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**BY ELECTRONIC MAIL**

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Susan Leavitt  
Department of Energy Resources  
[susan.leavitt@state.ma.us](mailto:susan.leavitt@state.ma.us)

Dear Ms. Leavitt:

I am writing on behalf of NSTAR Electric Company (“NSTAR Electric” or the “Company”) in response to issues discussed at a public stakeholder meeting on August 26, 2009 at the Department of Energy Resources (“DOER”) regarding DOER’s straw proposal for a solar carve-out within DOER’s RPS Class I regulations (“RPS Solar Carve-Out”).

Section 32 of the Green Communities Act (“Section 32”) requires each retail supplier of electricity to provide a portion of its annual RPS obligation “from new on-site renewable energy generating sources located in the [C]ommonwealth and having a power production capacity of not more than 2 megawatts which began commercial operation after December 31, 2007.” Section 32; G.L. c. 25A, § 11F(g). Section 32 authorizes DOER: (1) to set a minimum percentage for such an on-site generation carve-out; (2) to set a specific technology for the carve-out; and (3) to set an alternative compliance payment (“ACP”) rate to stimulate the development of new on-site renewable energy generating sources. Section 32; G.L. c. 25A, § 11F(g), (h).

With its straw proposal, DOER has proposed, in particular: (1) a minimum percentage of 0.007 percent in 2010, rising to 1.161 percent in 2020; (2) that such obligations must be met with solar photovoltaic electricity through the generation and purchase of solar renewable energy certificates (“S-RECs”); and (3) that the initial minimum solar ACP (“S-ACP”) rate in 2010 be \$700/MWh. Solar PV system owners may sell their S-RECs and retail sellers such as NSTAR Electric may use the S-RECs to meet their RPS Solar carve-out obligation.

**I. Recent Initiatives Promoting Solar Technology**

The Company supports the Administration’s efforts to promote solar development in the Commonwealth consistent with Governor Patrick’s stated solar development goals. The Governor’s target of 250 megawatts (“MW”) of electricity from new solar generation facilities by 2017 is quite ambitious and numerous programs have been developed to help meet the goal. As DOER is aware, the Green Communities Act has authorized a number of programs, in

addition to the RPS program, in an attempt to help reach the Governor's goals. During the past few months, the Department of Public Utilities (the "DPU") has:

- (1) Finalized regulations governing long-term contracts for the procurement of renewable energy by the distribution companies (Order Adopting Regulations, D.P.U. 08-88-A (June 12, 2009); 220 C.M.R. 17.00 (Long Term Contracts for Renewable Energy));
- (2) Finalized regulations governing net metering (Order Adopting Final Regulations, D.P.U. 08-75-A (June 26, 2009); 220 C.M.R. 18.00 (Net Metering); Order Adopting Model Net Metering Tariff, D.P.U. 09-03-A (August 20, 2009)); and
- (3) Considered (or is currently considering) proposals from Western Massachusetts Electric Company, National Grid, and Unitil to construct distribution company-owned solar facilities.

Discussion between electric distribution companies and DOER are ongoing with regard to the parameters of renewable energy procurement through long-term contracts. In addition, DOER and the Attorney General have proposed a "pooling" concept, which would focus on distribution company participation in the construction and operation of solar generating facilities. Each of these DOER initiatives is, in part, designed to help achieve the Governor's target for solar generation. As such, these initiatives should be taken into account when developing a target level for S-RECs.

Currently, DOER's straw proposal does not fully and properly credit potential outcomes from these various initiatives. For example, on page 9 of DOER's August 26th straw proposal, DOER assumes that total utility ownership and federal stimulus installations of solar generation does not exceed 23 MW, and that the Commonwealth Solar Rebate Program does not increase above 24 MW after 2011. In addition, DOER assumes that there will be no amount of solar generation procured through contract or installed independently of government-initiated programs. It therefore appears that the size of the RPS Solar Carve Out in 2017 is designed to make up the difference between the Governor's 250 MW goal and the assumed 47 MW, without any other growth in solar generation. The impact of other solar generation, such as utility ownership, should be recognized. In addition, growing the RPS Solar Carve Out by 257%, from 203 MW to 524 MW, in the three years after the Governor's goal is met is without merit.

