Via email to DOER.SREC@state.ma.us

June 21, 2013

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

Re: SREC-II Policy Design Comments

Dear Mr. Breger:

SunEdison respectfully submits the following comments with regard to Phase II of the Solar Carve-Out Program as outlined by the Department of Energy Resources (DOER) at the Solar Stakeholder meeting on June 7, 2013. SunEdison appreciates the efforts of the DOER to build on the unqualified success of the first program phase, and its interest in moving expeditiously and cautiously to maintain this market momentum through a potentially tumultuous transition period.

As a threshold matter, SunEdison supports DOER's decision to create an independent Phase II program with separate and distinct compliance obligations. We believe that this keeps faith with those who have invested in the Massachusetts market based on a fundamental understanding of market dynamics. As DOER itself has underscored, considerable effort has gone into building investor confidence in the Commonwealth's solar market and it is imperative that the investment-backed expectations of these market participants continue to be honored. The creation of a separate SREC II market clearly accomplishes that.

Further, SunEdison appreciates DOER's willingness to experiment and push the envelope in solar market-based incentive program design. The Phase II program outlined by DOER is ambitious not just in its overall goals, but also in its attempt to marry market-based program design with more interventionist policies to support/disfavor certain types of solar installation based on perceived public policy objectives.

That said, we have some reservations over two of the major new elements of the DOER straw proposal – 1) the SREC Adjustment Factor; and 2) the Managed Market. The remainder of our comments highlights these concerns and suggests alternatives for meeting DOER's stated public policy objectives.

Adjusted SREC Factor

DOER's proposal design for Phase II would incorporate an "Adjusted SREC Factor" wherein qualifying solar facilities would generate both SRECs and Class I RECs in proportions that adjust as the Phase II market is built out. While the goals of the SREC Adjustment Factor are laudable (preventing the market from over-incentivizing solar and thus overheating, steering development towards favored market segments, etc.), its introduction has some profound implications and potential unintended consequences.

First, we believe the Adjusted SREC Factor may be a solution in search of a problem. As the DOER itself acknowledged in its March 2013 presentation, the Massachusetts market data reveals a highly diverse customer-base with all customer classes and market segments being well-represented. The residential sector is extremely vibrant, and many developers (including SunEdison) have either constructed or are planning MW-scale landfill-based projects. While we understand that DOER may be concerned that trends are pointing towards a concentration in large ground-mounted systems, DOER should be cognizant that this is as much a function of the state's liberal policy with regard to virtual net metering as it is to incentive program design. Indeed, any concerns DOER has with regard to the future composition of the Massachusetts solar market and an unwelcome skewing towards large ground-mounted systems on greenfields should be mitigated by recent strictures placed by the Department of Public Utilities on the size of individual VNM projects serving the non-public (e.g., private) market.

Second, the Adjusted SREC Factor poses some real practical challenges to developers that could make it more difficult to secure project finance. Essentially, developers will now be required to sell two separate products – Class I RECs and SRECs – and individual suppliers may have varying appetite (volume, tenor) for these. Mixing and matching off-take agreements to secure the requisite contracted revenue stream will be difficult and will generally make it even more difficult for developers to secure financing, when the program objective should be to make this task easier. The finance challenge is compounded by the fact that the SREC Factor changes over time, making it difficult to predict exactly what proportion of RECs will be in the form of SRECs at the time the developer takes a project to market.

Third, this policy proposal represents a dramatic departure from reliance on price as the primary rationing tool. While well-intentioned, market activity will now depend upon an administratively-set ratio of SREC/REC generation and getting these ratio's "right" - not just today but further out in the program horizon. This is an inherently perilous exercise.

- Recalibration of the Adjusted SREC Factor is based on overall market activity and not intra-segment activity, resulting in the possibility that some markets could get left behind if specific market segment factors are not set properly at the outset, or diverge from market reality as the overall market is built out.

- The SREC Adjustment Factor framework is simultaneously too broad and too narrow. The assumption of a "prototypical" solar project is misplaced. For example, landfill solar project costs can vary widely depending upon a multitude of factors. By contrast, reliance on a defined set of market-segment specific SREC Factors will inevitably leave certain project types (e.g., parking lot canopies), with their own distinctive underlying cost structures, out of the picture entirely.

