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Friday, March 22, 2013

Mr. Michael Judge
Massachusetts Department of Energy Resources (DOER)
100 Cambridge Street, Suite 1020
Boston, MA 02114

Dear Mr. Judge,

The proposed modifications to CMR 14.06(3)(b) eliminate the explicit favorable treatment of small Solar Carve-Out Generation Units (under IMW DC) by requiring them to obtain an Interconnection Services Agreement as well as all local entitlements prior to receipt of an Assurance of Qualification under 25 CMR 14.05(4)(l).

(b) The Statement of Qualification shall include any applicable restrictions and conditions that the Department deems necessary to ensure compliance by a particular Generation Unit or Aggregation with the provisions of 225 CMR 14.00. For any individual Solar Carve-Out Renewable Generation Unit, ~~greater than 1 MW~~, a Statement of Qualification shall ~~not be granted unless all applicable state~~ 1) only to projects that have been provided an Assurance of Qualification under 225 CMR 14.05(4)(l), and 2) only after the Department has received evidence from the applicant that the local permits distribution company has granted the approval to interconnect, or at the applicant's request, when all provisions of 225 CMR 14.05(4)(m) have been ~~obtained~~ satisfied, if earlier.

We request that this section be modified to explicitly reinstate the exemption for small systems (under IMW) currently in place. While the provisions of 225 CMR 14.05 (4)(l) provide for accommodation for smaller Solar Carve-Out Generation Units, it does not provide clear guidelines for the process or specific thresholds.

(l) The Department shall provide a Guideline outlining the process for providing Assurance of Qualification or queuing position to Solar Carve-Out Renewable Generation Units as outlined in 225 CMR 14.04(4)(m). The Guideline will consider accommodations for small generation units and provide a queuing system for units awaiting an Assurance of Qualification.

One of the great successes of the Massachusetts Solar Carve-out Program has been the broad rate adoption both in terms of generation unit size and customer type. Continued accommodation for small

generators ensures among other things a well-distributed level of participation and also prevents excessive accumulation of Solar Carve-Out Generation Units among large generators and a small group of institutional investors.

As of March 2013, there are 4,963 Solar Carve-Out Generation Units with SQs representing over 215MW DC of capacity. Of those, 743 of those systems fall into the category most likely affected by this change (Solar Carve Out Generation Units between 10kW DC and 1MW DC) and account for 83 MW DC of the total. We believe the installation data to date shows a vibrant market for small non-residential Solar Carve-Out Generation Units that could be negatively affected by the proposed changes.

Smaller projects face less interconnection risk and are subject to less development risk overall than larger projects. This is particularly true of behind the meter and rooftop, project and projects below 500kW. However, smaller projects are subject to higher per watt pre-development costs, and therefore face higher burdens and more significant risks of engaging in the SREC SQ reservation process, making the need for special accommodations for smaller non-residential generation units clear.

Presuming that the requirements established by the DOER are to ensure the viability of projects before issuing Statement of Qualifications, the DOER can establish the viability of projects by other means such as requiring reports from developers on siting, interconnection and other entitlements.

An alternative standard could be set for 1MW DC projects that requires applicant to have initiated the acquisition of all required permits and approvals, and to determine them all feasible. The DOER could also require the payment of an application fee or posting of a bond by developers. A review by an independent third party could be required standard or at the DOER's request.

For projects of this nature, and for all projects receiving a Statement of Qualifications in general, we recommend that DOER establish an under-construction milestone; if a project is not under construction by that milestone, then the Statement of Qualifications would lapse. The milestone would be 12 months for sub 1MW DC and 18 months for larger projects. The milestone and fee/bond would add certainty and accountability to the process, ensuring that Statements of Qualification are offered to viable projects being developed by committed developers.

Lastly, we would request that DOER issue draft guidance for public comment before issuing final guidance in this process.

Sincerely,



Eric S. Graber-Lopez
Partner
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