

A Proposal to Amend ORS 307.175

Taxing Community Solar like Net Metering is Good Policy for Oregon.

Importance of Community Solar. In 2016, SB 1547 created the Community Solar Program (CSP) to expand access to retail electric customers who are unable to Net Meter for such reasons as shaded or inadequate roofs, lease restrictions, ineligibility for the federal Investment Tax Credit, or up-front costs. Community Solar allows customers to buy output of a CS Project output located elsewhere in Oregon to offset their electric load, in a transaction similar to virtual Net Metering. Community Solar (CS) overcomes limitations of Net Metering (NM) and is integral to Oregon's clean energy and social equity initiatives.

Tax treatment of NM and CS. Since 2007, residential and non-residential NM has enjoyed exemption from ad valorem taxation, per ORS 307.175. SB 1519 (2022) extended ad valorem tax exemption to CS systems owned or leased by residential customers, *but not CS systems owned or leased by non-residential customers.*

What is the difference in taxation between residential and non-residential Community Solar? A CSP subscribed by non-residential customers is subject to ad valorem taxation of \$13-19 per \$1000 of project valuation (equating to approximately \$27,000/MW/year). The same project subscribed by residential customers is ad valorem exempt--meaning real property equipped with a CS system is taxed as if it were not equipped with CS.

What is the effect of exempting *only* residential Community Solar? A large majority of the 80 MW of Community Solar Projects initiated prior to passage of SB 1519 were pre-certified as non-residential CSPs. Unless the law is changed, most of those projects will be canceled or will drop non-residential subscribers (including State agencies subscribed to CS to meet GHG reduction goals).

Ad valorem tax treatment of non-residential CSPs is a large factor in the underperformance of the Community Solar Program. As of December 2022 (60 months since CSP inception) less than 10 MW of CS is in operation. Timely attainment of the 161 MW capacity goal is highly uncertain without non-residential subscribers.

How does the proposed fix help Community Solar? The proposed fix will:

- Improve finance-ability of non-residential CSPs;
- Tax all Community Solar and Net Metering projects equally; and
- Help the Oregon Community Solar program meet its capacity goals

What is the likely revenue impact of exempting non-residential Community Solar? The reduction in property tax revenue is likely to be negligible because:

- Without an exemption, non-residential CSPs likely will not be completed.
- All CSPs are small (< 3MW). The total authorized capacity of CSPs (161 MW statewide) will not change if ad valorem exemption extended to non-residential subscribers; and
- CSPs create negligible new burden on schools and other services.

Should the Counties have an option whether to exempt non-residential CSPs?

- Counties already have an option to tax Solar Projects \$5,000-\$7,000/megawatt-year in lieu of property taxes under ORS 307.175 (SB154, 2015). However some counties have opted not to offer this option resulting in CSP being taxed like a baseload coal or natural gas plant by default.
- Uniform tax treatment across the state is the best way to ensure success of the CSP.

What action is requested?

- **Amend ORS 307.175 such that the ad valorem tax exemption applies equally to all Community Solar Projects regardless of whether their subscribers are residential, business, or public entities.**

Contact: Dan Hale (daniel@sunhurstenergy.com); Kenneth Kaufmann (ken@kaufmann.law)