

IV. LMI Model Provisions for Shared Renewable Energy Programs

As indicated at the outset, these *LMI Guidelines* and accompanying LMI Model Provisions are intended to function in tandem with IREC's *Model Rules for Shared Renewable Energy Programs*. For policymakers, regulators and other entities using and refining these LMI Model Provisions, IREC emphasizes that coordination with customer advocates, especially LMI customer advocates, environmental and environmental justice advocates, and others will be critical, as well as coordination with renewable energy industry and utility representatives. This variety of perspectives is needed to ensure the program successfully reaches the LMI customers it is targeting to the degree it hopes to do so, and that LMI customers are appropriately protected.

Likewise, IREC encourages policymakers and others to think carefully about the overarching goals of the program prior to designing the program and any financing components. In turn, these goals will dictate how the program is evaluated, and ultimately whether or not the program is considered successful.

The following LMI Model Provisions serve as IREC's recommendations for state, local and utility programs that aim to provide more equitable access to shared renewable energy. The Model Provisions should be modified as needed to comport with state and local laws and programs.

I. DEFINITIONS

Consistent with the definitions in IREC's *Model Rules for Shared Renewable Energy Programs*, the following definitions apply to this section:⁶⁴

- a) **"Bill Credit"** means the monetary value of the kilowatt-hours (kWh) generated by the Shared Renewable Energy Facility allocated to a Participant to offset that Participant's electricity bill.
- b) **"Biomass"** means a power source that is comprised of, but not limited to, combustible residues or gases from forest products manufacturing; waste, byproducts, or products from agricultural and orchard crops; waste or co products from livestock and poultry operations; waste or byproducts from food processing, urban wood waste, municipal liquid waste treatment operations, and landfill gas.
- c) **"Electricity Provider"** means the entity providing electricity service to Participants.
- d) **"Eligible LMI Shared Renewable Energy Facility"** or **"LMI Facility"** means a Shared Renewable Energy Facility that credits at least 60% of its Bill Credits to the utility bills of

⁶⁴ Current terms from the *Model Rules* have been incorporated along with new terms specific to LMI programs.

LMI Customers. An LMI Shared Renewable Energy Facility may be located either as a stand-alone facility, called herein a stand-alone LMI Facility, or behind the meter of an LMI Facility Participant, called herein a hosted LMI Facility. An LMI Facility must have at least two LMI Facility Participants; provided, however, that LMI Customers living in a multitenant building that is master-metered may be considered individual LMI Facility Participants for the purposes of this program, so long as direct and/or indirect LMI Customer benefits are demonstrated.

- e) **“Energy Conservation Improvement”** means any material energy efficiency improvement implemented at the residence of an LMI Facility Participant.
- f) **“Household”** has the meaning set forth by the U.S. Census Bureau.⁶⁵
- g) **“Locational Benefits”** means the benefits accruing to the Electricity Provider due to the location of the Shared Renewable Energy Facility on the distribution grid. Locational Benefits include such benefits as avoided transmission and distribution system upgrades, reduced transmission and distribution level line losses, and ancillary services.
- h) **“Low-Income Customer”** means a residential retail customer of an Electricity Provider who:
 - i. Qualifies, or whose Household qualifies, for any means-based form of state or federal low-income assistance such as Medicaid, the Low-Income Home Energy Assistance Program or the Supplemental Nutrition Assistance Program; and/or
 - ii. Has an annual Household income of 80% or less of the federal Department of Housing and Urban Development (HUD) Area Median Income (AMI).
- i) **“Low- to Moderate-Income (LMI) Customer”** means a residential retail customer of an Electricity Provider who:
 - i. Meets the definition of Low-Income Customer and/or Moderate-Income Customer; and/or
 - ii. Resides within a locally, state- or federally recognized “disadvantaged community,” whose definition shall include both socioeconomic and environmental pollution factors.
- j) **“LMI Facility Participant”** means:
 - i. A residential, retail LMI Customer of an Electricity Provider who owns an LMI Subscription and who has identified one or more individual meters or accounts to which the Subscription shall be attributed; provided, however, that these individual meters or accounts shall be within the same Electricity Provider’s distribution service territory as the LMI Facility; or
 - ii. An eligible, non-LMI Participant; provided, however, that 60% of the Participants in the LMI Facility are LMI Customers.

