the hearing minutes and sent to the Agency board members for their review. Shawna Papale noted that she received a letter from the Town of Boonville and that it too will be made part of the public record.

Ms. Waters asked if either Mr. Davis or Mr. Moseman would like to make any comments.

Mr. Davis stated that he would like to know what the proposed changes are.

Tim Fitzgerald explained that the proposed change in the UTEP is to increase the per MW PILOT payment to \$10,000 per MW, from its current two-tiered fee structure of \$5,500 and \$7,000 per MW, depending on whether a project was located on prime or non-prime soils as outlined in Oneida County Planning Maps. The proposed policy is for an across the board \$10,000 per MW PILOT payment, with no allowance for soil types.

Mr. Moseman called into the meeting via teleconference, as he was unable to make an audio connection through Webex. He noted that the Town had sent a letter to Shawna Papale yesterday.

Mr. Fitzgerald responded that it had been received and will be part of the public record. Mr. Moseman made note of several concerns the Town has, which are also outlined in the Town's letter.

1. In Section II, Financial Assistance, they think that a Project Operator or their assigns, should not be able to bring a tax grievance proceeding during the five year period after the PILOT ends. Municipalities are having an issue with PILOTS whereby as soon as a PILOT ends, the beneficiary makes a modification for an assessment review
2. In Section III, Other Requirements, they would like that it be more specifically defined as whether it is the Village or the Township where the project is located to whom the Host Community Payment is to be made.
3. In Section III, Other Requirements they would like the "host jurisdiction" to be specifically named as the beneficial payout party on any such bond and/or escrow account securing a Decommissioning Plan.
4. In Section VI, Deviations, they would like the third sentence to read "the Agency will provide prior written notice, allowing for sufficient opportunity to be heard, to the chief executive officer of each taxing jurisdiction, of any deviation from this Policy and will comply with the deviation requirements of the General Municipal Law".

Shawna Papale responded to the points voiced by Mr. Moseman. First, she stated in all instances where a deviation of the Agency's UTEP is being considered, all affected taxing jurisdictions/municipalities are notified and provided the opportunity to comment. Next, she explained that it is the lowest municipal level to whom the Host Community Payment is to be made. For example, where there is a Village within in a Township, and the facility is located within the Village, the Host Community would be the Village. If it were located in the Town, outside of the Village, it would be the Town. In response to a question from Mr. Moseman, she clarified that the Host Community would never be the County or the School District. Last, she stated that in all of the Agency PILOT agreements, the lessee has the right to grieve their assessment at any time they so choose. Mr. Moseman stated that a perpetual problem for many municipalities is that they receive assessment grievances right before a facility is set to come off the PILOT, after having received years of PILOT benefits, and then it falls on the municipality to argue and fight it. Ms. Papale said she would bring Mr. Moseman's comments back to the board for consideration.

Mr. Davis stated that in the Town of Lee, when solar came up in the past, across the board, they just would just not agree to a PILOT, period. He asked if a Town or Village just decides they don't want to offer a PILOT, can they do that? Ms. Papale responded that IDA's are an instrument of the State and can do PILOTs for very specific purposes, and as long as it is an allowable use within the jurisdiction, and the IDA, under state statute, is empowered to assist the company, the IDA can do a PILOT there. If it is not allowable within the jurisdiction for some reason, such as not being able to meet the zoning codes or a use variance, or if there is a moratorium on the use (such as solar), then the company can't even get past the ability to do the project there and can't look to the IDA for a PILOT. However, the jurisdiction just can't say they don't want the IDA to do a PILOT. She went on to say that some municipalities have enacted moratoriums on solar to give them time to understand it. Some are looking at zoning restrictions where they would prefer housing development. Mr. Davis said for homes and farms they have allowed solar to be done without limitation, but have restricted it for commercial entities to within commercial zoned areas. He said that has worked well, especially for agriculture.

Ms. Papale noted a municipality who has invested in water and sewer infrastructure lines to advance more development within the town, and doesn't want solar facilities taking up that space instead. Mr. Davis said that, like a lot of other municipalities, solar is probably the biggest headache they've had to deal with in 10-15 years. He has not heard a lot of good things from others with their solar experiences either. He believe it provides a good service if done correctly.

Ms. Waters asked Mr. Stockloosa if he had any comments but he did not respond.

Ms. Waters verified with Mr. Fitzgerald that there were no in-person attendees.

