



August 2, 2013

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

**RE: Clarification of construction timelines in SREC emergency regulations**

Dear Commissioner Sylvia:

On behalf of First Wind, thank you for the opportunity to submit comments on 225 SMR 14.00 *et seq.*, which the Department of Energy Resources ("DOER") filed as an emergency regulation on July 28, 2013. First Wind appreciates the dialogue that DOER has conducted with stakeholders. We support the regulation as filed, but believe that both DOER and stakeholders would benefit from additional clarification on how to satisfy the construction timelines outlined in 225 CMR 14.05(4)(k)4. To that end, we ask that DOER consider issuing a guideline that provides assistance to stakeholders in understanding certain language susceptible to multiple interpretations and that creates a "safe harbor" involving concrete, objective, attainable steps for project developers to complete in order to ensure continued eligibility in the current SREC program (the "SREC I program").

First Wind, like other stakeholders, is keenly interested in clear deadlines for determining final participation in the SREC I program, and as the regulations will determine ultimate eligibility for the SREC I program, we imagine that DOER is likewise interested in having as bright a line as possible so that developers may plan accordingly. In reading the language of 225 CMR 14.05(4)(k)4c (the "utility extension"), we feel it would be helpful to have additional guidance from the Department on what a developer needs to have completed in order to be eligible for the utility extension. The inclusion of this extension recognizes that interconnection remains a complicated engineering task, with the safety and reliability of the electric grid as the ultimate determinant of how long it may take for a project to achieve commercial operation.

We would propose that a guideline include the following benchmark or safe harbor in order to receive an extension beyond June 30, 2014 for its authorization to interconnect:

A Unit that has received an extension to June 30, 2014 under 225 CMR 14.05(4)(k)4b will be deemed eligible for such further extension under 225 CMR 14.05(4)(k)4c if it can be demonstrated to the Department's satisfaction that (1) substantially all of the solar equipment on the End-Use Customer's side of the local distribution company's meter, including panels, inverters, ballasts, or other mounting equipment, has been physically constructed and (2) all payments due to the local distribution company under the interconnection service agreement prior to June 30, 2014 have been paid as and when due.

First Wind believes this clarification meets the public policy goals of this extension in that a developer has brought the project as close to completion as it can in the allotted time but is still awaiting actions from the utility in order to begin commercial operation. This two-part test establishes clear actions that the developer must take in order to receive this extension as well as a transparent mechanism for DOER. It should also be fairly straightforward for a developer to understand how to provide documentary evidence of satisfaction of each requirement of this safe harbor and for DOER to gauge whether a developer has ultimately made a demonstration to the Department's satisfaction of eligibility for the utility extension.

Greater clarity along these lines will go a long way to providing a more objective way for developers, financing parties, offtakers and others to determine whether a particular SREC I-qualified project is going to maintain its SREC I.

Thank you very much for your consideration.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Dave Wilby", written in a cursive style.

David A. Wilby  
Vice President, State Policy

cc: Dwayne Breger, Director, Renewable and Alternative Energy Division