ASSOCIATED INDUSTRIES OF MASSACHUSETTS

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By email to: climate.strategies@mass.gov

November 12, 2019

Jordan Garfinkle
MassDEP
One Winter Street
Boston, MA 02108

RE: Comments of Associated Industries of Massachusetts (AIM) to proposed amendments to 310 CMR 7.75 Clean Energy Standard

Dear Mr. Garfinkle:

Associated Industries of Massachusetts (AIM) is pleased to provide the following comments to the above-mentioned proposed regulations.

AIM is the largest general trade association in Massachusetts. AIM's mission is to promote the prosperity of the Commonwealth of Massachusetts by improving the economic climate, proactively advocating fair and equitable public policy, and providing relevant, reliable information and excellent services.

AIM has followed the development of the Clean Energy Standard (CES) from its initial proposal and submitted several sets of comments throughout the regulatory process. We have supported all recent renewable energy and clean energy proposals that would comply with the current CES, including procurements related to offshore wind and additional hydropower from Quebec through Maine (New England Clean Energy Connect - NECEC). We have also supported changes to the Commonwealth's SMART solar program. All these projects will result in new renewable and clean energy sources being built.

The proposed amendments, in addition to increasing the CES from 20% to 22% beginning in 2020, would create a CES-E requirement for retail electricity sellers to purchase electricity from certain pre-2011 (existing) clean energy generators beginning in 2020. These proposals resulted from comments received during earlier comment periods.

Comments on the proposed changes are due by November 12, 2019.

The increase in the Clean Energy Standard from 20-22% in 2020 will lead to higher prices and will not help the Commonwealth achieve greenhouse gas reduction goals

While the increase in the CES may seem justified to comply with the Global Warming Solutions Act (GWSA), it is not without cost. Since any increase in the CES will be met only by RPS Class I eligible sources at this time, DEP must consider two issues; the current prices of Class I RECs and costs of the Alternative Compliance Payments (ACPs). These will determine the compliance cost of these proposed amendments.

Class I REC prices were trading in the 20-dollar range for most of 2019. Recently, however, they have begun to trade near the 40-dollar range – and that doubling of prices was before this proposal. Clearly, after year of surpluses in the Class I REC market, RECs are entering a period of shortages that are unlikely to correct themselves soon - until around 2023 when the first offshore wind comes on board.

High prices for RECs should be an important consideration because increases in the CES will not lead to more renewable energy in the time frame specified. Since the increase is only for 2020, only renewables already scheduled to be built by 2020 will be built – the CES increase will not hasten the development of any new sources, the entire point of the CES.

Of course, if RECs are not available, even at higher prices, ratepayer costs will increase due to Alternative Compliance Payments (ACP). However, paying an ACP does not mean more clean energy is being procured – it means that the ratepayer is paying a penalty for something they have little control over – lack of large-scale renewables and clean energy.

According to AIM's energy calculator, Massachusetts mandated programs, including the various RPS programs, account for nearly 20% of a customer's bill. The increase in the CES will not get us any faster to the goal of 80% reductions in greenhouse gases – it will just increase costs.

Accounting for the historical contribution of clean energy sources will help the Commonwealth achieve greenhouse gas reduction goals

In contrast to arbitrarily raising the CES, accounting for the historical contribution of clean energy sources will help the Commonwealth meet its greenhouse gas reduction goals. AIM has long supported this concept.

As proposed, a new CES-E will add an additional standard of 15% of 2018 electricity sales by requiring retail electricity sellers to annually purchase certificates from existing clean generation units – primarily pre-2011 nuclear and large hydroelectric generating units in exporting jurisdictions. The hydroelectric units would be required to have nameplate capacity of more than 30 MW. The proposal would also add an ACP in order to meeting compliance obligations if there is a shortage of CES-E sources.

In general, AIM supports the CES-E as proposed. The CES-E will maximize the use of existing clean energy resources and help us meet our clean energy goals. Should this proposal be adopted, Massachusetts will be virtually carbon free in the electricity generation sector by 2050.

However, we urge DEP to reconsider the decision to make the CES-E a separate compliance entity. Rather, we suggest that DEP consider raising the existing CES an amount necessary to account for clean existing generation units.

Currently there are at least 7 classifications that an energy supplier (and customer) must comply with to be compliant with Massachusetts electricity supply laws and regulations, each with its own minimum purchase requirements and ACPs. The CES-E would add an eight.
Each one of these categories is treated differently (with costs varying significantly across categories), yet in the end virtually all contribute carbon free and efficient power to Massachusetts ratepayers.

This is confusing. By its very nature the CES-E amount is limited to those sources and criteria established by DEP. No new sources will be added once this rulemaking is finished.

At the end of the day, the goal should be to reduce carbon and frankly it is irrelevant whether the sources are existing or new. That is why we believe that it is not necessary to create a new CES-E category as it will add another definition (and requirement) to an already complicated list of state-only definitions surrounding renewable and clean power. Adding existing generation units to the current CES and raising the CES would also avoid trying to decipher historical data related to these sources. It would also avoid the issue presented if one CES-E source becomes unable to meet its obligation temporarily or permanently and avoid the issue of a separate ACP. With Massachusetts committed to virtually 100% zero carbon power, eventually the RECs and CESs become meaningless and just accounting gimmicks, since every source is eligible under some standard.

In the end, Massachusetts can only get to 100% clean energy and recognizing the importance of existing generation units will get us there. At that time the job is done. There are perfectly good clean energy sources available, the Commonwealth needs to recognize them for the cost-effective benefits they provide.

Thank you for allowing us to make these comments and we look forward to working with your office in any way possible on this and other issues.

Should you have any questions please do not hesitate to contact me.

Sincerely yours,

Robert A. Rio, Esq.
Senior Vice President and Counsel
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Brookfield

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RESPONSE OF BROOKFIELD RENEWABLE TO THE REQUEST FOR WRITTEN COMMENTS ON PROPOSED AMENDMENTS TO THE CLEAN ENERGY STANDARD

Brookfield Renewable appreciates the work of the Department of Environmental Protection ("DEP") in reviewing the Clean Energy Standard ("CES") and options for expanding the CES to include the retention of clean energy attributes from existing resources. We are pleased to continue our engagement on these issues through submittal of these comments.

Brookfield Renewable's investment in the region includes over 1,300MW of carbon-free resources in ISO-NE, as well as1,000MW that can be imported to New England from New York and Quebec. Our renewable hydro, wind and pumped storage resources are available to help meet the energy needs and environmental objectives of Massachusetts and the region. In Massachusetts, our facilities include a 600MW pumped storage facility (Bear Swamp) and a 10MW hydroelectric facility (Fife Brook), as well as our North American System Control Center in Marlborough. Brookfield Renewable is also affiliated with TerraForm Power, Inc., which owns and operates approximately 217MW of wind and 135MW of distributed solar resources in New England.

I. 2020 Clean Energy Standard

Brookfield Renewable supports Massachusetts' efforts to reduce greenhouse gas emissions and to promote clean electricity sources. As before, we continue to support an increase to the stringency of the CES program to meet near and long-term requirements of the Global Warming Solutions Act. The DEP's proposed increase of the CES standard from 20% to 22% in 2020 is therefore appropriate for securing near-term greenhouse gas reductions. In the future, however, the CES program would benefit from more aggressive reductions in earlier years than currently established. This enhancement would help set Massachusetts on a planning pathway that capitalizes on known opportunities and reveals potential challenges that may require longer lead times to address than is currently understood. In addition, establishing more robust near-term

targets provides options for offsetting limitations to near-term reductions in slower-reacting sectors such as transportation.

II. Establishing a CES-E

Brookfield Renewable believes the most appropriate design to maximize program goals and to support cost-effective outcomes is through the implementation of a "global CES" which establishes eligibility based upon a generating unit's non-emitting attributes rather than the resource's vintage or assumed historic contribution to the State's energy mix. In the absence of this approach, however, we support the establishment of a CES-E with the explicit goal of supporting the retention of existing clean energy resources. This is an important step toward implementing a broader, more comprehensive CES framework, and a possible first step toward developing regional market-based mechanisms to drive carbon reductions in the electricity sector, such as a meaningful price on carbon in wholesale electricity markets.

With regards to the structural components of the CES-E, Brookfield Renewable urges the DEP to establish compliance requirements greater than the currently-proposed figure of 15% of annual electricity sales, which the DEP itself has previously described as "conservative". By the DEP's own admission, an increase is appropriate to more accurately reflect historic clean energy baseline. Failure to capture clean energy output equal to the totality of the historic baseline (or greater) would also greatly underutilize the CES-E and the role of existing resources in meeting Massachusetts' carbon reduction goals — low hanging fruit in the carbon reduction policy landscape.

Brookfield Renewable also suggests specific changes and clarifications to the proposed CES-E eligibility requirements. We have previously discussed at length our position on the DEP's exclusion of much of the region's small-scale hydropower and we will not revisit it at this time. Therefore, we are limiting our input to ways to maximize participation of hydropower resources that meet the thresholds as proposed by the DEP.[1] Specifically, for hydropower resources that

[1] The DEP proposes eligibility of hydropower resources that meet the following requirements: 1) has a commercial operation date prior to January 1, 2011, 2) is sized 30 MW or greater, 3) is located in a net exporting jurisdiction (described as New Hampshire or Quebec) and 4) has not previously participated in clean energy crediting programs, as documented in the New England Power Pool Generation Information System (NEPOOL GIS) tracking system since 2010.

meet all sizing, vintage and geographic requirements proposed by the DEP, simply participating in a clean energy crediting program as documented by NEPOOL GIS should not in itself disqualify the *entirety* of the resource. For example, if a hydropower resource meeting all other eligibility thresholds has previously participated in a clean energy crediting program with 50% of its annual output, eligibility should be maintained for the remaining 50% of output as this does not trigger resource shuffling concerns. Similarly, if an otherwise qualified hydropower resource sold 75% of its annual output for compliance toward a clean energy crediting program, the remaining 25% should remain CES-E eligible. Based on a review of the proposed regulation amendments, Brookfield Renewable believes the language proposed under 3.10 CMR 7.75 (7)(c)2 intends to address this scenario. However, to the extent the current language does not enable CES-E eligibility of all annual output above historic annual participation in a state RPS, we recommend clarifying language to allow for this. In addition, to reinforce the veracity of a claim the DEP could validate eligible output by requiring that a resource present NEPOOL GIS data for the previous 5 years and utilize the data to establish an annual eligibility restriction for the resource (in MWh). The annual output not counted as CES-E eligible would be a MWh amount equal to the highest annual clean energy program participation from the prior 5 years. In each year moving forward, any generation above this annual limitation could be transacted as CES-E eligible. Given the experience with varying Renewable Portfolio Standards and layers of eligibility, the NEPOOL GIS system should be able to accommodate this additional complexity.

III. Other CES-E Design Elements

The DEP proposes a limitation on CES-E participation from any single generator. Brookfield Renewable supports this concept. However, we are concerned that an amount as high as 2.5 million MWh per year (1/3 of the proposed CES-E obligation) would limit a diverse clean energy resource mix and sufficiently competitive outcomes, and we instead recommend the single generation facility participation limit be reduced to a value not to exceed 20% of the CES-E obligation to accommodate these factors.

The DEP also proposes to continue to exempt municipally-owned entities from the CES as well as the CES-E obligations moving forward. While we understand the reasons for the DEP's position on this matter, Brookfield Renewable believes the mandates of the Global Warming

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Solutions Act will necessitate broader application of clean energy and carbon reduction requirements over time. Therefore, we recommend that the DEP – in recognition of the municipally-owned entities' sensitives surrounding historic energy supply and financial considerations that are unique from other load serving entities – continue to coordinate closely with previously unaffected entities to encourage adoption of a future approach that promotes achievement of long-term State policy while at the same time not unduly burdening these entities in the near term.

IV. Conclusion

Brookfield Renewable appreciates the opportunity to comment on the evolution of the Clean Energy Standard and efforts to incentivize retention of existing clean energy resources. We look forward to continuing our participation on these matters as part of the required 2021 program review, which we are optimistic will seek to establish more robust goals and more comprehensive and non-discriminatory treatment of existing clean energy resources – including the region's existing small-scale hydropower – than what is currently under consideration.

Respectfully submitted,

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November 12, 2019

Bay State Hydropower Association

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November 12, 2019

Massachusetts Dept. of Environmental Protection
ATTN: Jordan Garfinkle
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Via Email: climate.strategies@mass.gov

Re: Comments of the Bay State Hydropower Association: Department of Environmental Protection Proposed Clean Energy Standard Rulemaking

Dear Mr. Garfinkle:

On behalf of the Bay State Hydropower Association ("BSHA" or the "Association") and its members, I want to thank the Department for the opportunity to submit written comments today in the rulemaking to amend the Clean Energy Standard rules, and in particular to create a CES-E category.

The Association was established in 2007 to sustain and advance the use of hydropower, an indigenous and clean energy source, in Massachusetts and the region, that positively affects the environment and supports the Commonwealth's emission reduction goals. The BSHA is comprised of hydropower facility owners and operators throughout Massachusetts; it represents nearly 90 percent of the hydro facilities in the state, most of which are small facilities.

The Association's members believe the Department's inclusion of existing clean (non-emitting) energy supply in the Department's Clean Energy Standard (CES) is essential for good policy and practical reasons. Existing clean generation (in-state and imports) is the foundation on which new clean energy supply contributes to the Commonwealth's 2020 and 2050 emission reduction goals. As the 2019 stakeholder discussion paper states in the context of clean energy imports to Massachusetts: "… retention of existing non-emitting would help ensure that new clean energy replaces emitting generation and reduces emissions." The Association participated

in the stakeholder processes that preceded this rulemaking and submitted comments in March 2019.

The Association's comments today urge inclusion of existing small hydro – below 30 MW - when output from such facilities has not been committed to other programs in the very recent past, thus avoiding any implication of shuffling. In addition, all Massachusetts existing clean generation, regardless of size, should be in the CES-E program because those facilities are physically supplying the state with clean power. Those hydro facilities are a vital part of the foundation on which the Commonwealth's achievement of its emission reduction goal will be built.

Introduction

This rulemaking follows many months of stakeholder input. The main thrust of the amendments to the CES regulations are:

- Increase the CES standard to 22% from 20% in 2020 while leaving unchanged annual increases in the future; and

- Create in 2020, a CES-E portfolio requirement for retail electricity suppliers to be fulfilled from clean energy generation facilities which were in existence prior to 2011.

Comments

1. **CES Percentage Increase for 2020**

The Commonwealth's efforts to reduce its emissions constantly, from now until 2050, is laudable and Association members have been historically a bulwark – a base – on which additional efforts are added. The Association supports the increase proposed in this rulemaking to meet both near term and future statutory goals mandated by the Global Warming Solutions Act. Some would argue that even more aggressive requirements are necessary particularly in the early decades before 2050.

2. **Creating CES-E**

The Association maintains its prior stated position that a single global CES category, including all clean energy sources unfettered by vintage dates or location in energy exporting states, is the most equitable and efficient policy solution for the Department's stated objectives. However, the Association recognizes that the Department is moving in a different direction. Consequently, the Association views the creation of a CES-E category as very important if the

Commonwealth is to preserve clean energy sources to achieve and maintain its emission reductions.

The Association urges the Department to adopt the amendments to its rules that would create CES-E, but do so with significant operational changes. These are described in the Association's responses to questions.

3. Response to Selected Questions[1]

Support implementing CES-E:

The Association strongly supports recognition of existing – pre 2011 – clean generation in this program. It has historically urged a global CES, but the proposed rule is a good first step to ensure continued and committed clean energy for Massachusetts. CES-E will not be costly to operate and existing tracking systems at ISO can accommodate the necessary data analysis. This program is essential to achieve the GWSA emission limits in 2020 and certainly in future decades. The Association believes, however, that significant changes are necessary to make the program fair, equitable, and achieve its full potential. These are outlined below in the answer to the question about eligibility requirements.

Stringency of 15%:

The Association believes that 15% is too low. As presented in earlier comments by BSHA, the stringency should be based on the historic clean energy baseline. Recognizing the proposed limit is a function of a cost calculation and quantity supply limit, increasing the stringency should not add greatly to costs while it would support clean energy sources.[2]

Eligibility requirements:

[1] Several of the questions presented in the "background document" are not related to the Association's focus in this rulemaking. However, the grandfathering of existing supply contracts is important as a sudden or rapid change in regulations affecting energy contracts of any type is unsettling and unnecessarily imposes increased costs on ratepayers as the market responses such change in risk. A clear and consistent policy of protecting every type of energy contract, including suppliers in this instance, is important. A supplier at the Worcester hearing urged changes to clearly protect such contracts and hence ratepayers.

[2] The Association believes the rules should include a provision to recognize the possibility that the state or region may in the relatively near future face new approaches to how emissions are reduced. This possibility should be included in the program review provision.

The Association disagrees with the eligibility provisions in the proposed rule. It urges changes to make the new program fair and supportive to reach the Commonwealth's goals.

First, the arbitrary minimum size requirement of 30 MW for hydro resources should be abandoned. This eligibility requirement is particularly troubling for hydro facilities under 30 MW located in Massachusetts whose attributes or portions thereof are not, or were not, in an existing program. The Department should not ban those facilities from participating that are exactly the ones CES-E is supposed to support to ensure continued supply to the Commonwealth's inventory. Massachusetts-based conventional hydro generators represent more than 250 MW of installed capacity in the Commonwealth, a vast majority of which is from generators with capacities below 30 MW.

Furthermore, the Association does not believe that the Department should concern itself with "shuffling" as it pertains to in-state resources. The numbers here are small and the Department is overstating the potential effect. In fact, the Department should be fostering market conditions that will encourage the "repatriation" of these in-state resources to meet the Commonwealth's greenhouse gas reduction objectives.

A broader argument could be made against applying a limitation of any kind on generation output that has previously been used to satisfy other jurisdiction's programs since 2010. The reality is that this restriction essentially precludes participation of <u>all</u> native hydropower resources (i.e. hydropower located in New England vs. hydropower located in Canada) regardless of size because nearly all hydropower across New England currently participates in one or another jurisdictional programs. If the Department's stated goal is to "lock-in" the contribution of existing resources, wouldn't it want to bolster the marketplace for those resources rather than penalize those resources for participating? "Shuffling" is a red herring because market forces will balance the equation. The Association urges the Department to drop this restriction entirely.

Alternately, if the Department is set on keeping this requirement, the time period for not participating in another jurisdiction's program for both above and below 30 MW should be changed. The proposed rules currently restrict participation since 2010. This means such restricted facilities (that the Commonwealth counts on to maintain the base emission reductions to avoid having to cover their output if they are lost) are entirely excluded under this provision of the proposed program. While clearly an attempt to avoid shuffling, it does so in a draconian and counterproductive fashion which can be viewed as abandonment of their clean output. It could invite other states to offer incentives for such facilities and therefore shift the counting of a facility' clean energy out from under Massachusetts and its inventory. A more appropriate marker would be having no

connection with another program within two years of applying for participation in CES-E.

Conclusion

The BSHA and its members very much appreciate the Department focusing on existing clean energy resources and their historic and continuing invaluable contribution to the clean energy supply that Massachusetts electric customers enjoy. This supply is the foundation on which new supply is added toward achieving the GWSA mandated emission reduction goals, so that new clean supply does not have to make up for retired or lost clean energy supply.

The Association urges the Department to adopt a clean energy standard approach that recognizes equality of new and vintage clean energy generators and the combined value they represent.

Sincerely,

Thomas A. Tarpey, President
Bay State Hydropower Association

November 12, 2019

Hon. Martin Suuberg
Commissioner
Massachusetts Department of Environmental Protection
One Winter Street
Boston, MA 02108
(submitted via email to climate.strategies@mass.gov)

Re: Clean Energy Standard Proposed Regulation

Dear Commissioner Suuberg,

Calpine Corporation ("Calpine") and Vistra Energy Corp. (Vistra Energy) and its wholly owned subsidiary Dynegy Marketing and Trade, LLC (together, the "Vistra Companies") respectfully submit the following comments in response to the Massachusetts' Department of Environmental Protection (DEP) proposed amendments to the Clean Energy Standard (CES) (310 CMR 7.75) published on October 4, 2019.

Calpine operates the largest fleet of natural gas combined cycle (NGCC) and combined heat and power facilities in the U.S. Calpine is also the nation's largest producer of electricity from renewable, base-load geothermal resources. Overall, Calpine is capable of delivering approximately 26,000 megawatts (MW) of clean, reliable electricity to customers and communities in 16 states and Canada, with 78 power plants in operation or under construction. In Massachusetts, Calpine operates the Fore River Energy Center, a natural gas combined cycle plant (NGCC) with baseload capacity of 750 megawatts (MW). We are currently developing a 20-megawatt storage project at this site. Calpine also operates two NGCC plants that serve ISO-New England (ISO-NE)'s wholesale markets: the Granite Ridge Energy Center (745 MW) and the Westbrook Energy Center (552 MW). In addition, Calpine serves load through its wholesale entity and through its retail subsidiary, Calpine Energy Solutions in Massachusetts. Calpine Energy Solutions serves as a licensed retail energy provider in every deregulated state in the U.S. This includes providing electricity to seventeen states, including Massachusetts and several others in ISO-New England (ISO-NE), as well as Washington, D.C.

Vistra Energy operates through its subsidiaries in six of the seven competitive markets in the U.S., and its generation fleet totals approximately 39,000 MW. As a result of its acquisition of Dynegy, Inc. in 2018, Vistra Energy now indirectly owns and operates over 3,000 MW of NGCC generation resources that participate in the ISO-NE competitive markets. In Massachusetts, Vistra Energy indirectly owns and operates ANP Bellingham Energy Project Units 1 and 2 (289 MW nameplate capacity for each unit), ANP Blackstone Energy Project Units 1 and 2 (289 MW nameplate capacity for each unit), and Masspower Energy Facility (260.9 MW nameplate capacity). In addition, Vistra Energy indirectly owns 50 percent of the Bellingham Cogeneration Facility. Serving nearly 5 million residential, commercial, and industrial retail customers with electricity and gas, Vistra is the largest competitive residential electricity provider in the country and offers over 40 environmentally friendly electricity plans.

Calpine has long supported market-based greenhouse gas reduction mechanisms. Similarly, Vistra Energy recently announced its commitment to long-term greenhouse gas reduction targets and its support

for a market-based carbon reduction regime. However, we do not support the proposed increase in the 2020 CES requirement to 22 percent nor the CES-E requirement for existing resources. Both of the proposed amendments will increase consumer costs and program complexity without added environmental or emission reduction benefits. The addition of a CES-E also conflicts with the operation of the ISO-New England competitive power market by providing unnecessary out-of-market subsidies to certain generating resources. Rather than these types of command and control programs, our companies continue to advocate for market-based carbon solutions such as RGGI, or preferably an economy-wide carbon fee.

Massachusetts continues to have the most complex clean and renewable programs of any state in the U.S. with seven different classes of renewable requirements—each with its own separate set of regulations and guidelines. Massachusetts is also developing Clean Peak regulations. These complex programs make annual compliance burdensome for retail electric suppliers and creates administrative costs that are ultimately borne by consumers. We oppose a regulatory approach that will add complexity and costs in the near term, especially one without a clear environmental benefit.

