

**Commonwealth of Massachusetts
Executive Office of Energy and Environmental Affairs
DEPARTMENT OF ENERGY RESOURCES**

**SOLAR MASSACHUSETTS RENEWABLE TARGET PROGRAM
(225 CMR 20.00)**

GUIDELINE

Guideline on SMART Consumer Protection

Effective Date: May 18, 2020

1) Purpose and Background

This Guideline describes the information that must be provided by the Owner or Authorized Agent of Solar Massachusetts Renewable Target (“SMART”) Solar Tariff Generation Units (“STGU”) or Community Shared Solar (“CSS”) and Low Income Community Shared Solar Tariff Generation Units (LICSS) to customers regarding costs and contract terms. It also details the auditing and enforcement processes the Department of Energy Resources (“Department”) will conduct of SMART Statement of Qualification Applications and Applicants.

On April 11, 2016, Governor Baker signed Chapter 75 of the Acts of 2016 into law. The Act directs the Department to create a long-term sustainable solar incentive program to promote cost-effective solar in the Commonwealth. In accordance with 225 CMR 20.07(5), the Department conducted a review of the SMART Program upon issuing Statements of Qualification for 400 MW of STGUs. Following this review, the Department issued emergency regulations on April 15, 2020 creating additional consumer protection standards to ensure customers clearly understand the terms of the contracts being signed and that penalties should be applied to Applicants who do not follow the requirements.

2) Requirements for Customer Disclosure Forms

The Department requires Applicants to submit customer disclosure forms for the following types of STGUs: (a) STGUs that are less than or equal to 25 kW, (b) LICSS STGUs, and (c) CSS STGUs. As referenced in Section 3(d) below, some STGUs may be eligible for an exception to the customer disclosure form requirements, after the Publication Date and under specific circumstances. The *Guideline Regarding Community Shared Solar and Low Income Community Shared Solar Generation Units* may have additional customer disclosure requirements for programs offered through an electric distribution company or municipal load aggregation.

a) STGUs less than or equal to 25 kW

In accordance with the requirements of 225 CMR 20.06(1)(b)4, an Applicant for an STGU that is \leq 25 kW must submit a customer disclosure form in the Statement of Qualification Application. The customer disclosure form must be signed by the Owner of the STGU or, if the Owner is a third-party, the form must be signed by the Customer of Record. The customer disclosure forms have been developed by the Department and are available on the Department’s website:

<https://www.mass.gov/info-details/solar-massachusetts-renewable-target-smart-program>. The customer disclosure forms include, but are not limited to, the following:

- i. contract pricing for the length of the agreement,
- ii. complete system cost information,
- iii. operation and maintenance responsibilities,
- iv. disposition of associated RECs and tariff terms, and
- v. anticipated production.

In accordance with 225 CMR 20.06(1)(k) and the *Guideline Regarding Low Income Generation Units*, any STGU that services an eligible Low Income Customer, the customers must receive a net savings by enrolling in the solar contract. Evidence to support this requirement includes but is not limited to the following information:

1. a rate comparison between the customer's existing basic service rate, including all applicable discounts, posted on a recent bill and the corresponding rate charges and/or credits pursuant to the solar contract, to be computed on the customers' kilowatt hour usage. The escalator in the solar contract must not exceed 3% per year;
2. demonstrating bill credits or electricity are delivered each month to the customer at no cost to the customer, and resulting in a net reduction in the customer's electricity bill; or
3. other evidence to the Department's satisfaction the customer is receiving savings.

The customer disclosure form for eligible Low Income Customers must include the net savings.

b) Low Income Community Shared Solar

In accordance with the requirements of 225 CMR 20.06(1)(f)2., the Owner or Authorized Agent of a prospective LICSS Tariff Generation Unit must submit a copy of a customer disclosure form signed by each Customer of Record receiving electricity or bill credits. The customer disclosure form has been developed by the Department and is available on the Department's website:

<https://www.mass.gov/info-details/solar-massachusetts-renewable-target-smart-program>. The customer disclosure forms include, but are not limited to, the following:

- i. contract pricing for the length of the agreement,
- ii. complete system cost information,
- iii. operation and maintenance responsibilities,
- iv. disposition of associated RECs and tariff terms, and
- v. anticipated production.

