



# STATE OF CONNECTICUT

## PUBLIC UTILITIES REGULATORY AUTHORITY

August 28, 2024

In reply, please refer to:

Docket No. 23-08-02RE01

Order Nos. 33 and 34 Compliance

### DOCKET NOTICE

Re: Docket No. 23-08-02RE01 – Annual Residential Renewable Energy Solutions Program Review – Year 2023– Contractor Education and Enforcement

Dear Docket Participants:

August 15, 2024, was the deadline for all renewable energy contractors and/or developers participating in the Residential Renewable Energy Solutions (RRES) Program to submit their compliance with Order Nos. 33 and 34 (Compliance) of the Authority's November 1, 2023 Decision in Docket No. 23-08-02, Annual Residential Renewable Energy Solutions Program Review – Year 3 (Decision).<sup>1</sup> Prior to the August 15, 2024 deadline, the Authority ruled on several motions for protective order, which determined whether certain items in the Compliance were exempt from public disclosure pursuant to Connecticut's Freedom of Information Act (FOIA). The Authority found that certain information in the Compliance were not subject to protective treatment under FOIA and, accordingly, directed certain docket participants to refile portions of their respective Compliance by July 26, 2024. See Motion Nos. 11, 12, 17, 22, 25, 26 Ruling, June 26, 2024; Motion Nos. 8, 13, 18, 20, 23, 24, June 26, 2024.

The Authority subsequently received additional motions for protective order after the August 15, 2024 filing deadline. Notably, many of the motions do not comply with the Authority's Notice of Proceeding, which details the filing requirements when submitting a motion for protective order, because they either do not include a certified affidavit, a proposed protective order, and a nondisclosure agreement, or provide specific legal argument with supporting facts describing why the information should be kept confidential.<sup>2</sup> See Notice of Proceeding, Nov. 16, 2023, p. 3. However, given the extensive number of docket participants in this proceeding and in the interests of administrative efficiency, the Authority will utilize this notice to identify or clarify what information in the Compliance is subject to protective treatment under FOIA and set a

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<sup>1</sup> The Authority twice extended the original June 1, 2024 deadline to file the Compliance. Decision, pp. 66-67; Motion Nos. 1, 2, 5-7, 9 Ruling, May 31, 2024; Motion No. 28 Ruling, July 23, 2024.

<sup>2</sup> The Authority indicated in past motion rulings that the filing requirements for protective orders in the Notice of Proceeding should be carefully reviewed and that it may deny future motions for protective order if such requirements were not met. See, e.g., Motion Nos. 11, 12, 17, 22, 25, 26 Ruling, June 26, 2024, p. 4.

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definitive deadline for all docket participants to ensure that their Compliance filed in the public docket is consistent with the Authority's direction.

## **Filing Requirements**

The Authority required all RRES Program developers to file a Financial Benefits Compliance, which consists of the following items:

1. All customer disclosure forms;
2. An unlocked Excel file summarizing key information from the customer disclosure form (Financial Benefits Summary Sheet), which includes (1) the site address; (2) the utility account number associated with the project; (3) annual contract rate increase amount; (4) estimated year one production as a percentage of estimated annual utility customer usage; (5) estimated year one net savings; (6) starting utility rate used to estimate the net year one savings; (7) estimated net savings over the RRES tariff term if provided by the developer to customers in a contract or promotional materials or if it is easily extrapolated from the customer disclosure data; and (8) the utility rate used to estimate net savings over the RRES tariff term if provided by the developer to customers in a contract or promotional materials or if it can be easily extrapolated from the customer disclosure data; and
3. A narrative explanation of any calculation methodologies included in the Financial Benefits Summary Sheet (Narrative).

Decision, p. 67.

Additionally, all renewable energy contractors participating in the RRES Program were required to file their marketing scripts and training materials generated for or provided to anyone engaging with a customer. Decision, p. 66.

