

September 27, 2019

Judith Judson, Commissioner  
Massachusetts Department of Energy Resources  
100 Cambridge Street, 10th Floor  
Boston, MA 02116

[Sent via email to DOER.SMART@mass.gov](mailto:DOER.SMART@mass.gov)

Re: Solar Massachusetts Renewable Target (“SMART”) Program 400-Megawatt Review

Dear Commissioner Judson:

As a leading national solar developer, Nexamp appreciates the opportunity to provide comments in response to the SMART 400 MW Review.

Nexamp was founded in Massachusetts over a decade ago, and since that time has grown from a small residential solar installer to a fully integrated solar development company with 165 projects totaling over 150 MW of solar installations in seven states.

With a company mission of building the future of energy so that it is clean, simple, and accessible, the growth and success of our program can be attributed to our fair and equitable subscription program. We are excited to continue to grow with this program in Massachusetts in the years to come.

We appreciate the opportunity to be part of the conversation to ensure that the next phase of the SMART program both enables the Commonwealth to meet its ambitious clean energy goals through the robust growth of distributed generation, and guarantees that all Massachusetts residents, regardless of income, credit history, dwelling or geographic location, have access to clean energy.

As a member of the Solar Energy Industry Association, the Coalition for Community Solar Access, the Northeast Clean Energy Council, the Solar Energy Business Association of New England, and Vote Solar, Nexamp fully supports the filing submitted by the Solar Commenters in response to the DOER straw proposal. Our remarks below are intended as a supplement to the comments of these organizations. In particular, Nexamp agrees with the Solar Commenters’ analysis of the proposed changes to the greenfield subcontractor and land use categories, which will have profound impacts on solar development across the state and severe implications for the Commonwealth’s clean energy deployment goals.

## **I. Eligibility Updates**

Nexamp was disappointed to see that DOER is considering changing the definition of CSS (as distinct from Low Income CSS) to allow for EDC-led program models. The community solar model that Massachusetts has adopted to date has clearly been successful and has served as a model for other states looking to unlock the potential of community solar nationwide. Much of that potential lies in the value of having ratepayers think differently about their energy consumption and their relationship with solar providers. Opening the community solar market up to the traditional regulated monopoly model threatens to undermine the burgeoning consumer-oriented ecosystem that has launched as a result of the current program structure. The Massachusetts CS industry has created hundreds of local jobs, developed hundreds of megawatts of clean energy, and contributed millions of dollars in local tax revenue to project host communities. This is possible because the industry has been able to innovate and compete.

With over 150 MW community solar projects under development and in operation, between SREC I, II, and SMART, Nexamp has experienced first-hand the billing and crediting challenges subscribers and project owners live with as a result of outdated utility billing systems, and under-resourced utility billing departments. Since the creation of the Massachusetts CS market, the EDCs have demonstrated neither the desire nor the capacity to champion community solar or ensure the positive customer experience our ratepayers deserve.

While developers may tolerate (and some even prefer) EDC-led programs, community solar subscribers will stand to lose the most. As dedicated community solar providers, companies like Nexamp can troubleshoot billing issues with individual customers in a matter of minutes; utilities tend to take far longer. Customers that currently have a choice about how they participate in the clean energy economy will see their options dwindle under a utility-led program. At Nexamp, we absorb retail rate risk on behalf of our customers by offering a guaranteed discount with no long-term contract commitments; public utilities are beholden to different structures that may preclude similar customer value. Comparable proposals from utilities in various markets have demonstrated that their CS programs would be run at higher costs as compared to private developers in a competitive market.

As evidenced by the rapid decline of the CSS adder in the initial months of the SMART program, Massachusetts faces no shortage of community solar developers and service providers eager to deliver savings to an ever-increasing network of interested customers. There simply doesn't appear to be any justification to explore a fundamental shift of the community solar customer experience – handing a competitive business model back to monopoly utilities – at the most exciting phase of the industry's growth. The traditional utility business model does not align with the potential for community solar as a consumer product, including customer acquisition and superior customer service, and utilities have to date proven unwilling to adequately resource those parts of its business that must interact most with community solar participants.

