

# CLEAN ENERGY CHOICE AND THIRD PARTY FINANCING



## FREQUENTLY ASKED QUESTIONS

Many Wisconsin residents, businesses, governments, and schools lack clean energy choices due to the high upfront costs associated with the installation of renewable energy projects. Paying for solar, biogas, and wind projects can be challenging without access to third party financing.

Decades of Wisconsin case law and statutes allow for third party financing, because the third party owner is not acting as a 'public utility' in any sense. However, over the past several years, some utilities have challenged solar installations with third party financing structures and the Public Service Commission of Wisconsin has not expressly acknowledged what the law clearly provides. As a result, Wisconsinites lack broad access to third party financing to more effectively meet their clean energy goals, create jobs, and help manage energy bills while improving the resiliency of the electricity grid. Legal affirmation for third party financing is essential for Wisconsin's clean energy future.

### **WHAT IS THIRD PARTY FINANCING?**

Third party financing, also called third party ownership or TPO, allows low to middle-income homeowners, churches, schools, government agencies, nonprofits, and commercial sites to 'go solar' with little to no upfront costs. A third party owns and maintains a solar system and the home or building owner uses the electricity generated onsite. The third party provides access to necessary capital that would not otherwise be available.

This financing tool allows Wisconsinites to exercise their property rights and preferences for renewable energy at no extra cost to ratepayers and taxpayers. Typically, third party financing takes the form of a power purchase agreement (PPA) or a lease. With a PPA, the customer pays for the electricity that the system generates at an agreed upon rate. With a lease, the customer pays a fixed fee each month regardless of electricity generation.

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### WHY IS THIRD PARTY FINANCING IMPORTANT?

Third party financing eliminates the large upfront payments that can sometimes prevent low and middle-income families, businesses, or government from going solar. It also provides an avenue for nonprofit organizations such as churches and schools to go solar. Because of their tax status, these entities cannot make use of tax credits and depreciation that make solar cost effective. Without third party financing options, the effective cost of solar for these entities becomes substantially higher, and clean energy remains out of their reach.<sup>1</sup>

### WILL THIRD PARTY FINANCING HELP MEET ENVIRONMENTAL JUSTICE GOALS?

Yes! Wisconsin Black, Indigenous, and People of Color (BIPOC) households make on average \$20,000 less per year in household income than white households. Lower average incomes reduce the likelihood of being able to afford the upfront costs of a solar system. Third party financing reduces barriers for BIPOC families, businesses, and community organizations to install rooftop solar.

### DOES THIRD PARTY OWNERSHIP ALTER THE RELATIONSHIP BETWEEN UTILITIES AND THEIR CUSTOMERS?

No. Third party financing does not change the basic relationship between the host customer and the local electric provider. The customer remains on the system and still pays monthly customer charges as well as the appropriate rates and fees for electricity drawn from the grid. Surplus generation not used by the host customer is acquired by the electric provider under the same approved tariff that applies to other customer-generators in that rate class. Only the electric provider can legally sell the surplus generation to its other customers; the host customer cannot.

Wisconsin statutes and decades of case law dictate that third party ownership is legal because the third party solar provider is not acting as a 'public utility' or encroaching on the monopoly of utilities.

### IS THIRD PARTY FINANCING ALLOWED IN OTHER STATES?

Yes! Third party financing has been critical to the growth of the solar industry and solar jobs in other

states. Nationwide, in 2017, 57% of all non-residential solar capacity installed was owned by a third party, and in New Jersey, 83% of the residential solar systems installed over the last four years are third party owned. In the Midwest, Illinois, Iowa, and Michigan have PPAs that are either authorized by the state or currently in use.<sup>2</sup>

Twenty-eight states and Washington DC have adopted proactive policy creating clarity that third party financing is allowed to help increase access to solar. In 28 states, power purchase agreements (PPAs) are expressly allowed. In five states, PPAs are not allowed, but no state prohibits or restricts leases. In the remaining states, the legal status remains unclear, or is evaluated on case-by-case basis.<sup>3,4</sup>

Analysis performed by the Institute for Local Self-Reliance found that "every state in the top 10 in rooftop and small-scale solar still allows for third party ownership." Conversely "states that don't allow for third party ownership lag behind in distributed solar deployment."<sup>5</sup>

### WILL THIRD PARTY FINANCING HELP MORE WISCONSINITES SHIFT TO CLEAN ENERGY?

Third party financing allows customers to save money and eliminate upfront costs of renewable energy projects. This financing tool blazes a path forward for customers to install renewable energy, allowing them to control and manage their electricity costs. Third party financing has been a primary driver of expanded access to rooftop solar across the country and has brought substantial economic development correlated with that expansion.

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1 Collins, Speer, & Cory. Solar PV Project Financing: Regulatory and Legislative Challenges for Third-Party PPA System. Owners National Renewable Energy Laboratory. Technical Report. NREL/TP-6A2-46723 Revised February 2010.

2 3rd Party Solar PV Power Purchase Agreement (PPA). DSIREinsight. NC Clean Energy Technology Center. ncsolarcen-prod.s3.amazonaws.com/wp-content/uploads/2019/07/DSIRE\_3rd-Party-PPA\_June\_2019.pdf

3 Ibid.

4 Using Power Purchase Agreements for Solar Deployment at Universities. National Renewable Energy Laboratory. [www.nrel.gov/docs/gen/fy16/65567.pdf](http://www.nrel.gov/docs/gen/fy16/65567.pdf)

5 Donahue. States Agree: Third-Party Ownership Enables Distributed Solar, But What's Next? Institute for Local Self-Reliance. 23 Mar 2018. [ilsr.org/states-agree-third-party-ownership-enables-distributed-solar-but-whats-next/](http://ilsr.org/states-agree-third-party-ownership-enables-distributed-solar-but-whats-next/)