

VIA ELECTRONIC MAIL

March 25, 2013

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

Re: DOER Proposal to Modify RPS Class I Regulations

Dear Mr. Judge,

Thank you for the opportunity to comment on the Department of Energy Resources' (DOER) proposed revisions to the regulations governing DOER's RPS Solar Carve-Out Program. Northeast Utilities (NU) offers the following comments and looks forward to continuing to participate in the ongoing rulemaking process:

1. Alterations to the Solar Carve-Out Minimum Standard

a. Proposed Sections 14.07(2)(a)(1) and 14.07(2)(d)

A key change proposed by DOER is to modify the formula used to calculate the Solar Carve-Out compliance obligation. The method for calculation of the compliance obligation is proposed to be revised by eliminating the subtraction of Solar Carve-Out Alternative Compliance Credits used for the Compliance Year two years prior. The change will apply to Compliance Year 2013 and will require DOER to recalculate the compliance obligation and Minimum Standard as announced by DOER on August 29, 2012 (Minimum Standard of 0.2744%; compliance obligation of 135,495 MWh under 2011 load assumptions). With the proposed new formula, the Minimum Standard is projected to be increased from 0.2744% to 0.3833%. NU interpreted the purpose of including Alternative Compliance Credits used for the Compliance Year two years prior in the original formula was to reduce and mitigate costs to ratepayers by assuring that the Minimum Standard would not increase when supply shortages existed and prices were high. The proposed revision of the formula eliminates that valuable ratepayer protection and increases the risk of a return to high SREC prices that far exceed reasonable revenue requirements of solar installations.

b. Proposed Sections 14.07(2)(a)(2) and (3)

DOER proposes that the Compliance Year 2013 Solar Carve-Out Minimum Standard "applied to competitive Retail Electric Suppliers shall remain at 0.163% for that portion of electrical energy sales that were subject to a contract executed or extended prior to August 30, 2012" (Section 14.07(2)(a)(2) (proposed)). DOER also proposes that it be authorized to use Alternative Compliance Payment (ACP) funds to purchase SRECs that "competitive Retail Electric Suppliers" would have otherwise been required to purchase were it not for the reduction of the compliance obligation attributable to the reduced Solar Carve-Out Minimum Standard resulting from the exempt energy sales under the pre-existing contracts mentioned above (Section 14.07(2)(a)(3) (proposed)). Further, DOER proposes that it either retire the purchased SRECs or sell them for compliance settlement only as Class I RECs (*id.*).

NU has three primary comments on these proposed provisions. First, NU recommends striking the word "competitive" before "Retail Electric Supplier" in the first sentence of the proposed section of the regulation. The term "Retail Electric Supplier" is a defined and well understood term in the regulations and includes electric distribution companies supplying basic service to customers. The regulations contain no definition of a "competitive Retail Electric Supplier." As written, it is not clear that the proposed regulation would provide a reasonable exemption, for example, to the suppliers providing Basic Service supply requirements for Western

Massachusetts Electric Company (WMECO). A number of these suppliers entered into fixed-price supply contracts to serve a portion of 2013 Basic Service retail load, including the associated RPS obligations, prior to August 30, 2012.<sup>1</sup> Implementing regulations that do not recognize the contractual commitments of these suppliers may increase the perceived regulatory risk of serving Basic Service customers in the Commonwealth and prompt suppliers to increase rates in the future to compensate for this higher risk. To eliminate the adverse impacts resulting from the ambiguous application of any exemption, NU recommends striking the word "competitive" such that Section 14.07(2)(a)(2) applies to all Retail Electric Suppliers.

Second, NU believes that the regulations as proposed contain an apparent typographical error. The proposed regulation states that the minimum standard applied to exempted load "shall remain at 0.1630%" for Compliance Year 2013. 0.1630%, however, is the minimum standard for Compliance Year 2012. The announced Minimum Standard for 2013 is 0.2744% and, accordingly, NU believes that the minimum standard referenced in the regulation for exempted load for Compliance Year 2013 was intended to be 0.2744%. Thus, NU recommends making this correction in the final regulations.

