

COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF ENERGY RESOURCES

SMART PROGRAM)

400 MW REVIEW)

COMMENT OF

THE LOW-INCOME WEATHERIZATION AND FUEL ASSISTANCE PROGRAM NETWORK

INTRODUCTION

This is the Comment of the Low-income Weatherization and Fuel Assistance Program Network (The Network) in response to the invitation of the Department of Energy Resources (DOER or The Department) with respect to its SMART Program 400 MW Review proposals dated September 5, 2019. The Low-income Weatherization and Fuel Assistance Program Network is comprised of the community action programs and other agencies that deliver the federal weatherization and fuel assistance (LIHEAP) programs in the Commonwealth that are administered by the Department of Housing and Community Development (DHCD).

G.L. c. 25, sec. 19(c) (Green Communities Act, St. 2008, c. 169, sec. 11) provides that “The low-income residential demand side management and education programs shall be implemented through the low-income weatherization and fuel assistance program network and shall be coordinated with all electric and gas distribution companies in the commonwealth with the objective of standardizing implementation.”

Members of the Network counsel utility customers about rates and payment options, and arrange rate payment assistance (including LIHEAP, arrearage management, and other forms of assistance) for utility customers. The Network is thus in unique possession of information that can help inform the Department’s instant deliberations, including direct experience of low-income customers and member agencies of the Network, as well as consequences of the proposals now before this Department.

The network reaches every city and town in the Commonwealth and is intimately knowledgeable about the conditions of life for Massachusetts low-income residents. By definition, living with a low income in Massachusetts means not having sufficient income to afford good health, nutrition, safe housing, and essential utilities. Low-income energy burdens (fraction of income devoted to energy bills) are double that of non-low-income households -- and often much higher. Because they live on an economic edge, one costly event -- a health emergency or major car repair, for instance -- is an economic catastrophe. Low-income consumers are finding it increasingly difficult to afford their energy bills due to both (a)

volatile but generally increasing energy prices and (b) continued pressure on lower incomes. Low-income households are particularly unable to accept economic risk. Further, many are particularly vulnerable to deceptive trade practices, included those involving solar energy.

The Network, its member agencies, and their clients are thus substantially interested in this rulemaking. Not only because the energy efficiency, weatherization, education, assistance, and counseling services The Network and its members offer and implement are affected by the outcome of this rulemaking, but especially because their clients depend on these services.

Community shared solar can play a critical role in making energy, and thus life, more affordable for low-income consumers. At stake are the level of utility bills offset by solar energy, in the absence of deceptive trade practices, and the consequent levels of payment assistance needed.

LOW-INCOME PRINCIPLES

The Network has installed a small number of small solar systems under Department grants; however The Network is not a solar developer. These comments are written solely from the low-income economic point of view described above.

Underlying our comments are these principles:

1. The Commonwealth's solar energy program should be designed to extend the benefits of solar energy to every low-income household in Massachusetts, not just to a lucky few, and on terms more favorable than those extended to their non-low-income neighbors.
2. The low-income solar benefit should be meaningful. The Network suggests the ultimate goal for this benefit should be 50% of low-income electric energy bills, or an average of about \$500 per year based on current bills.
3. To accomplish the foregoing goals, the cost of delivering low-income solar should be minimized, including by maximizing economies of scale and minimizing customer transaction costs.
4. There should be no cost or risk to low-income customers.

The low-income experience to date with the SMART program (Solar Massachusetts Renewable Target) has not been a good one. An analysis of individual low-income contracts by Eversource reveals a system replete with deception and negative benefits -- solar installations facing North, hidden interest charges, and, 45% of contracts providing an electricity price higher than the price low-income customers currently pay, in some cases 1/3 higher.

Current SMART/net metering rules for community solar require an exchange of payments that is almost impossible to explain and that drive up administrative costs, thereby diminishing the benefits that can be provided to low-income households. Net metering credits must be paid to customers as a bill credit,

which does not leave sufficient revenue for developers to operate, so they must contract with customers to pay back a portion of the net metering credit. Thus, for example, when Citizens Energy decided to provide low-income community solar with a guaranteed benefit, it found it must invent a Rube Goldberg contraption to make it work financially: its community solar project generates net metering credits on customers' bills, but customers write checks or make credit card payments back to Citizens for 50% of the net metering credit. Not a friction-free transaction model. Predictably, Citizens is meeting great resistance to it, with few low-income households willing to sign up.

Not surprisingly, only about 2.5% of SMART solar capacity has qualified as low-income under SMART rules (September 5, 2019 proposal at slide 5). Solar energy has thus been reserved for others.

