

## PARTICIPATION APPLICATION & AGREEMENT

Thank you for your interest in OPALCO's Community Solar Program ("**Program**"). By completing this Application ("**Application**"), you have an opportunity to participate in and facilitate the success of the Program. You agree to be bound by the Program Terms and Conditions (collectively the "**Agreement**"). All bylaws, policies and guidelines of OPALCO are hereby incorporated by this reference into the Agreement. This Application is specifically for participation in the Program's solar project located at the Decatur Substation on Decatur Island, WA 98221 ("**Project**").

***Please begin by reading the entire document, including terms and conditions. Then, fill out the online application ([www.OPALCO.com/Solar](http://www.OPALCO.com/Solar)), or complete pages 1 - 2, and sign and mail the application to:***

**OPALCO  
Attn: Community Solar  
183 Mount Baker Rd  
Eastsound, WA 98245**

**Or email:  
Solar@OPALCO.com**

### **Participant Information (Please Print Clearly):**

\* Denotes required information

#### **Member Name\***

\_\_\_\_\_  
First Name (or Business Name)\*

\_\_\_\_\_  
Last Name

\_\_\_\_\_  
Membership Number\*

\_\_\_\_\_  
OPALCO Account # for Bill Credits\*

#### **Primary OPALCO Service Address for Membership Number Above\***

\_\_\_\_\_  
Physical Address \*

\_\_\_\_\_  
Apt No.

\_\_\_\_\_  
City \*

\_\_\_\_\_  
State \*

\_\_\_\_\_  
Zip Code \*

Mailing Address (if different than above):

\_\_\_\_\_  
Number/Street Name or PO Box

\_\_\_\_\_  
Apt No.

\_\_\_\_\_  
City

\_\_\_\_\_  
State

\_\_\_\_\_  
Zip Code

\_\_\_\_\_  
Email address\*

\_\_\_\_\_  
Telephone Number

Account to be transferred to upon Termination of Participation\*: \_\_\_\_\_

*(For duration of the term; see section 7 of Terms and Conditions).*

**Number of Units @ \$150.00 each\*:** \_\_\_\_\_

Note: if you would like to donate a Solar Unit to a low-income household, please fill out separate Solar Unit Donation form.

**Total Participation Fee\*:** \$ \_\_\_\_\_

Note: receipt of payment does not guarantee availability of Solar Units

## Payment

Participation fees will be charged on your OPALCO electric account, and due on the due date listed on the monthly bill. (Please include your OPALCO membership or account number on checks for proper processing of your application.)

## Participant Acknowledgements, Authorizations and Warranties

Participant expressly acknowledges, agrees to, authorizes, understands and warrants as follows:

- Participation is open to all OPALCO members in good standing, subject to limited availability, and may be limited to a fixed number of units (per individual participant, and not to exceed 6,720 solar units for the Project). Participant warrants that it meets the Eligibility Requirements contained in Section 2 of the Terms and Conditions.
- Participant has full power and authority to sign this Agreement.
- Participant has not relied upon any information or advice from OPALCO as to the prudence of Participant's participation in the Project or whether or not payment of the Participation Fee will make Participant eligible for any tax credits or other benefits including, but not limited to tax credits, incentives, or benefits available from the State of Washington or any other governmental agency. Participant understands that any questions or concerns about available tax credits, tax benefits, tax liability, incentives, and any other attributes of Participant's participation in the Project and Program, or any term or condition of this Agreement should be raised with Participant's tax or legal advisers or the appropriate governmental agencies.
- Participant will receive confirmation of participation in the Project via email within 30 days of receipt of Application.
- Participant has received a complete copy of the TERMS and CONDITIONS of OPALCO'S COMMUNITY SOLAR PROGRAM.
- Participant has read, understands, accepts and agrees to be bound by ALL TERMS and CONDITIONS of the OPALCO COMMUNITY SOLAR PROGRAM.
- Participant hereby releases and shall defend, indemnify and hold harmless OPALCO, its successors and assigns, and the directors, officers, employees and agents of OPALCO and its successors and assigns from any and all claims, losses, costs, liabilities, damages and expenses (including, but not limited to, reasonable attorneys' fees) arising out of or in connection with any breach of this Agreement by Participant.