Mr. Moseman stated that he had a another comment to make on decommissioning. He said that one of the thing they have run into in the past is when there are structures that are built on private property and the taxes on the underlying land and the taxes on the structure are separate, and the entity that built the structure stops using it or otherwise and stops paying taxes, the decommissioning and the removal of that structure is an expense that falls back on the landowner, so he is glad the Agency has addressed that in the UTEP. The Town has now addressed it in their zoning, but it is a continued interest if they (developer) walks away there will be enough money so that the landowner can remove the structure using some funds. Secondly, until the structure is removed, it continues to be taxed and the taxes need to be paid on it. That situation needs to be looked at and addressed with a solution.

Ms. Papale noted that she also has some written comments from the Town of Marcy. They have put in place a zoning policy where they are going to request that if a municipality has a policy that is more restrictive than the Agency's, then the Towns policy takes precedence. For example if the Town's decommissioning plan is more restrictive than the Agency's, and has very specific requirements compared to the IDA's requirements, then the Towns decommissioning requirements would supercede the Agency's requirements. Mr. Moseman stated the Town of Boonville would support that. The Town of Marcy's comments will be entered into the public record.

With no further comments, the public hearing was closed at 11:25 AM.

Attachments:

Barclay Damon letter, February 24<sup>th</sup>, 2022 – Solar Policy Modification

Barclay Damon letter, March 25<sup>st</sup>, 2021 – Petition for UTEP Modification – Community Solar Projects

Town of Boonville letter, February 24<sup>th</sup>, 2022

Town of Boonville letter, February 25<sup>th</sup>, 2022

Town of Marcy email, February 27, 2022

Kevin R. McAuliffe  
Partner

March 25, 2021

Shawna Papale, Executive Director  
Oneida County Industrial Development Agency  
584 Phoenix Drive  
Rome, New York 13441

Re: Petition for UTEP Modification – Community Solar Projects

Dear Ms. Papale:

Barclay Damon represents a series of clients who desire to develop community solar projects in Oneida County. We submit this letter to you to strongly encourage the Oneida County Industrial Development Agency (IDA) to re-examine its Uniform Tax Exemption Policy (UTEP) for Community Solar Projects, as adopted on September 18, 2020. Put simply, the combination of the proposed per megawatt (MW) rate with the 2% escalator years 2-10, and 5% escalator years 11–15, combined with the additional 5% fee to the host community, a \$2,000 per year fee to the IDA, and the complete exclusion of any sales tax exemption will stifle development of community solar facilities that would benefit subscribers within the County. The combination of the PILOT rate and fees brings the total per megawatt (MW) rate to almost \$12,000 per MW. Such an inflated rate makes it cost prohibitive for solar developers to proceed with projects in Oneida County. Furthermore, this is inconsistent with the treatment of community solar projects by other upstate IDAs.

We have enclosed a chart that identifies dozens of community solar projects approved by IDAs across the State. As demonstrated, the PILOT rates range from \$2,500 per MW (Allegany County) to \$5,500 per MW (Jefferson County). In Onondaga County, the average per MW rate is \$5,000. Based on the data collected, Oneida County's approximate \$12,000 per MW rate is more than double the average per MW rate.

A community solar project does not have the ability to simply increase rates charged to consumers in order to have sufficient cash flow to pay the costs associated with the County's UTEP. The project owner, in order to maintain customers, must always market its product at a rate that is a discount to the rate charged by the utilities. If a solar company was to accept the Oneida County IDA's current Community Solar UTEP, the only source of additional revenue would be to increase the price charged to consumers, thereby narrowing the margin between the utility rate and the renewable energy rate. The current UTEP will cost Oneida County residents

Oneida County Industrial Development Agency  
March 25, 2021

money on their utility bills and discourage the development of renewable energy generation assets in Oneida County.

In addition to the impacts described above, the current Community Solar UTEP discourages development of infrastructure assets and investment in the County that have a useful life well in excess of the current PILOT term. It is anticipated that a new solar facility today has a useful life of at least twenty-five (25) years. There seems to be little disagreement with the need to create more renewable energy generation to slow or reverse the global warming trend and meet the State's ambitious clean energy goals of achieving 70% renewable energy generation by 2030. There is no reason to believe that solar facilities will not have value for decades after the expiration of the PILOT continuing to provide clean energy while adding to the tax base in the County.