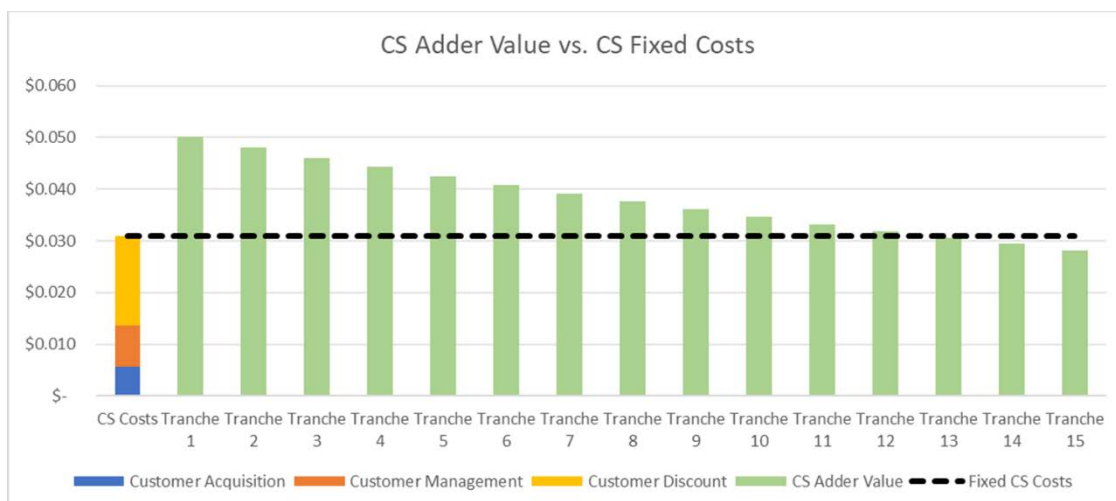
## **II. Community Solar Adder**

While the straw proposal did not propose changes to the community solar adder, its continued 4% decline between tranches is unfounded. Importantly, it is inconsistent with DOER's rationale for freezing tranche declines for other adder categories. Nexamp's business model provides us with a unique perspective on the fixed costs of developing and maintaining a community solar project (i.e. those costs associated with customer acquisition, ongoing customer management, and the discount offer to community solar subscribers).

The community solar adder was developed in recognition of these costs and represented an affirmative decision by DOER to incentivize these programs to ensure the "unique benefits" of CS are available to all Massachusetts electric customers, as required by An Act Relative to Solar.<sup>1</sup> Unfortunately, the continued decline of the CS adder will threaten the viability of CS projects in later capacity blocks. The likely result is that CS developers will opt to forgo the CSS Adder in favor of QF facilities, as the total compensation rate for CS projects will be insufficient to sustain the fixed costs described above. Below is an illustrative analysis of this dynamic.

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Ch. 75 of the Acts of 2016.



Here, too, the potential subscribers and beneficiaries of community solar subscribers stand to lose the most. Among the largest “costs” for reputable community solar developers is the discount offered to their customers. For Nexamp and others, the guaranteed discount we offer our subscribers would soon need to decrease in line with CSS Adder declines for such projects to remain economically viable. Continuing that trend risks making the value proposition for prospective community solar customers so negligible as to undermine the policy objectives completely. Moreover, this outcome runs counter to the legislative intent of the SMART program and naturally limits access to community solar subscriptions for Massachusetts electric customers.

Nexamp requests that DOER apply the same treatment to the CSS Adder as it has proposed for Location Based Adders in the SMART expansion, by eliminating the rate of decline for CSS Adder tranches altogether.

### III. Low Income Benefits

We commend DOER for working to expand access for low-income households but note that Massachusetts is not alone in falling short of its goal to expand access to all subscribers who wish to participate in community solar. Other states have similarly struggled to design successful low-income solar programs. There are, however, two ways to measure the success of a low-income community solar program, participation and savings. Many markets focus on participation—how many households are subscribed to how many community solar projects. Fewer focus on savings—the total benefits these subscribers are enjoying as a result of their participation.

Nexamp agrees with the Solar Commenters that the DOER should focus on both: first, by establishing a low-income subscriber/project target for the LICSS program, and second by requiring any project electing the LICSS to demonstrate no-cost allocation of CS credits to eligible subscribers and second. Nexamp further recommends DOER set a goal for Low Income CSS customer savings and participation. This will require detailed analysis of the addressable low-income market and the amount of capacity needed to offer whatever savings target DOER believes is appropriate. While this is a significant effort, it is necessary to ensure the state’s solar industry is appropriately serving all customers.

In addition, we encourage DOER to use the 400 MW review as an opportunity to convene a stakeholder working group where developers, low-income advocates, and key policymakers can discuss how SMART can better support low-income solar development.

We are excited to be developing low-income community solar projects in Illinois, Maryland, New Jersey and New York, and are proud to offer all customers a short-term community solar contract that guarantees savings without credit checks, cancellation fees, or up-front costs. We consider our contract to be one of the best in the industry, available to any subscriber that wishes to recognize the many benefits of supporting solar energy.