Participant Signature \_\_\_\_\_

Print Name \_\_\_\_\_

Date \_\_\_\_\_

# OPALCO COMMUNITY SOLAR PROGRAM TERMS AND CONDITIONS

## Section 1. Definitions

- 1.1 “Account” means an active OPALCO member electric service Account associated with a service address and metered service and OPALCO Account number.
- 1.2 “Incentive Payment” means the monetary benefit received by a Participant based on their participation in the Project. The total value of the Incentive Payment shall be the sum of the Participant’s eligible Energy Credits and their eligible Washington State Production Incentive, as explained in Section 5 and Section 6.
- 1.3 “Electric Bill” means a bill from OPALCO for electric service that is metered and billed for the OPALCO Account number specified on the Application or a successor Account number determined in accordance with the terms of this Agreement.
- 1.4 “Energy Credits” means a billing credit the Participant is eligible to receive on their electric bill based on the amount of electric energy produced by that portion of the Project selected by the Participant. See *Section 6.1*.
- 1.5 “Participation Fee” means the fee specified in Section 3 of this Agreement.
- 1.6 “Project” means the solar photovoltaic electricity generating facilities being developed by OPALCO at the Decatur Substation on Decatur Island in San Juan County, Washington.
- 1.7 “Force Majeure” means any act of God, labor disturbance, act of the public enemy, war, act of terrorism, insurrection, riot, fire, storm or flood, explosion, breakage or accident to machinery or equipment, any order, regulation or restriction imposed by governmental, military or lawfully established civilian authorities, or any other cause beyond OPALCO’s control. A Force Majeure event does not include an act of negligence or intentional wrongdoing.
- 1.8 “Production Incentive Rate” means the monetary rate for electricity production provided by the Washington State Production Incentive Program as codified in Revised Code of Washington (RCW) Sections 82.16.110-150. The Production Incentive Rate shall be determined and may be made available by the State of Washington, and/or the Washington State University Extension, as their agent, as explained therein. Pursuant to RCW 82.16.110-150, the State of Washington plans to offer a Production Incentive to participants in certain solar projects including Utility-owned Community Solar Project(s) as defined in RCW 82.16.110(2)(a)(ii). While OPALCO believes that these production incentives will be granted by the State of Washington to any eligible Participant, OPALCO makes NO representation or warranty, either express or implied, that the Production Incentive will be available or at what level it shall be set. Participant acknowledges that, under the current statutes of the State of Washington, the Production Incentive is to expire on June 30, 2026 or when 50% of the Project costs are recovered.
- 1.9 “Participant” means the person specified as the Participant on the Application and who has received notification of acceptance into the Project, or a successor Participant designated in accordance with Section 7.
- 1.10 “Party” or “Parties” means either the Participant or OPALCO or both collectively depending upon the context.
- 1.11 “Washington State Production Incentive” means the amount paid by the Utility to the Participant based on the value of the tax credit the Utility receives (pursuant to RCW 82.16.110-140) for that portion of the Project attributed to the Participant’s Solar Units.
- 1.12 “Program” means the Community Solar Program operated by OPALCO.
- 1.13 “Service Address” means the real property located at the address specified on the Application, or a successor Service Address specified in accordance with the terms of this Agreement.
- 1.14 “Solar Unit” means a 75 watt portion of the Project’s electricity generating capacity.
- 1.15 “Term” means the period of 20 years after confirmation of participation by OPALCO, during which, in the reasonable and sole determination of OPALCO, the Project may continue to operate, through the use of commercially reasonable efforts but without the necessity of significant additional capital expenditures,

based upon projected costs, economics and other factors determined by OPALCO to be relevant at that time. OPALCO's exercise of such discretion shall bind all Participants.