## **Authority Rulings**

The Authority previously determined that sensitive customer information in the Compliance is exempt from public disclosure under FOIA. Motion Nos. 3, 4, 15, 16, 19, 27 Ruling, June 26, 2024. As such, participants filing Compliance may redact all customer information, such as customer names, addresses, phone numbers, email addresses, and account numbers.

Second, the Authority previously determined that system size and production information is not entitled to protective treatment. Motion Nos. 8, 13, 18, 20, 23, and 24 Rulings, June 26, 2024, p. 2. As such, information such as estimated year one production from the project, the system size, or other production information on the customer disclosure forms, the Financial Benefits Summary Sheet (including estimated year one production as a percentage of estimated annual utility customer usage), and the Narrative are not protected from public disclosure under FOIA.

However, consistent with the Authority's Motion No. 21 Ruling in this proceeding and for various administrative considerations, including limitations to the Authority's filing system and the burden imposed on all participants re-redacting customer disclosure forms, the Authority is not requiring docket participants to publicly refile their customer disclosure forms. Such direction assumes that the participant has properly filed their customer disclosure forms as compliance in this docket. **Customer disclosure forms filed in another manner, such as an attachment to a motion, must be filed as compliance in this docket.**

Third, the Authority determined that certain, project-specific pricing information, such as a project's purchase price, lease rate, down payment amount, estimated payments, net savings, and utility and escalator rates were subject to protective treatment. Motion Nos. 8, 13, 18, 20, 23, 24 Ruling, June 26, 2024, p. 3. The Authority later clarified that its intent was only to protect certain project-specific pricing information on the customer disclosure forms and Financial Benefits Summary Sheet, not to authorize redacting the Narrative. Motion No. 36 Ruling, Aug. 28, 2024, p. 2. The Authority noted several RRES objectives giving rise to the compliance filing requirements would be frustrated if the Narrative was protected from public disclosure under FOIA. *Id.*

The Authority further clarifies in this notice that columns 7 and 8 of the Financial Benefits Summary Sheet are also not entitled to protective treatment under FOIA. Specifically, the direction provided in the Decision indicated that such information should be included in the Financial Benefits Summary Sheet if they were provided to the customer as part of a contract or promotional material or if they are easily extrapolated from the customer disclosure data. Decision, p. 67. As such, there is no expectation of privacy for that information and, therefore, it is not entitled to protective treatment under FOIA.

Finally, the Authority determined that marketing materials and training scripts are not entitled to protective treatment and should be filed completely unredacted.<sup>3</sup> Motion Nos. 8, 13, 18, 20, 23, and 24 Rulings, June 26, 2024, p. 3.

Based on the above, the Authority directs all docket participants to ensure they have filed the following according to the above direction no later than **Wednesday, September 18, 2024, by 4:00 p.m.**

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<sup>3</sup> SunPower Corporation (SunPower) and SunRun Inc. (SunRun) filed Motions No. 31 and 32, respectively, in this proceeding seeking protective treatment for certain internal training documents. The Authority will separately adjudicate those respective motions.

1. Customer disclosure forms- all docket participants who have already submitted customer disclosure forms as a compliance filing need not redact and resubmit these forms.
2. A Financial Benefits Summary Sheet- docket participants may redact columns 1-3 and 5-6 listed above as they encompass sensitive customer info or project-specific pricing.
3. A Narrative without redactions.
4. Marketing materials and training scripts without redactions.

The Authority will only consider motions for extensions of time for extraordinary circumstances. The Authority reiterates that docket participants who already complied with the above direction need not take additional action. Additionally, participants need not submit additional motions for protective order so long as the redactions to their documents are in accordance with this notice.

Sincerely,

PUBLIC UTILITIES REGULATORY AUTHORITY

A handwritten signature in black ink, appearing to read 'Jeffrey R. Gaudiosi', written in a cursive style.

Jeffrey R. Gaudiosi, Esq.  
Executive Secretary

cc: Service List