

**Next Grid Inc. Comments**  
**SMART 400 MW Review Straw Proposal (9/27/19)**

**1) Introduction**

NextGrid Inc. (“NextGrid”) is a commercial and community shared solar and energy services company with corporate offices in Massachusetts, San Francisco, and Denver, and a footprint that currently includes New Jersey, Washington D.C., Massachusetts, and Maine. NextGrid has dozens of commercial solar and solar plus storage projects underway in Massachusetts, has been proactive and successful in its other markets, and is gearing up to expand quickly in Maine as Maine’s market matures. NextGrid thanks the Department of Energy Resources (“DOER” or “Department”) and its staff for its good work on the 400MW review and this straw proposal, but with its comments, addresses a few select issues within the draft plan to provide additional information and suggestions to the Department to assist it in reaching its goals.

**2) An Additional 800 MWs Will Not be Enough in the Short-Term**

While NextGrid is grateful for the DOER in its straw proposal for providing an additional 800MW to the existing 1,600MW, given the rapid expansion of solar in Massachusetts under the SREC and SMART programs and quick outstripping of program capacity, NextGrid believes the current 800MW amount will follow suit and be quickly used up by excess initial SMART and other projects. NextGrid also believes that solar developers will expedite additional projects to use the existing federal Investment Tax Credit (“ITC”) while it remains close to current levels, but even after it decreases to 10% in 2022. NextGrid is also hopeful that current ITC levels will be maintained after the next federal election cycle, which will help accomplish new federal, and state climate change policy goals and laws, and believes that the combination of storage with solar, and continuing advances in technology and a hopeful return to normalcy in the world economy will also continue the cost decline of solar and drive additional solar installations. Should this hope be realized, it will only exacerbate the rapid decline of the DOER’s proposed 800MW amount of additional solar capacity. Should the DOER be concerned about its current adder mix needing to be amended over the next five years, if it expanded to 3,200MW, it could apply the current adders to the first 1,600, and in two years, when it has gathered data about the

results of its current expansion, it could mold its proposed adder mix to accomplish future policy goals that would apply to the second 1,600MW tranche.

### **3) The DOER's New Emergency Regulations Should Apply only to New Projects and the Additional MWs Added, and Not Penalize Existing Projects Under the Existing SMART 1,600 MW Program**

NextGrid proposes that advanced-stage projects with complete applications including all required documentation, as demonstrated by a project obtaining a system impact study, interconnection service agreement, or being a member of National Grid's ISO-NE transmission cluster study group one, as of the filing date of the SMART emergency regulation, be exempted from the DOER's new emergency regulations and continue under the existing SMART rules and regulations. In its proposal, the DOER should realize and take into account the reasonable reliance solar developers and residual and commercial solar hosts placed in the DOER and its existing SMART compensation scheme (which took two years to develop) when planning their current solar projects. Solar developers and their customers put faith in the DOER and its SREC II successor program SMART and spent considerable time and effort with landowners, investors, and made significant capital investments during the development process. The developers and their residential and commercial host partners, like Next Grid and its host partners, all reasonably believed that if they filed their projects within days and weeks of SMART's official start on November 26, 2018, that at least until the capacity in that program was gone, their projects would be subject to those initial rules and adders.

For solar developers, locating sites, finding and speaking with landlords and property owners and those with rights to land, and dealing with leasing, environmental and local permitting, financing, and interconnection takes a tremendous amounts of time, work, patience, faith, and investment. Along with the solar developers, however, residential citizens and commercial entities leasing their land and property have also invested tremendous time, effort, and money, and also reasonably relied on the existing SMART compensation scheme, especially for greenfield projects that, under the DOER's current SMART proposal, will likely no longer be financially viable. If the DOER does not exempt these projects, at least those advanced-stage

projects listed above, all of this work, time, and the ready-state of the sites will be wasted, and it will take the DOER and Massachusetts, and local communities, and residential and corporate customers longer to meet its climate goals, legal requirements, and ultimately delay the fight against climate change.

In addition, if the DOER cannot exempt these projects entirely from its new regulations, it should at least exempt those existing greenfield projects from new land use and other new regulation requirements that will otherwise foist a previously unknown subcontractor penalty upon these important projects, with many of these current advanced-stage projects being those that are attempting to meet local government zoning and policy goals. The majority of these projects have also been delayed due to their inclusion in National Grid's group transmission studies, and National Grid's unilateral decision to issue no further interconnection service agreements until after those studies have concluded, the first of which is due to finish about the time the DOER's new emergency regulations are to be filed.