The Proposed Approach will not Achieve the Environmental Objectives of the Global Warming Solutions Act (GWSA)

Abruptly increasing the CES requirement for 2020 from 20 percent to 22 percent does not provide sufficient lead time to design, permit, and build additional RPS Class I resources. As a result, this proposed increase and the requirement to purchase electricity from existing clean energy generators in 2020, will likely drive up costs for all electric consumers in the Commonwealth without achieving the development of new renewable resources. Rather, Calpine's and Vistra Energy's competitive retail suppliers, and likely others, will purchase eligible renewable energy credits (RECs) in the ISO-New England's REC market. This increased demand for RECs will drive up the price of RECs that are generated from already existing Class I RPS resources without actual reductions in carbon emissions.

ISO-New England's Forward Capacity Auctions are conducted three years prior to the delivery year in order to send the market signal with sufficient time to invest and develop new resources. Likewise, any proposed increases to the CES should similarly be aimed at least 3 years forward to provide the time necessary to invest and develop new renewable resources that would contribute to achieving the Global Warming Solutions Act (GWSA) emission targets, as opposed to simply increasing costs in the near term without any identified emission reductions. Finally, the abrupt change in CES compliance requirements sets a precedent that future year CES compliance requirements might change without significant notice, which further undermines the necessary regulatory certainty for investments.

While the Department of Environmental Protection's (DEP's) *Background Document on Proposed Amendments to: 310 CMR 7.75 Clean Energy Standard* (Background Document) suggests that the increase is necessary to help ensure compliance with GWSA emission limits, it is unclear how the proposed change for 2020 will help to achieve that objective. DEP does not provide any evaluation showing how increasing the CES from 20 to 22 percent in 2020 will help the Commonwealth ensure compliance with the GWSA.

As discussed in Calpine's prior comments on DEP's Stakeholder Discussion Document, the supply and demand balance of Class I eligible RECs is already extremely tight. As a result, even a small increase in the regulatory requirements could result in a supply/demand imbalance, causing market prices to rise significantly and further incentivizing the use of Alternative Compliance Payments (ACP). While DEP's

Background Document notes that "recent 2020 certificate futures prices…have been less than $25/MWh", the current settlement price for vintage 2020 certificates is significantly higher—closer to $42/MWh. Based on that price, the proposed two percent increase for the CES would equate to an additional cost of approximately $0.80/MWh, which for a large commercial/industrial customer is a significant cost in terms of total dollars. As an example, assuming 25 percent of 2020 load is grandfathered, the proposed two percent increase in the CES standard would translate to a total cost of approximately $19 million assuming an applicable annual electricity sales of 31 TWh for industrial and commercial retail electricity sales in the Commonwealth. Given the timing concerns noted above, these increases will not affect the amount of renewable generation in Massachusetts or reduce emissions—rather it will simply add profits to existing renewable resources.

CES-E Amendment is Unnecessary and Will Not Reduce Emissions

Calpine and Vistra Energy also oppose the proposed CES-E amendment, as DEP has provided no evidence that the targeted resources need a subsidy in order to economically operate in the region and contribute to the Commonwealth's carbon reduction goals. There is no justification for subsidizing otherwise economic existing resources to achieve the Commonwealth's emissions reduction objectives. Economic resources would continue to operate in the region, providing clean energy, without subsidies. Such resource-specific subsidies to existing generators will also inevitably distort the efficient operation of the competitive markets. Targeting such resources for subsidies will thus needlessly increase the costs for electric customers in the Commonwealth.

ISO-NE's forward capacity market requires existing generators to announce any retirement decisions several years in advance. To date, the resources targeted by this proposed program have not announced retirement plans. Moreover, DEP has not provided any evidence that the resources targeted by the proposed CES-E are likely to retire anytime in the near future. Additionally, there is no evidence that the Seabrook nuclear station or large-scale imported hydro are uneconomic, thus requiring a subsidy, in order to continue to providing carbon-free energy to the Commonwealth.

Consistent with Calpine's prior comments, even if out-of-state, non-emitting generation were to retire, which is highly uncertain, those resources would likely be replaced by other non-emitting energy resources, such as the estimated 5,000 MW of offshore wind that is anticipated to be developed pursuant to legislation and other policy decisions in Massachusetts, Connecticut, and Rhode Island. For all of these reasons, we oppose the proposed CES-E amendment as an unnecessary subsidy to targeted resources that will have deleterious impacts on the competitive wholesale markets, accomplishing little other than increasing costs for electricity customers in the Commonwealth.

Therefore, before finalizing any changes in this rulemaking, we urge DEP to undertake a formal evaluation of whether the CES-E is the most cost-effective way for meeting the GWSA targets. In particular, we request an analysis regarding whether such existing resources eligible for CES-E are economic without subsidies. We continue to a support a market-based approach—as opposed to targeted resource-specific subsidies, as the better alternative for achieving the Commonwealth's carbon reduction objectives. Such a market-based approach can achieve the same, if not better, environmental objectives than targeted subsidies, and result in more cost-effective solutions for customers. However, if DEP decides to finalize a CES-E, we urge DEP to ensure that the Commonwealth achieves the actual carbon emission reductions for which consumers will pay.

Conclusion

Calpine and Vistra Energy do not support the proposed amendments to the CES. The 2020 increase in the CES has the potential to needlessly increase the demand and price for Class I RPS RECs, while the proposed CES-E will provide unnecessary revenue to certain existing resources. Both will increase costs for customers without environmental or emission reduction benefits.

Please do not hesitate to contact Sarah Novosel at snovosel@calpine.com or Amanda Frazier at Amanda.frazier@vistraenergy.com if you have any questions or need any additional information on this important issue.

Sincerely,

/s/ *Sarah G. Novosel*

Sarah G. Novosel
Senior Vice President and Managing Counsel, Calpine Corporation

/s/ *Amanda J. Frazier*

Amanda J. Frazier
Vice President, Regulatory Policy, Vistra Energy Corp.

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The Hon. Martin Suuberg, Commissioner
Department of Environmental Protection
1 Winter Street
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Re: Proposed Amendments to 30 CMR 7.75

Dear Commissioner Suuberg,

Please accept the following comments by Conservation Law Foundation ("CLF") in response to the Department of Environmental Protection's ("DEP's") October 18, 2019 notice of public hearing regarding proposed amendments to 310 CMR 7.75, Clean Energy Standard ("Section 7.75" or the "CES").

COMMENTS

A. DEP Should Incorporate Existing Clean Generators Using a New Multi-State or Regional Market Rather than the Proposed CES-E; Alternately, DEP Should Expand the CES to Include All Existing Clean Generation Rather than Create a Separate CES-E Program or Carve-Out.

CLF supports and applauds DEP's proactive effort to expand the CES in support of achieving 100% clean energy by 2050. However, as previously stated,[1] CLF continues to recommend that DEP not pursue its proposed CES-E as a method for doing so. Instead, CLF continues to urge DEP to pursue, for implementation no later than Dec. 31, 2024, a multi-state or regional, market-based mechanism to procure clean energy which is likely to achieve the stated goal for the CES-E more cost-effectively and with greater emissions reductions. However, if DEP determines there is a need to expand the CES to include existing resources before a new market-based mechanism is in place, it should do so creating an "all available resource" CES—without regard to commercial operation date or location within the New England or adjacent control areas—with total program compliance obligations (for all Retail Energy Sellers including MLPs) increased so as to achieve 100% clean electricity in 2050.

[1] *See* Conservation Law Foundation, *Comments re: Expanding the Clean Energy Standard (March 29, 2019)* (March 2019 CLF Comments") at 6-10; Conservation Law Foundation, *Comments re: Proposed Changes to 310 CMR 7.75 Clean Energy Standard Relating to Municipal Utilities and Existing Clean Generators* (Nov. 30, 2017) ("*2017 CLF Comments*") at 6-10 (proposed backward-looking, inventory driven CES-E is likely difficult to administer, would be unnecessarily restrictive as to generator location and vintage date, and risks subsidizing existing clean generation that is less efficient and more costly than newer clean energy capable of delivering the same environmental attribute and outcome).

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1. ***There Is Time for and Renewed Regional Interest in Developing a Multi-State or Regional Market Approach.***

While CLF agrees that DEP should be working to ensure that low carbon generation resources are valued appropriately in order to achieve 100% clean electricity by (or preferably before) 2050, we continue to find no justification for and little value in DEP rushing to implement a program to require the purchase of clean energy credits from, effectively, Seabrook and Hydro-Quebec alone. Neither resource appears likely to retire or change historical delivery patterns in the next several years: Seabrook has successfully completed a costly, eight-plus year federal relicensing effort to extend its operating life to 2050, and Section 83D contracts currently before the Department of Public Utilities for approval are designed to ensure Hydro-Quebec maintains its recent historical exports into New England as it provides Massachusetts over 9 TWh of newly contracted power annually for the next twenty years.

At the same time, in the wake of Connecticut's recent 10-year power purchase agreement with Millstone, in 2019 there has been renewed interest among New England states to work together to develop a multi-state or regional mechanism that values the contribution that existing nuclear and other clean energy resources make towards achieving New England's 2050 climate commitments.[2] CLF strongly urges DEP and the Executive Office of Energy and Environmental Affairs to commit leadership and staff energy to materially advancing such an effort rather than to the implementation of what likely amounts to a temporary, CES-E "half-solution."

2. ***A Multi-State or Regional Market Approach Would More Effectively and Efficiently Allow the Incorporation of Existing Clean Generators Into DEP's Long-Term GWSA Emissions Reduction Strategy.***

A multi-state or regional market mechanism would avoid the flaws that are inherent in the proposed CES-E while achieving the stated goals for the program more efficiently and cost-effectively. Such an approach could be designed to unbundle and deliver via a competitive mechanism both the electricity and the desired environmental attributes that all clean generators – existing and new alike – can offer, and to do so at least cost. And it would be consistent with, and materially advance, the important GHG accounting goals DEP is pursuing by delivering to Massachusetts clean energy credits, and the exclusive ownership rights associated with them, for all clean generation that is delivered to and consumed in the Commonwealth through and beyond 2050.

Several forward clean energy market concepts were developed and proposed by New England Power Pool ("NEPOOL") stakeholders during NEPOOL's 2016-17 Integrating Markets and Public Policy ("IMAPP") effort.[3] Whether administered by the states or by ISO-New England ("ISO-NE"), a forward

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[2] New England Governors' Commitment to Regional Cooperation on Energy Issues (Mar.15, 2019), https://portal.ct.gov/-/media/Office-of-the-Governor/News/20190315-New-England-governors-statement-of-cooperation-on-regional-energy.pdf?la=en.

[3] *See, e.g.,* CLF, Brookfield Renewables, NextEra Energy Resources, and National Grid, Dynamic Clean Energy Market Proposal (May 17, 2017) (available at: http://www.nepool.com/IMAPP.php).

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clean energy market would allow Massachusetts, together with other states in the region, to procure clean and renewable electricity (measured in delivered megawatt-hours) annually in the amounts required to meet its GWSA emissions reductions goals. And by using a forward-looking market mechanism, the Commonwealth would likely: (i) gain the ability to procure such resources at least cost, while retaining or retiring existing resources and attracting new ones;[4] (ii) ensure financing of new projects by allowing for multi-year price lock-ins, (iii) gain, and enjoy the economic benefit of, increased visibility of competitive prices by placing all emissions-reducing resources on equal footing; and (iv) be able to share emissions compliance costs with other participating states fairly and in proportion to each state's climate and energy laws and regulations.

Based on our experience advocating before public utility commissions across New England, and as a voting member of NEPOOL, we believe that with sufficient political commitment a multi-state (state administered) or regional (ISO-NE administered) clean energy market could be developed and implemented in the next two to three years (to commence trading in 2023). Regardless, the development and implementation of any such clean energy market should be coordinated both with state emissions reduction goals as well as with ISO-NE's three-year ahead Forward Capacity Auction.[5]

3.*An Expanded "Global" CES, Rather than the Proposed CES-E, Would be a Preferable First-Step*.

To the extent that DEP has determined there is an immediate need to expand the CES to account for the emissions benefits conferred by existing clean energy resources, CLF recommends that DEP expand the CES to include all available clean energy resources without regard to commercial operation date or location within the New England or adjacent control areas. Doing so will allow all available clean generation resources to participate and compete, driving down program compliance costs,[6] while meeting what appears to be DEP's main concern (as expressed in previous stakeholder meetings and in the *Background Document on Proposed Amendments to 310 CMR 7.75* (Oct. 2019), at 2) regarding the ability to accurately track and account for clean energy emissions attributes as part of the Commonwealth's GWSA GHG inventory accounting. Because it would engage all clean generation in, or routinely capable of delivering into, New England it would also be a better precursor to a viable and competitive multi-state or regional clean energy market.

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[4] Initial quantitative modeling by the Brattle Group indicates that a forward clean energy market structure would allow Massachusetts to procure the clean and renewable energy it requires for GWSA compliance at a significant savings –on the order of $200 million annually–compared to current procurement strategies.

[5] As a result, a clean energy market should be fully operational no later than Dec. 31, 2026 so as to be integrated with (or to replace in whole or in part) ISO-NE's 2027 forward capacity market for 2030 generating resources.

[6] We see little risk or issue regarding Alternative Compliance Payment levels which could remain set at levels designed to incentivize the development of new clean energy resources. Through at least 2030, CEC supply in a global CES should far exceed program-driven demand making the likelihood of ACP compliance by Retail Energy Sellers very low.

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B. Regarding Municipal Utility Regulation Under the GWSA

DEP has indicated that the issue of how and when to enforce municipal utility compliance with their obligations under the Global Warming Solutions Act is still pending. CLF here updates and reasserts its comments filed on November 20, 2017 and March 29, 2019 regarding the inclusion of MLPs in the CES.[7] CLF continues to urge DEP to bring the MLPs into the GWSA regulatory scheme. Massachusetts Municipal Electric MLPs have still provided no credible public evidence that they cannot efficiently and cost-effectively comply with the existing 310 CMR 7.75(4)(a) Table A schedule of required clean energy sales beginning in 2021. At a minimum, to the extent that the ability of certain MLPs to comply with the existing CES compliance schedule for all other Retail Energy Sellers is limited by existing long-term contract commitments, and specific evidence of such limitations is produced, CLF would support DEP's development of one or more MLP-specific CES compliance schedules based on such evidence so long as any such MLP-specific compliance schedule requires and results in all MLPs meeting the existing 310 CMR 7.75(4)(a) Table A schedule of required clean energy sales by 2035 (i.e., 50% of all retail sales with clean generation attributes) and thereafter.[8]

CONCLUSION

CLF appreciates the opportunity to comment on DEP's proposed changes to the Section 7.75 Clean Energy Standard and applauds DEP's commitment to ensuring the Commonwealth has the right programs in place to achieve Massachusetts' GWSA emissions reduction mandate effectively and efficiently. To that end, CLF recommends that in lieu of implementing its proposed CES-E, DEP should actively work to develop and implement as soon as possible a multi-state or regional clean energy market for all existing and new clean (and renewable) energy generation.

Sincerely,

CONSERVATION LAW FOUNDATION

By its Attorney

Caitlin Peale Sloan
Senior Attorney
Conservation Law Foundation, Massachusetts

[7] *See* March 2019 CLF Comments at 2-6; 2017 CLF Comments at 2-6.

[8] Because the term of PPAs and other long-term energy supply agreements are typically no more than 15 to 20 years, the vast majority of such agreements in place today likely will have expired by the end of 2034, some 15 years from now.

Connecticut Department of
ENERGY &
ENVIRONMENTAL
PROTECTION

Energy and Technology Policy

79 Elm Street • Hartford, CT 06106-5127 www.ct.gov/deep Affirmative Action/Equal Opportunity Employer

November 12, 2019

Ms. Kathleen Theoharides, Secretary
Executive Office of Energy and Environmental Affairs
100 Cambridge Street, Suite 900
Boston, MA 02114

Mr. Martin Suuberg, Commissioner
Department of Environmental Protection
One Winter Street
Boston, MA 02108

Re: Proposed Amendments to 310 CMR 7.75 *Clean Energy Standard*

Dear Ms. Theoharides and Mr. Suuberg,

The Connecticut Department of Energy and Environmental Protection, Bureau of Energy Technology Policy (Connecticut DEEP) appreciates the opportunity to comment on the proposed amendments to 310 CMR 7.75. Connecticut agrees with the Massachusetts Executive Office of Energy and Environmental Affairs (EEA) and the Massachusetts Department of Environmental Protection (MassDEP) on the need to recognize and "lock-in" the contribution of existing zero carbon resources toward meeting greenhouse gas emission reduction targets. Connecticut also supports EEA and MassDEP's goal of creating a comprehensive and regionally coordinated effort to recognize the important contribution of existing zero carbon resources.[1]

The single largest existing generating resource in New England is Dominion Energy Nuclear Connecticut's (Dominion) Millstone Units 2 and 3 located in Waterford, Connecticut (Millstone).[2] Millstone delivers approximately 16 million MWh/yr of zero carbon power to the New England grid, which is about 13% of the regional demand. Although Millstone happens to be located in Connecticut, it is an essential resource for all New England states to achieve their greenhouse gas emission targets. In 2018, Dominion petitioned Connecticut DEEP and the Connecticut Public Utilities Regulatory Authority (CT PURA), asserting that the Millstone units were at risk of premature retirement. No other existing nuclear resource submitted an "at risk" petition. After reviewing the confidential financial information for the plant and forecasts of energy and capacity revenues, both state agencies concluded that the Millstone units were at risk of shutting down after the units' existing capacity market commitments

[1] *See* Background Document on Proposed Amendments to: 310 CMR 7.75 *Clean Energy Standard*, October 2019, p.6.
[2] Dominion wholly owns Millstone Unit 2 and 93.47% of Millstone Unit 3. Of the remaining 6.53% of Unit 3, Massachusetts Municipal Wholesale Electric Company owns 4.8% and Green Mountain Power Corporation owns 1.73% of Unit 3.

expired in June 1, 2023.[3] A 2018 report by CT DEEP and CT PURA highlighted the regional consequences of an anticipated Millstone retirement.[4] If Millstone were to retire, the entire New England electric grid would be materially altered and emission profiles would deteriorate throughout the region. It is reasonable to assume that emissions would increase, reliability would decrease, and energy costs would increase region-wide. In modeling performed for Connecticut, regional CO_2 emissions would increase by approximately 25% (80 million short tons), assuming that it was predominately replaced by new natural gas plants.[5] Replacing Millstone's full output with zero carbon resources, to prevent backsliding on greenhouse gas goals, would require billions in ratepayer investment.

CT DEEP applauds Massachusetts for pursuing a Massachusetts Clean Energy Standard (CES) that is designed to completely decarbonize the "electricity that is purchased from the regional electric grid for consumption in Massachusetts."[6] The CES is intended to complement the state's Renewable Portfolio Standard (RPS), by locking in existing clean energy resources to enable attainment of a 100% carbon-free electric grid by 2050. As EEA and MassDEP note, pathways to reach a fully decarbonized electric grid assume that, "existing clean resources such as regional nuclear power plants and pre-2020 imported hydropower remain on line . . ."[7] The proposed addition of a Clean Energy Standard for Clean Existing Generation Units (CES-E) to the CES is a recognition that existing zero carbon resources can't be assumed to remain in existence but may need to receive appropriate incentives to remain in operation. Connecticut concurs in this recognition. Competition with low-cost natural gas resources have already challenged the financial viability of the Millstone nuclear resource; in the coming years, the buildout of significant quantities of renewable resources are certain to reduce energy market revenues further, compounding the challenges for nuclear facilities to remain online.

In March 2019, the New England governors, including Governor Baker, recognized Connecticut's determination that Millstone is at risk and "commit[ed] to work together . . . to evaluate market-based mechanisms that value the contribution that existing nuclear generation resources make to regional energy security and winter reliability."[8] CT DEEP believes that clean energy standards are the most effective, affordable, and regionally-scalable means to lock in existing clean energy resources needed to support the decarbonization of the New England grid. CT DEEP concurs with EEA and MassDEP that Massachusetts' proposed CES-E is a "useful step toward a more comprehensive and regionally-coordinated effort to recognize the importance of [existing clean energy resources]."[9] Coordinated support for nuclear resources is critical not only for states' climate goals, but also to support regional

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[3] *See* Interim Decision, Docket No. 18-05-04, PURA Implementation of June Special Session Public Act 17-3, Connecticut Public Utilities Regulatory Authority 27 (December 5, 2018) available at http://www.dpuc.state.ct.us/dockcurr.nsf/8e6fc37a54110e3e852576190052b64d/7ccd55d05bce0d168525835a00699329?OpenDocument

[4] *See* Connecticut Department of Energy & Environmental Protection and Connecticut Public Utilities Regulatory Authority's Resource Assessment, Appraisal, and Determination Pursuant to Executive Order No. 59 and Public Act 17-3 3 (February 1, 2018) available at http://www.dpuc.state.ct.us/DEEPEnergy.nsf/c6c6d525f7cdd1168525797d0047c5bf/cbc977effc0e623985258227005d607e?OpenDocument

[5] *Id.*

[6] 310 CMR 7.75(1) Purpose, Authority and Scope

[7] *See* Background Document on Proposed Amendments to: 310 CMR 7.75 *Clean Energy Standard*, October 2019, p. 4.

[8] *See* https://www.coneg.org/wp-content/uploads/2019/03/New-England-Governors-Statement-of-Cooperation-onRegional-Energy-3-15-19.pdf

[9] *See* Background Document on Proposed Amendments to: 310 CMR 7.75 *Clean Energy Standard*, October 2019, p. 4.

energy security and winter reliability—which must be addressed for the reliable electrification of building heating and transportation. In these comments, CT DEEP urges Massachusetts to consider changes to the CES-E eligibility that will ensure the region's at-risk nuclear resource does not shut down prematurely, and produce a model CES that can be replicated more effectively on a regional basis.

The proposed eligibility for the CES-E excludes Millstone from eligibility based upon the requirement that eligible resources must have "exported at least 2,000,000 MWh of electricity to Massachusetts every year from 2001 through 2016, on a net annual basis, as reflected in the state greenhouse gas emissions inventories published annually by the Department." This threshold does not recognize the contribution that Millstone has played historically or continues to play in reducing regional greenhouse gas emissions.

Relying on historical information on state power exports and imports is not necessarily the most accurate way of measuring which existing zero carbon units served consumption in Massachusetts. Generation is dispatched throughout New England regardless of where it is located absent transmission constraints. Since Millstone is so large and runs all the time, it is dispatched to serve all of New England in every hour of every day. If Millstone is not running, the dispatch completely changes and emission profiles in every state change, regardless of whether a state imports Millstone's output directly. The significance of Millstone to the region is best exemplified by what happened to the region when the Millstone units tripped off line on August 11, 2016 – a hot, humid day when regional power consumption was high.[10] The New England grid struggled to meet demand as higher emitting resources were dispatched and ramped up. Generation in Massachusetts was significantly affected.

The event on August 11, 2016 is a good demonstration of Millstone's importance to the entire region's greenhouse gas emissions from a single event. But it is not just in single events that Millstone's importance is clear. Millstone and Connecticut generation has been a part of the backbone of New England's decarbonization. According to the United States Energy Information Administration (EIA), Connecticut has exported power every year since 2010.[11] This trend coincides with the significant drop in greenhouse gas emissions in Massachusetts' electric sector.[12] Millstone has been and continues to be critical to this transformation. Excluding Millstone from CES-E eligibility is inconsistent with the goal of "locking-in" the contribution of existing zero carbon resources toward meeting greenhouse gas emission reduction targets.

