

VIA Email to: DOER.SREC@state.ma.us

March 9, 2010

Ms. Natalie Howlett
Department of Energy Resources
100 Cambridge St., Suite 1020
Boston, MA 02114

Re: Request for Comments on Emergency Regulations for 225 CMR 14.00 – RPS Class I

Dear Ms. Howlett,

Clean Asset Partners appreciates the opportunity to provide comments to the Department of Energy Resources (“Department”) on the Emergency Regulations for 225 CMR 14.00 – RPS Class I, issued January 8, 2010.

Clean Asset Partners is a Massachusetts based Solar Renewable Energy Certificate (“SREC”) aggregator and broker, the founders of which have decades of experience in environmental attribute markets, the solar energy industry, regulated utilities, and general business. In addition to offering service to owners of larger installations, we are also one of the few companies proposing to serve residential, commercial, and other entities owning some of the smaller photovoltaic (“PV”) projects that qualify for renewable energy certificates under the Department’s Emergency Regulations. As such, we are very interested in the Department’s Emergency Regulations, and provide our comments below.

Metering and Automated Reporting

While we applaud the Department for creating an option for owners of PV systems up to 10 kW to manually report production data, we are concerned that for owners of these small PV systems opting to report data manually, monthly reporting, with penalties for failing to report within the designated time window, may be overly burdensome.¹ We recognize the benefits and value of remote monitoring and automated reporting, and encourage this option as a general default, but for cost and some technological considerations,² and occasionally both at the same time,³ some owners of smaller systems may not view automated reporting as viable. We therefore wish to suggest safeguards to help prevent those smaller system owners who do not report production data automatically from potentially losing the value of the Department’s Solar Renewable Energy

¹ These monitoring and reporting requirements, which relate to metering requirements in Section 1405(1)(c) of the Department’s Emergency Regulations, are outlined in slide 10 of the Department’s January 21, 2010 PowerPoint presentation. Please note that we are concerned that unless the reporting requirements and associated penalties are formalized by inclusion in the final regulations, there may be legal difficulties in upholding them.

² In Massachusetts, of the 351 town and cities, in relation to broadband coverage, 63 are underserved, and 32 have no broadband available, leaving 220,000 residences and over 25,000 businesses without adequate broadband access. *See* <http://www.ntia.doc.gov/broadbandgrants/comments/7CA8.pdf>.

³ E.g., when connecting remote wireless solar monitoring and reporting equipment to existing broadband runs into technical issues and is prohibitively expensive or time consuming to remedy.

Certificate program, and potentially needing to postpone or terminate plans to install solar photovoltaic systems.⁴

For comparison, as one means of allowing smaller system owners the benefit of an SREC program, several other states with RPS solar carve-outs allow small PV systems to create SRECs based purely on engineering estimates of production, placing a substantially smaller burden on individual installation owners. For example, engineering estimates can be used for SREC creation for systems less than 10 kW in Maryland, New Jersey, and Washington DC, and for systems up to 15 kW in Pennsylvania. In Pennsylvania's RPS rulemaking in September 2008⁵ their Public Utility Commission cited associated costs as a potential financial impediment to participation that was significant enough for them to remove any metering requirement for systems less than 15 kW.⁶ Delaware requires metering for SREC creation regardless of system size, but allows generation from eligible energy resources of 100 kW of capacity or less to be documented by metered production data just once per year.⁷

Despite the number of states that do not require any metering for smaller PV systems eligible for SRECs, we support the Department's view that SREC creation should be based on metered data, as we think, in general, that metering does not pose an excessive or unnecessary financial or other burden, and that the information collected will allow for helpful performance tracking and for better distributed generation assimilation into the grid. We believe, however, that it is not necessary to require monthly production reporting for all small systems, including those less than or equal to 10kW with owners that opt for manual reporting, to provide sufficiently timely information on SREC creation.⁸ If past installations are indicative, systems under 10kW may be expected, on average, to generate only about 1.25 SRECs per quarter in Massachusetts.^{9 10}

Accordingly, for manual reporting for PV systems up to 10kW, we recommend that the Department consider revising the current monthly reporting requirement, and instead require reporting annually, bi-annually, or quarterly, with the option to report more frequently.

⁴ We note that with the successful completion of the Commonwealth Solar I program in 2009, significantly decreased funding associated with the Commonwealth Solar II and Solar Stimulus programs, and general economic slowdown, the Department's Solar Renewable Energy Certificate regulations take on an even more crucial role in helping to finance solar distributed generation. Without access to SREC revenues, many systems, both large and small, may simply lack the minimum economic incentive necessary to come to fruition.

⁵ See <http://www.puc.state.pa.us/PCDOCS/1023111.doc>

⁶ "Experience in implementing the AEPS Act has revealed that requiring separate metering of small behind-the-meter solar photovoltaic alternative energy systems may pose a financial impediment to the development and deployment of these systems. As there are other reasonably reliable methods for verifying solar photovoltaic system output, such as inspections, self-certification, etc., the Commission will not require metered verification of solar photovoltaic systems with a nameplate capacity of 15 kilowatts or less." Id. at 16.

⁷ See http://dep.sc.delaware.gov/electric/rpsrules_fin021009.pdf

⁸ With such SREC creation data being used, among other purposes, to inform participants of the market's status.

⁹ This estimate is based on an average system capacity of approximately 4.4 kW for systems up to 10 kW that received rebates for the Commonwealth Solar program from November 2008 to November 2009, applying a 13% capacity factor.

¹⁰ We also believe that most owners of systems up to 10 kW will probably opt for automated production reporting, and that those opting for manual reporting may tend to own systems toward the smallest end of the spectrum, perhaps 1 kW to 3 kW, where SREC creation would be even less frequent.

Long Term Contracts

We encourage the Department to monitor whether the SREC market and clearinghouse mechanism are working well, both with respect to whether banks and other lenders are willing to provide financing based on anticipated SREC revenue, and in terms of the willingness of electricity retailers to enter into long term SREC purchase contracts. If the Department determines that the market is not functioning well with respect to financing and long term contracts, we encourage the Department to consider alternatives, including incentives for long term contracts. Long term contracts for SREC purchases will likely have important implications on financing for large scale projects implemented under power purchase agreements, but could also have implications for SREC aggregators' intermediation arrangements. Long term contracts could provide stability in the market and enable more informed decisions on the part of all potential PV project developers, including homeowners (although probably indirectly). Further, it will help retail suppliers and regulated utilities to know their costs and plan ahead. As such, it will stabilize and grow the market.

Other Points of Clarification

In Section 1405(1)(e)2, the Department refers to Solar Carve-Out Units with respect to generation units that might meet the definition of non-intermittence. Earlier, in the definitional section, Section 1402 of the Emergency Regulations, the Department defined a "Non-Intermittent Generating Unit" as having a capacity factor of fifty percent or greater. Given the Department's reasonable use of a thirteen percent capacity factor for projects in the solar carve-out (e.g., in the formula to calculate the minimum standard), we wanted to bring these points to the Department's attention, and recommend that the Department remove the reference to Solar Carve-Out Units in Section 1405(1)(e)2 as inapplicable.

Conclusion

We hope our comments have helped to illuminate issues for the Department that may inhibit customers from taking advantage of the Department's Solar Renewable Energy Certificate program, negatively effect the program itself, and/or thwart some of the Department's and regulation's underlying goals. We have also attempted to provide resolutions and ideas to the Department in an attempt to be proactive.

Thanks again for this opportunity to comment. We look forward to working with you and the market in the near and distant future, and stand ready to answer any questions you may have.

Sincerely,

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