



**Western
Massachusetts
Electric**

100 Summer Street, 23rd Floor
Boston, Massachusetts 02110-2131
(617) 345-1066
Fax: (617) 345-1148
E-mail: klionsh@nu.com

Stephen Klionsky, Esq.

September 9, 2009

VIA EMAIL

Susan Leavitt
Department of Energy Resources
100 Cambridge Street, 10th Floor
Boston, MA

Re: DOER Solar RPS Carve-Out Straw Proposal

Dear Ms. Leavitt:

On August 26, 2009, the Department of Energy Resources (“DOER”) held a public stakeholder meeting on a straw proposal to establish a renewable energy portfolio standard (“RPS”) for solar power (“Straw Proposal”). At that meeting, DOER indicated that it would accept stakeholder comments on the Straw Proposal through September 9, 2009. Western Massachusetts Electric Company (“WMECO”) is pleased to present these comments.

I. Background

Section 11F(a) of Chapter 25A of the General Laws provides that all retail energy suppliers in the Commonwealth must provide a minimum percentage of kilowatt-hour sales to end-use customers in the Commonwealth from new (that is, Class I) renewable energy generating sources. That percentage, or RPS, which increases yearly, is currently four percent. WMECO does not separately solicit this minimum percentage. Rather, it is a requirement that is placed on the entities that are selected after a competitive solicitation and Department of Public Utilities (“Department”) approval to supply WMECO’s Basic Service load.

Section 11F(g) further states that a portion of the RPS requirement shall be provided from

new on-site renewable energy generating sources located in the commonwealth and having a power production capacity of not more than 2 megawatts which began commercial operation after December 31, 2007.... The portion of the required minimum percentage required to be supplied by such on-site renewable energy generating sources shall be established by the [DOER]; provided, however, that the [DOER] may specify that a certain percentage of these requirements shall be met through energy generated from a specific technology or fuel type.

An alternative payment, called an alternative compliance payment (“ACP”) is available for the discharge of the supplier RPS responsibility. Section 11F(h) states that this ACP

must be at levels that “stimulate the development of new on-site renewable energy generating sources.”¹

The DOER Straw Proposal document initiates a process that is intended to lead to a carve-out of a certain percentage of the overall RPS requirement for solar RECs (“S-RECs”). As one of its considerations in implementing an S-RECs RPS, the DOER states that the market must be stimulated to meet the Governor’s goal of 250 MW of solar by 2017. To this end, the Straw Proposal carve-out percentage starts at a relatively modest level in 2010 (3 megawatts (“MW”)) but increases to 203 MW in 2017 and 524 MW in 2020 (Straw Proposal, Slide 9). The associated proposed ACP begins at \$700 in 2010 and declines over time to \$311 in 2020. The DOER Straw Proposal also discusses moving beyond the standard RPS operation to ‘securitizing’ solar revenues, or requiring utilities to enter into long-term contracts for solar power (Straw Proposal, Slide 13). As the Straw Proposal notes, securitization will ‘shift risk from [photovoltaic] investors to utilities/ratepayers...’ (Straw Proposal, Slide 14).

II. WMECO’s Positions

A. The S-RECs Straw Proposal Should Be Amended and Moderated.

WMECO acknowledges that Section 11F(g) of Chapter 25A allows DOER to establish an RPS carve-out for solar power. In setting the size of the carve-out and the ACP for S-RECs, DOER has stated, properly, that it is taking into account the need to stimulate the growth of solar power in the Commonwealth and the solar power goals established by the current Administration. However, the S-REC carve-out program will be expensive to customers and there is no persuasive rationale to size the S-REC carve-out to produce the bulk of the 250 MW of solar power sought by the Administration in 2017. As explained below, there are other, separate, mechanisms that will lead to the sought-after level of solar power. Moreover, the emphasis of any program to provide an incentive for solar power should be to drive down costs to more competitive levels. If that is accomplished, the Administration’s solar goals undoubtedly will be met and then some. There is nothing in the Straw Proposal that indicates how transparency in development of solar power will be advanced and how installed costs will be reduced.

