

To: Eileen McHugh, Massachusetts Department of Energy Resources  
From: Danielle Poulin and Dave Beavers  
Subject: EMS Regulations Comments  
Date: September 24, 2014

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Thank you for the opportunity to comment on the draft Energy Management Services regulations for MGL Chapter 25A Section 11I (225 CMR 19.00). Cadmus provides clean energy Owner's Agent Technical Services to Massachusetts municipalities. To avoid confusion while serving our clients, we seek clarification on the points below.

### **19.01 APPLICATION AND AUTHORITY**

- Does a contract to purchase net metering credits (net metering credit purchase agreement), i.e. in which the selected vendor serves as the net metering Host Customer and sells the net metering credits derived from the generation to a public entity, constitute an EMS for purposes of this regulation?

### **19.02 DEFINITIONS**

- Definition of "On-site Energy Generation":
  - Does "structure" include undeveloped property, brownfields, or landfill sites where there are no buildings?
  - Do generating facilities outside the jurisdiction of the Local Governmental Body (e.g., in a neighboring Town), for which a net metering credit purchase is proposed, meet the definition of "On-Site Energy Generation"?
- Definition of "Local Governmental Body":
  - Does a Regional Planning Agency fit within the definition?

### **19.04 INVESTMENT GRADE AUDIT AGREEMENT**

- Is Section 19.04 (Investment Grade Audit Agreement) a requirement for 19:03 (2) On-site generation? Investment Grade Audit is a term of art for energy efficiency services, but not typically used in the energy generation context.
- (a) This section requires "mark-ups, overhead, and profit." What information can be treated as business sensitive and confidential?

### **19.06 CONTRACT TERMS**

- (4) The Fixed Guaranteed Maximum Cost. If the price to be paid for on-site energy generation is indexed to the grid electrical rate a facility pays, what would this cost be?
- (5) Is the Established Baseline for On-site Energy Generation equal to zero ('0') as the generation did not exist prior to the installation?

- (6) What is the reasoning for the “annual” shortfall requirement, as opposed to a multi-year arrangement? Can the guarantee for on-site generation be indexed to weather conditions during the year?

#### **19.07 CONTRACT AMENDMENTS**

- “An EMS contract may be amended if it does not exceed the scope of the RFQ...” In a case where a vendor finds that a building is not suited for on-site generation, but identifies another building or property as a substitute, would this change exceed the scope of the RFQ? Or rather, for example, if the RFQ calls for 5 MW of solar to be installed on a municipality’s property, and the vendor, after performing an engineering study, proposes no more than 5 MW of solar, does this fall within the RFQ regardless of the buildings or sites where the solar is to be installed?.