Connecticut notes that the eligibility threshold EEA and MassDEP used as an example of an alternate regulatory threshold for eligible exporting jurisdictions of "exported at least 4,000,000 MWh of electricity to Massachusetts in at least two years from 2001 through 2016"[13] would recognize the important contributions the Millstone facility has made and continues to make toward Massachusetts' greenhouse gas emission reduction targets. Moreover, adopting the alternate eligibility threshold would

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[10] *See* ISO-NE NEPOOL Reliability Committee presentation, August 11 OP #4 Report and Peak Review, September 20, 2016, available at https://www.iso-ne.com/static-assets/documents/2016/09/a9_august_11_2016_op4_shortage_event_presentation.pdf

[11] *Compare* Connecticut generation (https://www.eia.gov/electricity/state/connecticut/xls/ct.xlsx) (Table 10, row 14) and Connecticut consumption (https://www.eia.gov/electricity/state/connecticut/xls/ct.xlsx) (Table 10, sum of rows 23, 24, 26, and 27)

[12] *See* Mass GHG Emission Trends available at https://www.mass.gov/service-details/ma-ghg-emission-trends

[13] *See* Background Document on Proposed Amendments to: 310 CMR 7.75 *Clean Energy Standard*, October 2019, p. 7, n.10.

better ensure that CES-E can contribute to supporting the continued operation of a resource that has been deemed at risk of shutting down prematurely. Accordingly, Connecticut respectfully requests that Massachusetts include within its CES-E an eligibility criteria that includes Millstone.

Sincerely,

Katie S. Dykes
Commissioner

Commonwealth of Massachusetts
Executive Office of Energy and Environmental Affairs
and
Department of Environmental Protection

MASSACHUSETTS CLEAN ENERGY STANDARD PROPOSED AMENDMENTS	:	November 12, 2019

WRITTEN COMMENTS OF DIRECT ENERGY

On behalf of Direct Energy, one of the largest retail electricity and natural gas suppliers and energy-related services companies in North America[1], I hereby submit these comments to the Executive Office of Energy and Environmental Affairs and Department of Environmental Protection ("Department") pertaining to the two proposed amendments to 310 CMR 7.75: Clean Energy Standard (CES) that would:

- Increase the CES standard from 20% to 22% in 2020 (but leave all other annual standards unchanged).
- Create a "CES-E" requirement for retail electricity sellers to purchase electricity from existing (pre-2011) clean energy generators each year, beginning in 2020.

BACKGROUND

Following the issuance of the two proposed amendments on October 4, 2019 that would: 1.) increase the CES standard from 20% to 22% in 2020; and 2.) create a "CES-E" requirement

[1] Direct Energy is wholly owned by United Kingdom-based Centrica plc, one of the world's leading integrated energy companies that operates in seven countries with more than 37,000 employees worldwide. With nearly five million customers, Direct Energy is one of the largest providers of electricity, natural gas, renewable energy and related services in North America.

for retail electricity sellers to purchase electricity from existing (pre-2011) clean energy generators each year, beginning in 2020, the Executive Office of Energy and Environmental Affairs (EEA) and the Massachusetts Department of Environmental Protection (MassDEP), under the authority of M.G.L. c. 21A, §§ 2, 8 and 16, M.G.L. c. 21N, §§ 2(a)(5), 3(c), 4, and 7, and M.G.L. c. 111, §§ 2C and 142A – 142E, conducted two public hearings in accordance with M.G.L. Chapter 30A on the proposed amendments to 310 CMR 7.75 CES. The two public hearings were held on Wednesday, October 30th at MassDEP Boston Office, One Winter Street, Boston, MA and on Thursday, October 31st at MassDEP Central Regional Office, 8 New Bond Street, Worcester, MA. On behalf of Direct Energy, I provided oral testimony at the October 31st public hearing in the City of Worcester.

COMMENTS

Pursuant to Executive Order 562, agencies must ensure that a new regulation "*does not unduly and adversely affect Massachusetts citizens and customers of the Commonwealth, or the competitive environment in Massachusetts.*"[2]

As the Department most certainly appreciates, the competitive electricity market in the Commonwealth continues to advance and competitive suppliers continue to enter contractual obligations, often with multi-year terms of service, while new regulations are being proposed and promulgated by the Department. However, competitive suppliers do not take market positions or enter into agreement terms with customers based simply on the announcement that a regulatory change may occur or even based on the release of proposed regulations or amendments to existing regulation. Rather, since announced or even proposed regulations are subject to change

[2] E.O. 562, §§ 3, 5.

based on legislative considerations as well as the regulatory input process, competitive suppliers take market positions and enter into agreements based only on actual regulatory requirements officially promulgated by the governing regulatory authority. In this way, customers, residential, commercial and industrial, are not exposed to unnecessary price increases and/or pricing volatility as a result of speculative regulatory changes that may never be adopted or that may be significantly modified through the regulatory process before such changes ultimately become effective. Accordingly, competitive suppliers have entered into and will continue to enter into agreements with customers based on their current obligations. Only once the Department officially promulgates the CES amendments will competitive suppliers modify their market positions and/or the terms of their agreements with customers to account for any new or modified regulatory requirements.

In its Background Document on Proposed Amendments to: 310 CMR 7.75 Clean Energy Standard, the Department states that "*retail electricity sellers may exempt MWh associated with fixed price contracts with their customers, but only if the contracts were executed as of February 20, 2019. This date was chosen because it is the date that MassDEP notified retail electricity sellers of potential changes to the CES Regulation. Therefore, contracts executed after that date would have been executed with knowledge of the potential changes. Furthermore, using a later date would encourage the use of contracting for the purpose of avoiding anticipated regulatory changes, thereby setting an undesirable precedent. For the CES, grandfathering is limited to the incremental impact of the proposed amendments, and therefore is limited to 2% of 2020 sales only.*"

Respectfully, the statement would be acceptable *if* the annual CES compliance obligation remained static and *if* the establishment of the "CES-E" requirement for retail electricity sellers

to purchase electricity from existing (pre-2011) clean energy generators each year, beginning in 2020, was not introduced as an amendment to the existing CES regulations. Direct Energy and other leading retail suppliers have an expert understanding of prevailing and future energy market conditions, we have a thorough understanding macroeconomic trends that may shape or influence energy prices at the wholesale and retail levels, but we are not able to predict regulatory changes that may be introduced, albeit for sound reasons, at a future point in time. Nor should we or our customers be held to account for the incremental cost increases associated with the imposition of amended and unanticipated CES regulation without any safeguards to protect existing supply contracts. It is important to note that the pricing for these existing customer supply contracts was determined based on the known CES regulation.

As referenced above, the Department states that "*retail electricity sellers may exempt MWh associated with fixed price contracts with their customers,* **(emphasis added)** ***but only if the contracts were executed as of February 20, 2019***. *This date was chosen because it is the date that MassDEP notified retail electricity sellers of potential changes to the CES Regulation.* However, retail suppliers or our customers were not made aware of the proposed amendments to the CES until the Department issued the Draft Amendments to 310 CMR 7.75 on October 4, 2019. Moreover, the incremental cost impacts of the two amendments are financially material to our customers under existing supply contracts. We do not believe the Department intended to financially harm electricity customers in the Commonwealth with the introduction of the two CES amendments. We know these proposed changes are designed help to ensure compliance

with the 2020 greenhouse gas emissions limit developed under the Massachusetts Global Warming Solutions Act.

Furthermore, as competitive suppliers enter into multi-year agreements, if competitive suppliers are required to comply with the proposed CES amendments, some customers with fixed price arrangements will be faced with unexpected price increases to account for the new obligation if steps are not taken to protect current expectations. When a new obligation is imposed, it impacts existing contracts that were priced based on any prior obligation and may have a term of service that extends over multiple years. While competitive suppliers may have contractual and legal means to address change of law circumstances, these mechanisms will have a direct and immediate financial impact to residential, business, governmental and institutional customers, who have contracted for a fixed price and will now be subject to new and unanticipated charges that are not within their budgets. These unanticipated charges place customers in an untenable position as they may be required to retroactively pay these costs per the terms of their contractual agreements. The retroactive cost impact is particularly difficult for local and state governments as well as institutional customers like public schools, hospitals and colleges that generally have limited budgetary flexibility to account for new and unanticipated price increases. Moreover, they undermine the customers underlying confidence that the competitive electricity market can provide and deliver the type of pricing products they desire and have contracted to meet their energy needs.

Accordingly, just as the Department established an exemption or "grandfathering" provision for executed contracts in effect prior to February 19, 2019 pertaining to the CES Regulation, Direct Energy recommends the establishment of a similar effective date to "grandfather" or exempt existing customer contracts from the incremental cost impacts of the

new and proposed amendments. The CES amendments were unanticipated and have not been factored into the price of existing supply contracts.

Consistent with the Department and other state agencies like the Department of Energy Resources, the exemption provision would apply only if the retail electric supplier provides documentation, satisfactory to the Department, identifying the terms of such contracts including but not limited to, the execution and expiration dates of the contract and the annual volume of electrical energy supplied.

CONCLUSION

For all the foregoing reasons, Direct Energy urges the Department to mitigate the cost impacts of the proposed CES amendments on existing customer supply contracts by instituting an exemption or grandfathering provision. Direct Energy appreciates the opportunity to provide these written comments for the Department's review and consideration. Thank you.

Respectfully Submitted,
DIRECT ENERGY, LP

By: 

Marc A. Hanks
Senior Manager, Corporate & Regulatory Affairs
Direct Energy, LP
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Westfield, MA 01085
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November 12, 2019

Massachusetts Department of Environmental Protection
One Winter Street
Boston, MA 02108

Subject: Comments on Proposed CES-E Amendments to the Massachusetts Clean Energy Standard

Dear MassDEP:

Thank you very much for the opportunity to provide the following comments relating to 310 CMR 7.75 Clean Energy Standard (CES) on behalf of the municipally-owned utility clients of Energy New England (ENE).

As it is stated in the MassDEP stakeholder discussion document to expand the Clean Energy Standard, the purpose of the document is to support stakeholder discussion of options for expanding CES to achieve additional emission reductions in support of the Global Warming Solutions Act (GWSA). In placing Municipal Lighting Plants (MLPs) power supply under local control, rather than state mandate, the Legislature has made reasoned, logical and consistent choices. Those choices have respected both the historical investment decisions of local communities in power supply resources and the vision of those communities in determining how to contribute most effectively to implementation of the Commonwealth's energy policies.

We appreciate MassDEP' s recognition of the uniqueness of the MLP business model and would propose acceptance of an alternative to requiring MLP's to comply with a percentage standard in 2021, with a monitoring only approach which would respect the voluntary spirit of MLP's continued and respectful dialogue with MassDEP. ENE clients support the Commonwealth's goals of reducing greenhouse gas emissions, while preserving our local control of each of our individual municipal lighting plants and their unique plant operations, financial and rate controls that they must deal with ranging from small plants with 800 clients to larger, multi-community systems that may have 30,000 customers.

The 41 MLP's through our trade organization, the Municipal Electric Association of Massachusetts (MEAM), with ENE's support, have filed and support legislation (HB-2863) that would create a state mandated Greenhouse Gas Emission Standard (GGES) for all 41 of the MLPs. The GGES approach will achieve the same, current 80% reduction in overall GHG emissions by 2050 as required by the GWSA, but at a pace and schedule that respects the existence of our long-term contracts and resources with existing clean energy generators. On the schedule that we have

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created, it actually proposes a faster schedule than that of the investor owned utilities (IOU's) in the current form and would pass their goal numbers by 2040 onto the 2050 reductions by 80%. We believe that the GGES in combination with our continued and cooperative volunteer reporting to DEP would support the DEP's emissions reporting programs. It is also correctly noted that another opportunity to provide input will occur in 2021, when MassDEP is required to complete its full review of the CES Program. This will allow almost 2 years of shared data to show the MLP directional shift in GHG reductions.

I would welcome any questions or comments that you have or a future and more expanded MLP conversation to continue discussions on how MLP's can continue to assist the Commonwealth in meeting GHG reduction goals.

Sincerely yours,

John G. Tzimorangas

John G. Tzimorangas
President/Chief Executive Officer
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EVERSOURCE ENERGY

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November 12, 2019

Mr. Jordan Garfinkle
Department of Environmental Protection
One Winter Street
Boston, MA 02108
Delivered via email: climate.strategies@mass.gov

Re: Eversource Comments on Amending the CES

Dear Mr. Garfinkle:

NSTAR Electric Company d/b/a Eversource Energy ("NSTAR Electric" or the "Company") submits this comment letter to the Massachusetts Department of Environmental Protection ("MassDEP") in response to the October 2019 request for comments from stakeholders on the MassDEP's proposed amendments to the Clean Energy Standard ("CES") regulation promulgated August 11, 2017. Eversource operates New England's largest utility system serving more than 3.6 million electric and natural gas customers in Connecticut, Massachusetts and New Hampshire. In order to meet its obligations to provide vital public services, Eversource ensures system reliability and safety standards are maintained in compliance with national, regional, and industry standards and policies. Eversource views clean energy as a critical element of the energy mix in New England, with costs to customers remaining fair and reasonable. The Company is committed to serving as a clean energy catalyst in the region and is, therefore, actively investing in solar, storage and electric vehicle infrastructure as a means of advancing critical Commonwealth energy policies. The comments below are offered in order to strike a balance between advancing the Commonwealth's clean energy policies and ensuring that customers are not burdened with excessive costs.

Increasing the CES standard from 20 percent to 22 percent in 2020

Eversource supports the Commonwealth's continuing diligent efforts to regarding critical energy and environmental goals. However, Eversource is also mindful that achievement of those goals must necessarily result from securing the most cost-effective resources for the benefit of its customers, who are ultimately responsible for the costs associated with the Commonwealth's policies.

An increase in the CES from 20 percent to 22 percent in 2020 will increase the CES obligation by approximately 900,000 MWh, imposing additional costs up to $48 million dollars on Massachusetts electric customers.[1]

In its Stakeholder Discussion Document issued in February 2019,[2] MassDEP indicates that "[m]arket conditions indicate that sufficient supply exists in the regional certificate market to support a small increase in the standard in 2020 and 2021 without triggering the use of ACPs for compliance." However, market prices for renewable energy certificates ("RECs") remain uncertain and current market conditions are not representative of future customer costs. For example, as shown in the table below, Massachusetts Class I RECs have increased from $14/MWh in February 2019 to approximately $45/MWh today.[3] Given this volatility, the MassDEP should revisit the program on a regular basis to ensure that the costs to customers remain as low as possible and the program is operating as designed.

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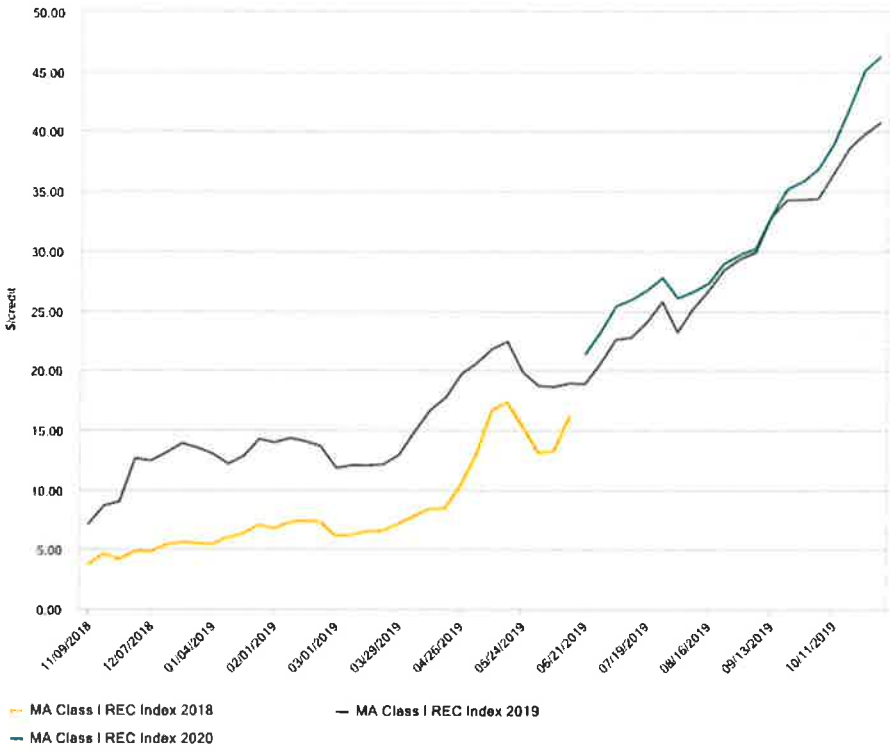
[1] As of the end of 2018, total load from investor-owned utilities in Massachusetts was approximately 45,000,000 megawatt-hours ("MWh") (source: *Electric Customer Migration Data*, Department of Energy Resources, 2018 Monthly Electric Customer Migration Data). A 20 percent CES obligation in 2020 would require 9,000,000 MWh to be sourced from non-emitting sources while a 22 percent CES obligation would require 9,900,000 MWh to be sourced from non-emitting sources. With an Alternative Compliance Payment ("ACP") rate of 75 percent of the Class I ACP (currently at $70.44/MWh for the 2019 compliance year), the additional cost to customers associated with the 2020 CES obligation increase is up to $48 million.

[2] MassDEP Stakeholder Discussion Document, Expanding the Clean Energy Standard, https://www.mass.gov/files/documents/2019/02/20/ces-shdd0219.pdf, February 2019.

[3] S&P Global Market Intelligence.



Create a "CES-E" requirement for retail electricity sellers to purchase electricity from existing (pre-2011) clean energy generators each year beginning in 2020

Adding a CES-Existing ("CES-E") standard has the potential to add significant costs to customers. Based on round numbers, it could cost approximately $70 million in additional costs to customers every year.[4] One way to mitigate, in part, these costs is to allow all non- or low-emitting resources to qualify for the CES and CES-E, regardless of commercial operation date. The Company recommends revising the date of February 20, 2019 referenced in 310 CMR 7.75 (5)(e) to a later date, such as the date at which these proposed amendments become effective. Retail suppliers should not have costs added to previously entered into contracts for retail supply between February 20, 2019 and the effective date of these changes.

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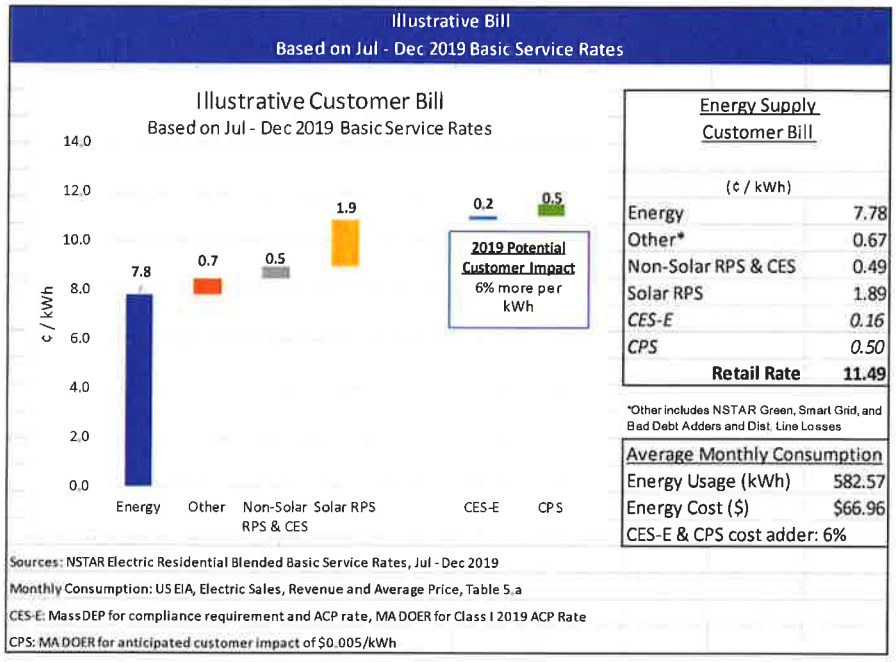
[4] MassDEP is proposing a new standard, CES-E, that would require retail electric suppliers to purchase 15 percent of electricity sales from existing non-emitting sources. As of the end of 2018, total load from investor-owned utilities in Massachusetts was approximately 45,000,000 MWh (source: *Electric Customer Migration Data*, Department of Energy Resources, 2018 Monthly Electric Customer Migration Data). The new CES-E standard would require approximately 6,700,000 MWh to be sourced from existing non-emitting sources. With an ACP rate of 15 percent of the Class I ACP (currently at $70.44 for the 2019 compliance year), the additional cost to customers associated with the CES-E is up to $70 million annually.

EVERSOURCE ENERGY

247 Station Drive
Westwood, MA 02090

While Eversource values clean energy as an important part of the energy mix in New England, the Companies also have a public service obligation to provide safe and reliable service at a reasonable cost to customers. Table 1 is an illustrative Eversource residential blended basic service bill for July through December 2019. Currently, Eversource's Basic Service customers pay for Clean Energy Certificates ("CECs"), Class I, Class II, Class II Waste-to-Energy, Alternative Portfolio Standard ("APS"), Class I Solar I and Class I Solar II RECs at a rate of approximately 2.5¢ per kilowatt-hour. The Company urges the MassDEP to remain cognizant of the significant costs associated with these policies and to take all necessary steps to further reduce costs to customers.



Consistent with its obligations to customers, the Company must ensure the costs to ratepayers remain reasonable and fair, and that any changes made to the CES will have as low a customer impact as possible. As the Commonwealth's clean energy and environmental goals become increasingly more comprehensive, stakeholders, including Eversource, need to continue to work together to ensure that the most cost-effective renewable resources are secured for the benefit of Eversource's customers. The MassDEP should revisit the program on a regular basis to ensure that the costs to customers remain as low as possible and the program is operating as designed. If there is sufficient existing regional clean energy supply such that the proposed CES-E will not increase costs to customers due to REC and CEC price impacts or ACPs, Eversource is supportive of the proposed CES-E as a means of continuing to advance the Commonwealth's clean energy and environmental goals.

EVERSOURCE ENERGY

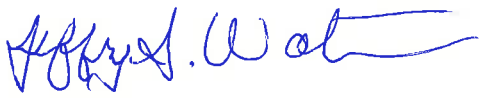
247 Station Drive
Westwood, MA 02090

Eversource supports qualifying as many resources as possible as long as they help to meet the goal of providing clean energy to Massachusetts

Eversource supports allowing resources from Newfoundland and Labrador to qualify in the CES-E program. More competition from Canadian resources should help to put downward pressure on prices. The Company does not support increasing the standard from 15 percent to 20 percent. A larger requirement could make the program more expensive. Additionally, the Company considers the 30 MW minimum size to be reasonable. Lastly, Eversource urges MassDEP to adopt regulations that are simple to administer and, to the extent possible, predictable in terms of costs. Retail electric suppliers set their rates based upon known costs that can be hedged efficiently. Any uncertainty increases costs as these suppliers embed the risk of the unknown into their prices, which is ultimately passed on to customers.

Eversource thanks MassDEP for its careful consideration of these comments and looks forward to continuing to work with MassDEP and other stakeholders to develop competitive, cost-effective solutions for meeting the Commonwealth's important energy and environmental goals. Should you have any comments or questions, please contact Parker Littlehale, Lead Energy Supply Analyst, at (781) 441-8714.

Sincerely,



Jeffery S. Waltman

Manager, Planning and Power Supply

November 12, 2019

FirstLight Power Comments in Response to Draft Amendments to 310 CMR 7.75 – 10/4/19

Company Overview

FirstLight Power (FirstLight) is a hydropower, energy storage, and solar generation company with assets based in Connecticut and Massachusetts. Our hydropower facilities in New England produce over 690,000 MWh of emissions-free generation, reducing the region's carbon footprint by more than 780,000 tons annually. In addition to our conventional and run-of-river hydro facilities, we also own and operate the 1168 MW Northfield Mountain pumped hydro storage station and 29 MW Rocky River pumped hydro storage station, respectively the largest and third largest energy storage facilities in New England, 2 MW of solar PV, and 1.5 MW of behind-the-meter battery storage in Massachusetts. Our facilities represent over a billion dollars of private investment in the region, employ 130 people, and support our communities in Massachusetts with more than $15 million in local property taxes every year.

