



*via email to* DOER.SREC@state.ma.us

August 2, 2013

Dwayne Breger  
Massachusetts Department of Energy Resources  
100 Cambridge Street, Suite 1020  
Boston, MA 02114

RE: RPS Class I Emergency Regulation (225 CMR 14.00)

Dear Dwayne,

The following comments are submitted on behalf of the Solar Energy Industries Association ("SEIA") in response to issuance of the RPS Class I Emergency Regulations ("the regulations") by the Department of Energy Resources ("DOER") on June 28, 2013. SEIA appreciates the opportunity to comment on the regulations. SEIA is the national trade association for the U.S. solar industry and is a broad-based voice of the solar industry. SEIA's companies work in all market segments – residential, commercial, and utility-scale.<sup>1</sup> SEIA supports the prompt and permanent adoption of the emergency regulations governing the final stage of the Phase I Solar Carve-Out Program for the reasons describe below.

The emergency regulations strike a fair balance among competing projects by giving advanced stage projects a reasonable opportunity to achieve commercial operation to secure their Phase I eligibility while deferring less mature projects to a subsequent phase of this program. While any transitional rule will inevitably create winners and losers, DOER has done an admirable job in equitably sorting through the competing interests and rewarding those projects most "shovel-ready." Further, the rules honor investor expectations regarding currently operational projects by ensuring that any additional capacity brought into the program by a date certain will be matched on an equal basis through incremental requirements, thus preserving the program's essential market balancing feature. Lastly, the rules recognize the distinct needs of smaller scale projects, given their shorter business cycle, and allow the uninterrupted development of such projects through the transition.

For the aforementioned reasons, the regulations effectively deal with the inherently complex situation created by the unprecedented surge in applications for qualification. The DOER should adopt the emergency regulations on a permanent basis so the development community, has confidence that the rules of engagement for the conclusion of the Phase I program are fixed in place, so they can reasonably assess the

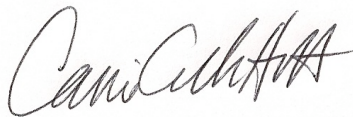
---

<sup>1</sup> These comments reflect the views of SEIA as a whole, and not necessarily those of any individual member company.

potential risks and rewards of further investment in this market. More generally, we believe it is essential to act swiftly to restore investor confidence, shaken by the recent turmoil in the Massachusetts' market.

Nevertheless, SEIA requests that the DOER provide market participants with further guidance on key program parameters. Specifically, we believe the allowance for projects to achieve commercial operation by June 30, 2014 if they have expended at least 50% of their total construction costs, is essential given the very aggressive timeframe for development set in the emergency regulations, however, the rule warrants some clarification (225 CMR 14.05 (k2-4)). For example, DOER should clarify whether this standard can be demonstrated through the execution of binding contracts for materials and services, or if actual out-of-pocket expenditure will be required. We underscore, however, that clarification should come in the form of a guidance document, rather than a rule change, so as not to unduly delay the final promulgation of these regulations.

Respectfully Submitted,

A handwritten signature in cursive script, appearing to read "Carrie Cullen Hitt".

Carrie Cullen Hitt  
SVP, State Affairs