



Renewable Energy Massachusetts LLC

March 9, 2010

To: Massachusetts Department of Energy Resources (DOER)

Re: Comments on Solar-REC Program Draft Regulations at 225 CMR 14.00

We appreciate the opportunity to share the following comments on the DOER's draft Solar-REC regulations presented at the hearing held March 2, 2010.

225 CMR14.06(3)(e): Avoiding Unintended Reductions in Future Opt-In Terms

The second sentence of this provision should be tightened to prevent unintended penalties that might result from cumulative accounting over multiple auctions. We would recommend the following revised text be used:

“Subject to the other terms of this provision, the Opt-In Term shall be reduced by four (4) quarters for each ten per cent (10%) of the Compliance Obligation that is deposited into a single year's Solar Credit Clearinghouse Auction Account, without reference to the amount of any deposits made into any prior year's Solar Credit Clearinghouse Auction Account.”

225 CMR 14.07 (2)(i): Compelling Need for Visible Minimum Program Duration

REM believes that the primary objective of the Solar-REC program is to entice market participants to lend and invest capital to finance the construction of solar facilities in Massachusetts. Any failure to clearly signal the duration (and therefore the minimum cumulative value) of the Solar-REC program is a threat to this paramount objective. As perception of risk today ultimately drives capital allocation decisions, it is critical that minimum duration of the Solar-REC program term should be abundantly clear to all parties. Consequently, given the risk tolerances of lending entities, the assessment of program term and termination is more likely to be resolved against the proposition of duration and in favor of a shorter assumed program lifespan. Those reductions will likely translate into reductions in capital availability for solar projects.

Consequently, we believe the DOER should include a clear table in 225 CMR 14.07 (2)(i) that demonstrates how the variables contained in the provision will operate and how that will translate into a minimum duration of the Solar-REC program term. Specifically, based on the DOER's undertaking to maintain the program for so long as necessary consistent with the sunset period of the final Opt-In Term (set at a minimum of 20 quarters for all years 2010-2016), then the DOER should state that, irrespective of the speed of actual solar build out, the program will, at a minimum, survive through the following hard-wired dates:

Minimum Final Qualification Quarter: Fourth quarter 2016
Minimum Final Opt-In Term in Final Qualification Quarter: 20 quarters
Minimum Final Expiration of Opt-In Term: Fourth quarter 2021
Minimum Final date of Solar Credit Clearinghouse Auction: July 30, 2022
Minimum Final Compliance Year: 2023

Two rationales should drive the decision to include the foregoing table in the regulations:
(1) As stated above, if the DOER gives clear signals on duration, it will encourage the capital markets to fund Massachusetts solar more aggressively; and

(2) The DOER should rest assured that, on the question of whether any parties given the opportunity will tender any Solar-RECs into a potentially final auction on or about July 30, 2022, the answer will be an emphatic and self-interested "yes." These final Solar-REC participating solar developers will have every incentive to exercise their final auction rights and continue the program for as long as possible. Given that predictable behavior, the DOER should do the whole industry a favor and hard-wire the minimum duration of the program today with a specific date along the lines noted above. In short, simplicity and bright datelines will help banks understand this program and lend into it.

225 CMR 14.08(3)(b)(3): Pre-2010 Retail Contracts.

Before the DOER provides a permanent 46% reduction in the ACP applicable to retail supply contracts in effect before January 1, 2010 (i.e. \$600/MWh ACP proposed reduced to \$325/MWh as announced at the 3/2/10 hearing), it should be known clearly by the DOER what percentage of the total Commonwealth retail energy supply will be served by such contracts and for what duration. If the DOER can assure the marketplace that the 50% of supply contracts that were entered prior to January 1, 2010 are to quickly expire in 2010-2011, no significant Solar-REC demand distortion should result. To avoid material reduction in Solar-REC demand and pricing in years 2012 and beyond, the DOER should rapidly step up the ACP rate each year. Two years is sufficient advance notice of the new S-REC program.

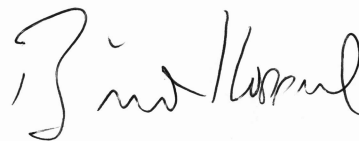
225 CMR 14.08: No Special Breaks for "Competitive" Retail Suppliers.

During the hearing on 3/2/10, the Competitive Retail Suppliers spent considerable time during the public hearing explaining (a) their inability to pass on costs to customers and (b) how much they have leaned on the DOER during private communications. How about the rest of us? Be that as it may, the Competitive Retail Suppliers first and primary objection is focused on their oft-repeated need for advance regulatory cost notice and resulting price planning certainty. We simply respond that the fractional regulatory cost of the Solar-REC program per kWh of energy sold must be capable of well-notified customer recapture, even if done in the year following each supplier's compliance year. The fact that all "competitive" participants in the retail market will likewise be exposed to the same Solar-REC regulatory burdens should make the DOER's denial decision easier.

In short, the DOER must not eviscerate the Solar-REC program by giving a compliance reduction to any portion of the Retail Supply chain, insofar as all other parties in that chain would likewise claim hardship that will prove impossible for the DOER to differentiate fairly.

We are grateful for the opportunity to provide comments on the S-REC program and thank the DOER again for taking the strong leadership role in launching this program.

Sincerely,



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