CES-E Program Should Be Designed to Maintain Existing Clean Energy Resources

We appreciate the opportunity to comment on the proposed amendments to 310 CMR 7.75, the Clean Energy Standard (CES). The proposal wisely acknowledges the value that existing clean energy resources bring to the region, a critical component left out of the original program. Ideally the CES should create an environment that fosters the continued success of new and existing clean energy resources, both of which are necessary to attain Massachusetts' carbon reduction goals.

Given Massachusetts' ambitious statutory goals, the Commonwealth will need as many clean energy resources as it can develop and maintain. Unfortunately, the proposal unnecessarily limits the participation of numerous existing resources, including those that are physically located in Massachusetts but have previously participated in other jurisdictions programs out of necessity. Massachusetts has historically excluded existing clean energy resources from participating in the RPS and other renewable programs through vintage requirements. Other

states however have captured the environmental attributes of Massachusetts based clean energy resources simply because asset operators have had no recourse within the Commonwealth.

From a practical standpoint the current proposal maintains this dynamic and will inevitably result in a slower attainment of the Commonwealth's environmental goals and higher costs to Massachusetts consumers than is necessary. If the DEP allows existing clean energy resources to participate in the CES regardless of historical participation in other jurisdictions' programs, it will appropriately realize the opportunity to claim these resources' environmental attributes and limit the need for an equal amount of newly built renewable resources, which far exceed the cost of existing resources. At the very least, DEP should consider eliminating the proposed restriction on Massachusetts based assets, as those resources represent a significant amount of greenhouse gas emission (GHG) free generation that provide additional ancillary benefits to Massachusetts residents in the form of jobs and tax revenue. Maintaining these resources should be a priority for the administration.

Recommendations

FirstLight believes that both existing and new resources are needed to effectively mitigate the impacts of climate change and we view the CES as a viable method to further incentivize and maintain the progress made in decarbonizing the electric sector. However; FirstLight views the limitations placed on existing clean energy resources, particularly those located in Massachusetts, as potentially harmful to the achievement of the Commonwealth's GHG reduction goals and ratepayer costs. FirstLight recommends that the DEP reconsider the provision located in 310 CMR 7.75(7)(c)2, which excludes existing resources that have historically participated in programs in other jurisdictions. Short of eliminating the provision entirely, FirstLight recommends that assets located in Massachusetts be excluded from that restriction.

Thank you for your consideration.

Sincerely,

Len Greene
Director, Government & Regulatory Affairs
FirstLight Power
Len.Greene@firstlightpower.com

November 12, 2019

Via email to climate.strategies@mass.gov

Jordan Garfinkle
MassDEP
One Winter Street
Boston, MA 02108

Dear Mr. Garfinkle:

H.Q. Energy Services (U.S.) Inc. ("HQUS"), a U.S. subsidiary of Hydro-Québec ("HQ"), appreciates the opportunity to submit comments regarding amendments proposed by the Executive Office of Energy and Environmental Affairs ("EEA") and the Massachusetts Department of Environmental Protection ("MassDEP") to 310 CMR 7.75 Clean Energy Standard ("CES") to increase the CES standard from 20% to 22% in 2020 and to create a "CES-E" requirement for retail electricity sellers to purchase electricity from existing (pre-2011) clean energy generators each year, beginning in 2020. HQUS generally supports the proposed amendments and submits these comments responding to specific questions posed in the *Background Document on the Proposed Amendments* (Oct. 2019) ("*Background Document*") and offering the recommendations set forth below in order to ensure that the proposed amendments achieve EEA's and MassDEP's intended objectives.

Hydro-Québec Background

HQ is one of the largest suppliers of clean energy in North America. Through functionally separated entities, HQ generates, transmits, and distributes energy within the Province of Québec and exports electricity to external markets in Northeast North America, including New England, our largest export market.

Ninety-nine percent of electricity produced by Hydro-Québec Production ("HQP") is renewable as it is generated from its hydropower system of more than 62 geographically diverse stations that comprise over 37,000 MW of capacity.[1] This hydropower fleet is supported by a system of 27 reservoirs that allow for 176 TWh of electricity to be stored for future use or to be dispatched to meet real time changes in consumer demand. An extensive network of over 21,000 miles of transmission reliably and efficiently delivers electricity to customers within Québec and to our external markets.

Close to 5,000 MW of this capacity has been developed, constructed and brought online since the early 2000s. Recently, a 395 MW unit was commercialized at the La Romaine complex,

[1] Besides its hydro fleet, HQP owns one gas-fired power plant that is used as a back-up generator.

Hydro Québec's newest hydropower installation located in the eastern region of the Province. The fourth, and final, unit of La Romaine will be brought online in 2021.

Stated Objectives and General Program Design

The design basis of the CES regulation assumes that if "existing clean resources such as regional nuclear power plants and pre-2020 imported hydropower remain on line, the 80% standard will be sufficient to ensure that Massachusetts' electricity supply is almost completely decarbonized in 2050."[2] EEA and Mass DEP indicated that it is "important to 'lock-in' the contribution of these existing resources to Massachusetts' clean energy supply in 2020 and beyond," but that the program must be designed to avoid certificate "shuffling," *i.e.*, "crediting to Massachusetts clean energy that has historically been, and would otherwise be, credited to other states."[3] EEA and MassDEP have stated that the objective of setting the CES-E standard at 15% of 2018 electricity sales was to "reflect the historical contribution of existing clean resources to MassDEP's GHG emissions inventory, and to ensure consistency with the purpose of maintaining (vs. increasing) the contribution of the resources to Massachusetts' electricity supply."[4]

In furtherance of the primary objectives of retaining existing regional nuclear power and pre-2020 imported hydropower, avoiding certificate shuffling, and maintaining the historical levels contributed by such resources,[5] EEA and MassDEP designed CES-E, at a minimum, to qualify generation with the following characteristics:

- utilize hydroelectric or nuclear energy;
- have a commercial operation date before January 1, 2011;
- be located in Massachusetts or a jurisdiction that has consistently exported electricity to Massachusetts; and
- have a nameplate capacity of more than 30 MW

Specific Parameters

Clean Existing Generation Qualification Based on Location in Massachusetts or in a Jurisdiction Meeting Historical Export Threshold and Existing Transmission Paths

The *Background Document* requests comment on whether it is appropriate to qualify clean existing generation based on whether the generation is located in a jurisdiction that has "exported at least 2,000,000 MWh of electricity to Massachusetts every year from 2001 through 2016, on a net annual basis, as reflected in the state greenhouse gas emissions inventories published annually by the Department" or is located in Massachusetts. *Background Document* at p. 6.

HQUS concurs that it is appropriate to establish qualification criteria for CES-E based on either the clean existing generation's location in Massachusetts (to the extent that environmental attributes of generation unit have not been used to satisfy obligations in other jurisdictions) or

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[2] *Background Document* at p. 4, *citing* EEA's Global Warming Solutions Act 10-Year Progress Report at p. 50, *available at* https://www.mass.gov/files/documents/2019/04/02/GWSA-10-Year-Progress-Report.pdf.
[3] *Background Document* at p. 4.
[4] *Id.* at p. 5.
[5] *See id.* at p. 4.

located in a jurisdiction that has been deemed to have historically exported electricity to Massachusetts based on the minimum levels calculated by DEP in its GHG inventory.

However, certain provisions in both the existing and proposed language of 310 CMR 7.75(7)(b), which may have been more appropriate in the context of incentivizing additional imports over new transmission, are either unnecessary or redundant, especially with regard to maintaining clean existing generation for import into the ISO New England control area over existing ties.

The existing 310 CMR 7.75(7)(b) contains a provision requiring documentation "of a contract or other legally enforceable obligation, that is executed between the generation unit owner or operator and an electrical energy purchaser located in the ISO-NE control area for delivery of the unit's electrical energy to the ISO-NE control area." This was required under CES, because MassDEP contemplated that additional imports requiring new transmission would require execution of firm contracts. In contrast, clean existing generation that is currently imported into the New England control area is primarily imported on a non-firm basis. Such import transactions are not documented in the same way. Nevertheless, the fact that an import transaction would have to be settled in the ISO-NE Settlement Market System and accounted for in NEPOOL-GIS is itself indicative of an agreement between the generation unit owner and a purchaser within the ISO-NE control areas. Thus, a separate demonstration of a contract between the clean existing generation unit owner and a purchaser is unnecessary and onerous, and should not be required under CES-E.

Similarly, the proposed language requiring that "documentation shall include provisions for obtaining associated transmission rights for delivery of the unit's electrical energy from the unit to the ISO-NE Control Area using transmission capacity that had a commercial operation date before January 1, 2017" appears to mirror the requirement for CES-qualified imports to obtain transmission rights over new transmission. The CES contemplated that the clean generation owner and the electrical energy purchaser having entered into the firm contracts for imports also would have executed long-term contracts to arrange for transmission rights to make use of the new transmission facilities. The requirement is unnecessary and may be inappropriate for clean existing generation under CES-E, because the fact that any particular import transaction was scheduled across the existing interfaces into the ISO-NE control area for settlement in the ISO-NE Settlement Market System is itself indicative of the fact that the import involved the required associated transmission rights over existing transmission. There is no current need to include this requirement in the CES-E rule until the new transmission facilities enter commercial operation. Even then, it would remain to be seen whether it will be necessary to track the transmission path used for CES-E, because any available new transmission capacity may be fully contracted to CES-eligible imports.

EEA and MassDEP request comment on streamlining this provision and on whether transmission path documentation requirements can be addressed after new transmission capacity comes online after 2020.[6] HQUS recommends deferring this issue for later consideration. In the event that this issue needs to be addressed, either the CES-E regulation or NEPOOL-GIS can be modified to address tracking of transmission paths.

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[6] *Id.*

Special Provisions for Clean Existing Generation Units

The language in Proposed 310 CMR 7.75(7)(c) appears to be intended to address the observation that "generators in Massachusetts are assumed to contribute to Massachusetts' energy supply if their generation is not used to comply with renewable energy requirements in other states." The proposed language reads:

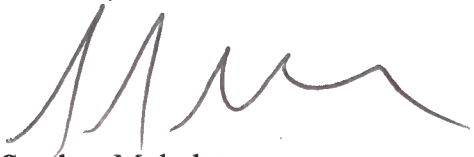
> The portion of the total electrical output of a clean existing generation unit that qualifies as clean existing generation shall be the portion of the total electrical generation output that did not have attributes retired, claimed, used or represented, as part of electrical energy output or sales, or used to satisfy obligations in any jurisdiction **in any year since 2010**, as reflected in the NEPOOL-GIS.

Proposed 310 CMR 7.75(7)(c)2(emphasis added). If this highlighted term is not revised, it could operate as a one-way ratchet that disqualifies larger and larger portions of existing clean generation for CES-E if the level of environmental attributes of that generation that are retired or claimed by other states' programs increase in any particular year going forward. This would be contrary to the program's intent to continue to *maintain* clean existing generation. This provision should be revised to read "in any year between 2001 and 2016" to clarify that this term is intended to maintain the historical level of the generation accounted for on behalf of Massachusetts in the GHG inventory.[7]

Conclusion

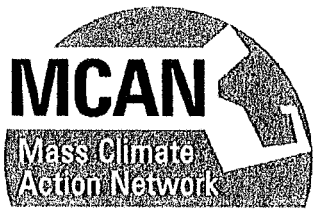
HQUS generally supports the overall concepts for the design of the CES-E standard as described in the *Background Document*. As discussed above, however, HQUS recommends deleting provisions requiring documentation of contracts or legal obligations between the generation owner and the electricity purchaser for delivery within the ISO-NE control area and documentation for acquiring the associated transmission rights on existing transmission paths for the import, because these requirements are inappropriate for clean existing generation import transactions under CES-E. HQUS also recommends revising the proposed rule to provide a specific historical period that would be used to determine what portion of a clean existing generation resource's environmental attributes were not used to satisfy obligations in other jurisdictions.

Sincerely,



Stephen Molodetz
Vice President – Business Development

[7] HQUS is uncertain as to why EEA and MassDEP chose 2010 as the starting year, as opposed to the 2001 to 2016 period that would apply to the historical export threshold. HQUS proposes the 2001 to 2016 period only for consistency.



October 30, 2019

Jordan Garfinkle
MassDEP
One Winter St.
Boston, MA 02108

Dear Mr. Garfinkle:

For two plus years Massachusetts Climate Action Network (MCAN) has been organizing with local advocates in in towns with municipal light plants (MLP). These teams of advocates are turning to their local MLP to be part of the climate solution, and have become very aware of the roadblocks put in front of them by the numerous climate and clean energy exemptions granted to MLPs by the Commonwealth of Massachusetts. Several communities have responded positively to advocates and responded by investing in clean energy and ending their practice of double counting, selling RECs to the investor owned utilities and still telling their customers they are powered by local clean energy. Other MLPs have dug in their heels and continued the practice, and without the proper incentive, like inclusion in the Clean Energy Standard, will continue the practice and continue to undermine the Commonwealth's climate goals.

MCAN supports including municipal light plants in the Clean Energy Standard (CES) in the most ambitious way possible as noted in our comments from 2017. Eleven other states across the U.S. include Municipal Light Plants in their Renewable Portfolio Standards: California, New York, Washington, Oregon, Colorado, Minnesota, Wisconsin, Indiana, Michigan, North Carolina and Vermont. If Massachusetts is to be a leader on clean energy but are behind eleven states in this area, then we need to rethink our identity and our policies. Exempting 15% of our electricity supply leaves significant solutions off the table that could make or break our ability to meet our Global Warming Solutions Act goals.

The department has offered three different proposals in the Clean Energy Standard to include Municipal Light Plants. The first proposal being a tiered and phased in entry, the second being a monitoring and reporting only approach, and the third being the original 2016 proposal by the department. Within this last proposal of including all Municipal Light Plants and achieving a goal of 80% by 2050, as an organization, we support, but with improvements.

This option ensures that all Municipal Light Plants will make progress on their portfolios with regular reporting requirements. The MLPs work with either Environment Northeast (ENE) or Massachusetts Municipal Wholesale Electric Company (MMWEC), which, due to the aggregated demand across all of their clients, are capable of securing clean energy contracts

for every MLP no matter the size or number of customers. This third option is the best way to make sure that MLPs are contributing to the progress we make on renewables along with everyone else.

The members and chapters of MCAN believe that clean energy should be the same no matter who is producing or selling it. The DEP should maintain the same definition of clean energy for MLPs as all other retail sellers. If the requirement was to provide their customers with 6% renewable energy in 2021, most MLPs could meet the 2021 goal by simply retiring RECs for projects they own or site.

MLPs need to make plans to move beyond existing nuclear power. While the proposed CES allows old Nuclear and Hydro to count (Seabrook, Millstone, Niagara Falls), a plan should be required to show the MLP knows how they will provide their customers with clean energy after the nuclear plants are retired. We need limits on allowing old generation (in particular nuclear) to count as clean energy. The allowance should expire at the time that the nuclear contracts expire so as not to encourage renewals beyond what is necessary. We know at least one contract with Millstone goes until 2045 and Seabrook is currently only licensed until 2030. Additionally, this should only apply to MLPs that already have contracts with these generators. We believe this program should not encourage MLPs to enter into new contracts with old nuclear in order to meet this standard.

The amount of clean energy MLPs are required to supply to customers should increase each year. MLPs can comply with a yearly increase by purchasing Renewable Energy Credits or Clean Energy Credits via contracts with ENE and MMWEC. They also have the option of siting renewable energy in their communities and retiring the RECs. Based on our analysis, more than half of MLPs in MA are currently providing more than 6% non-emitting electricity to their customers, taken as a whole, and therefore believe that should be the baseline should exceed this and that percentage should rise by 2% a year starting in 2021. The number should, over time, keep pace with the best available science and the Commonwealth's legislated goals.

All MLPs should be a part of the solution. Exempting any of the municipal light plants undermines the point of reducing climate change causing pollution in Massachusetts being covered by the Global Warming Solutions Act. Further, it is possible for small MLPs to purchase and develop renewable power with the help of their large industry associations, ENE and MMWEC. We know that even small towns are able to own wind turbines and for energy contracts, they can check their contracts for clauses that allow for a reduction every year of energy they are obligated to purchase. We oppose the prospect of exempting MLPs under a certain size.

Sincerely,

Andrew R. Grande
Clean Energy Program Director

Garfinkle, Jordan (DEP)

From: Strategies, Climate (DEP)
Sent: Tuesday, November 12, 2019 2:35 PM
To: Garfinkle, Jordan (DEP)
Subject: FW: Application of Clean Energy Standards

From: michael.schaaf@comcast.net
Sent: Tuesday, November 12, 2019 2:35:23 PM (UTC-05:00) Eastern Time (US & Canada)
To: Strategies, Climate (DEP)
Subject: Application of Clean Energy Standards

Dear Sir or Madam,

I support the inclusion of Municipal Light Plants (MLPs) in the revised Clean Energy Standards (CES), and urge DEP to proceed accordingly.

I am a long time member of the Ipswich Electric Light Department Committee, which advises the Electric Light Department Commissioners regarding policies and rates. The Committee, on which Commissioners also participate, is the primary locale for substantive policy and rate discussions. The Commissioners consistently heed the Committee's advice and implement its suggestions. I am also a member of the Town of Ipswich Finance Committee.

I support requiring all MLPs to supply 6% of non-emitting energy by 2021, increasing to 80% by 2050. To avoid gaps in progress that my be difficult to overcome, and to support ongoing development of non-emitting sources, DEP should require MLPs to continuously increase their supply of non-emitting sources, as they progress to 80%. Like other utilities, MLPs should do their share in providing clean energy.

The DEP should maintain the same definition of clean energy for MLPs as all other retail sellers. Since MLPs purchase a significant proportion of their non-emitting sources from nuclear power, DEP should require MLPs to develop and submit a plan defining how they will provide their customers with clean energy after their contracts with nuclear plants expire.

Climate change is pressing on the Commonwealth and the planet. We must make all reasonable efforts to avoid and minimize it. No carbon emitters can be exempted. MLPs must be part of the solution.

Thank you for your consideration.

Michael Schaaf
1 Shagbark Woods
Ipswich, MA 01938

Ronald C. DeCurzio
Chief Executive Officer
Massachusetts Municipal Wholesale Electric Company
327 Moody St.
Ludlow, MA 01056

November 11, 2019

Mr. Jordan Garfinkle
Massachusetts Department of Environmental Protection
One Winter Street
Boston, MA 02108

Re: Proposed CES-E Amendments to 310 CMR 7.75/Clean Energy Standard

Dear Mr. Garfinkle,

The Massachusetts Municipal Wholesale Electric Company (MMWEC), the state's joint action agency for Massachusetts municipal utilities representing 20 municipal light plant (MLP) members and 28 MLP project participants, appreciates this opportunity to submit comments related to the proposed amendments to 310 CMR 7.75 Clean Energy Standard.

Municipal utilities in Massachusetts support public policy goals to reduce carbon emissions in the electric sector, despite no mandate to do so. Through the end of 2018, MMWEC member utilities owned 58.2 megawatts of wind generation, 47.5 megawatts of solar and 26.5 of megawatt hours of energy storage, of which 14.6 megawatt hours of energy storage came online in 2019. That's compared to just 5.46 megawatts of wind, no solar and no energy storage in early 2010.

According to the DEP's background document on the proposed amendments, only certain hydro and nuclear resources in the exporting jurisdictions of New Hampshire and Quebec would qualify for CES-E. This specific qualifying criteria eliminates the approximately 55 megawatts of New York Power Authority (NYPA) hydro power that MMWEC administers via contract to all 40 Massachusetts MLPs, St. Lawrence hydro contracts to eight MLPs and MMWEC's Millstone nuclear project, which includes 27 participating MLPs.

While the Seabrook nuclear power plant does qualify for the CES-E, a single generator would be limited to a maximum of 2.5 million megawatt hours, which represents approximately 25% of the annual generation of Seabrook. Twenty-eight MLPs participate in MMWEC's Seabrook nuclear project, representing approximately 11.6% ownership.

DEP, while acknowledging MLPs' ownership in the Seabrook project, has maintained that the MLPs would not be entitled to CES-E certificates, presumably because they are not subject to the mandates of 310 CMR 7.75. MMWEC, its project participant MLPs and their customers began investing in Seabrook more than three decades ago. The investment and ownership of these assets and their carbon-free

generation by the municipal utilities demonstrates the MLPs' commitment to helping the state reach its carbon emissions goals. MassDEP's exclusion of MLPs' ownership regarding the ability to participate in receiving CES-E is inconsistent with how it's treating other joint owners of Seabrook. The MLPs' ability to be vertically integrated, thus owning assets including Seabrook, is similar to the structure of NextEra's ownership of Seabrook. Seabrook is also not subject to the mandates of 310 CMR 7.75. Therefore, by excluding MLPs in this manner, DEP is not treating MLPs as asset owners like NextEra. This unequal treatment of Seabrook's owners is not fair to the municipal ratepayers who are contributing to the costs of Seabrook's operations and are being denied benefits that may accrue to Seabrook's other owners resulting from the proposed amendments to 310 CMR 7.75.

MMWEC would support a CES-E that treats all existing pre-2011 and new clean energy resources equally, without restrictions on their location in the ISO-NE control area or size, assuming they are directly interconnected to the ISO-NE control area and delivered to ISO-NE consistent with NEPOOL GIS rules. This would include Millstone Unit 3, of which MMWEC project participants own 4.8%; Seabrook nuclear project, of which MMWEC project participants own 11.6%, and NYPA hydro and St. Lawrence hydro contracts, of which MLPs receive approximately 55 megawatts.

The creation of the CES-E shows DEP's acknowledgement of the benefits of existing clean generating resources. MMWEC supports the inclusion of existing clean resources as a way to ensure compliance of the Massachusetts Global Warming Solutions Act (GWSA) by 2050.

MMWEC appreciates your consideration of these comments.

Sincerely,

Ronald C. DeCurzio
Chief Executive Officer

Hydro Place. 500 Columbus Drive.
P.O. Box 12800. St. John's. NL
Canada A1B 0C9
t. 709.737.1440 f. 709.737.1800
nalcorenergy.com

November 08, 2019

Martin Suuberg, Commissioner
Massachusetts Department of Environmental Protection
1 Winter Street
Boston, MA 02108

Re: Comments on the Proposed Amendments to the *Clean Energy Standard*

Commissioner Suuberg:

Nalcor Energy thanks you for the opportunity to provide comments to the Department of Environmental Protection (DEP) on the *Background Document on Proposed Amendments to: 310 CMR 7.75 Clean Energy Standard* (Background Document).

Nalcor is a Canadian provincial crown corporation with responsibility for the development of Newfoundland and Labrador's energy resources. Nalcor currently operates over 7,000 megawatts (MW) of electrical generating capacity that is predominately hydroelectric and is also actively developing additional large scale hydroelectric projects with the next project under construction and scheduled to come on-line in 2020.