⁶⁵ “A household includes all the people who occupy a housing unit. (People not living in households are classified as living in group quarters.) A housing unit is a house, an apartment, a mobile home, a group of rooms, or a single room that is occupied (or if vacant, is intended for occupancy) as separate living quarters. Separate living quarters are those in which the occupants live separately from any other people in the building and which have direct access from the outside of the building or through a common hall. The occupants may be a single family, one person living alone, two or more families living together, or any other group of related or unrelated people who share living arrangements.” U.S. Census Bureau, American Community Survey and Puerto Rico Community Survey: 2014 Subject Definitions, http://www2.census.gov/programs-surveys/acs/tech_docs/subject_definitions/2014_ACSSubjectDefinitions.pdf.

- k) **“LMI Participant Organization”** means a Participant Organization whose purpose is to beneficially own and operate an LMI Facility for the LMI Facility Participants.
- l) **“LMI Subscription”** means an interest in an LMI Facility held by an LMI Customer. Each LMI Subscription shall be sized to represent at least one panel in the LMI Facility; provided, however, that the LMI Subscription is sized to produce no more than 120% of the LMI Customer’s average annual electrical consumption.
- m) **“Moderate-Income Customer”** means a residential, retail customer of an Electricity Provider who has an annual Household income of 80% to 120% of the HUD AMI.
- n) **“Participant”** means a retail customer of a utility who owns a Subscription and who has identified one or more individual meters or accounts to which the Subscription shall be attributed. Such individual meters or accounts shall be within the same Electricity Provider’s distribution service territory as the Shared Renewable Energy Facility.
- o) **“Participant Organization”** means an organization whose purpose is to beneficially own and operate a Shared Renewable Energy Facility for the Participants of the Shared Renewable Energy Facility. A Participant Organization may be any for-profit or non-profit entity permitted by [state] law. The Shared Renewable Energy Facility may also be built, owned, and operated by a third party under contract with the Participant Organization.
- p) **“Partner Organization”** means a community-based or other organization that has proven experience administering programs for the benefit of LMI Customers, such as those organizations that administer weatherization, LMI housing, or LMI-specific energy efficiency and renewable energy programs.
- q) **“Program Implementing Agency”** means the regulatory agency or other entity that creates and approves rules for LMI Facilities, including state commissions, electric cooperative boards, municipal councils or other such entities.
- r) **“Renewable Energy Certificate”** or **“REC”** means a tradable instrument that includes all renewable and environmental attributes associated with the production of electricity from a Shared Renewable Energy Facility.
- s) **“Renewable Energy Generation”** means an electrical energy generation system that uses one or more of the following fuels or energy sources: Biomass, solar energy, geothermal energy, wind energy, ocean energy, hydroelectric power, or hydrogen produced from any of these resources.
- t) **“Shared Renewable Energy Facility”** means Renewable Energy Generation that is located in or near the service territory of an Electricity Provider where the electricity generated by the facility is credited to the Participants of the facility. A Shared Renewable Energy Facility may be located either as a stand-alone facility, called herein a stand-alone Shared Renewable Energy Facility, or behind the meter of a participating Participant, called herein a hosted Shared Renewable Energy Facility. A Shared Renewable Energy Facility must have at least two Participants.
- u) **“Subscription”** means an interest in a Shared Renewable Energy Facility. Each Subscription shall be sized to represent at least one panel in the Shared Renewable Energy Facility’s generating capacity; provided, however, that the Subscription is sized to produce no more than 120% of the Participant’s average annual electrical consumption. For Participants in

meter aggregation, 120% of the Participant's aggregate electrical consumption may be based on the individual meters or accounts that the Participant wishes to aggregate pursuant to these rules. In sizing the Subscription, a deduction shall be made for the amount of any existing renewable energy generation at the Participant's premises or any Subscriptions owned by the Participant in other Shared Renewable Energy Facilities.

