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June 21, 2013

VIA EMAIL ONLY

Mr. Michael Judge
Department of Energy Resources
100 Cambridge Street, Suite 1020
Boston, MA 02114
Email: DOER.SREC@state.ma.us

Re: Proposed Solar Carve-Out SREC-II Program

Dear Mr. Judge:

On behalf of the Cape & Vineyard Electric Cooperative, Inc. ("CVEC"), we are submitting this letter in response to the request of the Department of Energy Resources ("DOER") for written comment on DOER's proposed Solar Carve-Out SREC-II Program ("SREC-II Program"). CVEC appreciates the opportunity to provide feedback to DOER on this important matter.

CVEC is a cooperative formed under G.L. c. 164, §136 with twenty members: the County of Barnstable, Dukes County, the Cape Light Compact, and seventeen towns on Cape Cod and Martha's Vineyard.[1] CVEC's formation in 2007 stemmed from the members' desire to develop renewable energy projects to stabilize electric rates for ratepayers within their communities. Currently, CVEC has installed 670 kilowatts of solar and is developing more than 30 solar projects across Cape Cod and Martha's Vineyard with an estimated total capacity of 35 megawatts ("MW"). CVEC is interested in undertaking additional solar projects as part of the SREC-II Program to help achieve the Governor's goal of reaching 1600 MW by 2020.

CVEC commends DOER's efforts to support the continued growth of renewable energy in the Commonwealth. CVEC's member municipalities are committed to working together to integrate clean, renewable energy as part of a more sustainable Cape Cod and Martha's

[1] Barnstable, Brewster, Harwich, Dennis, Tisbury, Bourne, Eastham, Sandwich, Provincetown, Mashpee, Oak Bluffs, Edgartown, Orleans, Yarmouth, Falmouth, Chatham, and West Tisbury.

Vineyard. It is from this perspective that CVEC reviews DOER's proposal for the SREC-II Program. CVEC is providing initial comment on four issues related to the proposed SREC-II Program:[2] (1) coordinated policy and development incentives; (2) procurement implications; (3) administration of competitive qualifications; and (4) program management and queuing of projects.

1. Coordinated policy and development incentives

CVEC believes that a majority of the projects qualified under the current Solar Carve-Out Program are or plan to be net-metered. The solar industry has relied on this net-metering customer base to sustain project development under the Solar Carve-Out Program. The Department of Public Utilities ("DPU") has an established System of Assurance to administer the queuing of public and private project net metering caps in each electric distribution company's service territory. Each cap is currently set at three percent of a distribution company's highest peak load, which equates to an aggregate statewide public cap of 332,904 MW and an aggregate statewide private cap of 332,904 MW. As of June 17, 2013, there are 175,624 MW of available capacity in the aggregate statewide private net metering cap and 121,346 MW of available capacity in the aggregate statewide public net metering cap.[3]

Unless legislation is enacted to expand the net metering capacity caps, there will be no long-term complimentary program in the Commonwealth to create a customer base of support for the Administration's goal of 1600 MW of solar by 2020. While the solar development community may be interested in the SREC-II Program, there must be a corresponding level of interest from public and private customers. Without net metering (and excluding any customers interested in direct ownership of very small-scale solar), what other policies are in place for customers to realize a benefit from the SREC-II Program? Some solar projects may be suitable for qualified facility status under Federal Energy Regulatory Commission guidelines and DPU regulations or otherwise participate in the wholesale energy market. However, qualified facility status may not be the best development approach (in terms of economic benefit to the customer) for the market sectors DOER intends to prioritize in the SREC-II Program (residential, roof mount, etc.). Currently, even a solar project behind-the-meter with no export of generation counts towards the net metering cap and thus will not be eligible to net meter when the cap is reached. CVEC believes DOER should fully explore these policy issues as it formalizes program design and consider ways to coordinate implementation of the SREC-II Program with other complimentary policies in the Commonwealth.

2. Procurement implications

Unlike the current Solar Carve-Out Program, the SREC-II Program incorporates the concept of an adjusted factor ("SREC Factor") that determines how many renewable energy certificates ("REC" or "RECs") from a project are SRECs and how many RECs are Class I Renewable Portfolio Standard ("RPS") RECs. Depending upon when projects are required to be

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[2] Given that DOER is in the early stages of program design, these are general comments based on DOER's presentation to the stakeholder meeting on June 7, 2013 and are not intended to be a comprehensive analysis.
[3] http://www.massaca.org/pdf/Public%20and%20Private%20Cap%20Information%20as%20of%2017June2013.pdf.

qualified with DOER, the SREC Factor may be unknown to the developer at the outset of a project's development cycle. DOER has proposed that the SREC Factor adjusts as a result of the number of MWs in the SREC-II Program that are qualified by DOER. This presents procurement concerns for the private and public sector. Unless a developer is able to obtain its SREC Factor at the outset of project development, the developer's estimated revenue stream (determined in large part by the SREC Factor) is subject to change during the course of the project development cycle. For the public and private sector, but in particular for the public sector that must undergo a formal procurement process to contract for development of solar on public lands, there is great potential for the risk and costs associated with this change in estimated revenue to be shifted to the end-user. Public entities will also face difficulty conducting a transparent procurement process and awarding contracts based on the actual cost of the project.