Consistent with the *Statement of Qualification Reservation Period Guideline*, the LICSS Tariff Generation Unit Owner or Authorized Agent must provide customer disclosure forms for any new Customers of Record and submit these annually to the Department no later than December 31st.

In accordance with the 225 CMR 20.06(1)(k) and the *Low Income Generation Units Guideline*, any STGU that services an eligible Low Income Customer, such as a LICSS, Low Income Property or Low Income STGU, the customers must receive a net savings by enrolling in the solar contract. The customer disclosure form for eligible Low Income Customers must include the net savings.

c) Community Shared Solar

In accordance with the requirements of 225 CMR 20.06(1)(h)2., the Owner or Authorized Agent of a prospective Community Shared Solar (CSS) Tariff Generation Unit must submit a copy of a customer disclosure form signed by each Customer of Record receiving electricity or bill credits. The customer disclosure form has been developed by the Department and is available on the Department's website: <https://www.mass.gov/info-details/solar-massachusetts-renewable-target-smart-program>. The customer disclosure forms include, but are not limited to, the following:

- i. contract pricing for the length of the agreement,
- ii. complete system cost information,
- iii. operation and maintenance responsibilities,
- iv. disposition of associated RECs and tariff terms, and
- v. anticipated production.

Consistent with the *Statement of Qualification Reservation Period Guideline*, the CSS Tariff Generation Unit Owner or Authorized Agent must provide customer disclosure forms for any new Customers of Record and submit these annually to the Department no later than December 31st.

d) Exception to Customer Disclosure Forms

Applicants seeking a Statement of Qualification may be eligible for an exception to the customer disclosure requirements under the following situations:

- i. Per CMR 20.06(1)(n), customer disclosure forms may not be required for LICSS and CSS Tariff Generation Units if the Applicant can demonstrate to the Department's satisfaction that the Customers of Record are enrolled without a customer contract (eg, a housing authority).
- ii. Per CMR 20.06(1)(f)2. and (h)2., customer disclosure forms are not required for those participants in LICSS or CSS Tariff Generation Units who are seeking to receive bill credits in excess of those produced annually by 25 kW of nameplate capacity.

3) Auditing SMART Applications

The Department shall conduct periodic audits of Applicants' SMART Statement of Qualification Application submissions at random. Applicants will be informed by the Department in advance of the commencement of the audit. The audit will review the customer disclosure forms for material defects in the information provided, including, but not limited to:

- i. missing information, unless noted and explained adequately as not applicable;
- ii. discrepancies between the information provided on the customer disclosure form and the customer contract that impact the cost of the contract;
- iii. undisclosed fees;
- iv. misrepresented savings;
- v. demonstration of net savings for Low Income Customer, if applicable; and
- vi. whether other customer disclosure requirements were met in accordance with the *Guideline Regarding Community Shared Solar and Low Income Community Shared Solar Generation Units*.

During the audit, the Department shall review a selection of applications and related materials. The Applicant being audited shall provide all information requested, to enable the Department to conduct the audit. For CSS and LICSS Tariff Generation Units, this could include all customer contracts. Failure of the Applicant to provide the requested information within 10 Business Days may result in the Department taking actions as outlined in Section 5: Issuance of Warnings of this Guideline below.

The public may report concerns of business practices to the Department by email DOER.SMART@mass.gov or by filing a complaint with the Office of the Attorney General at www.mass.gov/how-to/file-a-consumer-complaint. The Department may conduct additional auditing of an Applicant or company, as necessary.

4) Issuance of Warnings

Within a single audit, an Applicant shall receive a warning for each material defect. During an audit, it is possible for more than one warning to be issued on a single application or multiple warnings issued if the same material defect is found on more than one application filed with the Solar Program Administrator.

Upon the issuance of a third warning, even in the event all three warnings are issued concurrently, the Applicant shall be notified that they may not submit new applications for a Statement of Qualification to the SMART program for a period of 12 months (12-Month Freeze).

5) Remediation

Upon issuance of a warning, the Applicant may request a meeting with the Department to discuss the audit and the resulting warning.

An Applicant may request remediation from the Department after issuance of a warning. The Department shall consider all remedial requests and may make modifications at the Department's discretion.