

October 30, 2019

Massachusetts Department of Energy Resources
100 Cambridge Street, Suite 1020
Boston, MA 02114
(submitted via email to doer.cps@mass.gov)

Re: Clean Peak Standard Proposed Regulations

To Whom It May Concern:

Calpine Corporation (Calpine) and Vistra Energy Corp. (Vistra Energy) and its wholly owned subsidiary Dynegy Marketing and Trade, LLC (together, the “Vistra Companies”) submit the following comments in response to Massachusetts Department of Energy Resources’ (DOER) proposed Clean Peak Standard (CPS) published on September 20, 2019. Pursuant to *An Act to Advance Clean Energy*, DOER is required to develop 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, reduce load. Calpine and the Vistra Companies have consistently advocated for policies that support both environmental stewardship and fair competitive markets, and we oppose programs that have the potential to create market distortions. However, we recognize that the Act requires that DOER implement a CPS, and we are submitting these comments in light of that statutory requirement.

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 U.S 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). Calpine is currently developing a storage project at this site with a capacity up to 40 MW. 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 standard offer load through its wholesale marketing entity and retail load 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 40,000 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 the Masspower Energy Facility (260.9 MW nameplate capacity). In addition, Vistra Energy indirectly owns 50% of the Bellingham Cogeneration Facility. Vistra Energy is also one of the largest competitive residential electricity providers in the country, and its retail brands serve approximately 3.7 million residential, commercial, and industrial customers with electricity and gas.

General Comments

There should be two guiding principles for any final CPS rule:

1. A CPS program should not favor one clean peak resource over another. Thus, we support the proposed regulatory approach that ensures that clean peak certificates are fungible regardless of the resource from which the certificate is generated.
2. Massachusetts continues to have the most complex clean and renewable energy 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 now proposing to amend its Clean Energy Standards. These complex programs make annual compliance burdensome for retail electric suppliers and creates administrative costs that are ultimately borne by consumers. However, recognizing that DOER has a statutory obligation to develop the CPS, we recommend that the program should:
 - a. not result in electric distribution companies imposing a non-by-passable charge, and retail electric suppliers and customers should manage compliance with the program;
 - b. have clear long-term targets to provide the regulatory certainty needed for retail load customers; and
 - c. have a reasonable alternative compliance payment (ACP) and provide retail suppliers certainty with respect to the value of the ACP.

The proposed regulatory approach meets these objectives. First, retail electricity suppliers are responsible for procuring a sufficient number of clean energy certificates as opposed to requiring the distribution companies to impose non-by-passable charges. We also urge DOER to ensure that a market for Clean Peak Energy Certificates (CPECs) develops.

Second, the proposed regulations include an annual obligation for retail electricity suppliers through 2051, providing necessary regulatory certainty. However, under the regulations, DOER may revise the standards, so we urge DOER to ensure sufficient notice is provided to stakeholders to submit comments on any proposed modifications. Similarly, there will need to be sufficient lead time for procurement of credits if the compliance obligations are altered.

Third, the proposed regulatory language for the ACP appropriately allows compliance entities the necessary regulatory certainty regarding compliance costs.

However, the proposed regulations do not clearly exempt electricity supply contracts executed before January 1, 2019. The Act states that the program only applies to retail electric suppliers “providing service under contracts executed or extended after December 31, 2018.” While DOER’s August 2019 Draft Regulatory Summary suggested that retail load served under contracts executed prior to January 1, 2019 would be exempted from any compliance obligation, the proposed regulatory language does not clearly reflect this statutory grandfathering provision. At a minimum, we urge DOER to ensure the final regulations expressly exempt existing contracts from compliance with the CPS as of January 1, 2019.

However, we recommend DOER also exempt existing contracts though the effective date of the final CPS regulations. The latter—the effective date of the final regulations—is more appropriate given that retail electricity suppliers enter into multi-year agreements and it is critical to protect existing customers’ expectations for those contracts. Only until retail electricity suppliers have full knowledge of the value of Clean CPECs, based on the final rule and market development, can contracts reflect the impacts of the new requirement.