In summary, we respectfully request that the Oneida County IDA re-examine the impact of the its current UTEP for Community Solar Projects and reduce the per megawatt rate for community solar facilities to an amount in the range consistent with other upstate New York IDAs. In the event that the IDA does modify its rate structure, we respectfully request that the approved GSPP projects be amended to reflect the new rate structure, including the current PILOT for the GSPP 4575 State Route 69, LLC project.

Thank you for your attention and consideration to this matter.

Very truly yours,

*s/Kevin R. McAuliffe*

Kevin R. McAuliffe

**Upstate New York IDA PILOT Rates for Community Solar Projects**

<b>Project</b>	<b>Location</b>	<b>Size (MW AC)</b>	<b>Per MW Rate</b>
Morristown Solar II, LLC	St. Lawrence County – Morristown, NY	5 MW	\$4,250
GSPP County Route 31, LLC	St. Lawrence County – Waddington, NY	2.5 MW	\$4,250
Omni Navitas – 126 Little Bow Road - North	St. Lawrence County – Gouverneur, NY	4.75 MW	\$4,250
Omni Navitas – 126 Little Bow Road – South	St. Lawrence County – Gouverneur, NY	4 MW	\$4,250
ASA Gouverneur NY Solar I, LLC	St. Lawrence County – Gouverneur, NY	1.48 MW	\$4,250
ASA Gouverneur NY Solar II, LLC	St. Lawrence County – Gouverneur, NY	4 MW	\$4,250
ASA DeKalb NY Solar I	St. Lawrence County – DeKalb, NY	5 MW	\$4,250
ASA DeKalb NY Solar II	St. Lawrence County – DeKalb, NY	3 MW	\$4,250
ASA DeKalb NY Solar III	St. Lawrence County – DeKalb, NY	3.3 MW	\$4,250
Madrid Solar 2	St. Lawrence County - Madrid, NY	2 MW	\$4,250
Madrid Solar 1	St. Lawrence County - Madrid, NY	5 MW	\$4,250
Waddington Solar	St. Lawrence County – Waddington, NY	2.5 MW	\$4,250
Stockholm Solar	St. Lawrence County – Stockholm, NY	3.35 MW	\$4,250
Oswegatchie Solar	St. Lawrence County – Oswegatchie, NY	5 MW	\$4,250
OYA Independence East	Allegany County – Independence, NY	5 MW	\$2,500
OYA Independence North	Allegany County – Independence, NY	5 MW	\$2,500
Hume-Wiscoy Solar I	Allegany County – Hume, NY	5 MW	\$2,500
Hume-Wiscoy Solar II	Allegany County – Hume, NY	5 MW	\$2,500
GSPP 2496 Lewis Road LLC	Allegany County – Wellsville, NY	5 MW	\$2,500
NY Independence State route 248 Solar LLC	Allegany County – Independence, NY	1.5 MW	\$2,500
Salmon River Solar	Oswego County – Sandy Creek, NY	2.9 MW	\$3,000

GSPP 1616 County Route 12, LLC	Oswego County – Hastings, NY	5 MW	\$5,000
SSC Scriba LLC	Oswego County- Scriba, NY		\$3,500
Adams Renewable LLC	Jefferson County – Adams, NY	3.33 MW	\$5,500
ASA Clayton NY Solar I LLC	Jefferson County – Clayton, NY	1.25 MW	\$5,500
Black River Solar, LLC	Jefferson County – LeRay, NY	3.93 MW	\$5,500
OYA Camillus A LLC	Onondaga County – Camillus, NY	5 MW	\$5,500
OYA Camillus B LLC	Onondaga County – Camillus, NY	5 MW	\$5,500
Cicero Energy Storage I, LLC	Onondaga County – Cicero, NY	5 MW	\$4,500
Cicero Energy Storage II, LLC	Onondaga County – Cicero, NY	5 MW	\$4,500

Genevieve M. Trigg  
Partner

February 24, 2022

**VIA ELECTRONIC MAIL**

David C. Grow, Chairman  
Oneida County Industrial Development Agency  
584 Phoenix Drive  
Rome, New York 13441

Re: Solar Policy Modification

Dear Chairman Grow and Members of the Board:

As you know, Barclay Damon represents a number of solar developers that have begun or intend to develop community solar projects in Oneida County. It was less than one year ago that we wrote to you on behalf of our solar clients to encourage the Oneida County Industrial Development Agency (OCIDA) Board to re-examine the per megawatt (MW) rate and fees it was imposing on solar development. A copy of that letter, dated March 25, 2021 is enclosed herein. Despite the OCIDA's short-term change in its policy from a \$10,000/MW rate to the more reasonable scale of \$5,500 - \$7,000 based on agricultural soil classifications, it has come to our attention that the OCIDA is considering an increase back to \$10,000/MW.

