



March 8, 2010

Natalie Howlett
Renewable Energy Project Coordinator
Massachusetts Department of Energy Resources
100 Cambridge Street, Suite 1020
Boston, MA 02114

RE: 225 CMR 14.00 et. seq.
Proposed Final Regulations – Solar Carve-out

Dear Ms. Howlett:

SunEdison LLC submits these comments on the Massachusetts Department of Energy Resources (MADOER) proposed final regulations governing the solar carve-out program.

Alternative Compliance [14.08]

SunEdison opposes the MADOER's further reduction in the Alternative Compliance Payment levels for the portion of a suppliers' obligation contractually committed before January 1, 2010. The reduction in ACP levels to \$325 for such load effectively eliminates any financial incentive for suppliers to purchase SRECs from solar developers. The small price premium for the ACP above the floor price for SRECs cleared through the Auction Account is hardly sufficient to offset the transactional costs and market and regulatory risks to suppliers of bilaterally contracted SRECs. Rather than an option of last resort, the ACP will simply be internalized as the price of doing business in Massachusetts, while the goal of encouraging solar development will continue to go unfulfilled.

Retail suppliers have been on notice for some time – at least since the passage of the Green Communities Act if not before - that the Commonwealth is moving in the direction of creating a solar carve-out within the RPS. Thus, claims of hardship should be carefully scrutinized and do not warrant this action.

Definition of on-site load [14.02]

SunEdison supports the Department's expansive definition of behind-the-meter generation for purposes of eligibility to create SRECs under the solar carve out program. Specifically, we agree with the Department's determination that a system serving *de minimis* on-site load, including parasitic load resulting from the installation of the system, should qualify for program eligibility.

However, we believe the proposed regulations would benefit from greater clarity as to what constitutes parasitic load. For example, inverters typically require a small amount of energy during both operation and sleep modes. However, it is unclear whether it is intended that this fall within the meaning of parasitic load

SunEdison suggests that the final regulations define parasitic load along the lines of the following:

Parasitic load is any amount of electrical energy output produced by a Solar Carve-Out Renewable Generation Unit that is consumed by auxiliary equipment including but not limited to inverters, meters, monitoring systems, and communications devices.

Statement of Qualification [14.06]



The current regulations would allow a solar developer up to 48 months to achieve commercial operation before forfeiting their Statement of Qualification. While this may be an appropriate lead-time for large-scale Class I projects, we believe this is unduly liberal for purposes of smaller customer-sited solar systems. Although no direct harm results from allowing clearly dormant projects to maintain their Statement of Qualification, it would be beneficial to market participants to periodically “scrub” the MADOER’s roles of projects that are inactive in order to convey a truer sense of the likely short-term supply of SRECs. Our recommendation would be for the Statement of Qualification to remain valid for 2 years from issuance for purposes of the solar carve-out.

Market Reporting and Transparency

On a related point, although not necessarily an issue regarding the draft rules *per se*, SunEdison would recommend that the DOER maintain and regularly disseminate material information on the current state of the SREC market. More specifically, we would recommend that the DOER provide market participants with information on SREC average trading prices, trading volume, as well as the number and capacity of systems applying for, and having received Statements of Qualification. In market-based program, this is essential information market participants will want to assess as they develop a fundamental view of the MA market and consider making investment decisions.

As an example of appropriate data collection and reporting, we would refer you to the website maintained by the New Jersey Office of Clean Energy that provides monthly updates on these key market parameters. See <http://www.njcleanenergy.com/renewable-energy/project-activity-reports/srec-pricing/srec-pricing>

SREC Revenue Securitization

Finally, although the foregoing regulatory and programmatic recommendations will, we believe, marginally improve the set aside program, we remain concerned that the Auction Account will not provide the necessary SREC revenue surety to enable solar project finance. That said, we certainly understand the MADOER’s desire to test this mechanism, and only time will tell whether this will provide an effective alternative to long-term contracting mandated by other jurisdictions. We urge the MADOER to monitor market activity, and if it appears that project finance is a major impediment to participation, to work with SunEdison and other stakeholders to develop other complementary approaches.

Respectfully submitted,

Fred Zalcman
Managing Director of Regulatory Affairs, Eastern States