Third, NU suggests that using ACP proceeds to buy SRECs from existing facilities is inconsistent with the requirement contained in the existing regulations that ACP funds should be used "to further the commercial development of" RPS Class 1 and Solar Carve-Out generating units. See 225 C.M.R. 14.08(3)(c). Purchasing SRECs from existing generation units directs funds into resources that have already been built and, therefore, does not directly encourage the further development of additional resources. The primary impact of DOER's purchase of SRECs would be to increase SREC prices and, in turn, costs to customers. NU believes that ACP funds would be better used to support development of new resources that directly contribute to the achievement of the Commonwealth's renewable energy goals.

## 2. Codification of the ACP Rate through 2022 and beyond:

DOER proposes to revise its regulations to codify the ACP Rate for the Solar Carve-Out Minimum Standard through 2022 and beyond. See 225 C.M.R. 14.08(3)(b)(2) (proposed). NU submits that the original regulation, which provided DOER with some flexibility from year to year to modify the ACP Rate as conditions warrant, enabled the ACP to be flexible so that customers would not be unnecessarily burdened with high costs as the costs of solar development declined over time. NU believes that the proposed ACP Rate schedule is set well above prices required to support solar development and may lead to solar developers enjoying windfall profits at the expense of ratepayers. Once the 400 MW goal for solar generation units is achieved, the regulation (as currently in effect and as proposed) is structured to keep supply and demand for SRECs nearly perfectly matched. See, e.g., 225 C.M.R. §§ 14.07(2)(e)-(g) (existing and proposed). In NU's experience, REC prices in other classes have been shown to quickly rise to ACP levels when supplies are tight. Furthermore, the regulations could explicitly induce SREC shortages in the event that DOER overestimates production, in which case prices will almost certainly reach near the ACP Rate. Combining unnecessarily high ACP prices with a regulation that ensures tight supply and demand could result in significant increased compliance costs to customers. NU recommends striking the ACP schedule from the proposed regulation and maintaining the flexibility to reduce ACP rates to protect ratepayers from unnecessarily high costs.

## 3. Providing Assurance of Qualification or Queuing Position to Solar Carve-out Renewable Generating Units

DOER proposes to add a process for providing a queuing position to solar carve-out renewable generating units as the 400 MW solar-carve out limit is approaching, in Section 14.05(4)(m). As proposed, DOER is planning to present the queuing process as guidance, and not regulation. While NU understands that this is intended to expedite the process, NU is concerned that there will not be an opportunity to formally comment on this queuing process when conducted through guidance. NU recommends that DOER include in the regulation the basic tenets for the queuing process that DOER will use in the development of the queuing process guidelines.

Of particular concern to NU is that the proposed queuing process does not address when and how often the queuing process will be used, and does not include a maximum MW limit for solar-carve out projects that will enter the queue. While NU understands the intent of the queue is to provide assurance to solar developers that solar-carve out projects will be eligible for qualification, the lack of a timeline or maximum installed capacity standards for projects that may qualify for the queue may result in an unprecedented build-out of solar in Massachusetts from this point, until the DOER's queuing guidance is issued.

At a minimum, NU recommends that DOER confirm in the regulations that the queuing process will only be used one time, and will not be extended after the 400 MW target is met, except in the limited case where the solar-carve out program is extended under an additional statutory authority or regulatory change. In addition, DOER should consider adding a requirement to Section 14.04(m) that a key milestone be met, such as requiring construction to have begun on the solar-carve out project by a date certain selected by DOER, to avoid the undesired result of these revisions causing a build-out well beyond the 400 MW solar-carve out program.

We urge that the rulemaking process include the above considerations that NU believes will support solar development and help mitigate customer costs. The Company looks forward to continuing to participate in the rulemaking process.

Sincerely,



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Manager, Power Planning and Supply

and



Christie Bradway

Manager, Renewable Power Contracts

