November 5, 2009

Ms. Susan Leavitt
Department of Energy Resources
100 Cambridge Street, Suite 1020
Boston, MA 02114

Re: Comments of the Solar Alliance on the Solar RPS Carve-Out STRAW PROPOSAL

Dear Ms Leavitt:

The Solar Alliance appreciates the opportunity to submit these Comments regarding the DOER Price Support Mechanism.

INTRODUCTION

The Solar Alliance is a national trade organization of thirty one companies engaged in the manufacture, design, installation and financing of solar electric generating products and services. The Solar Alliance represents many of the major solar firms doing business in Massachusetts and the manufacturers that supply those firms.[1] The Solar Alliance commends DOER for putting forward a novel and innovative framework for providing long-term solar revenue securitization. While we believe that long-term contracts that solar developers and financial participants can access are a preferred approach, we understand that DOER and the DPU believe that Massachusetts is constrained from ordering such long term counterparty guarantees. We further appreciate that the proposed PSM is an attempt to address the need for long term SREC markets and contracts while staying within the bounds set by the legislature.

Although the Solar Alliance commends DOER for developing the Price Support Mechanism (PSM) as a means to implement the RPS Solar Carve-Out, and believe that it may provide a “second best” alternative, we have several issues with the proposal, and in its present form may not meet the DOER’s laudable goals. In summary, our chief concern with the DOER proposed price support mechanism is that, in the absence of a long-term contractual commitment or other binding financial obligation with a creditworthy off-taker of the SRECs generated by the project, it will remain difficult for solar developers to obtain essential project finance. The two risks presented by the latest DOER construct are: 1) that the “rules of the game” may change mid-stream; and 2) that the Auction Account will in fact work as envisioned to assure a market for SRECs at a minimum price. In our comments below, we discuss these two risk factors and the key changes necessary, at a minimum, to make the program more workable.

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[1] These comments represent the collective views of the Solar Alliance, and not necessarily those of an individual member company.

1. The PSM requires more regulatory certainty.

One of the most important elements in a stable, sustainable solar market is policy certainty. While any market-based incentive program is subject to some degree of regulatory risk, this is especially pronounced in the DOER framework since inconstancy is embedded in the very fabric of the program. Annual targets, SREC shelf life, ACP levels and project terms are all subject to change by DOER to maintain a modicum of balance between supply and demand for SRECs. Whether investors can appropriately assess the risks associated with these changing market dynamics in a still nascent Massachusetts solar market remains to be seen. However, in order to facilitate investment planning and prudent risk taking, <u>it is absolutely essential that such changes be based on non-discretionary, transparent and self-executing mechanisms enshrined in regulation</u>.

Without certainty around these elements, it is difficult for the industry to apply models that would determine if the proposal will create a long term viable framework for the solar market in Massachusetts. If the DOER goes down this regulatory path, the Solar Alliance strongly encourages the DOER to establish adjustment mechanisms at the outset of the program and stick with them.

2. The PSM requires more market certainty.

Since DOER has indicated that it will not backstop SREC revenue expectations in the event there is insufficient demand in the bilateral market to absorb the supply, this makes it paramount that the PSM will work as designed.

We remain concerned, however, that despite DOER's best intentions, there is a material risk that SRECs deposited in the Auction Account may become stranded. This would likely occur in a market characterized by short-term over-development and long-term declining costs. With excess supply, developers with no off-taker (via spot-, short-term and medium-term sales) would place their excess SRECs in the auction pool. Under the DOER proposal, this would trigger several corrective mechanisms to harmonize supply and demand in the hopes of inducing the auction pool to clear at a price above the $300/Mwh minimum. However, if notwithstanding these measures, the market continues to clear at a price below the floor, it is unclear that extending the shelf life of out-of-market SRECs will provide sufficient inducement.

The Solar Alliance suggests a possible refinement to the Auction Account concept to further mitigate the risk of stranded SRECs. If notwithstanding the extension of the SREC shelf life and other market adjustments, the Auction Account still does not clear at the $300/MWh floor value, DOER should consider allowing LSEs to submit bids below the floor price, with the difference made up from revenues derived from ACP payments and auction fees ("risk pool"). This enhances revenue surety for developers, while increasing the attractiveness of the auction pool to LSEs. If a risk pool option is not available to DOER, the Solar Alliance would nonetheless suggest that the price floor be allowed to drop where other market adjustments fail to clear the Auction Account.

3. The Minimum Standard Cap is too low, particularly if utilities participate.

Under the latest DOER straw proposal, the minimum standard is set for 20 MW in 2010, with annual installations growing at 30% and the total Minimum Standard is capped at 400 MW. Under base case conditions, the market would attain the cap in 2017, with the program expiring in 2027. The Solar Alliance has several concerns with this growth trajectory.

First, the 2010 minimum standard of 20 MW is actually a growth rate that is far less than 30% based on the expected installations under CommSolarfor 2009. We therefore recommend the minimum cap of be set at 30 MW for the 2010 compliance year.

Second, the latest DOER straw proposal reflects a significant scaling back of solar program goals and support for a vibrant marketplace for third party development. We base this on the following factors:

- The DOER straw proposal now clearly envisions utility rate based projects as eligible to generate SRECs.
- The DOER has substantially understated utility contributions to overall solar market development based on utility solar filings.[2] The cap will be met much sooner (and, we assume, the program halted) should the utilities participate in the program to a greater extent than envisioned by DOER and assumed in the annual growth targets.
- The DOER's flexibility to calibrate the Minimum Standard to accommodate market growth will be seriously eroded as a result of utility participation in the SREC program. The DOER straw proposal now reflects an overall SREC program size from 500 MW to 400 MW.

Taking all these factors together, the overall solar market available to independent, third party developers will be much smaller and subject to more supply and price risk absent utility participation. The potential for utilities to play a more significant role in the program creates enormous financial risk for private project developers and financiers and will discourage market entry.

We again urge the DOER to maintain a separate market-based program for third-party developed customer-owned solar generation and utility rate based solar investment. Barring that, we recommend the DOER return to its original proposed program size of 500 MW.

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[2] Indeed, the Green Communities Act allows electric companies and distribution companies to contract, own and operate generation facilities that produce solar energy, G.L.c. 164, §1A(f). A company may own up to 50 MW after January 2010.

4. PSM time horizon is too short.

The proposed time horizon of ten years for the Auction Account Opt-In Term is short relative to contract terms developers and counterparties look for when financing projects. To ensure maximum market participation and competitiveness, we recommend DOER consider a minimum 15 year initial term for the Auction Account Opt-In.

5. Multiple "moving" placeholders.

In its proposal the DOER ***suggested*** using a $300/MWh price floor, $600/MWh and a 150 MW minimum standard. Solar Alliance members are struggling with valuation of the proposal and related projects as the presentation indicated these are simply "placeholders." We are also concerned that the minimum standard will be expressed as a percentage of load in the final regulations. We prefer a standard measured in MW or MWh in order to avoid fluctuations in the goal caused by economic growth or decline. In other solar markets, the use of a percentage of load standard for a solar metric has stymied market development when total load grows or declines. In order to effectively evaluate projects for this proposal more certainty is needed on prices and the minimum standard. Our members look forward to the final proposal so as to better evaluate the viability of the market under a proposed new regime.

Regards,

Carrie Cullen Hitt
President
Solar Alliance