



February 19, 2021

Commissioner Patrick Woodcock
Massachusetts Department of Energy Resources
100 Cambridge Street, Suite 1020
Boston, MA 02114

Dear Commissioner Woodcock,

Borrego Solar Systems, Inc. (Borrego) appreciates the opportunity to provide comments on the Procurement Straw Proposal for the Clean Peak Standard. The first-of-its-kind Clean Peak program is already serving as a model for other states as they work to reduce electricity sector emissions in order to respond to the global climate emergency. However, the design of this novel program has left some uncertainty around the value of Clean Peak Credits over time. In light of this market uncertainty, the EDC procurements are an essential tool for providing the stability that is necessary to incentivize the development of new resources.

The Clean Peak Procurement Straw Proposal lays out clear objectives for the procurement:

1. *Spur new and incremental clean peak resource development*
2. *Provide revenue certainty for clean peak resources to enable financing*
 - a. *Decrease the risk of a new market*
 - b. *Target resources which do not have existing policies that provide long-term revenue certainty*
3. *Provide cost-effective CPEC supply*

Borrego responded to the establishment of the Clean Peak program by beginning to develop new resources specifically targeted to achieve the program's goal of displacing nonrenewable generating resources during peak periods. However, the viability of these projects hinges on the details of the Clean Peak procurement design, because the program design is not otherwise sufficient to attract investment in the Clean Peak credit stream at a level that would allow for achievement of the emission reductions that DOER intends. For that reason, the procurements will determine whether new resources are able to secure contracts for clean peak credits that are sufficiently large and sufficiently long to enable financing. Specifically, the most crucial factors are:

1. Size of procurements
2. Avoiding speculative bids that will result in project attrition
3. Length of contract

Borrego supports the comments filed by RENEW Northeast (RENEW) and the Northeast Clean Energy Council (NECEC), and below we offer our recommendations for ensuring that the procurements meet the stated objectives of incentivizing new resources and providing a cost-effective supply of Clean Peak credits.

1. Size of Procurements

A) Resource Eligibility

225 CMR 21.05(8) provides that “[e]ach Distribution Company shall competitively procure Clean Peak Energy Certificates pursuant to M.G.L. c. 25A, § 17(c). Clean Peak Certificate procurements shall be designed to achieve an initial target of 30% of the total market obligation of Retail Electricity Suppliers in a given Compliance Year.” This provision makes clear that the 30% target must be met through competitive procurements. However, the Straw Proposal states that CPECs produced by EDC-owned resources, SMART STGUs, and 83C Offshore Wind (OSW) would be able to count toward the 30% target. **The EDCs already have rights to CPECs produced by these resources under existing programs, meaning that none of the CPECs generated by these resources would be competitively procured. Allowing captive CPECs derived from projects that are required to surrender their CPECs to the utility to count toward the 30% target would contradict the regulatory intent and erode the purpose of the competitive procurement.**

Specifically, allowing CPECs produced by EDC-owned resources, SMART STGUs, and 83C OSW to count toward the 30% procurement target would fail to achieve the first objective of the procurement, which is to incentivize new resource development. Such “anyway” projects do not rely on Clean Peak revenue for viability; on the contrary, EDC-owned resources would be ratebased, and SMART and 83C OSW projects are financed based on the revenues from those programs, which automatically assign rights to the CPECs they generate to the EDCs without assigning a separate value to the CPECs. Such resources do not need access to a procurement mechanism because they are financially viable and will go forward regardless of whether they receive a competitive contract for supply of CPECs. Likewise, **allowing these resources to count toward the 30% procurement target would contradict objective 2.b of the Straw Proposal, which is to “target resources which do not have existing policies that provide long-term revenue certainty.”**