#### **4) Low Income Program Challenges**

While NextGrid applauds the Department for emphasizing low-income projects and attempting to incentivize solar developers to serve them -- and NextGrid is one of those solar developers currently attempting to serve them -- under both the current rules, and certainly the proposed regulations, significant and likely inadvertent barriers exist that will undermine the Department's goals. In the existing program, a few factors, among others, that could help would be for the DOER to allow solar developers offering low income community shared solar the flexibility to add and drop low income customers from a schedule Z on a monthly or at least quarterly basis, as opposed to twice a year, and allowing developers to submit more easily available average per household low income electric usage numbers from a reputable government or expert source (e.g., US Energy Information Administration), to validate the 50%+ of low income total output number for eligible customers without gathering hundreds or more 12-month periods of bills from low income customers/off-takers.

## 5) Low Income Program Consumer Protection Challenges

Again, NextGrid agrees with the Department's goals and intent, but highlights at least one factor that if left undefined, will undermine the rollout of solar to low income customers. As currently constituted, the DOER's "three strikes and you are out of SMART" policy is unclear.

Developers of SMART projects need this section and the preventative penalty it contains to be crystal clear in terms of how and when it will be applied. During the DOER's public hearing on September 9, 2019 at MassART several commenters asked about the application of the "three strike" rule and were told the all three "strikes" or violations could easily occur at one time, perhaps if a solar developer had a defective contract template or advertising. While NextGrid agrees that bad actors must be admonished and a significant deterrent to deceptive behavior (e.g., using the incorrect rate class to show higher savings to low income customers) must exist, a broad and undefined deterrent will likely accomplish a result directly opposite to the DOER's wishes, as solar developers will not wish to jeopardize future commercial and other SMART projects by providing programs for low income customers that could inadvertently expel them from those commercial and other SMART projects through an arguably inadvertent marketing or other error.

To combat this potential result and advance the DOER's worthy goal of providing solar benefits to low income customers, NextGrid recommends the DOER tie the requirements to savings and other consumer protections to Massachusetts' known, and excellent pro-consumer deceptive business practice act, aka, the Massachusetts Consumer Protection Law (M.G.L c. 93A and 940 CMR 3.00 et seq.). This action will provide needed clarity and direction to the solar developer community, while also protecting low income participants who should share in the value of solar. Just a few of the categories that could apply to protect low income customer would include but not be limited to: types of unfair practices include false advertising (actual false statements, inaccurate representations of products); bait and switch advertising (advertising a rate and not providing it); and deceptive pricing (misrepresenting the price to induce business when the actual price is higher).

**6) Storage Should be Encouraged and Perhaps be Required to be Considered on Larger Projects, but Not Required Categorically.**

NextGrid has large potential Massachusetts projects currently paired with storage, and appreciates the Department's sentiment that large solar projects must be paired with storage. However, at this point in time at least, the storage market is too nascent, and associated additional revenue is too variable and speculative to require storage be paired with all large solar projects. To that point, the Department's Clean Peak Standard, which will be very helpful to the financial viability of storage, is not even finished as of the date of these comments. Accordingly, similar in concept to the Town of Watertown recently passing an ordinance that requires solar to be considered in all new large buildings, but which allows an exemption for a demonstrated lack of solar zone or load feasibility,<sup>1</sup> the Department should also build in at least an exemption to allow projects where storage is uneconomic to simply remain solar. In this way, the Department will not thwart large solar projects that otherwise would be built, but instead, will create an environment where when project economics improve for storage, solar developers and their customers will be better prepared to consider adding storage, and potentially picking up an additional adder to enhance the chances of storage being added. To require storage on all large solar projects now, however, will likely result in currently viable solar projects being delayed or not built at all, especially in the next two years while the ITC is still close to historic levels.

**7) Conclusion**

NextGrid appreciates both the opportunity to comment and assist the Department in this worthy endeavor, and the Department's work and considerable effort in putting forth this straw proposal. We look forward to assisting in the future as well whenever possible.

Most sincerely,

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<sup>1</sup> See Watertown Zoning Ordinance Section 8.05, and amended Section 9.03(a).