## Section 2. Eligibility Requirements

Only OPALCO members with metered residential or commercial electric service accounts in good standing (no arrears balance) will be permitted to enroll in the Project or to remain enrolled in the Project throughout the Term. Non-metered and lighting accounts are not allowed to participate in the Program or Project. OPALCO may terminate a Participant's participation in the Project at any time if OPALCO determines the Participant no longer meets the Eligibility Requirements.

## Section 3. Participation Fee

Participant agrees to pay OPALCO a Participation Fee of \$150.00 for each Solar Unit selected by Participant under the Program.

## Section 4. Term

Participation in the Project shall be effective upon confirmation of participation by OPALCO on the date shown in the confirmation notice, which shall be emailed to the Participant and will continue for a period through June 30, 2038 subject to early termination as described in Section 1.15 or Section 7. Termination of the Program shall be in OPALCO's sole discretion and may be made for any or no reason.

## Section 5. Incentive Payment

In consideration of the Participation Fee paid by the Participant, and subject to all the terms and conditions set forth herein, the Participant named in this Agreement shall receive an Incentive Payment, regularly during the Term of the Project. OPALCO shall pay the Incentive Payment in the form of Energy Credits as set forth in section 6.1, and the additional Production Incentive check as set forth in section 6.2. Participant acknowledges that, under current Washington State law, the Production Incentive portion of the Incentive Payment will expire according to the applicable terms of the law, currently limited to 8 years or until cumulative incentive payments for the electricity produced by the project reach fifty percent of the total system price, including applicable sales tax, whichever occurs first.

## Section 6. Calculation of the Production Incentive and Energy Credits

The value, if any, of the Energy Credits and of the Production Incentive that the Participant is entitled to shall be calculated as follows:

- 6.1 The value of the Energy Credits shall be determined by calculating the amount of kilowatt hours (kWh) produced by all the solar panels in the selected Project for the given month, dividing that number by the number of total Solar Units for that project (to determine amount of generated power represented by each Solar Unit), then taking that number and multiplying it by the number of Solar Units purchased by the Participant in that project (to calculate the amount of generated power represented by the Participant's Solar Units), then finally taking that number and multiplying it by OPALCO's Community Solar Rate. For example, if a particular project selected by the Participant produces 42,000 kilowatt hours in a given month, and there are 6,720 Solar Units available on that project, and the Participant purchases 10 Solar Units from that project, and OPALCO Community Solar Rate is \$0.1007/kWh, the Participant would receive an Energy Credit in the amount of \$6.29 for that month (e.g.  $42,000 \div 6,720 \times 10 \times .1007 = \$6.29$ ). The OPALCO Community Solar Rate is set by the OPALCO Board of Directors. The Energy Credit will be paid monthly in the form of a credit to the Participant's electric bill.
- 6.2 The value of the Washington State Production Incentive shall be determined by calculating the amount of kWh produced by all the solar panels in the selected Community Solar Project for the given year, dividing that number by the number of total Solar Units for that project (to determine amount of generated power represented by each Solar Unit), then taking that number and multiplying it by the number of Solar Units purchased by the Participant in that project (to calculate the amount of generated power represented by the Participant's Solar Units), then finally taking that number and multiplying it by the WA State Production Incentive Rate amount (currently \$0.16 per kWh produced). For example, if the Project produces 500,000 kilowatt hours in a given year, and there are 6,720 Solar Units available, and the Participant purchases 10 Solar Units from that Project, and the WA State Production Incentive Rate is \$0.16 per kWh, the Participant would receive a Washington State Production Incentive in the amount of \$119.05 for that year (e.g.  $500,000 \div 6,720 \times 10 \times 0.16 = \$119.05$ ). The Utility's payment of the annual Washington State Production Incentive is specifically conditioned upon the Utility receiving an equivalent tax credit from the State of Washington attributed to the power production represented by the Participant's Solar Units. This payment will be paid by check made out to the Participant and sent to the Service Address, or such other address identified by the Participant under this Agreement.

