



Commissioner Judith Judson
Massachusetts Department of Energy Resources
100 Cambridge Street, Suite 1020
Boston, MA 02114

June 5, 2019

RE: Proposed regulatory changes to SREC I eligibility, 225 C.M.R. 14.00

Dear Commissioner Judson,

The undersigned companies represent a cross section of the Commonwealth's solar industry serving residential, commercial, municipal, non-profit, and low-income customers throughout Massachusetts. We write to express our strong concern with the Department of Energy Resources' ("DOER") proposal to limit the SREC I eligibility for **existing** solar projects. DOER has characterized its proposed changes to 225 C.M.R. 14.00 as a clarification when, in fact, they represent a substantive modification of the SREC I program rules. If enacted, these changes will harm many SREC I solar system owners and erode investor and lender confidence in the Massachusetts solar market.

The SREC I regulations currently allow solar projects to generate SRECs for the entirety of the SREC I program. DOER seeks to shorten this SREC eligibility period and only permit solar projects to generate SRECs for the first 40 quarters in which they are eligible. To effect this change, DOER has proposed amendments to 225 C.M.R. 14.00, including a new definition for "Opt-In Term" and new language that states a solar project can no longer generate SRECs after the end of the Opt-in Term. See 225 C.M.R. 14.02 and 225 C.M.R. 14.06(3)(f). Limiting SREC I eligibility in this manner is a material and retroactive change that runs counter to the original intent of the SREC I program.

A plain reading of 225 C.M.R. 14.00 unambiguously demonstrates that solar projects retain their SREC I eligibility through the end of the program. See 225 C.M.R. 14.07. The regulations also already clearly and exclusively define "Opt-in Term" in relation to Solar Credit Clearinghouse Auction eligibility rather than overall SREC I program eligibility. See 225 C.M.R. 14.06(3)(d); see also Attachment 1. This interpretation of the regulations is long-standing and has been confirmed by DOER on multiple occasions, as evidenced by the explanatory materials and presentations produced by DOER staff, included as Attachment 2 to this letter.

Truncating SREC I eligibility would be detrimental to the many homeowners, businesses, municipalities, and others who helped launch the Commonwealth's solar industry. In making their investment decisions, these parties relied on the SREC I's regulatory provisions, including that solar projects would generate SRECs through the end of the program. Changing the rules mid-program would not only violate the legitimate expectations of SREC I solar project owners, it would undermine trust in the Massachusetts solar market and potentially impact the ability to develop and finance new solar projects in what is an already challenging environment. For these reasons, we strongly believe that DOER's attempt to "clarify" the regulations is misguided and should be abandoned. We strongly urge DOER not to adopt the proposed changes and ensure SREC I solar projects retain their eligibility through the end of the program as intended.

Thank you for your consideration.

Respectfully submitted,



Mark Sandeen
President, MassSolar

CC: Michael Judge, Director of Renewable and Alternative Energy Development
Kaitlin Kelley, Manager of Solar Programs
Kathleen Theoharides, Energy and Environmental Secretary

Robert Clarke
President
621 Energy

Christopher Derby Kilfoyle
President
BVPS, Berkshire Photovoltaic Services

Nate Owen
CEO
Ampion, Inc.

Dewitt Jones
President
Blue Hub Capital

Brian Kuhn
Founder
Associated Energy Developers

Wallace Cole
CEO
BlueSel Home Solar Inc.

Russ Aney
CEO
Avid Solar LLC

Dan Voss
VP Development
Brightfields LLC

Jacob Knowles
Associate Principal
BR+A Consulting Engineers

Tim Sanborn
Managing Partner
Cazeault Solar

Richard Chase
Principal Consultant
Chase Systems LLC

Steven Kaufman
Managing Director
Clean Asset Partners Corporation

Wes Morrison
Developer
Clean Footprint

Jon Powers
Co-founder/President
CleanCapital

Conrad Geyser
Principal
Cotuit Solar

Vincent Moschella
VP Development
ECA Solar

Kathleen C. Doyle
CEO
FireFlower Alternative Energy

Brian Torrico
Owner
Greenergy Solar Store LLC

Karen Gent
Project Manager
Green Seal Environmental

John Livermore
CEO
Healthy Home Healthy Planet

Fred Unger
President
Heartwood Group, Inc.

