

Massachusetts Department of Energy Resources
100 Cambridge Street, Suite 1020
Boston, MA 02114

Re: 400 MW Review of SMART Program

I. Introduction

Ampion is a third-party service provider for Community Shared Solar (“CSS”) developers in the Commonwealth. Ampion provides customer acquisition, billing and payment, customer care, and portfolio management services to facilitate the deployment and management of CSS projects.

To date, the CSS program represents one of the most successful means of incentivizing solar development in the Commonwealth. Ampion has supported virtual net metering assets since 2014 and acknowledges the need for greater oversight into the relationship between Host Customers and their beneficiaries, or subscribers. However, without proper consideration of operational realities, new regulations will only serve to delay or interrupt CSS revenues altogether, and ultimately contribute to the negative perception of the program from subscribers and developers alike.

Regulatory ambiguity poses a persistent challenge for CSS market participants. Due to the nature of the bill credit mechanism, CSS does not align with traditional energy transactions. Moreover, the activities inherent in the developer/subscriber relationship span a broad legal spectrum, from contract law to taxation to land use, many of which fall outside of DOER’s purview. Together, these factors create a legally ambiguous environment that often leaves industry to interpret what is compliant and what is not.

Ampion therefore makes the following comments in the spirit of removing unnecessary barriers to CSS development and encouraging greater transparency and clarity in the CSS lifecycle, while also ensuring greater oversight and protection of consumers. Ampion acknowledges that many of these topics apply to other SMART programs beyond CSS (i.e., other offerings that also require Disclosure Form), and while the discussion will hinge primarily on CSS-related issues, we assert that these items are generally applicable to rooftop, LMI, and public off-taker arrangements as well.

II. Strengthening Consumer Protection Standards

Ampion generally supports DOER's proposed strengthening of consumer protection standards, including random audits of customer disclosure forms and a "three strike" rule for any subsequent violations. However, our support is contingent on further clarification from the Department on what types of violations incur a "strike," preferably codified in guidelines that provide explicit indication of what is expected when completing CSS disclosure forms. This will ensure that well-intentioned applicants do not receive strikes needlessly for otherwise non-material mistakes.

Specifically, Ampion requests that DOER issue guidance on the following disclosure form-related items:

- How to determine how many disclosure forms each "customer" should receive (including a reprise of the definition of "customer"--per recent discussions with DOER, this is understood to be any entity with a single tax ID, but formal clarification would be appreciated)
 - For a single customer with multiple utility accounts, please suggest protocol and/or an updated template for how to accommodate for multiple utility service addresses, and possibly multiple mailing addresses
- Identify what errors are considered material (i.e. would incur a "strike") and what errors are considered immaterial
- Allow for a cure period and/or submission of correctional addenda for non-material clerical errors such as typos, missing signatures, etc.
- Establish protocol for how to handle a change in ownership of an asset as it pertains to disclosing customers

Additionally, Ampion asks that, barring any egregious or otherwise flagrant abuse (such as blatant price hikes, tampering with signed documentation, or other), any disclosure forms signed prior to the issuance of these guidelines be exempt from the three strike rule. This is to accommodate for the lack of guidance on this process to date and not pose any further delay to customers and developers who have been waiting extended periods of time for the launch of their CSS assets.

III. Disclosure Form Process

While Ampion understands the purpose of the disclosure form, both as a consumer protection tool and as a means of proof demonstrating the qualification of an asset for the CSS adder prior to commercial operation, to date this process has posed a considerable burden to operationalizing CSS assets in the SMART program. Upon submitting disclosure forms to CLEAResult as part of the incentive claim process, any errors result in the entire project's compensation being placed on hold. Furthermore, the lack of clear guidance available to date, combined with often unhelpful answers from CLEAResult, creates a trial-and-error process when attempting to correct disclosure forms. Subscribers can become skeptical and even irate when re-engaged to sign a new form, especially in light of the fact that they have not yet received credits and may have signed up many months ago.

Ampion therefore requests that, in combination with greater clarity via DOER guidelines, disclosure forms no longer be a mandatory part of the Incentive Claim process for CSS or other assets. Instead, developers should be required only to submit a complete AOBC worksheet (the "Schedule Z" equivalent) to the utility, and for approval by that utility to be sufficient for approval of the CSS adder.

Ampion recommends this change based on the success of this mechanism in the New York State Community Distributed Generation program. While that program has experienced plenty of barriers and delays regarding asset implementation, customer engagement and consumer protection have not been factors. This is likely due to the process instituted by the Public Service Commission, which requires developers to register with the Department of Public Service and receive explicit approval of all contracting and marketing materials prior to going to market. Ampion acknowledges that DOER and CLEAResult likely do not have the capacity for this level of oversight at this time; however, the principle of receiving approval upfront, rather than iteratively and in lieu of compensation, represents a much more efficient means of regulating the subscriber engagement process.

Finally, Ampion recommends that yearly re-submission of disclosure forms be waived for CSS providers who have received fewer than 5 complaints from customers to DOER in the course of a calendar year. This will reward good actors while simultaneously ensuring that negative actors are adequately monitored.

IV. Conclusion

Ampion thanks DOER for the ability to submit these comments and for their continued work on improving the SMART program.

Sincerely,

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