In light of the variety of programs and initiatives that already exist to encourage the development of the solar industry, DOER should reconsider its determination that the distributed renewable energy generation carve-out from Section 32 be attained solely through the use of solar PV technologies. Solar technology is an expensive technology and DOER's determination will create significant impacts on customers that are not justified in light of the variety of other programs already in place in Massachusetts that will encourage the growth of the solar industry. At the very least, DOER should consider in more detail how the various programs and initiatives

interact and incorporate those impacts into its analysis going forward. In that way, the impact on customers can be minimized.

## **II. The Proposed Minimum Percentage and Proposed S-ACP**

DOER's straw proposal starts with a carve-out percentage of 0.007 percent in 2010 and increases to 1.161 percent in 2020. In addition, DOER proposes an S-ACP of \$700/MWh (\$0.70/kWh) in 2010 and declining to \$311/MWh (\$0.31/kWh) in 2020. The Company believes that the percentages required and the initial S-ACP of \$700/MWh is too high and would unfairly burden customers. In fact, several states in the Northeast and mid-Atlantic region have instituted solar requirements that have alternative compliance payments that are much lower than what DOER is proposing. For example, Maryland's program has somewhat higher percentage requirements that are being met with a significantly lower ACP. The Maryland ACP is \$400 in 2010, \$350 in 2011 and decreasing by \$50 bi-annually.

NSTAR Electric has made some rough calculations set forth in the following table, about the magnitude of the costs to customers over time created by DOER's straw proposal.

<b>Year</b>	<b>RPS Solar Minimum Standard (%)</b>	<b>S-ACP Rate (\$/MWh)</b>	<b>Estimated NSTAR Distribution Service Load (MWh)</b>	<b>Obligation</b>
2010	0.007	\$700	21,650,000	\$1,060,850
2011	0.009	\$700	21,650,000	\$1,363,950
2012	0.036	\$650	21,650,000	\$5,066,100
2013	0.080	\$650	21,650,000	\$11,258,000
2014	0.139	\$585	21,650,000	\$17,604,698
2015	0.216	\$527	21,650,000	\$24,644,628
2016	0.317	\$474	21,650,000	\$32,530,857
2017	0.450	\$426	21,650,000	\$41,503,050
2018	0.625	\$384	21,650,000	\$51,960,000
2019	0.856	\$345	21,650,000	\$63,936,780
2020	1.161	\$311	21,650,000	\$78,171,872

NSTAR Electric believes that the adverse impact on customers of these costs is significant and excessive. If an S-ACP rate similar to the Maryland model were adopted, customers would save over 50% of the above-calculated costs.

## **III. Long-Term Contracts**

DOER proposes that NSTAR Electric and its fellow retail sellers procure approximately 75 percent of its projected RPS Solar carve-out compliance obligation through long term contracts. As DOER is aware and as noted above, the DPU recently finalized regulations

governing long-term contracts pursuant to Section 83 of the Green Communities Act (“Section 83”). Order Adopting Regulations, D.P.U. 08-88-A (June 12, 2009); 220 C.M.R. 17.00 (Long Term Contracts for Renewable Energy). Pursuant to those regulations, distribution companies “shall not be obligated to enter into long-term contracts under [Section 83] that would, in the aggregate, exceed 3% of total annual energy demand . . . .” 220 C.M.R. 17.08(5). Where a distribution company has entered into long-term contracts consistent with Section 83, “it shall not be required by regulation or order to enter into contracts with terms of more than three years to meet its annual RPS requirements, pursuant to [G.L. c. 25A, § 11F], unless the Department finds that such contracts are in the best interests of customers.” 220 C.M.R. 17.08(4).

Accordingly, NSTAR Electric is opposed to any long-term contracting obligation beyond what is already contained in Section 83 and the DPU’s regulations governing long-term contracts. Any long-term contracts for solar energy procurement should be consistent with Section 83 and DPU regulations. In particular, any long-term contracts for solar energy should be carved out of the 3 percent cap set forth in Section 83 and such contracts should be subject to regulatory approval. Further, long term contracting should be consistent with all legislatively mandated requirements of Section 83.

#### **IV. Treatment of S-RECs**

##### **A. Source of S-RECs**

DOER’s straw proposal calculates the expected solar output from the RPS Solar Carve-Out program without including any solar output generated by distribution company-owned solar generating facilities. DOER cites no statutory authority for such an approach, but rather focuses on its policy to support the growth of the solar industry in Massachusetts.