THE NETWORK'S PROPOSAL FOR LOW INCOME COMMUNITY SHARED SOLAR

The Network's proposal to correct SMART's deficiencies in serving low-income customers addresses each of the foregoing obstacles:

- * Achieve economies of scale by emphasizing community solar rather than rooftop,
- * Minimize customer transaction costs (contracts, disclosure forms, and customer payments) by distributing all net low-income solar benefits to all specified low-income discount customers via utility credits, with utilities paying developers directly their share of the transaction,
- * Allocate a mW block to low-income community solar large enough (ultimately likely to be about 2000 mW), to generate a meaningful benefit to all Massachusetts low-income customers, crossing load zones as necessary to reach all low-income customers, with a stated regulatory goal of expanding the low-income block over ten years to achieve a low-income solar benefit for every low-income customer equal to 50% of the average low-income energy bill (i.e., about \$500 for R2 general use customers and \$900 for R4 heating), and
- * Prohibit sales or rentals of rooftop solar to any low-income customer; alternatively, enact automatic contract cancellation at the developers' sole expense, including return of all customer payments, of all solar contracts in violation of consumer protection rules (summarized below).

The Newton Model

The ideal maximization of low-income community solar scale economies, and minimization of transaction cost, may flow from carefully regulated utility involvement. Utilities have superior financial and technical resources to build, manage, own and operate large resources, operate with regulated costs and prices, and are uniquely situated to account for and deliver benefits to low-income customers, whom utilities have already identified, at minimal cost. If desired, customers can be given the opportunity to opt-out. Large resources can reach saturation goals relatively quickly and efficiently.

The Eversource-Newton model under SREC II is instructive. The City of Newton built a solar canopy at a Department of Public Works site. In this model, a portion of the net metering credits is paid by Eversource bill credits to every Newton low-income customer, who are identified and notified by the Network's member serving Newton, Action for Boston Community Development (ABCD).

Eversource is currently proposing in New Hampshire a similar community solar model that could be applied in Massachusetts. Eversource would procure low-income community solar resources where winning bidders are selected on the basis of their low-income benefit, which Eversource would distribute as bill credits to all specified low-income customers, paying the balance directly to the developers. The Network supports the structure of the Eversource Low Income Community Shared Solar proposal, set out in its supplemental comment in this proceeding, and would be pleased to participate in such a program in the way it has in Newton. In all of these models -- utility ownership, Newton, and New Hampshire -- the need for developers to take on the expense of identifying customers, and for a costly developer-customer transaction, is eliminated.

We therefore very much appreciate the proposal to allow utility-sponsored program models to qualify as Low Income Community Shared Solar (September 5, 2019), which would permit application of the Newton model. The Network looks forward to working with Massachusetts utilities to develop such programs. Regulations should explicitly allow models available to all projects, including existing ones, whereby utilities (and/or The Network) identify R2/4 customers to be served by Low Income Community Shared Solar projects, which would serve only low-income customers.

From the current level of nearly zero, The Network envisions the ultimate rollout of Low Income Community Shared Solar to every identified (R2/4) customer in the Commonwealth, providing the significant benefit of \$500 (R2) or \$900 (R4). This is expected to require reservation of 2000 mW, so the proposed expansion of 800 mW (slide 6) is welcome but, in the long-term, falls short of the low-income need. A mechanism should be established for periodic review of the low-income mW requirement, the adequacy of the standard low-income benefit, and the status of program achievement in reaching low-income households.

As in Newton, The Network offers to conduct a mailing for each Low Income project, allowing R2/4 customers to opt-out; a pre-determined number of R2/4 accounts (which is a function of project size and the \$500/900 per-customer benefit) would be automatically signed up for benefits that would be delivered as utility bill credits.

Environmental Justice criteria

The September 5 proposal would allow treating as low-income all customers living in a Census block where as few as 25% of residents have incomes at or below the low-income level of 65% of median income (September 5 proposal at slide 17; Environmental Justice Policy of the Executive Office of

Energy and Environmental Affairs, Jan. 31, 2017. The income screen for the R2/4 low-income rates is 60% of median income.)¹

Given population patterns, it is inevitable that Environmental Justice (EJ) and Low Income (LI) community solar offers would be made in the same geographies, to the confusion of Low Income customers. The Network is hopeful that regulations will provide a path for cooperation and coordination between Low Income and Environmental Justice projects.

* Since up to 75% of EJ customers could be non-low-income, Environmental Justice communities should not be confused with Low Income communities.

* EJ and LI offers are likely to offer different benefits, and other terms, and be made at different times. It would be possible for a developer to minimize transaction costs by minimizing the number of EJ customers and thus provide a customer benefit larger than even the \$500 R2 LI benefit we propose, i.e., non-low-income benefits could be larger than low-income benefits. For this reason, we propose capping EJ customer benefits at a level significantly below the low-income benefit, e.g., at \$250 per household.