Ronald Higgins
CEO
Higgins Energy Alternatives

Jennifer Nadeau
Project Manager
Higgins Energy Alternatives

Mike McGuire
President
Hurricane Hill Development Company

James Schwartz
VP
Independence Solar

Kevin Price
Partner
Key Solar LLC

Alane and Gary Lakritz
Managing Director
Knollwood Energy

Christopher Smith
Chair
MASOA

Deb Pasternak
Chapter Director
Massachusetts Sierra Club

A. Quincy Vale, Esq.
President
MassAmerican Energy LLC

Andra Rose
Massachusetts Leadership Team
Mothers Out Front

Steve Campbell
Managing Director
Navisun

Mark Durrenberger
Founder and President
New England Clean Energy

Ben Axelman
Solar Development Manager
Nexamp

Kelly Friend
Director of Policy
Nexamp

Mary O'Donnell
President & Founder
No Fossil Fuel, LLC/Clean Power, Inc.

Jeremy McDiarmid
VP Policy and Governmental Affairs
Northeast Clean Energy Council

Greg Garrison
President
Northeast Solar

David Milner
CEO
NuGen Capital Management LLC

Doug Pope
President
Pope Energy

Bill Stillinger
Co-owner
PV Squared

Brad Stoler
President
Rayah Power Integration

Mark Sandeen
Managing Director
RePower Partners LLC

James Manzer
GM
Revision Energy

Mark Sylvia
President
SEBANE

Noel Lafayette
President
SHR Energy Management LLC

Steven J. Strong
President
Solar Design Associates

Haskell Werlin
Director, Business Development
Solar Design Associates

Claire Chang
Co-owner
Solar Store of Greenfield

Matt Arnor
Senior Advisor
SolarFlair Energy, Inc.

Josh Newall
Director of Product
SolarKal

Celia Rosenberg
Sr. Director, Design, Engineering &
Regulatory, Solect Energy

Michael Zimmer
VP Development
Soltage LLC

Roger Freeman,
President
Solventerra, LLC

Ben Cumbie
Managing Director
Solworks Energy

Rob Meyers
Director of Energy Technology
South Mountain Company

Steven Eisenberg
CEO
SRECTrade, Inc.

Nick d'Arbeloff
Vice President
SunBug Solar

Christopher Robinson
DPM
SunBug Solar

Sara Ross
Co-founder & CRO
Sungage Financial

Eric Stevens
DPM
SunPower

Jon Abe
CEO
Sunwealth

Thomas Torrico
Owner
Torrico Electric LLC

Richard Pypec
VP Operations
Trinity Solar

Bill Condit
Executive Vice President
Trinity Solar

Chris Yule
President
Yule Development

Brendon Gove
CEO
Zero Point Development

Greg Hunt
COO
Zero Point Development

Attachment 1

Regulation and Guidance on SREC I Creation and Opt-In

Regulation and Guidance on SREC I Creation and Opt-In

Massachusetts's SREC (Solar Renewable Energy Certificate) programs flow from provisions in the Green Communities Act of 2008. The provisions call for a carve-out in the Commonwealth's Renewable Portfolio Standard to include specifically on-site renewable energy sources. The original Massachusetts SREC program, called "SREC I," and its successor program, "SREC II," were both developed by, and are regulated by, the Massachusetts Department of Energy Resources (DOER).

Massachusetts's SREC programs have some unique features, including formulas that adjust the "minimum standard" quantity of SRECs required year-to-year, and what are called "Clearinghouse Auctions," which are held when eligible SREC sellers choose not to sell in the open market during the trading year. The Clearinghouse Auctions are generally used if there is an oversupply of SRECs and market prices fall below the Clearinghouse Auction price. They are "fixed price" auctions, and provide a form of SREC price support.