- 6.3 Washington State's utilities pay production incentives to qualified solar-generating customers (including Community Solar participants) within their service territories and earn a tax credit equal to the cost of the payments. The tax credit that a utility may claim cannot exceed the greater of \$250,000 or 1.5% of the utility's 2014 calendar year taxable power sales. The incentive amount paid by a utility on behalf of the State may be proportionally reduced, or eliminated altogether if requests for incentive payments exceed the tax credit cap available to that utility. Without a change in the State law, incentive payments to all solar customers within OPALCO territory could be reduced or eliminated for the duration of the Project. Since reaching the cap is market driven and difficult to predict, it is not possible to estimate the amount of reduction, if any, for Participants in the Project.
- 6.4 The Washington Administrative Code (WAC 458-20-273) establishes the rules for both the Community Solar and Customer Renewable Energy Generation incentives. The WAC states that there is an “**applicant limit.**” No individual, household, business, or local governmental entity is eligible for incentive payments of more than five thousand dollars (\$5,000) per year. If two or more individuals are living together in one household with one customer account with the light and power business, these individuals are in one household and though they may each individually participate in this Project these same individuals living together in one household will only be eligible to receive one five thousand dollar (\$5,000) “applicant limit.”
- 6.5 The annual amount of energy produced by the Project is determined each year on June 30<sup>th</sup>. The Utility will read the meter(s) at the Project to determine the amount of power production (during the period of July 1<sup>st</sup> to June 30<sup>th</sup>).

**Section 7. Permissible Transfer of Solar Unit(s) Upon Termination of Participation**

Except as provided in this Section 7, and except as such amount is paid by check as described in Section 5, the Annual Incentive Payment described in Section 5 and Section 6 and all other benefits associated with Participant’s Solar Unit(s) shall be applied throughout the Term to the Participant’s electric account at the OPALCO account number and Service Address specified on the Application.

- 7.1 If Participant terminates the OPALCO Account to which Community Solar benefits have been assigned, for any reason, all prospective rights and benefits associated with Participant’s Solar Units shall revert to OPALCO, without payment by OPALCO, unless Participant notifies OPALCO within sixty (60) days of such termination with a request to transfer the Solar Units to:
  - 7.1.1 The same Participant at a new OPALCO Account; OR
  - 7.1.2 To a successor Participant with a distinct OPALCO Account that meets eligibility requirements specified in Section 2, and a fully executed Participant Application and Agreement. The successor Participant will receive all prospective rights and benefits associated with the assigned Solar Unit(s), including the Annual Incentive Payment payable following the date of termination.
- 7.2 Except as provided in section 7.1.1, if successor Participant terminates his/her OPALCO Account subsequent to any transfer made pursuant to Section 7.1.2, the Solar Unit(s) will be retained by OPALCO or reassigned to OPALCO’s Energy Assist program, at the sole discretion of OPALCO, with no refund or other payment made to either the original Participant or the successor Participant.

**Section 8. Other Transfer or Pledge of Solar Unit(s)**

Participant may NOT pledge the Solar Unit(s) as security for any loan. Participant may not assign, gift, bequeath or otherwise transfer any Solar Unit(s) to any other individual or entity while the existing Participant’s account is active. A non-member, or current member in good standing (no arrears balance) may purchase a Solar Unit in order to benefit a different member, who would then become a Participant in the program.

**Section 9. Ownership of Environmental Attributes**

- 9.1 OPALCO retains ownership of environmental attributes of any kind, including renewable energy credits that may be associated with the Participant’s Solar Unit(s), except as specified through separate agreements.
- 9.2 In addition to the limitation set forth in section 8, above, Participant may not certify or transfer any environmental attributes generated by the Community Solar Project.