B) Geographic Segmentation

Objective 3 of the Straw Proposal is to provide a cost-effective supply of CPECs. Large resources are in the best position to deliver cost-effective CPECs, but the cost of the CPECs is directly related to whether these projects are able to secure debt financing, or whether they must rely on equity financing, which has a significantly higher required rate of return. The longer the term of the contract for CPECs, and the larger the proportion of a project’s CPECs that are contracted, the more low-cost debt can be incorporated into the financial structure. Lower cost

financing facilitated by larger, longer-term contracts will allow resources to offer lower prices for CPECs, which will reduce the overall cost of the program. **For the new resources that the procurements are intended to support, project viability could be threatened if the size of the procurements were whittled down, and a given project were unable to secure a contract for most or all of its CPECs.** At best, for larger projects, the prospect of a partial award would lead to a greater proportion of equity financing and therefore a higher bid for CPECs. Allowing EDCs to conduct individual procurements that limit eligibility to projects within their respective geographic territories would significantly shrink the size of each procurement and make it more difficult for larger resources, which can provide the most cost-effective CPECs, to secure contracts for a sufficient portion of their CPECs to ensure project viability. For this reason, **we strongly recommend a single statewide procurement with no geographic restrictions, in order to maximize the cost-effectiveness of the bids.**

C) Other Factors Affecting the Size of Procurements

Borrego would like to emphasize several of RENEW's comments on additional factors that affect the size of the EDC procurements. First, we agree that a single RFP held in the summer is preferable, with a second RFP in a given year only if the full procurement target is not met in the first RFP. We also agree with RENEW that a resource should be able to bid partial amounts of its capacity into two or more auctions.

Importantly, we also agree with RENEW that the Department should be very judicious in the use of its ability to decrease the procurement target in response to market supply. Due to the long development timelines of larger resources (3-4 years on average), adjustments in the procurement target will increase overall uncertainty and could have a chilling effect on the market. If the Department determines that a decrease in the procurement target is warranted, decreases should be incremental and should be delayed for 1-2 years rather than taking effect in the immediate subsequent procurement, so that developers can adequately plan for the reduced procurement capacity.

2. Avoiding Project Attrition due to Speculative Bids

A) Maturity Requirements/Bid Deposits

In order to meet the first objective of spurring new resource development in a timely manner, it is critical that DOER pay attention to the maturity of projects that are allowed to bid. Low maturity requirements and low bid deposit requirements will allow more early-stage, speculative projects to bid, which could result in prices that are not truly indicative of the cost to construct and finance projects. Failing to design the auction in such a way that it enforces discipline among bidders and true price discovery will likely drive the CPEC price below that which is necessary to make projects work, and therefore defeat the purpose of the procurement. DOER has mostly avoided the mistakes and high project attrition seen in other neighboring states such as New York and Connecticut, both of which have experienced high rates of project

attrition and delays in the development of clean energy resources due to initial mistakes in the design of competitive procurements. Given the novelty of the Clean Peak Program, the evolving nature of the ISO-NE market, and the technological sophistication required to execute on large energy storage projects and other projects we expect to participate in the procurements, DOER and the EDCs should be wary of this risk of attrition and should incorporate reasonable maturity and bid requirements to ensure that bidders are not incited to take speculative positions that will result in significant attrition.

Adopting clear, high maturity requirements for the procurement will also stimulate greater investment in the CPEC program, which will increase the supply of eligible projects and lower the costs of the program. The large new resources that will provide the most cost-effective CPECs require significant time and investment to develop. Early in the development process, developers of such projects require some level of certainty about how much capacity will have access to contracted revenue. If a market is transparent and predictable, with clear rules for project eligibility that discourage speculation, developers will have a larger appetite for spending development capital at risk. Creating strong maturity requirements allows for a virtuous cycle, wherein such requirements result in low attrition as the projects that receive awards are more likely to be built, which then creates more certainty about the capacity to be available in future procurements, and further increases the appetite for taking development risk on earlier-stage projects. Low attrition facilitated through meaningful maturity requirements will also benefit utilities and ratepayers, because more projects will be available to meet the increasing requirements of the program, avoiding utilities' need to pay penalties or buy potentially more expensive CPECs on the spot market. High maturity requirements thus cultivate a more predictable market for both utilities and developers, which will support the kinds of big investments needed to get the most efficient Clean Peak projects built. For developers, Borrego included, it can take a strong stomach to recognize the return to all market participants--in the form of an orderly market--of high maturity requirements, and to expend significant capital in advance of securing an award. But experience has shown this is the best way to create a low-cost, transactable, and effective marketplace.

In light of these concerns, we concur with the comments submitted by RENEW and NECEC and recommend a two-tiered approach to maturity requirements and bid deposits. As shown below, this structure would allow earlier-stage projects to participate after posting significant security, while encouraging more mature projects to participate through lower security requirements:

Tier 1:

- Site control
- Permit applications filed
- Interconnection application filed
- Bid deposit of \$7,000/MW, up to a cap of \$700,000 per project, to be refunded upon non-award or project completion.

