Background

A growing number of states offer community solar programs. These programs give families who live in properties, including HUD-subsidized properties and private market rental units, access to renewable energy, even though the property itself may not be suitable for solar panels. Community solar arrays have multiple subscribers who receive benefits on utility bills that are directly attributable to the solar project’s energy generation. There are no upfront costs to subscribers, and they can receive benefits—typically in the form of an on-electricity bill credit. In the case there are ongoing costs or fees for low-income participants, it is typically mandated that any costs will not be more than 50% of the value participants get from their system.

Purpose and Applicability

The purpose of this notice is to provide guidance to HUD Multifamily Housing (MFH) field staff, owners, and management agents on the treatment of on-bill virtual net energy metering credits that commonly result from a resident’s participation in a community solar program. This only applies in the case of tenant-paid electricity and where the solar credit appears as a negative amount on the electricity bill. This guidance does not apply to residents of master-metered multifamily buildings. In addition, this guidance does not change existing rules for utility allowance baseline analyses or income calculations; rather, it provides guidance for how to treat community solar credits within existing rules.

This notice applies to the following Office of Multifamily Housing Programs:

1. Project-based Section 8
   a. New construction
   b. State Agency Financed
   c. Substantial Rehabilitation
   d. Section 202/8
   e. Rural Housing Services (RHS) Section 515/8
   f. Loan Management Set-Aside (LMSA)
Determination of Treatment of Solar Credits in Utility Allowance and Annual Income Calculation

If these characteristics outlined above apply to residents in a covered program, the following two-step process may be used to determine whether the community solar credits should be included/excluded from the utility allowance baseline analysis or included/excluded from a family’s annual income for purposes of rent calculation and/or eligibility determination.

*Step One: Determine if Community Solar Credits Affect Utility Allowance Calculation*

Step One is a test for determining the community solar credit’s relationship to the utility allowance calculation. To understand the effect of a community solar credit on a unit’s utility allowance calculation, you will need a copy of the tenant’s electricity bill (this can be accessed by the utility company if it is not already available). Per this guidance, you will not need any additional information as the solar credit will appear as a negative amount on the tenant’s electricity bill.

If the credit reduces the cost of energy consumption by lowering actual utility rates, then the owner is required to submit a new baseline analysis in accordance with Housing Notice 2015-04, regardless of when the last analysis was submitted to HUD/Contract Administrator for approval.

Factors for determining whether the credit is tied to the cost of consumption:

1. Is the credit a third-party payment (e.g., not from the electricity provider) on behalf of the tenant rather than a reduction in the cost of utilities?
   a. Yes → Credit is not considered to reduce the cost of energy consumption as the cost for the utility provider to provide the consumed energy does not change. The owner is not required to submit a new utility allowance baseline analysis (see example bills with solar credits not tied to consumption in the Appendix).
   b. No → Credit may be tied to the cost of consumption. Proceed to question #2 below.

2. Does the credit amount fluctuate every month and/or does the electric bill show a lowered utility rate per kilowatt-hour?
   a. Yes → Credit is tied to the cost of utility consumption. The owner is required to submit a new utility allowance baseline analysis.
b. No → Credit is not tied to the cost of utility consumption. The owner is not required to submit a new utility allowance baseline analysis.

**Step Two: Determine if Community Solar Credits Should be Considered Annual Income for Rent Calculation or Determining Eligibility for HUD-assisted Multifamily Programs**

The second step is to determine if the credits fall within HUD’s definition of annual income. In all foreseeable instances as of the date of this memo, if the solar credit is tied to the cost of consumption (i.e., utility allowance is affected) (addressed in Step One), then credit will not count towards income.

If a community solar benefit appears on a household’s electricity bill as an amount credited from the total cost of the bill, HUD has determined that the credit should be treated as a *discount or coupon* to achieve a lower energy bill (rather than a cash payment or cash-equivalent payment being made available to a resident). In this case, the credit will not be counted towards income as discounts on items purchased by a tenant are not viewed as “annual income” to the family. Generally, income is not generated when a family purchases something at a cheaper rate than it otherwise would.

Note that if the credits are found to be third-party payments based on Step One, there may be instances when the credits are not mere discounts and must be treated as income. For instance, a recurring monthly utility payment made on behalf of the family by an individual outside of the household is not considered a discount but is considered annual income to the family.

**Further Information**

If you are evaluating the treatment of solar credits outside the program framework outlined above and require a state specific determination and/or have general questions about this guidance, please email Lauren Ross, Senior Advisor for Housing and Sustainability at Lauren.Ross@hud.gov.

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1 HUD definition of annual income 24 CFR 5.609. 5.609(a) says: "(a) Annual income means all amounts, monetary or not, which: (1) Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or (2) Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and (3) Which are not specifically excluded in paragraph (c) of this section. (4) Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access."
Appendix

Example 1: Utility Bill with Community Solar Credits *not* tied to Consumption

*In this sample bill, the customer used 1415 kWh that month and they are being fully charged for that usage. The two lines of community net metering (CNM) credits are for -100 kWh and -150 kWh that carry their own kWh charge. Those are not at all connected to the 1415 kWh usage/cost.*
Example 2: Utility Bill with Community Solar Credits *not* tied to Consumption

Amount *not* to be included in utility allowance baseline analysis