According to the Straw Proposal, the RPS carve-out for solar power will itself lead to 203 MW of solar power by 2017 (Straw Proposal, Slide 9). In conjunction with the listed “Utility Ownership and Federal Stimulus Programs” and the “Commonwealth Solar Rebate Program,” the amount of solar power is shown as reaching the 250 MW of solar sought by the Administration by 2017 (Straw Proposal, Slide 9).

While WMECO believes that the S-RECs effort should be designed to lead to a significant amount of solar power, there will be other sources of solar power, such as expanded utility construction and ownership of solar, through a pooling mechanism or

¹ It is not certain to what the statute’s repeated reference to ‘on-site’ refers. However, it could be inferred that the solar power would have to be produced from ‘behind the meter’ or distributed generation. The meaning of ‘on-site’ should be explained in any S-RECs proposal.

otherwise, that could contribute upwards of 100-150 MW of solar by 2017. It is not necessary or appropriate to rely on the S-RECs carve-out to meet approximately 80 percent of the Administration's 2017 goal (203 MW out of 250 MW). An important consideration here is the high cost of solar power to customers. The increase in customers' bills in 2020 will be in excess of 3.5 mills per kilowatthour if S-RECs are obtained at or near the proposed ACP. In dollars, the costs to customers will exceed one-half billion dollars over a ten-year period (Straw Proposal, Slide 12). This is a very high price to pay, particularly for a program that does not demonstrate how it will bring down solar power costs.

Accordingly, DOER should reduce the size and cost of the S-REC program to ameliorate customer impacts and implement meaningful standards to ensure transparency and cost control.² Rather than seeking 203 MW of solar power in 2017, it would be prudent to seek less than half that amount. Concomitant with that change, there should be a reduction in the ACP level from the \$700/MWh proposed. In fact, even without a reduction in the level of megawatts sought, the proposed \$700/MWh ACP is too high. The proposed ACP is higher than that of the other states listed in the Straw Proposal and could well over-stimulate the solar market (Straw Proposal, Slide 6). The risk in over-stimulating the market will be even higher costs to customers for compliance. With the imposition of transparency and cost reduction benchmarks, one ACP level that could be an appropriate starting point is that price at which S-RECs are currently trading in Pennsylvania, \$300/MWh (Straw Proposal, Slide 6). If this ACP level does not appear to be providing enough of a stimulus for solar projects, it can be adjusted upward at a later time.³

The above recommendation to reduce the megawatt goal and the ACP for the S-RECs carve-out is particularly relevant given recent developments. There is a substantial push by the federal government for renewable projects that are greater in scope and level of effort than that seen previously. In addition, stimulus funds and additional tax incentives are being made available for the first time. Consumers' awareness of environmental issues and the advantages of renewable power are heightened. Further, as the economy strengthens, access to capital markets should improve.

B. Long-Term Contracting Should Not Be Included as a Part of S-RECs.

While WMECO supports a carve-out for S-RECs as long as the proper considerations are applied, it does not support any requirement for utilities to enter into long-term contracts for solar power as part of the RPS requirements. While the S-RECs will add some attractiveness to solar development, market forces should be allowed to influence solar installation costs in a

² Pursuant to Department approval, WMECO is proceeding with the construction, ownership and operation of six MW of solar power with strict transparency and cost control requirements. See D.P.U. 09-5 (August 12, 2009).

³ Another alternative is to take the moneys paid as part of the ACP and use them to provide financial assistance to solar projects to reduce their financing needs.

downward direction and not be subject to artificial subsidy from long term contracts which could provide a disincentive for cost structure improvement. In addition, there is incompatibility between long-term contracting and a 'standard' S-REC RPS percentage requirement going forward on the same basis. Long-term contracting introduces a range of additional considerations to the utility and the solar developer, such as the shifting of risk. It should not be assumed that long-term contracting and an S-REC percentage requirement can or should be implemented together as part of one S-RECs requirement.