Tier 2:

- Site control

- Permit applications filed
- System Impact Study is complete
- Bid deposit of \$3,500/MW, up to a cap of \$350,000 per project, to be refunded upon non-award or project completion.

This two-tiered structure ensures that the auction results will not be skewed by speculative bidding, while acknowledging that interconnection timelines can stretch to several years for larger projects. Bid deposits in cash or a letter of credit should be acceptable; a letter of credit is equally effective in tying up capital for the developer, but creates no additional administrative burden for DOER or the EDCs. **If DOER is hesitant to implement bid deposits, we recommend that all bidders must meet the Tier 2 requirements in order to prevent the potential of a failed procurement in which only speculative projects are selected.**

B) Auction Structure

Both a clearing price and a paid-as-bid auction can be implemented in a manner that encourages good outcomes for both developers and ratepayers. However, without sufficient bid deposits as recommended above, a clearing price auction creates an incentive for speculative bidding, as developers intentionally bid lower than the true cost of building their project in order to secure an award, in hopes that the clearing price will be high enough to make their project viable. If too many bidders employ this strategy, the clearing price will not be high enough, and projects that receive awards will not be built. The procurements will therefore fail to achieve the first objective of spurring new resource development in a timely manner. However, with substantial bid deposits, such as those suggested above, speculative bidders risk losing the deposit, and therefore bids overall are likely to be closer to the true price. **Borrego therefore supports a clearing price auction only with substantial bid deposits, and prefers a paid-as-bid auction if substantial bid deposits are not included.**

C) Time from Award to Delivery of CPECs

Borrego agrees with the comments submitted by RENEW that projects receiving awards should be obligated to deliver CPECs within 24 months of their award. This timeline further encourages more mature projects to bid, and thus maximizes the number of awarded projects that will be constructed in a timely manner. Along these lines, Borrego recommends that each RFP make awards to projects that begin delivering CPECs in a single year, rather than having a single RFP result in contracts that start in multiple future years. Allowing multiple future years to be bid in a single RFP risks diluting the other project maturity requirements recommended above, and also concentrates program capacity in the early years (during which prices may be higher than in future years), while reducing the program capacity in later years.

3. Length of Contract

The extent to which the procurements achieve the goals stated in the Straw Proposal, to provide revenue certainty for clean peak resources to enable financing and to provide a cost-effective CPEC supply, is a direct function of the length of the contract awarded. **Longer contracts allow projects to secure a greater proportion of debt financing, which has a lower appetite for risk but a lower expected rate of return, thereby lowering the cost of financing and allowing CPEC prices ultimately paid by ratepayers to be lower than procurements with shorter contracts.** With a shorter contract and a higher proportion of equity financing, ratepayers are paying a higher price for the same product, with the increased margin going to Wall Street rather than to more clean energy in Massachusetts. Longer contracts for CPECs are even more essential for enabling new resources to secure financing in light of the recent elimination of the 7-year price lock for new resources in the ISO-NE Forward Capacity Market. Borrego has in the past argued for an ideal contract length of 15 years, which would allow the market to mobilize less-expensive long-term debt, but we agree with RENEW's comments that 10 years would be a workable minimum. As DOER may be aware, New York's utilities recently extended energy storage contract lengths under the state's Bulk Storage Dispatch Rights program from 7 years to 10 years after their initial solicitation returned excessively high prices from the market. During the ensuing stakeholder engagement sessions, the NY utilities found that the shorter contract length forced bidders to rely more heavily on higher-risk merchant revenues in the non-contract years of the project, which drove up the requisite rates of return for those projects, resulting in higher bid prices in the solicitation. Borrego's internal modeling of Clean Peak development assets shows this same relationship, with contracts shorter than 10 years significantly increasing the requisite CPEC price for a prospective project.

Thank you for your consideration of the recommendations detailed above. Successful procurements are the key to a successful Clean Peak program, which will not only catalyze the development of renewable resources that can displace the dirtiest fossil generators in Massachusetts, but will also inspire other states and regions to implement similar programs. We look forward to continued dialogue with the Department as the Clean Peak procurements are developed and the program is launched.

Sincerely,

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