This procurement problem is further exacerbated by DOER's proposal to competitively qualify large ground-mounted arrays that are not on landfills or brownfields–the "managed supply projects." For these projects, DOER intends to limit the number of MWs (quarterly or annually) that may be qualified to participate in the SREC-II Program. Assuming there is capacity available at any given time for a managed supply project, a developer must take part in what amounts to a reverse auction by proposing an SREC Factor to DOER. DOER will review both this and other non-price criteria to competitively qualify a managed supply project. This presents added risk to the developer that may also be shifted to the end-user during the procurement process. The potential for shifting this risk to the end-user may reduce public entity interest in the SREC-II Program, because public entities already incur significant costs to ready a project for development (property valuations, town meeting approval, a formal procurement process, public outreach, etc.). Equally, developers may choose not to participate in the procurement because they are unwilling to shift that risk to the end-user or unwilling to take on that risk themselves.

CVEC acknowledges DOER's desire to mitigate ratepayer impacts and market instability by use of the SREC Factor and managed supply; however, CVEC respectfully requests that DOER consider the negative impacts this structure may have on the end-user. CVEC recommends that DOER incorporate more certainty into the final program design so that development risks are more fairly apportioned. Towards this end, DOER should consider whether the statement of qualification for the SREC-II Program is obtained at the beginning or end of a project's development cycle (the sooner the SREC Factor is known, the more certainty and transparency for all parties involved). Then, given the recent problems associated with the current Solar Carve-Out Program, DOER should establish a transparent process for projects to apply for and receive the statement of qualification (and SREC Factor). DOER should apply this process uniformly to all applicants. In addition, as discussed below, DOER should provide the industry with an adequate understanding of the criteria and process DOER will use to competitively qualify managed projects.

3. Administration of competitive qualifications

DOER proposes to provide unrestricted access to the SREC-II Program to certain market sectors (residential, roof mount, landfills/brownfields, projects serving microgrids or emergency power, projects <200 MW, etc.). Conversely, DOER will manage the supply of large ground mounted arrays not on landfills or brownfields by competitively qualifying applications based on price and non-price criteria in order to mitigate public concerns about the rapid expansion of solar development on open lands. Depending upon the timing of this competitive qualification in relation to a project's development cycle, the price criteria (similar to a reverse auction) may present certain problems for developers and end-users, particularly in the procurement context (see discussion above).

Moreover, the non-price criterion currently proposed by DOER (land use attributes, development timeline, likelihood of success, local benefits, etc.) is highly subjective. Without clear guidance, application of the criteria becomes a convoluted mess. For instance, larger projects provide more in the way of local benefits (more electricians, more contractors, more local suppliers, more permitting fees, etc.) but may have a longer development timeline. Also, projects with an expected short development timeline may encounter unexpected delays in interconnection with the utility or require extensive utility infrastructure upgrade costs that impede the project's likelihood of success in the middle of the project development cycle. In considering land use attributes, will a project located in an industrial complex and a project on park land receive equal treatment when both projects require tree cutting or clearing? How and when will DOER apply and balance these non-price criteria? DOER should adopt and publish clear and objective guidelines for its review and evaluation of the non-price criteria so that the solar industry may properly plan and develop managed supply projects. DOER may want to issue a straw proposal in the form of a draft guideline for industry comment on the review and evaluation of criteria for managed supply.

In addition, it is important to note that DOER's managed growth policy may have unintended results that deny certain market sectors (i.e., public projects) the ability to participate the SREC-II Program to obtain electricity savings from renewable development. Public schools and municipalities may need to develop solar on open land (managed growth) rather than rooftops (unrestricted) because their rooftops are too old to support installation of a solar system or the rooftop manufacturer threatens to void existing warranties if solar is installed. In this instance, the public entity is penalized for trying to develop a solar project when viable development options do not exist in the unrestricted category of project installations.

4. Program management and queuing of projects

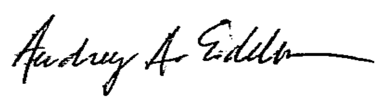
DOER recently encountered the problem of having a tremendous oversupply of applications for qualification in the current Solar Carve-Out Program. The lack of a queue system in the initial program design to manage the 400 MW cap resulted in widespread panic across the Massachusetts solar industry and many projects were faced with unexpected loss of financial investments. DOER must now issue emergency regulations that in effect retroactively apply development benchmarks to projects that were not known at the time parties applied to participate in the Solar Carve-Out Program. CVEC applauds DOER's decision to issue emergency regulations to accommodate the overflow of applications and strongly encourages DOER to apply its lessons learned from the current Solar Carve-Out Program to the SREC-II Program design.

The SREC-II Program design should provide clear guidance to all potential participants regarding the queuing system for reaching the SREC-II Program cap of 1200 MW (or correspondingly less if the current Solar Carve-Out Program cap exceeds 400 MW). At a minimum, the final program design should set the rules for: (i) when a project may apply for qualification in the SREC-II Program; (ii) what the requirements are to apply; (iii) the term (lifespan) of the qualification; (iv) any construction timelines or other benchmarks that apply; and (v) what level of discretion DOER may use in waiving a requirement or granting a conditional qualification.

CVEC also strongly encourages DOER to consider how the adjusted SREC Factor affects a queuing system. What if a project is qualified and receives an SREC Factor but the project is never installed? Will that SREC Factor be given to another project, will DOER retroactively adjust the SREC Factors for all succeeding projects in the queue, or will that SREC Factor never be applied to a project? CVEC expects that DOER will consider these important issues when it finalizes the SREC-II Program design.

CVEC appreciates the opportunity to provide comments on DOER's proposed SREC-II Program. CVEC looks forward to greater opportunities for municipalities on Cape Cod and Martha's Vineyard to develop solar projects that will reduce electricity costs.

Sincerely,



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cc: John C. Checklick, CVEC President (via email only)