Such an unwarranted per megawatt rate is wholly inconsistent with the treatment of community solar projects by other upstate IDAs and the 2021 amendment to the General Municipal Law supplementing the purposes and objectives of IDAs. We previously submitted a chart that identified dozens of community solar projects approved by IDAs across the State (see enclosure). Over the last year Barclay Damon has continued to facilitate dozens of IDA transactions on behalf of solar developers, and in each of those transactions the PILOT rates were similar to OCIDA's *current* rates. Below are the current per MW rates imposed by other upstate IDAs we have worked with:

St. Lawrence County IDA	\$5,000/MW AC
Oswego County IDA	\$5,000/MW AC
Schenectady County IDA	\$5,000/MW AC
Franklin County IDA	\$5,500/MW AC
Lewis County IDA	\$5,500/MW AC
Jefferson County IDA	\$5,500/MW AC
Cattaraugus County IDA	\$6,000/MW AC
Orleans County	\$7,000/MW AC



The current OCIDA Community Solar policy is consistent with the above-described rates. However, an increase to \$10,000/MW will drastically curtail solar development and result in the loss of investment in local communities, the availability of affordable green power in the County, and a decline in the investment in infrastructure assets in Oneida County. In addition, by failing to provide a scaled incentive for renewables in the form of a PILOT exemption schedule comparable to that granted to other applicants, OCIDA has acted in defiance of the State mandate to support renewable generation and in fact denied equal protection to renewable generation developers. It is obvious that this is the Board's goal but it is inconsistent with State policy, ignores the fact that global warming impacts us all and will severely disadvantage the host communities where these projects are permitted under local zoning. Moreover, many of these projects are targeted to assist low to moderate income households. Without community solar projects in the County, it will disadvantage residents by prohibiting their ability to receive reductions on their utility bills.

Based on the foregoing, we respectfully request that the OCIDA maintain its current policy and reject an increase to \$10,000/MW AC for community solar projects.

We appreciate your consideration to this matter.

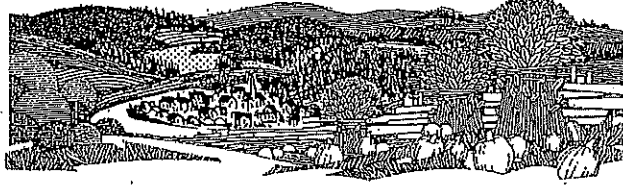
Very truly yours,

*/s./ Genevieve Trigg*

Genevieve M. Trigg

Enclosures

c: Linda Romano, Esq. (Bond Schoeneck King)  
Laura Ruberto (Bond Schoeneck King)  
Shawna Papale, Executive Director



## TOWN OF BOONVILLE

13149 STATE RTE. 12  
BOONVILLE, NEW YORK 13309

(315) 338-2890  
(315) 338-2889 (fax)

February 24, 2022

Oneida County Industrial Development Agency  
584 Phoenix Drive  
Rome, NY 13441

Attention: Shawna Papale, Executive Director

Re: Notice of Change of Uniform Tax Exemption Policy  
Public hearing via WebEx Scheduled for February 25, 2022

Dear Director Papale:

Our municipality is in receipt of your agency's proposed amendments to its Uniform Tax Exemption Policy. On behalf of the Town of Boonville, I hereby cite the following items which our Town hopes will be on the agenda for discussion at the above referenced hearing:

### Section II. Financial Assistance

1. (iii) .....with an agreement that the Project Operators or their assigns will not bring a tax grievance proceeding during the next five (5) years thereafter.

### Section III. Other Requirements

- Host Community Payment. Host jurisdiction is defined as the Village and/or Town in which the project is located.
- Decommissioning Plan. The "host jurisdiction" will be specifically named as the beneficial payout party on any such bond and/or "escrow account."

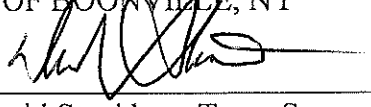
### Section VI. Deviations

The third sentence thereunder should be modified to read: The Agency will provide prior written notice, allowing for sufficient opportunity to be heard, to the chief executive officer of each affected tax jurisdiction of any deviation from this Policy and will comply with the deviation requirements of the General Municipal Law.