II. GENERAL PROVISIONS

- a) LMI Subscriptions in an LMI Facility may be transferred or assigned to an LMI Participant Organization or to any person or entity that qualifies to be an LMI Customer under these rules. Subscriptions in an LMI Facility may be transferred or assigned to an LMI Participant Organization or to any person or entity that qualifies to be an LMI Facility Participant under these rules.
- b) New LMI Facility Participants may be added at the beginning of each billing cycle. The owner of an LMI Facility or its designated agent shall inform the Electricity Provider of any changes to the following information concerning the LMI Facility Participants in the Shared Renewable Energy Facility on a monthly basis: (1) a list of individual LMI Facility Participants by name, address, account number or meter number; (2) the proportional interest of each LMI Facility Participant in the LMI Facility; and (3) for LMI Facility Participants who participate in meter aggregation, the rank order for the additional meters or accounts to which Bill Credits are to be applied.
- c) An LMI Facility Participant may change the individual meters or accounts to which the LMI Facility's electricity generation shall be attributed for that LMI Facility Participant no more than once quarterly, so long as the individual meters or accounts are eligible to participate.
- d) An Electricity Provider may require that LMI Facility Participants have their meters read on the same billing cycle.
- e) If the full electrical output of a stand-alone LMI Facility or the excess generation from a hosted LMI Facility is not fully allocated to LMI Facility Participants, the Electricity Provider shall purchase the unsubscribed energy at a kWh rate that reflects the full value of the generation. Such rate shall include the avoided cost of the energy, including any Locational Benefits of the LMI Facility.
- f) If an LMI Facility Participant ceases to be a customer within the distribution service territory within which the LMI Facility is located, the LMI Facility Participant must transfer or assign their LMI Subscription either:
 - i. To their LMI Participant Organization; or
 - ii. To any person or entity that qualifies to be an LMI Facility Participant under these rules, in a manner prescribed by the Participation Organization, so long as such a transfer/assignment does not result in less than 60% of the Shared Renewable Energy Facility's Bill Credits being credited to the utility bills of LMI Customers, as required by Rule I(d).

- g) If the LMI Facility Participant ceases to be a customer of the Electricity Provider or switches Electricity Providers, the Electricity Provider is not required to provide compensation to the LMI Facility Participant for any unused Bill Credits.
- h) An LMI Facility shall be deemed to be located on the premises of each LMI Facility Participant for the purpose of determining eligibility for state and local incentives.
- i) Neither the owners of a Shared Renewable Energy Facility nor the LMI Facility Participants shall be considered public utilities subject to regulation by the [responsible agency having regulatory oversight] solely as a result of their interest in the LMI Facility.
- j) Prices paid for LMI and non-LMI Subscriptions in an LMI Facility shall not be subject to regulation by the [responsible agency having regulatory oversight].
- k) An LMI Facility Participant owns the RECs associated with the electricity allocated to the LMI Facility Participant's Subscription, unless the LMI Facility Participant explicitly contracts to sell, transfer, or retire such RECs through a separate transaction independent of any of any Shared Renewable Energy or interconnection tariff or contract. For an LMI Facility located behind the meter of a participating LMI Facility Participant, the host LMI Facility Participant owns the RECs associated with the electricity consumed on-site, unless the host LMI Facility Participant explicitly contracts to sell, transfer, or retire of such RECs through a separate transaction independent of any Shared Renewable Energy or interconnection tariff or contract.
- l) The dispute resolution procedures available to parties in the Electricity Provider's interconnection tariff shall be available for the purposes of resolving disputes between an Electricity Provider and an LMI Facility Participant, or their designated representatives, for disputes involving the Electricity Provider's allocation of Bill Credits to the LMI Facility Participant's electricity bill consistent with the allocations provided pursuant to Rule II(b). The Electricity Provider shall not be responsible for resolving disputes related to the agreements between an LMI Facility Participant, the owner of an LMI Facility, and/or an LMI Participant Organization or any other party. This provision shall in no way limit any other rights the LMI Facility Participant may have related to an Electricity Provider's provision of electric service or other matters as provided by, but not limited to, tariff, decision of [responsible regulatory body or agency], or statute.
- m) LMI Customers must demonstrate eligibility for LMI Subscriptions prior to participating in this program. Once eligibility is established, either through qualification for another LMI program as specified by the Program Implementing Agency and/or in compliance with criteria established by the Program Implementing Agency, LMI Customers shall not be required to prove eligibility on an ongoing basis; provided, however, that each time an LMI Customer renews or signs a new contract with a Subscriber Organization, the LMI Customer must demonstrate eligibility for an LMI Subscription.

