



Michael E. Hachey  
TransCanada Power Marketing Ltd.  
110 Turnpike Road, Suite 300  
Westborough, MA  
**tel** 508.887.1850  
**fax** 508.898.0433  
**web** [www.transcanada.com](http://www.transcanada.com)

August 1, 2013

Mr. Mark Sylvia, Commissioner  
Massachusetts Department of Energy Resources  
100 Cambridge St., Suite 1020  
Boston, MA 02114

By email to [DOER.SREC@state.ma.us](mailto:DOER.SREC@state.ma.us)

**Re: RPS Class 1 Emergency Regulations**

Dear Commissioner Sylvia:

On June 28, 2013, The DOER filed Emergency Regulations to revise 225 CMR 14-Renewable Energy Portfolio Standard – Class I. In DOER's view, the Emergency Regulations are intended "to make strategic revisions to the Solar Carve-Out program to improve program design and address market concerns." DOER identified the following items as its concerns:

- 1) An abrupt influx in applications for the 112 MW of capacity left in the 400 MW SREC program put the MA solar market in peril;
- 2) Many solar projects face the dire risk of not being qualified under the 400 MW cap;
- 3) Projects already qualified have concerns about changes to the program that could jeopardize closure of financing; and
- 4) Small kw scale projects, which have short development cycles, will be halted for the rest of the calendar year.

## COMMENTS

The standard for adoption of emergency regulations in Massachusetts is:

Preservation of public health, safety, or general welfare.

There is no emergency here. There is no credible threat whatsoever to public health, safety, or the general welfare. In fact, it is the cost impacts from expansion of the DOER's solar program that pose the threat to public welfare.

Our analysis of cost impacts show that combined with other costly initiatives, Massachusetts is on track to have the 2<sup>nd</sup> highest commercial and industrial electric rates in the country. These cost increases will result from regional transmission expansion, tightening of the RGGI cap, ever-increasing RPS requirements, and the largest contribution will come from the 1200 MW expansion of the solar carve out. That cost increase is the threat to the general welfare – since it discourages business and industry expansion in Massachusetts, and it will encourage our existing business and industry to consider relocation to states with better business conditions.

The competitive market has delivered major environmental improvements to the region. Over the last 10 years, New England's generation fleet has reduced its NO<sub>x</sub> emissions by 58%, its SO<sub>2</sub> emissions by 71%, and its CO<sub>2</sub> emissions by 11%. That reduction had virtually nothing to do with solar or offshore wind- everything to do with turning over the generation fleet – bringing on new, clean and efficient plants. The New England generation fleet's carbon intensity – CO<sub>2</sub> / megawatt hour produced – is already among the nation's best. Continued government intervention will deter the ability of the market to continue these advancements.

The governor's solar goal press release of May 1, 2013 said Massachusetts spends "billions of dollars annually to import all of its fossil fuel based energy sources from places like South America, Canada, and the Middle East. That is lost economic opportunity that Massachusetts stands poised to reclaim through investments in home-grown renewable energy programs".

Let's talk about the facts:

- For electricity, in New England in 2012, natural gas provided 52%, nuclear, 31% and hydro 6%. Of natural gas, 95% was produced in the US, 5% in Canada.
- Much of New England's gas came from Pennsylvania and the Gulf Coast.
- On the other hand, according to the Wall Street Journal, half of the world's solar panels come from – China.

So it appears we are disadvantaging local Massachusetts manufacturing – with its low carbon footprint – to advantage manufacturing elsewhere – with its high carbon footprint. That doesn't promote public welfare in Massachusetts.

The energy bill passed in 2012 established an "energy policy review commission" that was intended to "research and review the economic and environmental benefits, as well as, the economic and electricity policies in the commonwealth". The commission was instructed by the law to review programs, such as the solar carve-out, that arose from the Green Communities Act:

TransCanada Comments on RPS Class 1 Emergency Regulations

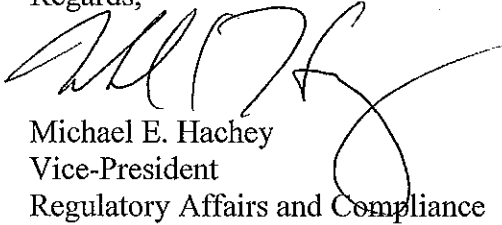
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“The commission shall, at minimum, research, evaluate, consider, and report on: (i) Determining consistent metrics to be utilized to evaluate the success and cost – effectiveness of programs under chapter 169 of the act of 2008”

For the DOER to undertake an expansion of the solar carve-out, on an emergency or any other basis, appears to flout legislative intent. The expansion of the carve-out should not be undertaken without the full review as contemplated by the legislature.

Regards,



Michael E. Hachey  
Vice-President  
Regulatory Affairs and Compliance