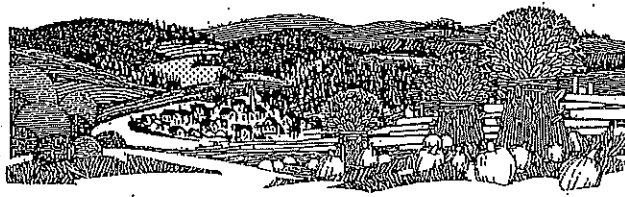
Thank you for your time and consideration of our concerns.

Respectfully,

TOWN OF BOONVILLE, NY

By:   
David Stocklosa, Town Supervisor

DS:ksc



## TOWN OF BOONVILLE

13149 STATE RTE. 12  
BOONVILLE, NEW YORK 13309

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February 25, 2022

Oneida County Industrial Development Agency  
584 Phoenix Drive  
Rome, NY 13441

Attention: Shawna Papale, Executive Director

Re: Notice of Change of Uniform Tax Exemption Policy  
Public hearing via WebEx Scheduled for February 25, 2022

Dear Director Papale:

Thank you for allowing our Town Attorney, James W. Moseman, to have audio access to the virtual meeting held on February 25, 2022.

Please add this letter to my previous one bearing date of February 24, 2022.

The Town of Boonville agrees with the comment made by the other town that "the more restrictive terms between the host municipality and OCIDA should be the default terms used in any agreement with Project Operators;" and

Some solution to the constant problem that Project Operators immediately file a tax grievance as soon as the PILOT ends needs to be found and incorporated into the Uniform Tax Exemption Policy. I believe the Project Operators can contractually waive such a right if included in the original agreement.

The Town takes note of the clarification made by OCIDA at the public hearing that the definition of "Host Community" is the "lowest" recognized municipality involved and therefore eliminates the County and School Districts from receiving Host Community benefits.

In any "Decommissioning Plan," the effects on the land owners must be recognized and dealt with. Both the cost of removing the structures (in their entirety) and the ongoing effect on the landowners' taxes when the structures have not been timely removed must be included in the "bonding" and/or escrow account terms.


If the OCIDA is contemplating amending these rules for any specific Project Operator, the Host Community must receive advance written notice and be given sufficient time and opportunity to

be heard if it is in opposition thereto.

Thank you for your time and consideration of our concerns.

Respectfully,

TOWN OF BOONVILLE, NY

By:   
\_\_\_\_\_  
David Stocklosa, Town Supervisor

DS:ksc

## Mark Kaucher

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**From:** Shawna Papale  
**Sent:** Sunday, February 27, 2022 1:04 PM  
**To:** Mark Kaucher  
**Subject:** Fwd: Comments: Notice of Change of the OCIDA Uniform Tax Exemption Policy - Solar

Shawna Papale  
Sent from my iPhone

Begin forwarded message:

**From:** "Brian N. Scala, Marcy Town Supervisor" <brian.scala@townofmarcy.org>  
**Date:** February 27, 2022 at 1:02:42 PM EST  
**To:** Jennifer Waters <jwaters@mvedge.org>, Shawna Papale <spapale@mvedge.org>  
**Cc:** "Robert Lambe, Planning Board & Economic Development Coordinator" <robert.lambe@townofmarcy.org>, Gina Schillaci <marcytownclerk@gmail.com>  
**Subject:** **Comments: Notice of Change of the OCIDA Uniform Tax Exemption Policy - Solar**

To Shawna Papale, Executive Director  
Oneida County Industrial Development Agency  
584 Phoenix Drive  
Rome, NY 13441

Re: OCIDA modification to its Uniform Tax Exemption Policy (UTEP)

The Town of Marcy has reviewed your UTEP as it pertains to clean energy (Community Solar) projects. Our Town just completed a year long moratorium on community solar and drafted an update to our UDC with strong regulations as they relate to the Host Community Agreement, \$20,000 per MW, placed USA made on all solar panels, all parts and everything must be assembled in the USA. The decommissioning plan bond has three ten-year automatic renewals with a 2% yearly escalation, and ties in the landowner that they too are responsible should decommissioning be required . I mention these items because we feel our polices have precedent over a company coming to OCIDA for a PILOT. We would ask that you send them to the Town of Marcy.

Thank you

Brian

Brian N. Scala  
Town Supervisor  
Town of Marcy