III. BILL CREDIT

- a) An Electricity Provider shall not limit the cumulative, aggregate generating capacity of LMI Facilities. The aggregate generating capacity of an LMI Facility shall not count against the State's aggregate net metering cap, if applicable.
- b) For an LMI Facility, the total amount of electricity expressed in kWh available for allocation to LMI Facility Participants, and the total amount of RECs generated by the LMI Facility and allocated to LMI Facility Participants, shall be determined by a production meter paid for by the LMI Subscriber Organization. It shall be the Electricity Provider's responsibility to read the production meter.
- c) For a hosted LMI Facility, the determination of the quantity of Bill Credits available to LMI Facility Participants of that LMI Facility, including the host LMI Facility Participant, shall be based on any energy production of the LMI Facility that exceeds the host LMI Facility Participant's instantaneous on-site consumption during the applicable billing period and the LMI Facility Participant's Subscription in that LMI Facility.
- d) For a stand-alone LMI Facility, the determination of the quantity of Bill Credits available to each LMI Facility Participant shall be based on the total exported generation of the LMI Facility and each LMI Facility Participant's Subscription.
- e) The Electricity Provider shall carry over any excess Bill Credits earned by an LMI Facility Participant and not used in the current billing period to offset the LMI Facility Participant's consumption in subsequent billing periods until all credits are used or electric service is terminated. Any excess Bill Credits shall not reduce any fixed monthly customer charges imposed by the Electricity Provider.
- f) The value of the Bill Credits shall be determined by one of the two approaches described in Sections IV and V of IREC's *Model Rules for Shared Renewable Energy Programs*.⁶⁶

IV. ADDITIONAL FINANCIAL CONSIDERATIONS⁶⁷

- a) The Program Implementing Agency shall offer, allow for and/or coordinate with other agencies or entities to provide for, at least one of the following:
 - i. Backup guarantees from non-LMI Participants, in the event of participating LMI Customer default;
 - ii. Direct incentives to participating LMI Customers and/or LMI Facilities, including, but not limited to: rebates or other cash offers; Bill Credit adders; LMI Subscription cost waivers or reductions; REC or solar REC adders or multipliers;
 - iii. Tax incentives for LMI Facilities;
 - iv. Loan programs or credit enhancements for participating LMI Customers and/or LMI Facilities, including, but not limited to: loan loss reserve mechanisms; on-bill

⁶⁶ The *Model Rules* describe an embedded cost-based approach, based on participants' retail rates, and a value-based approach to bill credit valuation.

⁶⁷ With these Additional Financial Considerations, IREC is not recommending a particular financing tool or mechanism for all LMI shared renewables programs, but rather that programs should consider these options and provide for at least one within the program structure.

financing; Property-Assessed Clean Energy (PACE) programs; and revolving loan funds.

- v. Other credit assistance for participating LMI Customers, including the use of expanded, alternative, and/or hybrid underwriting criteria.
 - vi. Low-cost public financing opportunities, including, but not limited to, municipal or other governmental bonds and “green bonds.”
- b) Offers of incentives and other financing mechanisms may be differentiated by classes of LMI Customers, including differentiating the incentives and other financing mechanisms offered to Low-Income Customers and Moderate-Income Customers.
 - c) Offers of incentives and other financing mechanisms may be differentiated by classes of LMI Facilities, including differentiating the incentives and other financing mechanisms depending on the percentage of LMI Customers participating in an LMI Facility.
 - d) If additional funding is required to offer one of the options described above, such as, but not limited to, direct incentives, the Program Implementing Agency shall consider existing funding sources in addition to new funding sources, including, but not limited to, ratepayer assistance funds⁶⁸; and renewable energy or other energy-related funds targeted at LMI Customers.