The Massachusetts Clean Energy Standard (310 CMR 7.75) currently requires that qualifying clean resources meet the requirements of NEPOOL GIS Operating Rule 2.7(c) which in turn requires the generating unit to be located in a control area adjacent to the ISO-NE Control Area. As a result of these requirements, energy from clean generation units in Newfoundland and Labrador currently does not qualify as clean energy in Massachusetts. As such Nalcor is pleased the Background Document has specifically invited comment on the potential inclusion of Newfoundland and Labrador as an eligible exporting jurisdiction:

> *The agencies are also seeking comment on whether including Newfoundland and Labrador as additional exporting jurisdictions could be appropriate and desirable. Including these jurisdictions could be appropriate because they are only*

> *electrically interconnected to control areas that are adjacent to New England, reducing the risk of certificate shuffling, and because of the possibility that including hydropower resources located in these provinces could lower costs by increasing competition among eligible resources in Canada. This approach could also be consistent with the inclusion of out-of-region generators in the CES Regulation if they use a "dedicated transmission line," an option that was included in the CES to "potentially lower costs by increasing competition among Canadian generators able to deliver electricity to Massachusetts."*

In response to the DEP's current request for comments as well as stakeholders' submissions on the *Stakeholder Discussion Document Expanding the Clean Energy Standard February 2019* Nalcor would like to address three areas related the inclusion of Newfoundland and Labrador as an eligible jurisdiction, namely competition amongst Canadian hydro, dedicated transmission lines and subsidies to crown corporations

1. Competition Amongst Canadian Hydro

In its submission on the DEP's Stakeholder Discussion Document *Expanding the Clean Energy Standard February 2019* Nalcor recommended broadening the eligibility under the CES-E to include imports of energy from Newfoundland and Labrador that can be tracked from a non-emitting clean energy generating unit in Newfoundland and Labrador to the ISO-NE Control Area. The addition of eligible generators to the program may lower the costs to retail suppliers of CES-E compliance, and ultimately may cause some of those savings to flow to ratepayers. Nalcor urges the Department to allow for full and fair competition by qualifying clean electricity generators in Newfoundland and Labrador and other qualifying Canadian generators to compete to supply the needs of the market.

2. Dedicated Transmission Lines

The current CES Standard restricts the inclusion of out-of-region resources generators to those that employ the use of a dedicated transmission line. Nalcor is of the opinion this particular criterion places an onerous and unnecessary burden on resources and would in effect preclude generators located in Newfoundland and Labrador from participating in the CES program. Given Newfoundland and Labrador's geographic location, energy

imports can only reach New England via routes through the Quebec or New Brunswick Control Areas, both of which are adjacent to the ISONE Control Area.

A viable alternative to requiring the use of dedicated transmission lines to track energy imports from Newfoundland and Labrador are NERC e-tags which are unique identifiers that clearly identify the source of generation, delivery point and the transmission path in-between. These tags can be used to track the path of energy imports to validate both the origin and final destination.

It is worthwhile to note that in October 2019 ISO-NE implemented the New England External Transaction Tool (NEXTT) and with this new platform ISO-NE will no longer accept energy transactions without an associated NERC e-tag. The result is that every energy transaction going in and out of New England will now have an associated unique NERC e-tag identifying the source, transmission path and final destination. Once a generating facility is certified as an eligible generator under the CES, the information available in the NERC e-tags associated with imports from that facility can provide regulators in Massachusetts with the necessary validation and effectively eliminate the risk of "certificate shuffling" from generation sources located in Newfoundland and Labrador.

3. Subsidies to Crown Corporations

In response to the DEP's request for comments on the *Stakeholder Discussion Document Expanding the Clean Energy Standard February 2019* a few stakeholders expressed the opinion that allowing clean energy imports from Canada to qualify under the CES program amounted to a subsidy for Canadian hydro companies.

Energy from hydro generators located in Eastern Canada will be of great assistance in helping Massachusetts achieve its clean energy targets. Inclusion of these resources in the CES program is not a form of subsidization for generators located in Canada, Massachusetts or elsewhere. Rather, it provides an appropriate signal to market participants of the attributes that the market values thereby enabling those participants to respond accordingly and include such value in their decision-making regarding resource development and deployment. It provides a transparent mechanism that would establish and pay fair value for the environmental attributes associated with all facilities, including imports from Canada.

The inclusion of hydro generators in Canada as qualifying clean energy generators in the expansion of the CES is a positive step that ensures energy from hydroelectric units in Canada can compete to contribute to the state's clean energy targets. The inclusion of non-emitting energy generators in Newfoundland and Labrador as qualifying clean energy generators in the expansion of the CES would ensure energy from additional hydroelectric units in Canada are available to contribute to the state's clean energy targets.

Nalcor thanks the Department once again for the opportunity to provide these comments and for your considered attention to them as you continue to enhance Massachusetts' CES program. I look forward to working with you and other stakeholders to help Massachusetts meet its energy diversity and carbon reduction objectives.

Sincerely,

Greg Jones
General Manager
Nalcor Energy Marketing

nationalgrid

November 12, 2019

Via email to: climate.strategies@state.ma.us

William Space and Jordan Garfinkle
Massachusetts Department of Environmental Protection
One Winter Street
Boston, MA 02108

Re: National Grid Comments on Expanding the Clean Energy Standard

Dear Mr. Space and Mr. Garfinkle:

On behalf of Massachusetts Electric Company and Nantucket Electric Company, each d/b/a National Grid ("Company" or "National Grid"), I am pleased to offer comments on the proposed amendments to the Clean Energy Standard ("CES") regulations, 310 C.M.R. 7.75, put forth for comment by the Commonwealth of Massachusetts Department of Environmental Protection ("MassDEP"). National Grid's comments address the proposed amendments which would: (1) increase the CES standard from 20% to 22% in 2020; and (2) include existing generation in the CES (known as CES-E). National Grid's comments also include additional proposals on how MassDEP could apply the CES to municipal electric utilities,[1] and expand the CES further.

On August 11, 2017, MassDEP promulgated the CES regulations. The purpose of the CES is to achieve greenhouse gas ("GHG") emissions reduction goals, as required by the Global Warming Solutions Act ("GWSA"), by establishing a CES that will increase the level of clean electricity that is purchased from the regional electric grid for consumption in Massachusetts. The CES is designed to function in a manner similar to and compatible with the existing Renewable Energy Portfolio Standard ("RPS"), 225 C.M.R. 14.00 *et seq.*, by requiring retail electricity sellers to annually procure a minimum percentage of "clean generation attributes" (sometimes called clean energy certificates or "CECs") that corresponds to a percentage of electricity sales. See, e.g., 310 C.M.R. 7.75(2) and (4). CECs are produced by any resource that meets the CES eligibility requirements, which includes all RPS Class I resources, plus non-RPS Class I resources that are approved by MassDEP. CES obligations can be satisfied with RPS Class I Renewable Energy Certificates ("RECs") or from CECs associated with units approved by MassDEP. On February 20, 2019, MassDEP notified interested stakeholders of its proposals to expand the CES, it convened two stakeholder meetings, and requested written comments on these proposals. On October 4, 2019, MassDEP issued the proposed amendments to the CES for comment.

[1] Such electric utilities include municipal electric departments, municipal light boards, and municipal light plants ("MLPs").

In addition to its comments regarding the proposed amendments, National Grid also proposes that MassDEP apply the CES to municipal utilities. The GWSA established goals to reduce GHG emissions, and avoid the impacts of global warming, which are important goals for the entire Commonwealth. All Massachusetts residents and businesses will benefit from achievement of these goals, and all electricity customers, including customers of municipal utilities, should contribute equally to achievement of these goals. To date, only IOU customers are subject to the CES. Having different requirements for IOUs than for municipal utilities creates significantly disproportionate cost burdens for customers of IOUs versus customers of municipal utilities

Finally, MassDEP does not propose changes to its requirement to complete a review of the requirements of the CES no later than December 31, 2021.[2] However, National Grid recommends that MassDEP complete this review sooner, and proposes that MassDEP expand the CES by including various Massachusetts renewable policies under one standard. These renewable policies were enacted by the Legislature to support renewable energy and reduce emissions. National Grid's proposal combines the Commonwealth's fragmented clean energy efforts and provides a comprehensive view of Massachusetts' progress in combatting climate change. Combining the various clean initiatives paid for by customers into one standard provides transparency and will demonstrate that the state will likely have 100% clean energy from existing generation and existing policies sometime in the early 2040s. National Grid's proposal also is more cost-effective and will help maintain the stability of the grid better than alternative proposals. National Grid recommends this review be completed sooner in time for the Legislature have comprehensive information when reviewing various annual proposals to expand the RPS Class I to 100%.

1. <u>MassDEP Should Not Increase the CES Standard because it will impose an Increased Cost and Burden on Only Certain Electricity Customers.</u>

The Company opposes MassDEP's proposal to increase the compliance percentage in 2020 from the current regulatory requirement of 20% to 22%.

First, as MassDEP itself has acknowledged, an increase to the CES is not projected to be necessary. In its March 14, 2019 stakeholder meeting, MassDEP acknowledged that the Commonwealth appears likely to meet its 2020 GWSA goals. If the GWSA goals are already likely to be met, any increase in the compliance percentage is unnecessary. In addition, MassDEP should consider the ongoing implementation of the recently approved Solar Massachusetts Renewable Energy Target ("SMART") program, which provides incentives to up to an additional 1,600 MW of customer-owned solar generation as well as the Clean Peak Energy Standard ("CPS") and its associated compliance obligations, which will go into effect in 2020. Such programs may result in further decreased emissions, beyond what has already been projected, which will help the Commonwealth surpass its GWSA goals. Aside from the fact that an increase in the CES compliance percentage is unnecessary, it will only lead to higher costs to customers and a windfall of profits to RPS Class I resources. For these reasons, MassDEP should minimize

[2] 310 C.M.R. 7.75(11).

the costs borne by customers of investor-owned utilities ("IOUs") and decline to increase the current standard.

The MassDEP Stakeholder Discussion Document, "Expanding the Clean Energy Standard February 2019" ("February 2019 Discussion Document"), states "[m]arket conditions indicate that sufficient supply exists in the regional certificate market to support a small increase in the standard in 2020 and 2021 without triggering the use of [Alternative Compliance Payments ("ACPs")] for compliance." However, market prices have changed significantly since February 2019, indicating a tightening of the supply of RPS Class I RECs. RPS Class I REC prices have increased over 240% since the Company's March 29, 2019 comments, from $18.25 to $44.50. Additionally, RPS Class I prices are approaching the ACP rate. The 2019 CES ACP rate is $52.83, which is 75% of the RPS Class I ACP rate of $70.44. The 2020 CES ACP rate will be increased by the Consumer Price Index. Notably, the CES ACP Rate decreases to 50% of the RPS Class I ACP rate in 2021. If ACP formula change had occurred in 2020, the CES ACP rate would be approximately $35.22, well below the current market price of $44.50. Therefore, any increase in the CES obligation due to the assumption that there is sufficient supply, or that the ACP will not be used, is questionable.

An increase of 2% in the CES for IOU customers equates to approximately 928,966 additional RPS Class I RECs in 2020.[3] At current market prices for 2020 RPS Class I RECs, a 2% increase will cost IOU customers an additional $41.3 million in 2020.[4] However, increasing the CES will also increase the demand for all RPS Class I RECs, thereby increasing their market prices and affecting IOU customers' compliance with the current CES. The current regulatory requirement for CES in 2020 is 14.59%, which must be met by RPS Class I RECs.[5] Accordingly, the current standard will require load serving entities to purchase a total of 6,775,553 RPS Class I RECs to satisfy the IOU customers' compliance obligations in 2020. If the market price of RPS Class I RECs increases by $1, the additional cost will be an additional $6.8 million in 2020. While National Grid cannot predict with certainty exactly how much higher RPS Class I RECs will be if MassDEP increases the CES obligation for 2020, the table below shows a range of projected increased IOU customer costs due to increased RPS Class I REC prices resulting from a higher obligation:

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[3] IOU load in 2018 was 46,448,304 megawatt-hours ("MWh"). See "Determination of CY 2020 Total Compliance Obligation and Minimum Standard." https://www.mass.gov/doc/final-srec-i-minimum-standard-calculation-cy2020/download

[4] The Company used a price of $44.50 for a RPS Class I Vintage 2020 REC, which was recently provided to the Company by environmental brokers.

[5] The current CES obligation is 20% in 2020. Using 2020 minimum standard for RPS Solar Carve-Out and Solar Carve-out II Minimum Standards, the amount of RPS Class I RECs the Company will need to comply with CES is 14.59% (i.e., 20% - 1.61% - 3.80% = 14.59%).

Figure 1: Estimated Range of Cost Increases to CES Compliance

Per $ Price Increase to Class I REC	Resulting Incremental Cost to IOU Customers in 2020 (in $)
0.50	3,387,777
1.00	6,775,553
2.00	13,551,107
3.00	20,326,660
4.00	27,102,214
5.00	33,877,767

The proposed increase in costs ($41.3 million) associated with the 2% increase in the CES standard should not be viewed in isolation; rather it is appropriate to consider other proposed regulations that will significantly increase costs in 2020 for IOU customers. The MassDEP's "Background Document on Proposed Amendments to: 310 CMR 7.75 Clean Energy Standard (October 2019)" ("October 2019 Background Document") estimates the CES-E may cost $70 million annually. The proposed CPS regulations estimate 2020 compliance costs to be $13 million.[6] The Massachusetts Department of Energy Resources ("DOER") is proposing amendments to 225 CMR 15--Renewable Energy Portfolio Standard – Class II ("RPS Class II"). The Company estimates the proposed amendments to RPS Class II Alternative Compliance Payment will increase costs by $10 million in 2020. The Company estimates the proposed amendments to the RPS Class II Waste-to-Energy Minimum Standard and ACP will increase costs in the range of $14 million to $45 million in 2020. If approved, these increased costs will continue annually.

Figure 2: Estimated Range of Cost in 2020 due to MassDEP and DOER Proposals

Proposed Regulations in 2020	Resulting Incremental Cost to IOU Customers in 2020 (in millions $)
Increase CES an addition 2%	41.3
Increased CES impact to RPS Class I Costs	Unknown – see range above
Implement a CES-E	70
Implement a CPS	13
RPS Class II	10
RPS Class II Waste-to-Energy	14-45

RPS Class I RECs often can qualify for other states' renewable energy standards because of very similar eligibility requirements. Because of this, REC prices for each state's compliance often trade at similar prices (this includes Rhode Island New, New Hampshire Class I, Connecticut Class I RECs). If MassDEP increases the CES obligation even though GWSA goals are already

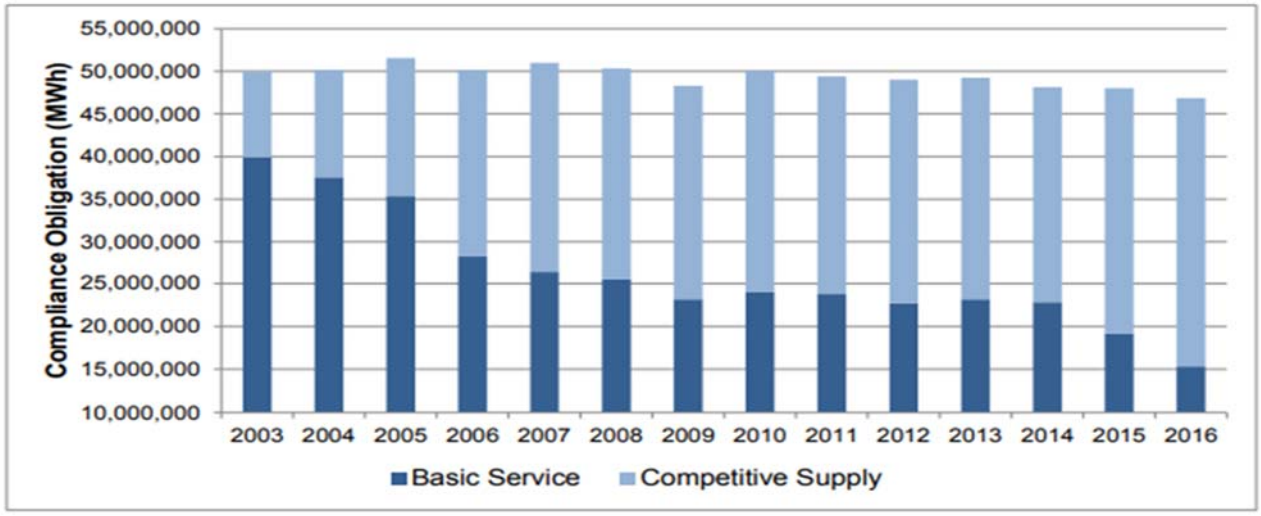
[6] See slide 39 of "Clean Peak Energy Standard: Draft Regulation Summary August 7, 2019 & August 9, 2019."

likely to be met, it will result in increased compliance costs in these other states and will provide an unwarranted windfall of profits to RPS Class I resources throughout the region, paid for by New England customers.

Given that an increase in the CES already seems unnecessary to meet GWSA goals at this time, the potential cost increases to IOU customers should deter the MassDEP from making this change to surpass its GWSA goals. If MassDEP seeks greater certainty of meeting and surpassing the GWSA goal for 2020, it should expand the CES to municipal utilities starting 2020 as described below, rather than imposing additional costs on IOU customers, who are already subject to significant costs resulting from the CES. If MassDEP is unwilling to apply the CES to municipal utilities, it could increase its CES-E 2020 obligation for IOUs by 2%. This would result in lower costs, while meeting the same GWSA goals, as expanding the CES by 2%.

However, in the event that MassDEP decides to move forward with an increase to current CES obligations for 2020, no existing electricity supply contracts should be exempt. Many IOU customers purchase their commodity service from competitive suppliers through long-term contracts, and a significant portion of National Grid's distribution customers purchase power through the Company's Municipal Aggregators' tariff. Also, more than 45 of the towns served by Company that take service under the Municipal Aggregators tariff have existing electricity contracts starting before February 2019 and ending in 2020 or later. MassDEP should also consider that contracts for municipal aggregations often include a section to address regulatory events, in which case the competitive suppliers can pass along an increase in costs to participating customers. Competitive suppliers for non-municipal aggregation customers may also have this contract language. If the MassDEP were to exempt any of this electricity load from an increase to the CES obligation, it will result in an IOU's Basic Service customers bearing a disproportionate share of the increase. This is because Basic Service generally employs shorter contracts and may not qualify for such an exemption. In addition, if the MassDEP were to apply a CES increase mostly to Basic Service customers, it is not guaranteed to significantly further the state's GWSA goals because Basic Service load as a percentage of IOU load has decreased significantly over the years, as illustrated in the graph below:

Figure 3: Retail Load Obligation by Supplier Type, 2003-2016[7]



Accordingly, if MassDEP does decide to move forward with a CES increase, it should not exempt any load from such increase, or it risks imposing a disproportionate share of the cost burden on Basic Service customers, and it may not even achieve the additional reductions that are sought by the increase.

2. National Grid Supports the Concept of a CES-E Standard.

National Grid supports the concept of MassDEP's proposal for expanding the CES to add a separate requirement to support existing clean generators – the introduction of the CES-E. However, the Company disagrees with the proposed Alternative Compliance Payment rate.

All clean energy resources play a vital role in helping the Commonwealth reduce its GHG emissions and avoid the impacts of global warming, which meets the purpose of the CES. Existing resources will help achieve and maintain such reductions. As MassDEP noted in the "310 C.M.R. 7.75: Clean Energy Standard, Review of Options for Expanding the CES – Stakeholder Discussion Document" ("2017 Discussion Document"), the loss of existing low- and zero-emissions generators prior to 2050 could make it more difficult to achieve the GHG emissions reductions required under the GWSA.

In addition, if MassDEP includes all clean resources in the CES, it should reduce overall costs of CES compliance for customers and achieve the goals of the GWSA. First, competition will determine the best prices, which should achieve the most cost-effective means of CES compliance for customers. Further, it is likely that it will be more cost-effective to maintain existing operational units than to build new units. Additionally, it provides a diverse resource mix

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[7] Source: Massachusetts 2016 Renewable Portfolio Standard (RPS) and Alternative Portfolio Standard (APS) Annual Compliance Report.

which allows the bulk power system to operate more reliably. Finally, there is no "windfall" to existing resources of being qualified under the CES, as some parties have alleged in the past, because both existing and new resources are actually contributing to emissions reduction goals.

National Grid supports the CES-E obligation that is separate from the current CES obligation, with its own vintage requirements and its own ACP. Doing so continues existing clean resources' contribution to the Commonwealth's GWSA goals. MassDEP's proposed vintage and location eligibility requirements are reasonable. National Grid also supports expanding the scope of existing generation that could qualify for the CES-E (for example, by changing the threshold for exporting jurisdictions from requiring that they must have "exported at least 2,000,000 MWh of electricity to Massachusetts every year from 2001 through 2016, on a net annual basis" to requiring that they must have "exported at least 4,000,000 MWh of electricity to Massachusetts in at least two years from 2001 through 2016", as suggested in the October 2019 Background Document. However, MassDEP should exclude any generation that had been committed to Connecticut's Zero Carbon Request For Proposals, or any future commitments of that generation. National Grid also does not object including Newfoundland and Labrador as additional exporting jurisdictions.

However, MassDEP's proposed 15% CES-E requirement is too low because it understates historical imports. The February 2019 Discussion Document states that, in 2014, Massachusetts imported 12 to 13 terawatt-hours ("TWh") from Canada and from the Seabrook nuclear power plant, and 12 TWh equates to 26% of 2018 IOU electric load.[8] Therefore, MassDEP should annually set the CES-E to 12 TWh, divided by forecasted electric load. As electric load fluctuates, the CES-E obligation percentage should change annually. If MassDEP sets the CES-E annually, it will have the flexibility to alter the obligation percentage if there is a change in generation (such as generation retirements) or if there is a change in electric load (such as greater reductions from conservation or energy efficiency). The Company does not support the proposal which states that the percentage obligation would be calculated based on electricity sales reported for the year three years prior to the year for which the standard is being established. The Company proposes that the percentage should use the electricity sales from two years prior, which is how the Solar Carve-out Minimum Standards are calculated by the DOER.

Further, all load-serving entities – investor-owned utilities, competitive suppliers, and municipal utilities – should have the same obligation percentages for each requirement, including the CES-E. All residential, commercial, and industrial customers in Massachusetts should contribute to its efforts to achieve its GWSA goals. If MassDEP continues to require that only customers of IOUs must meet these percentage obligations, it continues the unfair burden on IOU customers that is not being shared with other customers in the state, even though municipal utility customers nonetheless benefit from the resulting GHG reductions. In addition, if municipal utilities have contracts or ownership with CES-E generators that exceed their CES-E requirement, they should be allowed to bank or sell any excess CES-E CECs.

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[8] As mentioned in note 2, above, 2018 IOU load was 46,448,304 MWh.

The ACP for CES-E should be 10% or lower of the RPS Class I ACP amount at the time of implementation, in order to: (1) provide a ceiling price; (2) prevent high costs for CES-E CECs in shortage markets; and (3) recognize that existing resources are already built and operating. The proposed 15% of the RPS Class I ACP amount is higher than necessary. These existing clean resources have historically delivered energy to Massachusetts solely for energy and capacity revenue, and will likely continue to do so in the future without a CES-E. The CES-E, while incenting the continued delivery of clean generation, is not necessarily needed by all such generators to continue their operations. The CES-E CEC provides an unanticipated additional revenue stream to these generators. A CES-E ACP that is 15% of the RPS Class I ACP equates to $10.57 using the 2019 RPS Class I ACP. In 2018, the preliminary average annual real-time price for wholesale power in New England was $43.54 per MWh. A CES-E CEC of $10.57 is equivalent to 24% of the energy revenue for these generators. Because these generators continue to operate without this unplanned additional revenue stream, a 15% ACP is excessive. A CES-E CEC in the range of $2 to $4 would be more appropriate because a $4 CEC would be approximately 10% of energy revenue. Also, if MassDEP expands the CES-E to 12 TWh, the generators will receive higher revenue dollars, although not on a dollar per MWh basis. Furthermore, no other state has a CES-E or demand for certificates from these existing clean resources. Finally, it is much easier to set a lower ACP rate initially, and increase it later if needed, rather than to set a higher ACP rate initially and then lower it later because it was overly generous.