In our experience, one of the most challenging dynamics we encounter in low-income CS markets is how the program defines which customers are eligible to participate and how those customers prove their eligibility. While we recognize the need to ensure that program benefits flow to the intended population, overly strict verification rules can have the perverse effect of dissuading low-income subscribers from participating in a CS project.

We are therefore enthusiastically supportive of DOER's decision to expand the definition of "low-income subscriber" to include Massachusetts ratepayers that meet the "Low Income Environmental Justice Criteria." This is an important first step to ensuring developers can efficiently identify eligible households. However, this definitional change notwithstanding, the Massachusetts electric distribution companies currently possess customer information that would allow companies developing low-income projects to begin identifying low-income customers more efficiently. We would recommend appropriate privacy policies be adopted to ensure ratepayers consent to sharing their rate classes. Accordingly, we strongly urge DOER to direct the EDCs to begin development of a privacy policy that would allow the utilities to share R2 and R4 rate class information with eligible developers to expand access, drive down customer acquisition costs, and make the promise of SMART real for all communities in Massachusetts. There is simply no reason why the utilities cannot begin that work now, separate and apart from other low-income program redesign work. This would have an immediate and positive impact on low-income participation rates. Recognizing there may be concerns around marketing to potential low-income subscribers, we address the distinct consumer protection equities that exist for the low-income population below.

This information sharing should also not come at the expense of the well-established and successful private ownership market that exists today and Nexamp strongly opposes utility participation as a community solar provider. While we are open to having EDCs facilitate low-income participation (through an opt-out program within a defined jurisdiction or geographic territory), there is no justification for EDCs to become a de-facto community solar provider. The community solar experience will suffer if all customer-facing interactions are with the EDCs which have only ever managed captured ratepayers, and not customers.

While the EDCs have access to customer rate information and should be able to pass on CS savings to customers through their utility bills, they are ill equipped to educate customers about CS products and how bill savings works, to troubleshoot account and billing issues, and to acquire customers. We reiterate our strong opposition to EDC participation in community solar for non-low-income participants and caution DOER to be careful in designing a low-income program that turns over the CS experience entirely to the EDCs.

#### **IV. Strengthen Consumer Protection Standards**

Nexamp was pleased to see DOER considering enhanced consumer protections under SMART 2.0, to protect both the Commonwealth's most vulnerable communities from misleading contract offers and the integrity of the solar market.

In this vein, we support DOER's proposed periodic audits to ensure that disclosure forms match their accompanying community solar contracts and the current utility rate for a given customer's rate class. Further, we firmly agree that projects serving low income customers should be able to demonstrate that they will provide direct savings to the customer in order to move forward in the application process. We also support the "three strikes" mechanism as a means of holding applicants accountable for failure to meet consumer protection standards.

However, we request DOER provide additional detail as to what constitutes a "strike". A scrivener's error should not be treated the same as a discrepancy in material contract terms. While DOER certainly has a rationale for establishing its own consumer protection standards, the Attorney General's authority to policy community solar sales and marketing practices remains intact and will often be the more appropriate venue for resolving disputes. We look forward to discussing this and other issues with the Attorney General's office and their consumer protection summit later this fall.

At Nexamp, our customer acquisition process is rooted in customer education and transparency about our product. We are proud of the integrity of this process and want to ensure we fully understand and comply with enhanced consumer protection standards. Consistency between disclosure forms and contracts, and general transparency around the specifics of a program offering, are critical to the integrity of community solar programs and is a standard to which all developers should be held.

In addition to the consumer protection measures proposed by DOER, we urge DOER to explore opportunities for increased consumer education around community solar offerings, such as through local public workshops and online resources. The concept of community solar is still a new one to many Massachusetts residents, and it can be a challenge to navigate the multitude of programs available to them. Arming residents with accurate information about community solar and program offerings through increased public education will reduce opportunities for predatory practices and spur increased participation in programs as residents become more comfortable with the concept of community solar and available offerings.

Lastly, we encourage DOER to pursue specific consumer protection standards for low-income subscribers, through the low-income stakeholder working group proposed above. The low-income community has been disproportionately and adversely impacted by predatory marketing practices and misleading contracts and customer acquisition tactics in the past. The development of standards specifically protecting this population is paramount to preventing such practices in the future. The development of these practices would be an appropriate task for the low-income stakeholder group proposed above.

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Nexamp is proud to have grown up in the Massachusetts community solar market and we are grateful for the opportunity to work with DOER to ensure that the next phase of the SMART program works for all ratepayers who stand to benefit from participation. We sincerely appreciate the serious effort the department has made to identify and respond to some of the most pressing market challenges, and we look forward to doing our part to help shape the future of SMART.

If you have any questions about our comments, please contact Kelly Friend at [kfriend@nexamp.com](mailto:kfriend@nexamp.com).