V. MARKETING, EDUCATION AND OUTREACH

- a) If not a Partner Organization itself, an LMI Participant Organization shall contract with at least one Partner Organization to administer marketing, education and outreach for LMI Customers, including marketing, education and outreach regarding the incentives and financing opportunities available to LMI Customers. Wherever possible, existing materials and/or outlets targeting LMI Customers for other existing programs should be leveraged to minimize overall program costs.
- b) Marketing, education and outreach materials for LMI Subscriptions shall be culturally and linguistically appropriate, and shall include, but not be limited to: multi-lingual content; multi-media outreach, including web-based, phone-based, and mail-based outreach; and outreach to non-traditional outlets.
- c) As part of these marketing, education and outreach efforts, LMI Customers shall be informed of any Energy Conservation Improvement or other programs and/or incentives for which they may be eligible, including, but not limited to, energy efficiency programs and home energy audits. To the extent possible, the marketing of multiple LMI programs shall be coordinated and clearly explain each program and, if applicable, how the programs work together, in order to avoid excessive marketing and customer confusion.
- d) The Program Implementing Agency shall establish appropriate consumer protection requirements for LMI Customers participating in LMI Facilities,⁶⁹ which shall balance the

⁶⁸ For an example of this option in practice, see IREC’s CleanCARE proposal, attached to these *LMI Guidelines*.

⁶⁹ Although consumer protection requirements are not addressed in the current version of IREC’s *Model Rules*, they are included here in recognition of the heightened sensitivity of the LMI customer group, especially with respect to impacts on income. IREC’s inclusion of consumer protection requirements for LMI Customers is not intended to imply that such requirements are not appropriate for all customers.

protection of LMI Customers with maintaining program cost-effectiveness, and which shall comport with the criteria for marketing, education and outreach materials described in this Section V. These consumer protection requirements shall include LMI Customer data privacy protections. These consumer protection requirements shall also include a requirement that the LMI Participant Organization or its agent clearly and concisely disclose the material terms of the LMI Subscription to the LMI Customer. These may include those below.

- i. LMI Subscription price.
- ii. Statement that the LMI Participant Organization, LMI Facility, and LMI Subscription arrangement comport with all applicable laws, including all applicable tax and security laws.
- iii. Future costs and benefits of the subscription, including: all nonrecurring (i.e. one-time) charges; all recurring charges; terms and conditions of service, including the term of the contract, and terms and conditions for early termination; whether any charges may increase during the course of service and, if so, how much advance notice is provided to the LMI Customer; any penalties that the LMI Participant Organization may charge to an LMI Customer; the process for unsubscribing and any associated costs; an explanation of the LMI Customer data that the LMI Participant Organization will share with the Electricity Provider and that Electricity Provider will share with the Participant Organization; the Electricity Provider's data-privacy policy and Participant Organization's data-privacy policy; the method of providing notice to LMI Customers when the LMI Facility is out of service; assurance that all installations, upgrades, and repairs will be under the direct supervision of an appropriately certified professional and that maintenance will be performed according to industry standards, including the recommendations of the manufacturers and other operational components; the allocation of unsubscribed production; and a statement that the LMI Participant Organization is solely responsible for resolving any disputes with the Electricity Provider or LMI Customers about the accuracy of the LMI Facility production and that Electricity Provider is solely responsible for resolving any disputes with the LMI Customer about the applicable rate used to determine the amount of the Bill Credit.
- iv. An explanation of REC ownership in layman's terms and implications for the LMI Customer.
- v. Copy of the LMI Facility's contract with the Electricity Provider;
- vi. Proof of insurance.
- vii. Proof of a long-term maintenance plan.
- viii. LMI Facility production projections and a description of the methodology used to develop production projections.
- ix. LMI Participant Organization contact information for questions and complaints.

VI. PROGRAM ASSESSMENT

- a) The Program Implementing Agency shall annually collect and publicly report data relevant to the LMI shared renewables program's goals, including, but not limited to:
- i. Number of LMI Customers participating in the program;
 - ii. Number of LMI Facilities participating in the program;
 - iii. Percentage of LMI Customers served by each LMI Facility;
 - iv. Size of each LMI Facility;
 - v. Location of each LMI Facility; and,
 - vi. Percentage of LMI Subscription payment default.