Qualified Resources

In prior comments, Calpine urged DOER to ensure that appropriate metering be required to verify generation or load reduction during peak periods. The proposed regulatory approach meets that need; however, the regulatory language does not clearly explain how a qualified energy storage resources will demonstrate that it primarily stores and discharges renewable energy. Thus, our companies urge DOER to make clear that if a Qualified Energy Storage System charges during those windows, DOER will presume it is charging with renewable energy sources.

We support DOER’s proposal to establish a minimum percentage threshold on the ratio of the size of the energy storage to the size of the renewable resource in order for the resource to qualify as a Qualified RPS Resource. However, it will also be important that DOER finalize regulatory requirements to review and update this minimum ratio requirement on a regular basis (such as every three years) to reflect the quantity and capabilities of intermittent resources and storage.

Additionally, we have some concerns regarding the proposed regulatory language in section 21.05(1)(a)2 for Qualified Energy Storage Systems. DOER’s third factor (specified charging times by season) appears to be contrary to DOER’s goal of reducing carbon. The times specified for charging are primarily served by fossil generation, and adding additional demand to those hours would increase emissions. Therefore, at a minimum, we urge DOER to include regulatory language that requires DOER to, on a regular basis, review and determine which hours are primarily served by renewables and require Qualified Energy Storage to charge during those hours.¹

Multipliers

We continue to be concerned that if DOER develops a distribution circuit multiplier, its value would overlap with the attributes DOER is seeking to incentivize with the resilience multiplier. If both multipliers are available, we do not anticipate that a distribution circuit multiplier would create additional value and would instead lead to regulatory uncertainty. While we appreciate DOER clearly outlining the characteristics of the resilience multiplier in the proposed regulations, we urge DOER to evaluate how a potential distribution circuit multiplier might interact with the resilience multiplier and the program

¹ Calpine and the Vistra Companies support incorporating a carbon price into the energy markets to best achieve the carbon reduction goals consistent with the state clean energy requirements. In this case, incorporating a carbon price into energy prices would efficiently incent storage facilities to charge with energy produced by lower emission resources. With a carbon price, there would thus be no need to establish specific charging periods.

overall. If DOER proposes a distribution circuit multiplier, it will also be important to define how a distribution company would determine the locational value for a distribution circuit multiplier.

Additionally, we recommend that the final rule or guidance released with the final rule make clear how clean peak resources would integrate with any multipliers. For example, if a company procures resilience attributes from clean peak resources, neither the resilience nor a distribution circuit multiplier would be necessary.

Metering and Verification

As we note above, the proposed regulations appropriately require metering to verify generation or load reduction during the defined peak periods. Additionally, DOER proposes that all eligible CPS resources must submit on a monthly basis, hourly interval data to the Massachusetts Clean Energy Center (MassCEC), which will report preceding monthly data for each eligible resource and overall system monthly peak data to the New England Power Pool Generation Information System (NEPOOL GIS). Under the proposed approach, NEPOOL GIS would be responsible for minting and distributing CPECs. Given NEPOOL GIS's role for ISO-NE's REC market, we agree that this approach will support the needed market certainty.

Compliance Flexibility

We support DOER's proposed approach to allow retail electricity suppliers the ability to demonstrate compliance through the surrender of CPECs or through the ACP. We also support the proposed regulatory provisions allowing retail electricity suppliers to utilize banked CPECs.

Conclusion

We look forward to continuing to provide feedback to DOER as the regulations are finalized, and please do not hesitate to contact Steven Schleimer, at Steven.Schleimer@calpine.com, or Amanda Frazier, at amanda.frazier@vistraenergy.com, if you have any questions or need any additional information.

Sincerely,

/s/ Steven S. Schleimer

Steven S. Schleimer
Senior Vice President, Government and Regulatory Affairs
Calpine Corporation

/s/ Amanda J. Frazier

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