DOER's goals in proposing the Adjusted SREC Factor could be addressed in a more straightforward way through traditional market-based program design parameters.

- Cost-containment, ratepayer protection and market throttling can all be achieved by establishing an appropriate trade band between the SACP and the Auction Clearing Price. DOER should consider both a continually downward sloping SACP[1] and moderately declining annual Auction Clearing Price[2] in lieu of the SREC Adjustment Factor.
- If DOER perceives inherent barriers to entry for certain market segments, it should (as it has) move to address those barriers. Forward minting of SRECs for the residential sector is an innovative approach to ensuring greater revenue surety and realization. DOER should also consider other extra-market mechanisms, such as upfront rebates, to support the residential sector if there is concern over the future vitality of this segment within a market-based framework. Similarly, more time should be afforded landfill-based projects to secure their Interconnection Services Agreement under the Assurance of Qualification process given the relatively longer and more complicated development cycle associated with these projects.

<u>The Managed Market</u>

We appreciate DOER's desire to achieve solar development goals consonant with other land use and public policy objectives. However, the DOER presentation with regard to the Managed Market is light on details at this time, and thus raises a number of questions with regard to ultimate implementation.

SunEdison is concerned that the potential lack of clarity regarding forward demand within the Managed Market will make it extremely difficult to finance and build grid-connected projects in the future. Perhaps we are misinterpreting DOER's intentions, but given DOER's stated goals of enabling continued unfettered growth within the residential, rooftop and landfill segments and avoiding oversupply in the Class I REC market more broadly, it can be inferred that the capacity allowed within the Managed Market will be the "residual" demand after these factors are accounted for. This lack of firm demand for grid-connected projects – indeed, whether there will be any requirement for grid-connected projects at all – will discourage future investment in this market segment, particularly given the high upfront

[1] We note that the straw proposal does include a step-function reduction in the SACP for 2014-2016.
[2] It is unclear from the DOER presentation whether the agency is contemplating any change from the current standard auction price of $285. We would recommend an annual 5% reduction in the auction price. This will encourage cost discipline, while facilitating a smooth transition from Phase I such that project economics for planned development should remain viable. By contrast, a more precipitous drop in the auction price would fro project delays and cancellations.

development costs (i.e., land optioning, engineering and design, interconnection review) and natural attrition that characterize the large ground mount market.

SunEdison would prefer that DOER allow the market to prioritize project development, especially given the project diversity achieved to date. Concerns related to the removal of tillable acreage from active production or the cutting of timber from forested lands could be addressed through more targeted program eligibility criteria or performance standards.

However, if DOER does go down this path, we would urge the agency to consider a hard quarterly or annual set-aside for the Managed Market. This would at least send the signal that there will be a contestable, albeit defined, market for grid-connected projects going forward.

Further, in setting the future size of the Managed Market, DOER should be cognizant of, and seek to align the SREC market rules with other policies inherent in the Green Communities Act that *encourage* virtually net metered facilities serving public entities.

Lastly, fairness dictates that DOER preserve a reasonable market opportunity for developers of grid-connected projects who have made significant investment in these resources only to be effectively closed out of the first 400 MW program phase. DOER has made every effort to ensure that projects with significant sunk investment qualify for Phase I; however, the reality is likely to be that many of these projects will nevertheless fall out given the stringent construction timelines mandated under the emergency rules. Likewise, for many other projects that are well into planning and development (even though they were not mature enough to qualify under the new Assurance of Qualification rules), the saving grace for developers, investors, and customer-hosts is that these projects would be eligible for the Phase II program. DOER has reasoned that such projects are “best suited” for the Phase II program; that is a sound policy decision, but only if these projects are offered a meaningful and material opportunity to qualify for the next phase of the program.

Thank you for this opportunity to share our perspective on the preliminary Phase II program design and for your continued commitment to stakeholder engagement throughout the program development process. We look forward to working with you and your staff as the Phase II program takes shape.

Sincerely,

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