One of DOER's proposed changes to the RPS Class I regulation would alter that SREC I program rules by limiting the ability for qualified projects to create SREC I's to the first 40 calendar quarters of each project's SREC I eligibility. As this summary demonstrates, this would be a substantive change from DOER's regulation and guidance on the matter to date.

All SREC I projects are limited to 40 calendar quarters for their ability to participate in the SREC Clearinghouse Auctions: that limitation is called their "Opt-In Term." DOER has been clear, however, that each qualified SREC I project can create SREC I's until the SREC I program ends.

From the time DOER filed the [emergency regulation](#) establishing SREC I in January of 2010 until the [latest final version](#) from July of 2016, Massachusetts's RPS Class I regulation, 225 CMR 14, has indicated that qualified SREC I projects are able to create SRECs through the program's final Compliance Year:

- The regulation specifies SREC I Eligibility Criteria in 14.05, where it also specifies that the Opt-In Terms pertain to the Clearinghouse Auctions
- The Opt-In Term for Clearinghouse Auctions originally could be adjusted down or up (having the number of quarters decrease and increase), and was not permanently set as 40 quarters
- In 14.07 the regulation indicates the time at which units qualified for SREC I can no longer create SRECs, i.e., the year after the final Compliance Year, or in the event of an additional Compliance Year added if there is an Auction in the final Compliance Year, at the start of the additional Compliance Year. "From this time forward ... all generation from qualified Solar Carve-Out Renewable Generation Units shall produce RPS Class I Renewable Energy Attributes."
- The regulatory formulas to calculate the SREC I minimum standard in 14.07 are structured with the expectation that all qualified projects would create SREC I's each Compliance Year through the final Compliance Year.
- The SREC II provisions added to 14.05 are clear that SREC II projects can only create SREC II's for 40 calendar quarters (or the end of 2027, whichever is sooner), but this restriction does not apply to SREC I. DOER identified the 40 quarter limit, new for SREC II, as one of the key differences between the SREC I and SREC II programs.

DOER program documents make it absolutely clear that the 40 quarter limit applies only to the Clearinghouse Auction Opt-In Term for SREC I, and that each qualified SREC I project would be able to create SREC I's until the program concluded.

For example, in DOER's "Answers to Questions from the 12-18-2009 Webinar," downloadable [here](#), the following appears on page 2: "Q: Is there a limit to the number of years a project will generate SRECs, beyond the opt-in term?" A: "There is no pre-set number of years during which a project will generate SRECs..." "Q: Do projects generate SRECs beyond the opt-in term, which can be sold on the market (not in the auction)?" A: "Yes. However, the generation of SRECs will end eventually. That end will not occur before the Opt-In Term of *all* PV projects has ended." In a DOER SREC presentation from 12-18-2012, downloadable [here](#), on page 22, see: Q: "How long will my project generate SRECs?" A: "Your project will generate SRECs from the time it is qualified until the program ends."

Additionally, in the a DOER Solar RPS Carve-Out Overview from June 10, 2010 (downloadable [here](#)) on page 15, under Consideration of Ratepayer Impacts: "Qualified projects generating beyond their Auction Opt-In Terms are not provided the minimum price support of the auction, and will enable compliance to be met with SRECs trading at below the fixed auction price." Also, in an SREC RPS Solar Carve-Out II Program Overview (downloadable [here](#)) under Solar Carve-Out I (2010-date) on p. 5: "Opt-In Term provides right to use Auction, adjusted to throttle installation growth rate" and on P. 8 under Key Differences Between SREC I & SREC II "No more Opt-Terms. Qualified projects generate SREC IIs for 40 quarters (10 years) from quarter in which they qualify." Additionally, in a "Solar Incentive Programs in Massachusetts" presentation from September 10, 2014 (downloadable [here](#)) on p.11, again under Key Differences Between SREC I & SREC II "Qualified projects generate SREC IIs for 40 quarters (10 years) from quarter in which they qualify."