It has been recognized that long-term contracts have the real possibility of negatively impacting the underlying financial strength of distribution companies. Long-term obligations could be viewed negatively by rating agencies. In addition to possible shareholder implications, this also raises the specter of higher costs and, in some possible scenarios, lower bond ratings. Thus, there are also possible impacts on customers. Accordingly, while the Legislature determined under Section 83 of the Green Communities Act that long-term contracts are required, the statute provides for a four percent annual remuneration "to compensate the company for accepting the financial obligation of the long-term contract." No such recognition of the problems caused by long-term contracts or the need for remuneration is discussed in the Straw Proposal.

In addition, it is not clear that long-term contracting is necessary to stimulate solar power. The market has already proven an incentive to the development of Class I renewable projects. In the last year, there has been a drop in the price of Class I RECs, reflecting the degree to which the market has responded to existing incentives. Most of the response was accomplished without the need for long-term contracts between a utility and a developer or other artificial mechanisms to spur development. Locking in higher costs of compliance while the market is developing will ultimately translate into higher costs for customers over the long-term.

Further, unlike Section 83 of the Green Communities Act, Sections 11F(g) and (h) of Chapter 25A does not require, and, in fact, does not mention, long-term contracting by distribution companies. In WMECO's view, had the Legislature intended long-term contracting to be included in the RECs carve-out provision, it would have so stated. In the absence of any such language, the RECs carve-out under Sections 11F(g) and (h) should be interpreted as allowing only for the establishment of a percentage requirement and an ACP. Therefore, WMECO does not believe there is any authority to obligate a distribution company to enter into long-term contracts for solar RECs. And, even if there were any statutory authority to obligate distribution companies to enter into long-term contracts, that overall obligation, for both Section 83 of the Green Communities Act and for Section 11F(g) and (h) of Chapter 25A would be capped at the level set forth in Section 83. Section 83 provides that a distribution companies is not obligated to enter into long-term contracts for renewable energy for more than three percent of its total energy demand.

C. Utility-Owned Solar Generation Should Be Eligible for S-RECs.

Although not stated, the tabular information contained in the Straw Proposal implies that utility-owned generation would not be eligible for S-RECs. No distinction should be made in the Straw Proposal between utility-owned solar generation,

constructed pursuant to Section 58 of the Green Communities Act, and non-utility-owned solar. In particular, when it comes to RECs value, all solar generation should receive the same value. Because all S-RECs revenues associated with utility-owned solar projects will be credited to customers, the higher S-RECs value compared to non-S-RECs will assist these customers in offsetting the higher cost of solar generation. Excluding the utility-owned generation from receiving the higher S-RECs value is inappropriate and discriminatory.⁴

III. Conclusion

WMECO recognizes the provisions in Section 11F(g) of Chapter 25A that provide for a carve-out for specific technologies and will work with DOER in its efforts to implement a carve-out for solar generation. A properly sized S-REC carve-out, with standards that will drive down the price of solar, can help stimulate the market to meet a sizeable portion of the Administration's 2017 goals. However, due to the cost as well as other reasons, the S-RECs levels should be designed to lead to a level of solar power far less than 203 MW by 2017.

With respect to long-term contracting for S-RECs, WMECO is opposed to any such requirement. Long-term contracting introduces a range of different considerations very different from procuring RECs on a real-time basis and long-term contracting is not necessarily consistent with the ultimate goal of reducing the cost of solar power. In addition, in WMECO's opinion there is no statutory authorization for the imposition on the distribution companies of any S-RECs long-term contracting requirement. Long-term contracts are neither needed nor provided for in the Green Communities Act. Finally, there should be no distinction in RECs values based on the identity of the owner of the RECs. Utility RECs and non-utility RECs should be treated identically.

Thank you for the opportunity to submit these comments.

Very truly yours,

A handwritten signature in black ink, appearing to read "Stephen Klionsky", written in a cursive style.

Stephen Klionsky

⁴ As previously indicated, WMECO received approval from the Department, with the support of DOER, to proceed with the construction of six megawatts of solar generation. WMECO is moving forward to bring this solar generation on line and working for its customers.