While some may argue that $2 to $4 per each CES-E CEC is not sufficient revenue to incent CES-E-eligible generators to apply to the MassDEP and qualify for the CES-E, National Grid's experience in other jurisdictions has been different. In Rhode Island, National Grid is required to purchase RECs for its Existing obligation under the Renewable Energy Standard. The Existing REC class is the same technology as the New REC class, but it includes generators that became commercial prior to 1998. National Grid is able to procure RECs at less than $2, which demonstrates that generators would be willing to certify their output under a standard even for a small increase in revenue. There are also significant amounts of generation in excess of the 12 TWh that could apply to qualify for the CES-E and, therefore, there should not be a shortage of resources. Also, if other states pursue a clean energy policy, they will likely use a certificate framework similar to the CES. The best way to coordinate with other states is to have similar requirements, one of which is the level of the ACP. The Massachusetts RPS Class I ACP is significantly higher than the applicable ACP of other New England states. Therefore, setting the CES-E ACP at a percentage of RPS Class I for the CES-E may lead to different ceiling prices in different states. If there are shortage conditions, this could lead to CES-E CECs being sold only in the higher priced jurisdictions first.

The October 2019 Background Document proposes that there is no banking of CES-E certificates from one year to the next. National Grid proposes that a small percentage, 3-5% of the clean energy generation attributes needed by the retail seller for compliance, should be allowed to be banked to avoid administrative difficulties. Occasionally, a retail seller may not know the final loads for its compliance until several weeks before the close of the 4th quarter trading period. This occurs if there is an ISO-NE requested billing adjustment. Without a final load for compliance, a retail supplier may buy too many CES-E CECs, in which case it must retire some CES-E CECs at

a loss. Or a retail supplier may buy too few CES-E CECs, in which case it must make an ACP. To reduce this from occurring, a small percentage of CES-E CECs should be allowed to be banked.

3. MassDEP Should Include Municipal Utilities in the CES Immediately.

Previously, MassDEP sought comments on expanding the CES to include municipal utilities, but has not included municipal utilities in the proposed regulations. Municipal utilities should be immediately included in the CES, however.

First, the GWSA established goals to reduce GHG emissions, and avoid the impacts of global warming -- important goals for the entire Commonwealth. All Massachusetts residents and businesses will benefit from achievement of these goals, and all electricity customers, including customers of municipal utilities, should contribute equally to achievement of these goals. To date, only IOU customers are subject to the CES, but MassDEP should direct that municipal utilities are subject to the CES obligations as soon as possible, on the same timeline as the IOUs, and with the same percentages for electricity sales, without a separate phase-in period. Any continued delay in applying the CES to municipal utilities makes achieving the GWSA goals more difficult. Further, as discussed in the section above, having different requirements for IOUs than for municipal utilities creates disproportionate cost burdens for customers of IOUs versus customers of municipal utilities because customers of IOUs are funding the CES for clean energy, compliance with the RPS obligations for Class I and Class II, Alternative Energy Portfolio Standard ("APS"), the CPS, other environmental goals, and the state's 2020 and 2050 emissions reductions goals. From 2012 through 2018, National Grid estimates that all IOU customers in Massachusetts (including customers who receive their electric supply from competitive suppliers) have spent over $4 billion to comply with the RPS Class I, RPS Class II, and APS requirements. In comparison, customers of municipal utilities have borne no such costs because they do not have to comply with these obligations.

In addition, even if municipal utilities are subject to the same CES requirements as IOUs, customers of IOUs still will be making a larger contribution to meeting the state's climate goals because IOU customers will continue to have to pay for RPS Class II, APS, and CPS obligations in addition to paying for the CES and RPS Class I obligations that count toward the CES. Additionally, municipal utilities' compliance with the CES may cost less than the IOUs' compliance with the CES because municipal utilities will have a lower ceiling price. The majority of the IOUs' compliance with CES will be their compliance with their RPS Class I obligation. In contrast, the municipal utilities' compliance costs will derive solely from the CES. Starting in 2021 the CES ACP, which acts as a ceiling price to contain costs, is only half of the RPS Class I ACP. If there is a shortage of RPS Class I RECs, IOUs may have to procure RPS Class I RECs at higher prices than the CES ACP for the majority of their load in order to meet their CES obligation, whereas municipal utilities are protected by a lower ceiling price and can meet their CES obligations by making a lower-cost CES ACP.

Further, on average, municipal utilities charge lower rates to their customers than IOUs.[9] Part of this difference in rates is because municipal customers have not been paying the charges for state renewable energy programs and other state policies, which include the RPS, APS, CES, net metering, the SMART program, and long-term contracting costs that IOU customers must pay. For National Grid's Massachusetts residential customers, these costs add up to approximately 5.476 cents per kWh.[10] Municipal utilities customers' rates would increase by only 0.95 cents per kWh if they complied with a 20% CES obligation in 2020.[11] This suggests that municipal utilities customers' bills can accommodate the expense of a modest contribution to the costs of clean energy in Massachusetts in the form of CES compliance costs.

MassDEP's authority to apply the CES to municipal utilities stems from its authority to issue regulations requiring reductions in GHG emissions by all entities within the "electric sector", which includes municipal utilities. Specifically, M.G.L. c. 21N, section 3(c) gives the authority to the MassDEP to "set emissions levels and limits associated with the electric sector". "Electric sector" is a broad term and there are no entities that are listed as being excluded from that sector. As MassDEP notes in its August 2017 "Response to Comment on 310 CMR 7.74 *Reducing CO_2 Emissions from Electric Generating Facilities*, 310 CMR 7.75 *Clean Energy Standard*", at page 19, "[g]iven the central role of the electric sector in achieving the required GWSA GHG emissions reductions of 25% and at least 80% by 2020 and 2050, respectively, it would be inconsistent with the goals of the entire GWSA scheme to exempt parts of the electric sector from regulations that require reductions in GHG emissions from that sector."

National Grid would oppose any less stringent CES compliance standard for municipal utilities than applies to IOUs. As noted above, less stringent CES compliance standards for municipal utilities unfairly places a higher cost of complying with Massachusetts GHG reductions goals on customers of IOUs, and makes it less certain that Massachusetts will meet its long term GWSA goals. Also, customers of IOUs will continue to bear the burden of costs for RPS Class II compliance, APS, long-term contracts, net metering, SMART, and other environmental policy goals and requirements to which municipal utilities are not subject. In addition, IOU customers will be required to pay for additional programs in the future that municipal customers will not be required to pay for, including additional long-term contracts pursuant to Sections 83C and 83D of the Green Communities Act, and the CPS. IOU customers are already bearing a much higher cost for achieving the Commonwealth's environmental goals as compared to customers of municipal

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[9] See, e.g., https://www.mmwec.org/wp-content/uploads/mmwec-2016_2nd_version.pdf, at 3. The average IOU residential customer rate is 21.1 cents per kilowatt-hour ("kWh") as compared to 14.3 cents per kWh for the average municipal utility residential customer.

[10] These costs are broken out by program, per kWh, as follows: the RPS/APS/CES charge is 2.529 cents; the Energy Efficiency Program Charge is 1.805 cents; the Renewables Charge is 0.05 cents; the Renewable Energy Recovery Factor is 0.087 cents; the SMART program charge is 0.146 cents; and the Net Metering Recovery Surcharge is 0.859 cents.

[11] Calculated as $44.50 (2020 RPS Class I REC) x 20% (CES 2020 obligation) x 1.07 (loss factor) / 10 = 0.95 cents per kWh.

utilities. Aside from costs, applying the same standards to municipal utilities provides more assurance that the Commonwealth will meet such goals.

In addition, National Grid would oppose any size threshold for municipal utility compliance with the CES. For example, in 2017, there were a total of 26 competitive suppliers operating in Massachusetts that served less than 3,000 customers.[12] Each of these competitive suppliers was required to comply with the RPS and APS despite having a relatively small number of customers, and the RPS and APS are complex standards to meet, with six different categories of certificates. Complying with the CES (or RPS, APS, etc.) is much easier than some other procurement functions of a supplier, which suggests that municipal utilities should be able to come into compliance quickly with the CES. For example, National Grid purchases most of its RECs on a short-term basis. It would be simple for municipal utilities to enter the market and meet their obligations by purchasing RECs on a short-term basis, as well.[13] Municipal utilities should be able to meet CES obligations on their own, but if they prefer, they could engage the help of a third party for compliance. A municipal utility's worst-case scenario is paying an ACP of approximately $35 per MWh (for 2021). To comply with RPS requirements from 2010 through 2016, and in 2019, IOUs have had to purchase RPS Class I RECs at prices over $35. IOUs also were required into purchase of solar RECs for several hundred dollars each year, from 2010 to the present. IOUs have been complying with Massachusetts' renewable policies at added costs for customers for many years, and it is time that the customers of municipal utilities begin to do their part.

4. National Grid Offers Additional Proposals on how MassDEP Should Expand the CES.

A. Introduction

The CES "wraps around" the RPS Class I, which is a separate renewable standard administered by the Department of Energy Resources ("DOER"). However, there are other renewable and clean energy policies that are not captured by the CES. Each of these policies contributes to a clean energy future, and National Grid proposes that MassDEP should expand the CES to capture each of them. The result would be one government agency tracking and reporting on all clean energy initiatives, and providing comprehensive reports for future state policy decisions.

National Grid proposes an expansion of the CES to have separate compliance percentage obligations for the following:

- RPS Class I, as specified in 225 C.M.R. 14.00;

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[12] https://www.eia.gov/electricity/sales_revenue_price/pdf/table16.pdf.

[13] There is a sufficient supply of RPS Class I RECs that can be used for compliance, and there are a variety of brokers who could facilitate these purchases. A municipal utility can issue a Request for Proposal for certificates, or it can aggregate with other municipal utilities to have more buying power.

- RPS Class II, as specified in 225 C.M.R. 15.00;
- RPS Class II Waste Energy (WE), as specified in 225 C.M.R. 15.00;
- APS, as specified in 225 C.M.R. 16.00;
- CPS, which is in rulemaking;
- CES-E equivalent to 12 TWh and a compliance percentage determined annually; and
- 83D equivalent to 9.45 TWh annually and a compliance percentage determined annually following the completion of a compliance year.

In addition to expanding the CES to include these various clean and renewable energy policies, the Company proposes that MassDEP should periodically review the projected generation and load, and propose changes as necessary. The Company elaborates on these policies, which are not already included or proposed to be included in the CES below:

B. Section 83D Long-Term Contracts

As mentioned above, the CES wraps around the RPS Class I compliance requirements, as illustrated in the following table:

Figure 4: Breakdown of Current CES Compliance Obligations

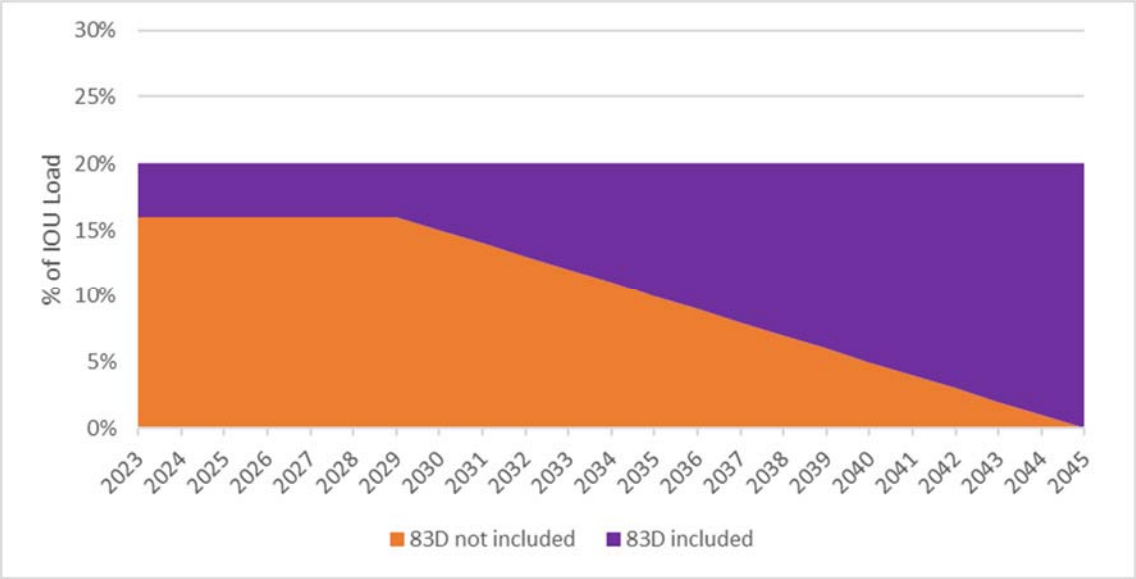
Year	CES	RPS Class I	RPS Class I REC or CEC
2018	16%	13%	3%
2019	18%	14%	4%
2020	20%	16%	4%
2025	30%	26%	4%
2030	40%	35%	5%
2040	60%	45%	15%
2050	80%	55%	25%

All energy that is procured pursuant to St. 2016, c.188, s. 12, "An Act to Promote Energy Diversity" (the "Energy Diversity Act") is considered a CEC and can be used to comply with the CES. Section 83D of the Energy Diversity Act was enacted in August 2016, in part, to reduce GHG emissions in the Commonwealth. Based on 2016 wholesale IOU electric load, the Section 83D contracts equate to approximately 20% of load.[14] CECs from Section 83D cannot be used for the RPS Class I requirement; Section 83D CECs can only comply with the requirements specified in the column titled "RPS Class I REC or CEC". Therefore, there are many years that the Section

[14] Section 83D requires a long-term contract for 9.45 TWh, which is then divided by 46,864,429 MWh (2016 IOU Load) = 20.16%.

83D generation does not fully qualify for the CES because it exceeds the percentages in the column titled "RPS Class I REC or CEC". This is illustrated in the following graph:

Figure 5: Generation from Section 83D Contracts Usable and Not Usable for the CES



The clean energy resources that are the subject of the Section 83D contracts are expected to become commercially operational in December 2022. Because only 4% of the CES requirement can be met by RPS Class I RECs or CECs, the clean energy generation shown in orange within the graph does not count towards CES compliance. The CECs equivalent to 16% of IOU load will be retired without recognition towards any renewable requirement or the CES. Section 83D generation equating to 20% of IOU load would not fully count towards the CES until 2045, which is after the contract has ended.

National Grid firmly believes that MassDEP should establish a separate CES compliance obligation for IOUs, specifically for the all generation from the Section 83D contracts, for the full term of the contract ("CES-83D"). By law, IOUs are not able to sell excess CECs from the Section 83D contracts, but must retain them. Compliance with CES-83D should be automatically assured for all IOU distribution customers, including those on competitive supply. It is unnecessary for MassDEP to set a compliance obligation percentage for Section 83D prior to a calendar year. The percentage of CES-83D can be calculated immediately following the completion of a compliance year when actual generation and actual IOU wholesale load is known. In general, MassDEP can assume a CES-83D annual obligation of approximately 20% based on current load, but can adjust upward or downward based on IOU load forecasts.

CES-83D would not apply to municipal utilities customers because they do not pay for the Section 83D contracts. The percentage CES-83D applied to IOUs should apply as the same percentage to municipal utilities as the CES. For example, if CES-83D is expected to be 19% in

a given year, municipal utilities should have an additional 19% compliance obligation that can be met by an RPS Class I REC or a CEC.

C. MassDEP Should Include the Requirements from the Green Communities Act and An Act to Advance Clean Energy in the CES

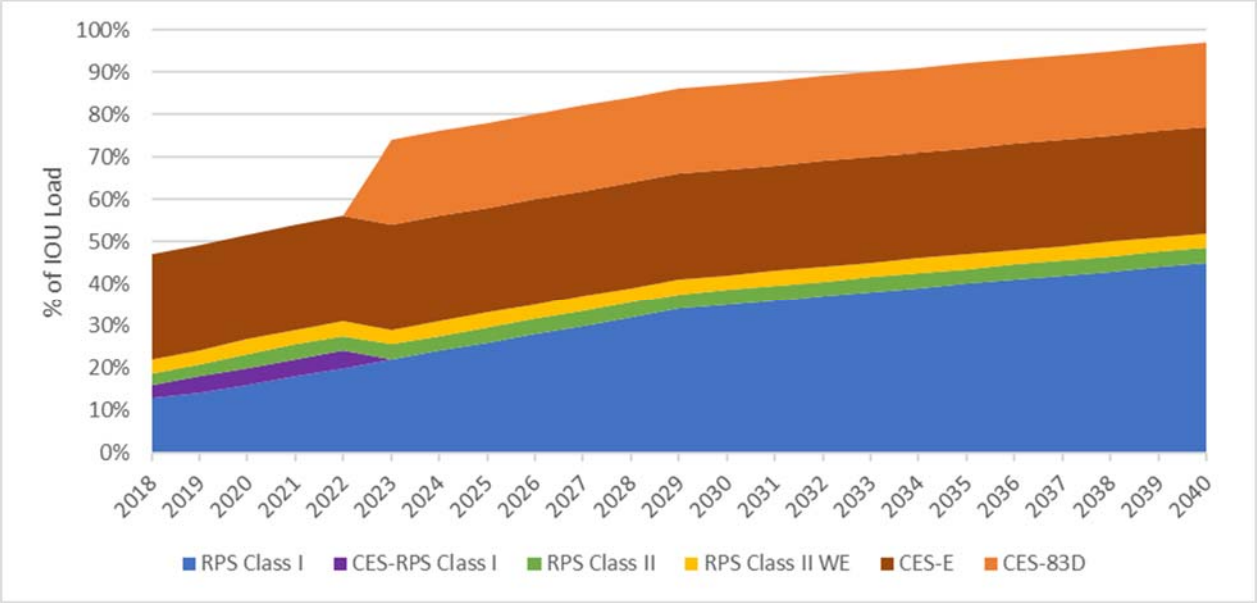
RPS Class II was established by the Green Communities Act in 2008 with the purpose of providing incentives for the continued operation of pre-1998 renewable energy plants and waste energy plants located in Massachusetts. There are two separate compliance requirements. The RPS Class II requirement is set annually by a formula that responds to changing market conditions. The RPS Class II Waste Energy requirement is set at 3.5% annually.

The APS also was established by the Green Communities Act of 2008, now codified at M.G.L. c. 25A, § 11F½ (statute). In general, the APS offers an opportunity for Massachusetts individuals, businesses, institutions, and governments to receive an incentive for using certain types of alternative energy technologies. These alternative energy technologies contribute to the Commonwealth's clean energy goals by increasing energy efficiency and reducing the need for conventional fossil fuel-based power generation.

The CPS was established in 2018 and shall increase by 0.25% annually. The CPS is a program requiring retail electricity providers to meet a baseline minimum percentage of sales with qualified clean peak resources that dispatch or discharge electricity to the electric distribution system during seasonal peak periods, or alternatively, reduces load on the system.

Together, these four standards (RPS Class II, RPS Class II WE, APS, and CPS) were all enacted by the Legislature to reduce GHG emissions and combat climate change. As such, all four standards should be included in the CES because, like the RPS Class I which is included in the CES, they will help the Commonwealth achieve its GWSA goals. Including these standards also aligns with MassDEP's goal to not replace existing clean energy generation with new clean energy generation. Including the CES-E, CES-83D, RPS Class II, RPS Class II Waste Energy, APS, and CPS demonstrates that the Commonwealth is close to its clean energy goals under existing regulations. This is depicted in the graph below:

Figure 6: Projected Effect of National Grid Proposal



Not included in the graph are the requirements for the APS and CPS that also apply to IOU load. These standards require the acquisition of certificates to meet certain percentages of load and are depicted in the following table:

Figure 7: APS and CPS Annual Obligations

Year	APS	CES	Total
2020	5.00%	1.50%	6.50%
2025	6.25%	9.00%	15.25%
2030	7.50%	16.50%	24.00%
2035	8.75%	24.00%	32.75%
2040	10.00%	31.50%	41.50%
2045	11.25%	39.00%	50.25%
2050	12.50%	46.50%	59.00%

Under the current regulations and laws, the Commonwealth may have its entire IOU load met by these various clean policies earlier than many expect. The total CES compliance obligation will be the sum of the renewable and clean energy policies and will fluctuate annually because some compliance obligations are calculated annually by DOER (RPS Class II) and MassDEP (CES-E and CES-83D). However, the total CES obligation for a given year can be reasonably approximated based on forecasted generation and load.

D. MassDEP Should Conduct Ongoing Reviews of the CES

The Company proposes that MassDEP should periodically review the projected generation and load and propose changes as necessary. These periodic reviews provide flexibility. MassDEP can create another CES obligation that can be met by RPS Class I RECs or CECs if the generation supply or load changes. One example is if the Seabrook nuclear facility retires, or there is a regulation change such as the elimination of RPS Class II Waste Energy, MassDEP could create a CES obligation that can be met by RPS Class I RECs or CECs to replace the generation. Another example is if load forecasts increase and 83D and CES-E generation no longer approximate 20% and 25% of IOU load, MassDEP could create a CES obligation for the shortfall. Such examples would be known years in advance and MassDEP has adequate time to implement any changes.

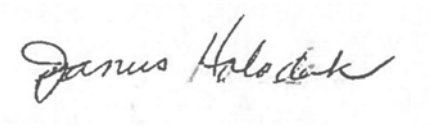
5. Conclusion

National Grid's comments and additional proposals on the CES combine the Commonwealth's fragmented clean energy efforts, and will provide a comprehensive view of Massachusetts' true progress in combatting climate change. A CES that aggregates and simplifies all of the Commonwealth's clean energy policies will provide the public and the Legislature with more information, enhanced transparency, and allow for improved decisions and resource planning. Cost-effective decisions cannot be made with an incomplete assessment of Massachusetts' status in meeting its clean energy goals. National Grid's CES proposals are also more cost-effective and will help maintain the stability of the grid better than alternative proposals such as a 100% RPS Class I, while accomplishing the same goal. National Grid's proposal also results in a more diverse and reliable fuel mix for Massachusetts by ensuring continued base load generation.

National Grid appreciates the opportunity to comment on these proposed amendments to the CES, and thanks MassDEP for its consideration of these comments. If you have any questions, please do not hesitate to contact me at 781-907-1000.

Very truly yours,

NATIONAL GRID



James G. Holodak, Jr.
Vice President, Regulatory Strategy and Integrated Analytics

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Director
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November 12, 2019

By Electronic Mail: climate.strategies@state.ma.us

Honorable Martin Suuberg
Commissioner
Massachusetts Department of Environmental Protection
One Winter Street
Boston, MA 02108

***Re*: Proposed Amendments to the Clean Energy Standard: 310 CMR 7.75**

Dear Commissioner Suuberg:

With appreciation for the opportunity to comment, and for the Department's on-going work to fashion efficient and effective programs and policies, NextEra Energy Resources, LLC (NEER) is pleased to provide comments on the draft amendments to the Clean Energy Standard regulation, in particular in support of the proposed Clean Energy Standard – Existing (CES-E).