* On the other hand, it is inevitable that some communities will be offered EJ benefits before they would be offered LI benefits. (The higher per household LI benefit translates to fewer households served per mW, so it is highly likely that LI projects will cover low-income geographies more slowly than will EJ projects.) This would result in a confusing inequity of R2/4 customers in different places receiving different solar benefits at the same time.

The Network does not doubt the need to increase community solar offers to EJ communities. The Network therefore proposes that EJ and LI offers be made simultaneously since they would geographically overlap. Since The Network proposes conducting opt-out mailings with respect to R2/4 customers, we would also conduct a simultaneous opt-out mailing for non-R2/4 EJ customers in the same defined area.² The Network would provide both sets of account numbers (preserving privacy) and

¹ The Environmental Justice Policy defines environmental justice populations as those living in Census blocks where 25% (at least, presumably) of the households have an annual median income at below 65% of the statewide median and either 25% of the population is minority, or 25% of its population identifies as a household that has "English isolation" as defined by the US Census; English isolation also includes households with no person over age 14 who speaks only English, or no person over age 14 who speaks English "very well." The latter provision appears particularly difficult to apply.

DOER may intend that only the income criterion would be applied in the SMART context, which The Network appreciates. This would improve, but far from eliminate, the dilution of the objective of serving low-income households since up to 75% of EJ households would not be low-income.

² Once an area is identified, it is a simple task to identify the number of R2/4 eligible customers therein; then, since the \$500/\$250 benefits are already determined, once the dollar benefit pool is known it is simple algebra to determine the relative number of R2/4 and EJ customers to serve in the defined area.

would include additional EJ marketing material if desired. For example, to establish a direct customer relationship, an EJ developer may wish to offer a small premium (e.g., a gift card) to EJ customers who sign up on a web site. Of course, an EJ project would also be free to do other marketing if desired.

In this way, EJ costs would be reduced (due to far lower marketing cost, even after the above-mentioned gift card), and R2/4 and EJ programs would be rolled out in a simultaneous and orderly way without customer confusion or inequity.

CONSUMER PROTECTION

The Network very much appreciates the Department's proposals for vigorous consumer protection (slides 22-23), and offers the following additional proposals and clarifications:

* Clarify that three strikes applies to all violations, so a violator cannot pile up five strikes without consequence by choosing carefully from the violation menu. For example, a disclosure that does not match a contract is a violation, as is the failure to guarantee savings to a low-income customer. As was clarified at the September 9 public stakeholder meeting, collectively these would count as two violations, so the next is strike three leading to a one-year suspension from the program. A violator with two disclosure violations thus cannot avoid suspension by switching its unlawful behavior to failure to guarantee savings to two low-income customers. Similarly, it should also be clarified that a violation in a standard contract provision affecting multiple customers will be counted as multiple violations.

Violations should explicitly include other deceptions or gaps in performance including but not limited to improper installation causing roof leaks, and production performance below projections. All contracts of all three-strike violators should be audited and suspensions should be extended until all violations are reformed.

* Developer principals should be disclosed and the three-strike rule should be applied to treat as one all entities that have a common principal.

* The guaranteed savings to low-income customers guarantee must be firm and absolute, not merely "demonstrated." Regulations should include a standard formula for projecting utility rate increases. Further, savings guarantees should include an accounting for all consumer costs, including but not limited to inverter replacement and all other maintenance, cost of removal and code compliance update for roof repair, and cost of removal at end of life. Low-income households already bear more economic risk than they can absorb; solar energy should not become a vehicle for increasing that risk. By contract, all risk of the cost of solar power exceeding the price of utility power should be borne by solar developers.

* DOER should audit every low-income R2/4 contract in order to assure that low-income customers, who are particularly vulnerable, are protected by the customer protection rules. In addition, the Department should invite and accept evidence of violations from consumers, the Department of Public

Utilities, the Attorney General, utilities, consumer and low-income advocates, and others. Utilities should be required to review all low-income contracts and report to DOER all violations found.

* The customer protection rules and audit practices should apply to all existing contracts, rather than allowing past violators to go free under a "clean slate" provision as proposed, unless they are voluntarily reformed within 30 days of the effective date of the emergency regulation. Many of these violations were, after all, already violations of existing law that just happened to not be enforced. No one should be allowed to profit from prior non-enforcement, or from a lack of specification of consumer protections, or from having deceived low-income customers into signing long-term contracts to pay for solar with such improper terms as hidden interest charges and/or a 33% rate increase.

* All solar developers should be licensed, as are other electricity providers. Performance bonds protecting customers should be a condition of license.

CONCLUSION

The Network appreciates the opportunity to provide these comments and looks forward to working with the Department to develop refinements to the SMART solar power program.

Respectfully,

The low-income weatherization and fuel assistance program network

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