NSTAR Electric believes strongly that any RECs generated by solar generation facilities owned by the Company should be explicitly eligible to qualify as S-RECs for purposes of compliance with its obligations under DOER’s RPS Solar Carve-Out regulations. According to DOER, the purpose of the RPS Solar Carve-Out is to, among other goals, spur and sustain long-term growth in the solar industry. If a distribution company constructs solar PV generation facilities, the economic benefit to the solar industry is at least as great as when any other entity constructs a solar PV facility. If utility investments are ascribed a lower value than others in the market it would be difficult for utilities to justify investment which is at odds with the state policy. Thus, NSTAR Electric proposes that DOER’s RPS Solar Carve-Out regulations explicitly recognize that any S-RECs generated by Company-owned solar generation facilities qualify as S-RECs for purposes of compliance.

##### **B. Use of S-RECs**

NSTAR Electric further believes that DOER’s RPS Solar Carve-Out regulations should allow NSTAR Electric and the other retail sellers to have the flexibility to retain any S-RECs in its possession to either meet its RPS Solar Carve-Out compliance obligations, or sell the S-RECs

and credit any proceeds to its basic service customers. See 220 C.M.R. 17.06 (Use of Energy and RECs Obtained Through Long-Term Contracts).<sup>1</sup> Such flexibility is reasonable and consistent with the Company's choices under Section 83 and the DPU's regulations governing long-term contracts.

## **V. Implementation Date**

DOER proposes to implement the RPS Solar Carve-Out program in 2010. NSTAR Electric suggests that the implementation date instead occur in 2011. An implementation date of 2011 would allow the Company and regulators alike to more fully understand the costs and impacts of the variety of already existing programs intended to spur growth in the solar industry. In light of the fact that solar technology is an expensive energy technology, the Company believes that it would be most prudent to delay implementation. Given the wide variety of programs and initiatives already in place, DOER may find that there is ultimately no need to burden ratepayers with the additional costs that will occur in the event DOER implements its RPS Solar Carve-Out proposal.

## **VI. Alternative Calculation**

If DOER decides to go forward with an RPS Solar Carve-Out, NSTAR Electric believes that it would be possible to do so in a way that would substantially mitigate the rate impact on customers. For instance, a reasonable program would have the following characteristics: (1) that the carve-out program would begin in 2011; (2) that the projected impacts of the carve-out program would assume that utility-owned solar generation would increase to 150 MW by 2017; and (3) that the ACP would start at no more than \$350 in 2011 and decrease biannually by \$50.

Using these assumptions, NSTAR Electric has prepared the following alternative table to that found on page 9 of the DOER straw proposal:

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<sup>1</sup> After purchasing renewable energy, or RECs, or both, "a distribution company may (a) Sell the energy to its basic service customers, and retain RECs for the purpose of meeting the applicable annual RPS requirements; (b) Sell the energy into the wholesale electricity spot market, and sell the purchased RECs through a competitive bid process; or (c) Select an alternative transactional approach, in consultation with DOER and subject to review and approval of the Department." 220 CMR 17.06(1). If the distribution company sells both the energy and the RECs, "it shall: (a) Calculate the net cost of payments made under the long-term contracts against the proceeds obtained from the sale of energy and RECs; (b) Credit or charge all distribution customers the difference between the contract payments and proceeds through a uniform, fully-reconciling annual factor in distribution rates, subject to review and approval by the Department; and (c) Design a reconciliation process that allows the distribution company to recover all costs incurred under such contracts, subject to review and approval by the Department." 220 CMR 17.06(2).

	Utility Ownership and Federal Stimulus Programs (MW)	Community Solar Rebate Program (MW)	S-RECs From Other Sources (MW)	Total All Programs (MW)	Annual Growth Rate	S-RECs From Other Sources (MWh)	S-REC % From Other Sources	Total Solar REC Requirement (MWh)	Solar RPS Minimum Standard
2009	0	15	0	15					
2010	9	20	0	29	93%				
2011	20	24	3	47	62%	3,416	0.007%	53,524	0.104%
2012	42	24	9	75	59%	10,249	0.020%	84,954	0.165%
2013	63	24	21	108	45%	23,915	0.047%	123,218	0.240%
2014	85	24	34	143	32%	38,719	0.075%	162,621	0.317%
2015	106	24	48	178	25%	54,662	0.106%	203,162	0.395%
2016	128	24	62	214	20%	70,606	0.137%	243,703	0.474%
2017	150	24	76	250	17%	86,549	0.168%	284,700	0.554%

Thank you for the opportunity to comment.

Very truly yours,



Cheryl M. Kimball