NEER is a clean energy leader and is one of the largest wholesale generators of electric power in the U.S., with approximately 21,000 megawatts of net generating capacity, primarily in 36 states and Canada as of year-end 2018. NEER, together with its affiliated entities, is the world's largest operator of renewable energy from the wind and sun and a world leader in battery storage. The business operates clean, emissions-free nuclear power generation facilities in New Hampshire, as well as in Iowa and Wisconsin.

NEER's interest in the Department's implementation of a CES-E principally arises from its majority ownership and operation of Seabrook Station located in Seabrook, New Hampshire.

Specifically, NEER supports the Department's proposal to create a CES-E and include existing clean generators that are located in a jurisdiction the Department has determined to have "exported at least 2,000,000 MWh of electricity to Massachusetts every year from 2001 through 2016, on a

net annual basis, as reflected in the state greenhouse gas emissions inventories published annually by the Department, [have] a nameplate capacity greater than 30 megawatts; and, commenced commercial operation before January 1, 2011"[1] in the program. These existing clean generators serving load in Massachusetts, including Seabrook, are contributing to achieving Massachusetts' GHG reduction targets by 2020 and lowering emissions in the region, and can continue to do so in the future.[2] The Commonwealth's environmental priorities can be best served if there is an allowance for Seabrook – a facility that demonstrates best-in-class operating history, including in reliability, as well as compliance with applicable health and safety standards – to qualify for a CES-E.

NEER appreciates the work of the Department and the opportunity to comment on this important issue. NEER's representatives are available at the Department's convenience to provide any additional information or analysis related to its facilities or its experience in other jurisdictions.

Respectfully submitted,

/s/*Meghan Leahy*_____
Meghan Leahy
Director
Legislative and Regulatory Affairs
NextEra Energy Resources, LLC

[1] See Draft Amendments to 310 CMR 7.75 – 10/4/2019
[2] See prior comments submitted by NEER on 11/30/2017 and 3/29/2019

Comments on proposed CES at the 10/31/2019 Public comment session.:

These comments are as an individual Commissioner of PMLD.

1. The CES should apply to IOUs and MLPs. All electric suppliers and customers should be treated equally. The same requirements and methods of counting emissions and credits should apply to all.
    a. There will need to be a blend period for MLP's
    b. There will need to be a much longer blend period for nuclear based supply contracts in recognition of the long term nature of these contracts.
2. There should not be a CES-E for pre-2011 nuclear & hydro generation.
    a. Support for existing nuclear and hydro generation should be in the form of a regional carbon tax along the model of Reggi. This market based model will ensure the most cost effective solutions are implemented in the most timely manner.
3. The CES & RPS standards and related programs should be merged into a single, simple standard which guides both the state and region into compliance with the GWSA goals. This standard should have minimums, but no caps or limits on the maximum efficiency and renewables which can be deployed in a given period of time.

Sincerely,

Richard Chase
Commissioner Princeton Municipal Light Dept
10/31/2019

PO Box 383
Madison, CT 06443
Voice: 646-734-8768
Email: fpullaro@renew-ne.org
Web: renew-ne.org

November 12, 2019

Via climate.strategies@state.ma.us

Jordan Garfinkle
MassDEP
One Winter St.
Boston, MA 02108

Subject: Proposed Amendments to the MassDEP Clean Energy Standard

Mr. Garfinkle:

In response to the public hearing notice issued by the Executive Office of Energy and Environmental Affairs ("EEA") and the Massachusetts Department of Environmental Protection ("MassDEP") on proposed amendments to 310 CMR 7.75 Clean Energy Standard, RENEW Northeast, Inc. ("RENEW") submits these comments.[1]

RENEW is a non-profit association uniting environmental advocates and the renewable energy industry whose mission involves coordinating the ideas and resources of its members with the goal of increasing environmentally sustainable energy generation in the Northeast from the region's abundant, indigenous renewable resources. RENEW has focused on highlighting the value of grid-scale renewable resources- specifically land-based and offshore wind, solar and hydropower- and the benefits of transmission investment to deliver renewable energy to load centers in the Northeast. RENEW members own and/or are developing large-scale renewable energy projects and high-voltage transmission facilities across the Northeast. They are supported by members providing engineering, procurement and construction services in the development of these projects and members that supply them with multi-megawatt class wind turbines.

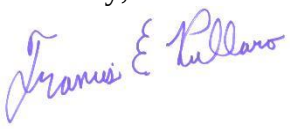
RENEW has supported the requirement on retail electricity sellers to purchase annually clean energy certificates from existing clean generators (a "CEC-E"). As a general principle, RENEW supports policies that will enable Massachusetts to claim benefits from the most cost-competitive carbon-free resources, and increase the likelihood that the Global Warming Solutions Act greenhouse gas reduction requirements can be maintained through 2050.

[1] The comments expressed herein represent the views of RENEW and not necessarily those of any particular member of RENEW.

The new language inserted as 3.10 CMR 7.75 (7)(c)2 appears to enable CES-E eligibility for Clean Existing Generation Units of all annual output above historic annual participation in a state Renewable Portfolio Standard, which RENEW supports for the reason that a unit fulfilling size, vintage and geographic requirements should not be excluded simply for having participated in a clean energy crediting program as documented by NEPOOL-GIS. If this interpretation is not shared by EEA and MassDEP, RENEW respectfully requests the language be amended to accomplish this objective.

Thank you for the opportunity to provide these comments.

Sincerely,



Francis Pullaro
Executive Director

COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF ENVIRONMENTAL PROTECTION

310 CMR 7.75: CLEAN ENERGY STANDARD - PROPOSED AMENDMENTS	:	NOVEMBER 12, 2019

COMMENTS OF
RETAIL ENERGY SUPPLY ASSOCIATION
RE PROPOSED AMENDMENTS

The Retail Energy Supply Association ("RESA")[1] hereby submits its comments in response to the Department of Environmental Protection's ("Department") October 4, 2019 Proposed Amendments to 310 CMR 7.75 *Clean Energy Standard* ("Proposed Amendments" or "310 Proposed CMR 7.75").

INTRODUCTION

RESA is a non-profit organization and trade association that represents the interests of its members in regulatory proceedings in the Mid-Atlantic, Great Lakes, New York, and New England regions. RESA members are active participants in the retail competitive markets for electricity, including the Massachusetts retail electric market. Several RESA member companies are licensed by the Department of Public Utilities to serve customers in Massachusetts and are presently providing electricity service to customers in the Commonwealth. Accordingly, RESA and its members have an interest in ensuring that amendments to the Clean Energy Standard

[1] The comments expressed in this filing represent the position of the Retail Energy Supply Association (RESA) as an organization but may not represent the views of any particular member of the Association. Founded in 1990, RESA is a broad and diverse group of retail energy suppliers dedicated to promoting efficient, sustainable and customer-oriented competitive retail energy markets. RESA members operate throughout the United States delivering value-added electricity and natural gas service at retail to residential, commercial and industrial energy customers. More information on RESA can be found at www.resausa.org.

("CES") do not have an adverse effect on its members, their customers, or the continued success of the competitive retail electric market in Massachusetts.

BACKGROUND

In August 2017, the Department adopted the CES, which required the electric distribution companies ("EDCs") and competitive suppliers (collectively, "Retail Sellers") to procure a minimum percentage of electricity sales from clean energy resources beginning in 2018.[2] On February 20, 2019, the Department issued a MassDEP Stakeholder Discussion Document describing options for expanding the CES to achieve additional emissions reductions in support of the Global Warming Solutions Act.[3] In the Discussion Document, the Department sought stakeholder input on increasing the CES, applying the CES to municipally-owned utilities, and creating a clean energy standard for existing clean generation resources ("CES-E").[4] Numerous stakeholders, including RESA, filed comments in response to the Discussion Document.[5]

On October 4, 2019, the Department issued the Proposed Amendments, which would make certain changes to the CES and establish the CES-E.[6] Subsequently, the Department issued a Public Hearing Notice scheduling two public hearings on the Proposed Amendments and indicating it would accept comments on the Proposed Amendments until November 12, 2019.[7] RESA now hereby submits its comments regarding the Proposed Amendments.

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[2] 310 C.M.R. 7.75(4).

[3] MassDEP Stakeholder Discussion Document Discussion Document (Feb. 20, 2019) ("Discussion Document") (available at: https://www.mass.gov/doc/2019-stakeholder-document-expanding-the-ces/download) (last visited Nov. 11, 2019), at 1.

[4] *Id*. at 1-4.

[5] *See, e.g.,* Comments of Retail Energy Supply Association re 2019 Stakeholder Discussion Document (Mar. 29, 2019) (available at: https://www.mass.gov/doc/2019-stakeholder-comments-expanding-the-ces/download) (last visited Nov. 11, 2019).

[6] *See* Proposed Amendments (available at: https://www.mass.gov/doc/310-cmr-775-proposed-clean-energy-standard-ces-amendments/download) (last visited Nov. 11, 2019).

[7] Public Hearing Notice (Oct. 7, 2019) (available at: https://www.mass.gov/doc/310-cmr-775-notice-of-public-comment-period/download) (last visited Nov. 11, 2019).

COMMENTS

RESA appreciates the Department's consideration of its prior comments. However, before the Department adopts final amendments to the CES, for the reasons discussed more fully below, RESA requests that the Department provide as much regulatory certainty as possible by ensuring that the CES-E compliance obligation is always known three years in advance, fully protecting existing ratepayer expectations, and announcing alternative compliance payment ("ACP") rates each year.

I. THE DEPARTMENT SHOULD PROVIDE AS MUCH REGULATORY CERTAINTY AS POSSIBLE

RESA appreciates the Department's allowance of existing resources that will help the Commonwealth to reduce greenhouse gas ("GHG") emissions to participate in the CES. However, the Department should ensure that the CES-E compliance requirements are straightforward, easily calculable, and identified on a forward basis for a three (3) year period to allow businesses to manage their affairs more effectively and reduce risk premiums; thus, mitigating costs borne by ratepayers.

A. The CES-E Minimum Percentage Should Be Established Three Years In Advance

The Proposed Amendments would require a Retail Seller to include a minimum percentage of electrical energy sales with clean existing generation attributes ("CES-E Minimum Percentage").[8] While the Proposed Amendments specify the CES-E Minimum Percentage for the years 2020 and 2021, they provide a formula for calculating the CES-E Minimum Percentage for the years 2022 through 2050.[9]

[8] 310 Proposed CMR 7.75(4).

[9] 310 Proposed CMR 7.75(4)(b).

A formula or other methodology that fails to provide an easy and predictable method for determining compliance creates uncertainty that forces suppliers to estimate their compliance obligations and to include a significant premium in what they charge consumers to protect against that risk; thereby, increasing prices to ratepayers. Furthermore, if the compliance obligation is ultimately less than the suppliers estimated, customers will have paid more for CES-E compliance than was actually necessary. Conversely, by providing quantity and cost certainty, the Department can eliminate risk premiums associated with such uncertainty - resulting in lower prices for consumers.

As written, the Proposed Amendments do not provide sufficient quantity certainty beyond 2021. For 2022 through 2050, the CES-E minimum percentage will be calculated pursuant to a formula based on electricity sales reported "for the year three years before the calendar year for which the percentage requirement applies."[10] Specifically, the 2022 CES-E Minimum Percentage will be calculated by dividing a numerator of fifteen percent (15%) by a denominator that equals the ratio of the total amount of electrical energy sales to end use customers reported for 2019 to the total electrical energy sales to end use customers provided in the report for 2018.[11] However, because of reporting lags, electricity sales reported for the year

[10] *Id.*; *see also* Background Document on Proposed Amendments to: 310 CMR 7.75 *Clean Energy Standard* (Oct. 7, 2019) (available at: https://www.mass.gov/doc/310-cmr-775-background-document/download) (last visited Nov. 11, 2019) ("Background Document"), at 5 ("[T]he standard would be calculated based on electricity sales reported for the year three years prior to the year for which the standard is being established . . . once the report published pursuant to 310 CMR 7.75(9)(b) for the earlier year is available.").

[11] 310 Proposed CMR 7.75(4)(b) ("For calendar years 2022 through 2050, percentage requirements for clean existing generation attributes shall be determined by dividing 15% by the percentage ***provided by the Department*** pursuant to 310 CMR 7.75(9)(b)4. for the year three years before the calendar year for which the percentage requirement applies, rounded to the nearest percent (i.e., if the percentage provided pursuant to 310 CMR 7.75(9)(b)4. for 2027 is 105%, then the percentage requirement for clean existing generation attributes in 2030 would be 15% ÷ 105% = 14%).") (emphasis added); *see also* 310 Proposed CMR 7.75(9)(b)4 ("The total amount of electrical energy sales to end-use customers ***reported*** pursuant to 310 CMR 7.75(6)(b)1., expressed in MWh and, beginning with the report for 2019, as a percentage of the total electrical energy sales to end use customers provided in the report for 2018.") (emphasis added).

three years before the year for which the CES-E Minimum Percentage is being established will ***not*** be known three years in advance of the CES-E Minimum Percentage's applicability.

The report of electrical energy sales required to calculate the CES-E obligation is based on a Retail Seller's New England Power Pool Generation Information System ("NEPOOL GIS") certificates obligation to retail customers under the NEPOOL GIS Operating Rules.[12] The NEPOOL GIS certificates obligation, however, cannot be known until more than one quarter ***after*** the generation of this energy actually occurs.[13] As a consequence, the electrical energy sales for the last quarter of a calendar year is not known until April 15 of the subsequent year.[14] Moreover, because Retail Sellers do not report the information necessary for the Department to calculate the denominator of the CES-E obligation formula until at least July 1 of the year ***following*** the year in which the generation of this energy actually occurs[15] and the Department has no deadline by which it must provide the denominator necessary for Retail Sellers to calculate the CES-E Minimum Percentage,[16] Retail Sellers will have no idea what their CES-E compliance obligation will be for 2022 at the time the Proposed Amendments are adopted nor will they know by what date the information necessary to determine their 2022 through 2050 CES-E compliance obligations will be available each year.

Consequently, even though the Department contemplated basing the CES-E Minimum Percentage "on electricity sales reported for the year three years prior to the year for which the

[12] *See* 310 Proposed CMR 7.75(6)(b)(1).

[13] *See* NEPOOL GIS Operating Rules, Rule 4.3(a) (effective Jul. 1, 2019) (noting that, subject to certain exceptions, the certificates obligation is calculated on the "Creation Date"). The Creation Date is generally the fifteenth day of the second quarter after the applicable energy was generated. *See* NEPOOL GIS Operating Rules, Rule 2.1(b) (defining "Creation Date").

[14] *See* Important NEPOOL GIS Dates, https://www.nepoolgis.com (last visited Nov. 11, 2019) (indicating that, for generation in the months of October, November, and December the certificate issuance date is April 15 of the following year).

[15] 310 C.M.R. 7.75(6)(a), (b) (requiring that Retail Sellers submit their annual compliance filings for a given compliance year by the following July 1 (or the first business day thereafter)).

[16] *See* 310 Proposed CMR 7.75(9)(b)4.

standard is being established," competitive suppliers will not know a particular year's CES-E Minimum Percentage three full years in advance.[17]

If competitive suppliers do not know and cannot reasonably estimate their actual CES-E compliance obligations with certainty, they may include significant risk premiums in their customer contracts that extend into 2022[18] and beyond. These risk premiums will cause customers to pay unnecessarily high prices. Alternatively, competitive suppliers may include a provision in their customer contracts that either passes through the cost of CES-E compliance or allows the supplier to adjust the contract price once the CES-E compliance obligation for a particular year is known. These mechanisms will have a direct and immediate financial effect on customers that have contracted for a fixed price and will be subject to new and unanticipated charges that are not within their budgets. Such an unexpected cost impact would be particularly difficult for customers that have limited budgetary flexibility. Moreover, such unexpected changes would undermine the consumers' underlying confidence that the competitive electricity market can provide and deliver the type of pricing products they desire and have contracted to meet their energy needs.

To obviate the need for risk premiums or less attractive contract terms, RESA urges the Department to establish the CES-E obligation for 2022 in the final CES amendments and to modify the CES-E formula for years 2023 through 2050 to ensure that Retail Sellers actually ***know*** their CES-E compliance obligation "for the year three years before the calendar year for

[17] Background Document, at 5; *see also* 310 Proposed CMR 7.75(4)(b). According to the Background Document, the three-period would run from the issuance of the applicable report. *See* Background Document, at 5 ("the standard would be calculated based on electricity sales reported for the year three years prior to the year for which the standard is being established . . . ***once the report published pursuant to 310 CMR 7.75(9)(b) for the earlier year is available***.") (emphasis added). However, the Proposed Amendments do not set a deadline for the issuance of the report. *See* 310 Proposed CMR 7.75(4)(b).

[18] *See* Energy Switch Massachusetts website (available at: http://www.energyswitchma.gov) (displaying multiple fixed price offers that extend thirty-six (36) months into the future) (last visited Nov. 11, 2019).

which the percentage requirement applies."[19] Taking such an approach would also reduce the criticality of including exemptions for existing contracts for any future program modifications.

B. The Department Should Set The CES-E Minimum Percentage For 2022 At Fifteen Percent

For 2022, the Department should set the CES-E Minimum Percentage at fifteen percent (15%). In this way, at the time the CES-E is adopted, the Department can ensure that customers with longer term contracts[20] are not subject to risk premiums or less desirable contract terms.

Furthermore, elsewhere in the Proposed Amendments, it appears the Department contemplated fixing the 2022 CES-E Minimum Percentage at fifteen percent (15%). Specifically, the Proposed Amendments provide: "The adjustment to the retail electricity seller's compliance obligation pursuant to 310 CMR 7.75(4)(b) shall be equal to 15% of the amount of contracted electricity energy sales and shall apply to sales that occur in 2020 ***through 2022*** only."[21] For 2020 and 2021, this is equal to the CES-E Minimum Percentage.[22] As a result, the exemption from the CES-E applies to all sales in these years that otherwise would be subject to the CES-E. By contrast, for 2022, if the CES-E Minimum Percentage is set by formula, but the CES-E exemption is fixed at fifteen percent (15%) of sales, the exemption likely would not match the CES-E Minimum Percentage. As a consequence, if application of the formula produces a CES-E Minimum Percentage greater than fifteen percent (15%), contracts otherwise subject to the exemption would have a certain portion of sales that would not be exempt from the CES-E; thereby, subjecting customers with longer term contracts to risk premiums or less appealing

[19] *Cf.* 310 Proposed CMR 7.75(4)(b); *see also* Background Document, at 5.

[20] *See* Energy Switch Massachusetts website (available at: http://www.energyswitchma.gov) (displaying multiple fixed price offers that extend thirty-six (36) months into the future) (last visited Nov. 11, 2019).

[21] 310 Proposed CMR 7.75(5)(e)(2) (emphasis added).

[22] *See* 310 Proposed CMR 7.75(4)(b) (setting the CES-E Minimum Percentage at fifteen percent (15%) for 2020 and 2021).

contract terms. To avoid this, the Department should set the 2022 CES-E Minimum Percentage at fifteen percent (15%).

C. Any Future Changes To The CES or CES-E Minimum Percentage Should Be Effective Three Years After Adoption Or Subject To Grandfathering

Any future increase in the CES Minimum Percentage (similar to the expansion of the CES in the Proposed Amendments)[23] or the CES-E Minimum Percentage or adoption of new ways of calculating these minimum percentages have the potential to frustrate consumer expectations because they could affect contracts that were priced based on prior CES requirements and may have terms of service that extend over multiple years.[24] As noted, while competitive suppliers may have contractual and legal means to address change of law circumstances, these mechanisms will have a direct and immediate financial effect on customers that have contracted for a fixed price and will be subject to new and unanticipated charges that are not within their budgets. These unanticipated charges could place customers in untenable positions because they may be required to pay these new costs per the terms of their contractual agreements. Moreover, such unexpected changes would undermine the consumers' underlying confidence that the competitive electricity market can provide and deliver the type of pricing products they desire and have contracted to meet their energy needs. Accordingly, in order to avoid disrupting these existing agreements, just as the Department recognized an exemption from the CES for existing contracts at the time it promulgated the original regulations,[25] it should recognize a comparable exemption from any future increase in the CES Minimum Percentage or the CES-E Minimum Percentage or adoption of new ways of calculating these minimum

[23] *See* 310 Proposed CMR 7.75(4)(a) (increasing the CES Minimum Percentage for 2020 to twenty-two percent (22%)).

[24] *See* Energy Switch Massachusetts website (available at: http://www.energyswitchma.gov) (displaying multiple fixed price offers that extend thirty-six (36) months into the future) (last visited Nov. 11, 2019).

[25] *See* 310 C.M.R. 7.75(5)(d).

percentages. As an alternative, because retail electric supply contract terms typically do not exceed three years,[26] delaying the compliance obligation associated with any changes until three years after such changes are effective also would protect customer expectations.

II. THE DEPARTMENT SHOULD PROTECT EXISTING CUSTOMER EXPECTATIONS

The Proposed Amendments exempt retail electricity supply contracts executed as of February 20, 2019 from the two percent (2%) increase in the CES for 2020 and from the CES-E for 2020 through 2022.[27] "This date was chosen because it is the date that [the Department] notified retail electricity sellers of ***potential*** changes to the CES Regulation."[28] However, February 20, 2019 is not the appropriate date for determining the applicability of the exemption. Thus, when issuing the final amendments, the Department should establish the date for determining the applicability of the exemption for existing contracts as the effective date of the final amendments to the CES.

As an initial matter, on (and after) February 20, 2019, competitive suppliers did not have knowledge of the ***actual*** changes. They did not know, and could not reasonably have predicted, how their CES compliance obligations and costs would change, if at all, as a result of the Department's rulemaking process. For example, because the Department asked for stakeholder input on all of those topics, competitive suppliers did not know the extent of the expansion of the CES,[29] the calculation methodology for CES-E Minimum Percentage,[30] or the CES-E ACP

[26] *See* Energy Switch Massachusetts website (available at: http://www.energyswitchma.gov) (displaying numerous fixed-price offers that extend up to 36 months into the future) (last visited Nov. 11, 2019).

[27] *See* 310 Proposed CMR 7.75(5)(e); *see also* Background Document, at 5-6.

[28] Background Document, at 5 (emphasis added).

[29] *See* Discussion Document, at 1 (requesting input on the possibility of the expansion of the CES in 2020 "for example to 21% or 22%").

[30] *See id.* at 2 (requesting input on the possibility of setting the CES-E minimum percentage at fifteen percent).

rate.[31] In fact, although the Discussion Document contemplated an initial CES-E obligation of fifteen percent (15%), the Department did not indicate when that percentage would go into effect or how long that percentage would be in effect.[32] Further, in the Discussion Document, the Department noted that the CES-E could be expressed either a percentage or a megawatt hour ("MWh") obligation.[33] Moreover, although the Discussion Document sought input on a formula for calculating the CES-E obligation in future years, the Department did not define the inputs to that formula.[34] As a consequence, if competitive suppliers had attempted to account for the proposed changes to the CES outlined in the Discussion Document in their post-February 20, 2019 contracts, those contracts could not have accurately reflected the changes in the Proposed Amendments. Further, because the Proposed Amendments could still be revised based on stakeholder comments,[35] issuance of the Proposed Amendments also has not given competitive suppliers or their customers knowledge of the provisions of that will ultimately be adopted and will not enable them to reflect such provisions in their contracts.

As the Department most certainly appreciates, the competitive electricity market in the Commonwealth continues to advance and competitive suppliers continue to enter into contractual obligations, often with multi-year terms of service,[36] while the CES amendments are being proposed and promulgated. However, competitive suppliers do not take market positions

[31] *See id.* at 3 (requesting input on the possibility of setting the ACP rate at fifteen percent of the Renewable Portfolio Standard Class I ACP rate).