**Section 10. Disclaimer of Warranties**

Participant acknowledges that, except to the extent specifically stated herein, OPALCO has NOT made any representation, warranty or promise with respect to any aspect of the performance, condition, value, risks or likelihood of success of the Project, Program or the Solar Unit(s) for which the Participant has applied herein. PARTICIPANT ACKNOWLEDGES AND AGREES THAT THE SOLAR UNIT(S) ENROLLED IN BY THE PARTICIPANT ARE MADE AVAILABLE AS IS, WHERE IS, AND WITHOUT WARRANTY OF ANY KIND. ANY WARRANTIES, EXPRESS OR IMPLIED, ARISING BY OPERATION OF LAW OR OTHERWISE ARE HEREBY DISCLAIMED, INCLUDING WITHOUT LIMITATION ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR ANY PARTICULAR PURPOSE OR OTHERWISE.

#### **Section 11. No Effect on Electric Rates and Tariffs**

Nothing in this Agreement shall be deemed to alter or modify any rate, charge or condition of service (including any policies, fees, charges or assessments) established from time to time by OPALCO for electric service. All such rates and charges shall remain subject to change at any time. Participant acknowledges and agrees that the Electric Bill to which the Annual Incentive Payment is associated with the Participant's Solar Unit(s), shall reflect those rates and charges established or changed from time to time by OPALCO. Participation in the Program shall not give Participant any increased or augmented right to contest or otherwise affect the determination of any rates or charges by OPALCO for electric services.

#### **Section 12. Ownership of the Project**

OPALCO will have sole ownership, possession and control of the Project, and will have the exclusive right and discretion to maintain and operate such Project. Participation in the Project does not and shall not be construed to convey any right, title or interest in or to any portion of any property (tangible or intangible, real or personal) underlying or comprising any portion of the Project or its associated equipment or improvements, or any equipment of OPALCO.

#### **Section 13. Access to Solar Equipment at the Project**

Participant will not have access to the solar electricity generating, interconnection, metering, data acquisition or other related solar equipment at the Project for any purpose, unless otherwise agreed to in writing in advance by OPALCO. Such access may be withheld or granted in OPALCO's sole discretion.

#### **Section 14. No Refund of Participation Fee**

OPALCO shall have no obligation to refund all or any portion of the Participation Fee at any time or for any reason.

#### **Section 15. Notice**

Except for OPALCO confirmation of participation to Participants by email, all notices, requests, consents, and other communications under this Agreement will be in writing to the current mailing address for OPALCO set forth above and the Participant's Service Address, or other mailing address designated by the member and documented in OPALCO's Customer Information System (CIS).

#### **Section 16. Binding Effect**

This Agreement shall bind and inure to the benefit of the Participant and OPALCO and their permitted successors and assigns.

#### **Section 17. No Third Party Beneficiaries**

This Agreement is intended solely for the benefit of the Participant and OPALCO. Nothing in this Agreement shall be construed to create any duty to, or standard of care with reference to, or any liability to, any person or business entity not a party to this Agreement.

#### **Section 18. No Waiver**

Neither the Participant's, nor OPALCO's failure to enforce any right or obligation with respect to any matter arising in connection with this Agreement shall constitute a waiver as to that matter or any other matter. If a party at any time waives its rights with respect to a default under this Agreement or any other matters arising in connection with this Agreement, the waiver shall not be effective unless it is set forth in a written notice signed by the waiving party. A waiver with respect to one default or matter shall not be a waiver of any other default or matter.

#### **Section 19. Governing Law/Jurisdiction/Venue**

This Agreement shall be deemed to have been made in, and shall be construed under, the internal laws of the State of Washington, without regard to the principles of conflicts of laws thereof. The parties acknowledge and agree that a court of competent jurisdiction located in San Juan County, Washington shall have exclusive jurisdiction in any action or

proceeding arising under or relating to this Agreement.

**Section 20. Entire Agreement**

This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all previous proposals, both oral and written, negotiations, representations, commitments, writings and all other communications between the parties. This Agreement may not be released, discharged, or modified except by an instrument in writing signed by a duly authorized representative of each of the parties.