[32] Discussion Document, at 2.

[33] *Id.* at 2-3.

[34] *Id.*

[35] Public Hearing Notice (Oct. 7, 2019) (providing an opportunity for comment on the Proposed Amendments); *see also* Background Document, at 5 (welcoming "comment on ***all aspects*** of this proposal.") (emphasis added); *Id.* (acknowledging "that a ***higher standard*** could be supported by historical data, and welcom[ing] additional technical comment on this question") (emphasis added); *Id.* at 10 (providing an opportunity for comment on the Proposed Amendments).

[36] *See* Energy Switch Massachusetts website (available at: http://www.energyswitchma.gov) (displaying multiple fixed price offers that extend thirty-six (36) months into the future) (last visited Nov. 11, 2019).

or enter into agreement terms with customers based simply on the announcement that a regulatory change may occur or even based on the release of proposed regulatory revisions. Rather, since announced or even proposed regulatory revisions are subject to change based on the regulatory input process,[37] competitive suppliers take market positions and enter into agreements based only on actual regulatory requirements officially promulgated by the governing regulatory authority. In this way, customers are not exposed to undesirable contracting arrangements, unnecessary price increases and/or pricing volatility as a result of speculative regulatory changes that may never be adopted or that may be significantly modified[38] through the regulatory process before such changes ultimately become effective. As consequence, only after the Department officially promulgates amendments to the CES will suppliers modify their market positions and/or the terms of their agreements with customers to account for the creation of the CES-E and the expansion of the CES. Accordingly, RESA requests that the Department create a compliance exemption (subject to suppliers providing appropriate documentation) from the obligations of the CES-E and the expansion of the CES until the expiration of any contracts existing as of the effective date of these amendments. In this way, the Department can establish a paradigm that protects existing customer expectations. Otherwise, in order to account for any changes that occurred between February 20, 2019 and the date on which the final amendments to the CES are promulgated, customers with fixed-price arrangements could be faced with unexpected price increases to account for the expansion of the CES and the creation of the CES-

[37] *See, e.g.*, Response to Comments on Proposed Amendments to 310 CMR 310 CMR 7.75 *Clean Energy Standard*, http://www.massdep.org/BAW/air/cesf-rtc.pdf (December 2017) (last visited Nov. 11, 2019) (outlining the Department's responses, including updates to proposed amendments to the CES, to stakeholder comments); *see also* Background Document, at 5 (welcoming "comment on ***all aspects*** of this proposal") (emphasis added); *Id.* (acknowledging "that a ***higher standard*** could be supported by historical data, and welcom[ing] additional technical comment on this question.") (emphasis added).

[38] *See, e.g.*, Background Document, at 5 (welcoming "comment on ***all aspects*** of this proposal") (emphasis added); *Id.* (acknowledging "that a ***higher standard*** could be supported by historical data, and welcom[ing] additional technical comment on this question") (emphasis added)

E. As noted above,[39] these unanticipated charges place customers in an untenable position. Moreover, they undermine the customers' underlying confidence that the competitive electricity market can provide and deliver the type of pricing products they desire (which often include fixed-price products) and have contracted to meet their energy needs.

III. THE DEPARTMENT SHOULD ANNOUNCE ACP RATES EACH YEAR

The CES includes an alternative compliance mechanism.[40] Similarly, in the Proposed Amendments, the Department included a CES-E alternative compliance mechanism.[41] The CES and CES-E ACP rates are set by a formula that uses an input calculated annually by the Department of Energy Resources ("DOER")[42] and announced by January 31.[43] The use of such a formula adds complexity to, and increases the risk of error in, calculating the ACP rate. Thus, consistent with the practice of the DOER,[44] RESA requests that the Department announce the ACP for both the CES and CES-E by January 31st each year.

CONCLUSION

For all of the foregoing reasons, RESA urges the Department to ensure that any expansion of the CES and the creation of the new CES-E provide as much regulatory certainty as possible.

[39] Sections I.A, I.C.

[40] *See* 310 C.M.R. 7.75(5)(c).

[41] *See* 310 Proposed CMR 7.75(5)(c).

[42] *See* 310 C.M.R. 7.75(5)(c); 310 Proposed CMR 7.75(5)(c)(1)(b).

[43] *See* 225 C.M.R. 14.08(3)(a).

[44] *See id.*

Respectfully submitted,
RETAIL ENERGY SUPPLY ASSOCIATION

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TEC

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11/12/2019

Mr. Jordan Garfinkle
MassDEP
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RE: Comments on the Proposed Amendments to the Clean Energy Standard

The Energy Consortium (TEC) appreciates the opportunity to provide these comments on the proposed amendments to the Clean Energy Standard regulations released by the Department of Environmental Protection (MA DEP).

TEC is a non-profit association of commercial, industrial, institutional, and governmental large energy users in Massachusetts and has participated in state and regional energy regulatory matters for forty years. It advocates positions and sponsors joint actions that promote fair cost-based energy rates, diversified supplies, retail market competition, and reliable service for its member organizations, their employees and all Massachusetts ratepayers.

Upon review of the Draft Regulations, TEC offers the following comments for the MA DEP to consider prior to the issuance of final regulations.

1) The rationale to increase the CES by 2% for 2020 relies on faulty logic

The background document provided by MA DEP states that the justification for increasing the CES from 20% to 22% in 2020 is to ensure compliance with the 2020 requirements of the Global Warming Solutions Act (GWSA). The background document states:

> *"The reason that EEA and MassDEP are proposing amendments to the CES Regulation at this time is to better ensure compliance with the 2020 emissions limit that was set by EEA in 2010 under the authority of the GWSA, which requires Massachusetts to reduce statewide GHG emissions by 25% relative to a 1990 baseline. Specifically, the increase in the CES standard to 22% in 2020 would deliver additional clean energy to Massachusetts, thereby reducing emissions from generating electricity consumed in Massachusetts."*[1]

Most Class I eligible renewable energy assets are cross registered to provide Class I RECs in multiple states. The effect of this change is likely to divert RECs from CT, RI, and NH to MA while potentially impacting Class I REC prices across New England in 2020. Shuffling resource attributes in this fashion is highly unlikely to result in additional renewable generation or reductions in actual carbon emissions.

[1] Background Document on Proposed Amendments to: 310 CMR 7.75 Clean Energy Standard, October 2019, p.3

Furthermore, any market impacts that the 2020 2% increase might have on project development will be muted due to no change in the 2021 obligation. Due to the extremely short time horizon, it is highly unlikely that this change will spur the development of new renewable resources in time for delivery in 2020 as most Class I eligible resources have development timelines of 1-4 years.

The CES and RPS as a whole, are meant to send a long term demand and price signal to the market regarding the need for clean energy delivered to MA. Short term tinkering with the standards to meet the near term accounting requirements of the GWSA is an improper use of the RPS and CES. While the change may allow the GWSA goals to be met from a purely accounting perspective, a causal linkage to a reduction in actual carbon emissions of MA in 2020 remains unestablished. This action is more likely to disrupt REC market prices and potentially even trigger Alternative Compliance Payments (ACPs) and is thus unfair to ratepayers.

When the increase in the CES for 2020 was first proposed in early 2019, prices for Class I RECs were depressed. Since that time, prices for Class I RECs have increased significantly and the market is no longer oversupplied. While TEC recognizes the importance of avoiding boom and bust cycles in REC markets, a change in the CES to reduce excess supply of Class I RECs is no longer needed as prices presently are near $40/REC.

2) Provisions for Grandfathering Existing Supply Contracts Are Inadequate

The proposed regulations provide a date for grandfathering of 2/20/2019 with the following rationale listed in the background document.

> *"This date was chosen because it is the date that MassDEP notified retail electricity sellers of potential changes to the CES Regulation. Therefore, contracts executed after that date would have been executed with knowledge of the potential changes."*[2]

Just because retail suppliers were "notified of potential changes" doesn't mean they had sufficient information to alter their pricing models to incorporate the cost impact of these changes. Maintaining this grandfathering date ensures that all contracts signed between the present and 2/20/2019 will have retail suppliers using "Change in Law" provisions to pass through increased charges attributable to changes in the CES. Furthermore, a grandfathering date set based on the "notification of potential charges" will likely result in energy suppliers adding an increased risk premium to contracts in MA due to the willingness of MA regulatory agencies to impose retroactive cost increases on private contracts.

TEC proposes a grandfathering date in October 2019 when the totality of proposed changes and potential cost impacts were sufficient to incorporate into a retail supplier forward pricing model.

[2] Ibid, p.5

3) The Proposed CES-E is unnecessary

Existing low carbon resources presently realize a modest price advantage over fossil fuel generators due to the Regional Greenhouse Gas Initiative (RGGI). The CES-E as proposed is duplicative to the intent and purpose of RGGI and entails potentially significant complexity to avoid resource shuffling. While there are examples of "maintenance Tier RECs" (New York does this), tightening the RGGI standards is a more efficient way to support low carbon existing resources. While there may be some existing hydroelectric resources that need additional financial support to continue operating, the CES-E does not distinguish between profitable and unprofitable existing resources or have provisions for adjustment in CES-E REC prices to account for changes in merchant energy revenues. As proposed, the CES-E will represent a lifeline for certain plants and a windfall for others with dubious emissions reduction benefits.

The background document contemplates CES-E eligibility for hydropower from Newfoundland and Labrador. It is unclear how this addition benefits MA ratepayers or results in additional carbon emissions reductions. The Churchill Falls power plant provides power to Hydro-Quebec under a long term contract and the Muskrat Falls power plant would require a new transmission line to be deliverable to ISO-NE. Both of these units are fully financed and the Churchill Falls contract is highly profitable for Hydro Quebec.[3] It is unclear why these resources should qualify for CES-E credits.

It is unclear if the MA DEP contemplates utility solicitations for CES-E RECs. If utility solicitations are contemplated, TEC expresses its concerns regarding impacts to competitive markets and cross subsidies.

4) DEP should revise the CES to require compliance of all municipal utilities, with no exceptions, as Retail Energy Sellers subject to the CES.

Applying the program requirements of the GWSA equally to all sectors of the Commonwealth enables the most equitable, cost effective approach to actually reducing GHG emissions. Incorporating Municipal utilities would further strengthen the long term market development signals the CES is intended to provide. DEP has the authority to regulate municipal utilities, and absent their compliance with the CES, the Commonwealth cannot achieve the 2050 emission reduction limits. For these reasons, Municipalities should be included in the CES as soon as possible. In applying the CES to municipal utilities, the DEP must ensure that municipal utilities stop their current practice of "double-counting" clean generation they own but whose associated environmental attributes (e.g. RECs) they do not own.

Sincerely,

[3] Supreme Court rejects Churchill Falls Corp.'s bid to reopen energy deal with Hydro-Québec, cbc.com posted 11/2/2018, available at https://www.cbc.ca/news/politics/churchill-falls-hydro-quebec-supreme-court-1.4888321

Roger Borghesani, Chairman
The Energy Consortium

Submitted via email to climate.strategies@state.ma.us

November 8, 2019

RE: Comments on Proposed Amendments to 310 CMR 7.75

In response to the October 2019 MassDEP ("Department") stakeholder document *Background Document on Proposed Amendments to: 310 CMR 7.75 Clean Energy Standard*, The Taunton Municipal Lighting Plant ("TMLP") offers the following comments. In the stakeholder document, there are a few discussions on which the department is seeking comment, to which TMLP provided responses in items 1 through 4 below. Items 5 through 8 are general comments related to the CES its proposed amendments.

General Comments:

TMLP agrees with the goals of House Bill No. 2863 ("HB-2863"), which is designed to honor the Global Warming Solutions Act ("GWSA") while maintaining our local control rights. The standard described within this bill is known as the "Municipal Lighting Plant GGES." The GGES sets the minimum percentage of non-carbon emitting energy sold by each Municipal Lighting Plant ("MLP") to all retail end-user customers purchasing electricity pursuant to rates established pursuant to section 58 of chapter 164 as follows: (1) seven percent by 2021; (2) forty percent by 2030; (3) sixty percent by 2040; and (4) eighty percent by 2050. This approach offers more flexibility by (1) reducing the annual compliance requirement (from the CES) to every ten years, and (2) being more inclusive of other technology types and vintages that achieve the goal of the GWSA, but has been omitted by the CES. While TMLP recognizes that MLPs are currently not included in the proposed amendments to 310 CMR 7.75, we are offering the comments below out of general concern of the cost impact to our ratepayers.

TMLP has been providing renewable energy to our customers long before any of the REC programs began and before they were a requirement for any suppliers. The primary focus of TMLP is to provide reliable service and competitive rates to our customers.

1. **DEP Question: Seeking comment on "exporting jurisdictions"**

   TMLP still stands by comments that were provided to the Department in March, 2019, which stated that TMLP supports the inclusion of all existing non-emitting generation if it is being used to offset the sales of a particular MA utility. While TMLP understands that the Department is trying to reduce emissions from MA, MA utilities need to be given credit for the non-emitting generation that they currently own today, even if it is from another state and therefore does not advance the demand for new non-emitting generation to be built.

Taunton Municipal Lighting Plant
PO Box 870 Taunton, MA 02780-0870 Ph: 508.824.5844
www.tmlp.com

2. **DEP Question: Seeking comment on whether including Newfoundland and Labrador as additional exporting jurisdictions is appropriate or desirable**

   TMLP continues to support the inclusion of any non-emitting generation to be considered in the CES-E. Regardless of the generator's location, if a utility is claiming any non-emitting generator as their own, this should be enough to satisfy the requirement, and therefore any non-emitting generation from Newfoundland and Labrador that falls into this category should also be included in the CES-E. Furthermore, additional competition will help to reduce the costs of non-emitting generation from Canada.

3. **DEP Question: Seeking comment on the issue of small hydro generator exclusion (30 MW limit)**

   TMLP disagrees with any limit to be established for any type of non-emitting generation. TMLP continues to support the inclusion of any non-emitting generation in the CES-E as long as the energy is offsetting sales from a MA utility. In addition, TMLP does not recognize the concept of certificate "shuffling," especially in regard to the CES-E wherein the purpose is to retain the existing non-emitting generation fleet, so it should not matter which jurisdiction was claiming the energy or retiring the certificates/attributes in the past.

4. **DEP Question: Seeking comment on adding specificity to the program review requirement**

   TMLP does not have a problem with adding specificity to the program review.

5. **15% of 2018 Sales Limit on CES-E**

   Limiting the amount of existing non-emitting supply to only 15% might be too restrictive to utilities who currently have a much larger portion of their supply covered by existing non-emitting generation. The same concern is expressed that there might be less support available for these existing generators that could force their closure and therefore increase emissions in the Commonwealth.

6. **Municipal Light Plant ("MLP") Inclusion in CES-E**

   Though it is noted in the proposed amendments that MLPs are currently excluded, TMLP wishes to reiterate that we do not support including MLPs in 310 CMR 7.75 due to our regulatory structure and the manner in which we have procured our current power supply. Since the time of deregulation, MLPs have been purchasing generation in long-term and "life of unit" contracts. While we honor the goals of the Global Warming Solutions Act, we believe that MLPs require additional considerations over Investor Owned Utilities that are not being adequately represented in the current CES and proposed CES-E. For instance, 310 CMR 7.75 will be too restrictive to MLPs by requiring greater levels of generation from non-emitting sources with accompanying RECs, however TMLP has traditionally been purchasing energy from non-emitting generation in long-term contracts which did not include the RECs and therefore have no option of retaining them moving forward. This type of energy purchasing is not consistent with Investor Owned Utilities since deregulation, (Chapter 164 of the Acts of 1997 Massachusetts, *Electric Industry Restructuring Act*), and IOU's are prohibited from investing in long term energy contracts. HB-2863 has been filed and offers a more flexible solution for MLPs to reduce their greenhouse gas emissions. In addition, this solution encompasses more non-carbon emitting generating resources of older technology types. TMLP supports the goal of HB-2863.

7. **Lack of Annual Banking of CES-E Certificates**

   TMLP recognizes that the goal is to reduce emissions year over year and how banking could impede this in a few particular instances, but there still should be some amount of value provided for banked CES-E certificates where doing so does not alter the goals of the GWSA. TMLP believes that the banking structure of Allowances in 310 CMR 7.74(6)(f) should be used as a model to address the issue of banking with respect to 310 CMR 7.75. 7.74(6)(f) allows for allowances to be retained only if the total amount of CO2 emitted by all generating facilities in any year is less than the total aggregate CO2 emissions limit for the prior year.

8. **Limit on the Amount of CES-E Eligible Certificates Generated by any Single Generation Unit to 5% of 2018 MA Sales**

   Limiting the amount of CES-E eligible certificates from any single generation unit to 2,500,000 MWh is an inflexible provision of the proposed amendments. This limit appears to be an arbitrary decision, as it was noted in the Background Document that it represents the amount of energy exported from Seabrook nuclear plant to MA in 2018. If the Department wishes to impose a limit such as this, it should be on a percentage basis of MA sales from a previous year, or an average of previous years, to allow more flexibility and adjust the amount of CES-E certificates available should there be a significant change in sales year over year.

Conclusion

The Taunton Municipal Lighting Plant appreciates the opportunity to provide these comments to the Department. TMLP suggests that the Department continue to abstain from taking additional steps to apply the CES/CES-E to MLPs in light of the proposal provided in House Bill No. 2863.

Sincerely,

Kenneth Goulart
General Manager, TMLP

ECC:
Devon Tremont
Jim Irving
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WEST BOYLSTON MUNICIPAL LIGHTING PLANT

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November 6, 2019

Massachusetts Department of Environmental Protection
Attention: Jordan Garfinkle
One Winter Street
Boston, MA 02108

Subject: Proposed CES-E Amendments to Clean Energy Standard

Dear MassDEP,

Thank you for the opportunity to submit comments related to the proposed amendments to 310 CMR 7.75 Clean Energy Standard (CES). WBMLP understands the current CES and proposed amendments do not apply to MLPs, but MassDEP continues to review the possibility of including MLPs in the CES. WBMLP is a vertically integrated utility that owns generation, transmission, and distribution assets. WBMLP uses various long-term, source specific contracts for existing clean energy located within the ISO-NE control area or directly interconnected to the ISO-NE control area and delivered to West Boylston consistent with NEPOOL GIS rules.

WBMLPs Board of Commission Adopts "Greenhouse Gas Emissions Standard"

WBMLPs Board of Light Commission approved and implemented a Greenhouse Gas Emission Standard (GGES) on August 6, 2019. WBMLPs elected Board voted to both implement a GGES for West Boylston and support state legislation HB 2863 to create a mandated GGES for all MLPs. WBMLP supports the Commonwealth's goals of reducing GHG emissions while preserving local control of our municipal lighting plant operations, finances, and rates. WBMLPs GGES will achieve the same 80% reduction in GHG emissions by 2050 as required by the GWSA, but on a schedule that recognizes the existence of our long-term resources and existing clean energy generators.

West Boylston Exceeds Requirements of the Combined 2018 Class 1 RPS and CES

50% of WBMLPs energy supply emitted zero greenhouse gases (GHG), as a percentage of kWh sales in 2018. The combined MA Class 1 Renewable Portfolio Standard (RPS) and existing Clean Energy Standard (CES) requires the distribution companies and competitive suppliers to purchase only 16% of kWh sales in 2018 from these non-GHG emitting resources.

Do you support implementing the CES-E concept?

WBMLP supports the concept of a CES-E that treats all pre-2011 and new clean energy generators equally, without restrictions on location in ISO-NE control area or directly connected to the ISO-NE control area, size, age (vintage), or history of imports to Massachusetts based on MassDEP GHG annual inventories.

MassDEP already allows large amounts of existing or vintage pre-2011 clean energy generators to count towards the CES. 9,450,000 MWhs of Hydro-Quebec energy, procured through the Commonwealth's 83D RFP, was exempt by MassDEP and EEA from the original CES eligibility criteria for clean generation units per 310 CMR 7.75 (7).[1]

Because MassDEP and EEA previously amended 310 CMR 7.75 to allow large amounts of existing (vintage) clean energy generation to count towards CES, all existing qualified clean energy generators should count towards CES compliance if located within the ISO-NE control area, directly interconnected to the ISO-NE control area, and delivered to ISO-NE consistent with NEPOOL GIS rules for specifying source specific imports. No limits on the amounts or quantity of existing clean energy should be set by MassDEP.

MassDEP Electric Sector GHG Emission Inventory and Projections Not Up to Date

MassDEPs "Greenhouse Gas Baseline, Inventory & Projections" should be updated and published more frequently for full transparency and to demonstrate whether our sector is meeting its GHG emissions reduction goals. MassDEP GHG inventories and projection updates are only complete through 2016. The Commonwealth's energy sector GHG inventories and projections can be determined within a few months at the end of each year. As an example, inventories for CO2 emissions from each in-state fossil fueled generator are available from RGGI within approximately 30 days at the end of each quarter. MassDEP uses RGGI data to prepare the "Appendix C: Massachusetts Annual Greenhouse Gas Emissions Inventory", but as stated above, this inventory only includes complete data through 2016. If the electric sector inventory were updated, it would show in-state generator CO2 emissions decreased 70% from 1990 through 2018, according to RGGI.

Economic Impacts Shouldn't Mislead Ratepayers

Page 9 of the background document requests comments on how best to estimate economic impacts. Ratepayer cost is one of the most important economic impacts. Ratepayers

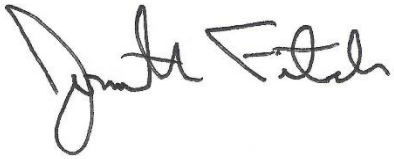
[1] MassDEP and EEA changed the CES in December 2017 to allow existing clean energy generation energy procured through Section 83D of Chapter 169 of the Acts of 2008 (the "Green Communities Act") and amended by chapter 188 of the Acts of 2016, An Act to Promote Energy Diversity (the "Energy Diversity Act").

The Massachusetts Department of Energy Resources (DOER) coordinated and sponsored a request for proposals for clean energy pursuant to Section 83D of Chapter 169 of the Acts of 2008 (the "Green Communities Act") and amended by chapter 188 of the Acts of 2016, An Act to Promote Energy Diversity (the "Energy Diversity Act"). The Commonwealth's Section 83D clean energy request for proposals allowed the distribution companies to purchase existing clean hydroelectricity from existing Hydro Quebec facilities. There are no restrictions on vintage, location, or size of this CES qualified energy procurement contract sponsored by the Commonwealth. DOERs July 23, 2018, Petition for Approval to the Department of Public Utilities (DPU) states; "implementation of this project will result in nearly half (47%) of the electricity consumed by Massachusetts being generated from clean energy. The project's 9,554,000 MWh represents 17% of Massachusetts' total load, and 20% of the EDCs Massachusetts' state load."

deserve to know what they will pay for electricity in order meet our GHG emission reduction goals. When MassDEP and EEA changed 310 CMR 7.75 to allow existing pre-2011 imported clean energy generators to count towards the CES, Massachusetts ratepayers were told it will cost a "net levelized price, in 2017 dollars, of 5.9 cents per kWh". That is not the actual price ratepayers will pay according to the purchased power agreements. Ratepayers are not paying their electricity bill in "2017 dollars" when this clean energy is finally delivered to Massachusetts sometime in 2020/2021. MassDEP should prepare economic impact studies that are accurate and reflect the actual cost to ratepayers.

On behalf of WBMLP's ratepayers please consider our concerns and comments regarding the proposed amendments to the CES.

Sincerely,



General Manager