

**Commonwealth of Massachusetts
Executive Office of Energy and Environmental Affairs
DEPARTMENT OF ENERGY RESOURCES**

**SOLAR MASSACHUSETTS RENEWABLE TARGET PROGRAM 3.0
(225 CMR 28.00)**

GUIDELINE

Guideline on Consumer Protection

1) Customer Disclosure Forms

In accordance with the requirements of 225 CMR 28.12(5), an Applicant for an STGU that is ≤ 25 kW must submit a customer disclosure form in the Statement of Qualification Application. The customer disclosure form must be signed and dated by the Owner of the STGU or, if the Owner is a third-party, the form must be signed and dated by the Customer of Record. The customer disclosure forms have been developed by the Department and are available on the Department's website. The customer disclosure forms include, but are not limited to, the following:

- i. contract pricing for the length of the agreement,
- ii. complete system cost information,
- iii. operation and maintenance responsibilities,
- iv. disposition of associated RECs and tariff terms, and
- v. anticipated production.

2) Savings Requirement for Third-Party Owned STGUs ≤ 25 kW

Pursuant to 225 CMR 28.07(5)(a)1-, all third-party owned STGUs ≤ 25 kW serving a residential customer must offer a minimum per-kilowatt hour savings on the first year of the Solar Contract. The minimum ~~discount~~savings amount will be calculated from the R-1 Net Metered Value of Energy in the customer's service territory that is in effect during the year that the Solar Contract is fully executed. Applicants shall use the Department's current BTM Value of Energy Workbook published on the website to determine the relevant VOE. The minimum ~~discount~~savings will be 10 percent of the relevant VOE and should be applied to the customer's current ~~electric supply rate~~Utility Rate. For STGUs that are paired with energy storage, the savings requirement shall only apply to the cost in the Solar Contract associated with the STGU, and not the costs for the energy storage which is not a STGU.

Massachusetts Electric						
Rate Class	3-Year Average Basic Service Rate	Volumetric Rates			Value of Energy (Net Metered)	Value of Energy (AOBC & non-net metered)
		Distribution*	Transmission	Transition		
	(a)	(b)	(c)	(d)	(e) = (a) + (b) + (c) + (d)	(e) = ((a) + (b) + (c) + (d)) * 0.65 + ((a) * 0.35)
R-1	\$0.18345	\$0.08798	\$0.04091	(\$0.00052)	\$0.31182	\$0.26689
R-2	\$0.18345	\$0.08798	\$0.04091	(\$0.00052)	\$0.31182	\$0.26689

Example: $\$0.31182 * 10\% = \0.031 would be the minimum discount amount taken off the customer's current ~~electric supply rate~~ Utility Rate¹ and offered on the first year of the Solar Contract. The discount should be applied to the ~~electric supply rate~~ Utility Rate that the customer is paying at the time of contract execution, regardless of whether ~~that be the~~ Customer of Record is on basic service, competitive supply, municipal aggregation, or another rate.

Per 225 CMR 28.07(5)(a)2-, the escalator rate in the Solar Contract shall not exceed 3 percent per year.

At no point during the term of the Solar Contract shall the ~~per-kilowatt-hour~~ rate charged to the ~~customer on the Solar Contract~~ Customer of Record for the output of the Third-party Owned STGU exceed the ~~electric supply rate on the customer's utility bill~~ Utility Rate for the same billing cycle.

Under 225 CMR 28.12 DOER may audit the Owner or Applicant for compliance with the provisions of 225 CMR 28.00. DOER may require submission of documentation at any point during the term of the Tariff that establishes compliance with the 225 CMR 28.00 and this Guideline, including but not limited to: savings requirements, escalator limits, and Rate Requirement.

For a Power Purchase Agreement (PPA) Solar Contract², the Rate Requirement is satisfied if the STGU Owner submits documentation to the Department's satisfaction that for each month during a 12-month period, the rate charged to the Customer of Record was lower than the Customer's Utility Rate for the same month.

Alternatively, an STGU Owner or Applicant may submit documentation that demonstrates savings over the course of a 12-month period. The monthly savings, as calculated below, shall result in a positive amount, where the Non-Solar Monthly Utility Costs³ for the relevant

¹ A Utility Rate is the per-kWh rate the Customer of Record is charged by the Distribution Company, inclusive of energy supply costs and any low- or moderate-income discounts applied to the Customer of Record's bill by the Distribution Company (Utility Rate).

² A PPA Solar Contract is a Solar Contract in which the developer sets fixed rates per kWh, resulting in variable monthly payments based on solar usage and production (PPA Solar Contract).

³ The Non-Solar Monthly Utility Costs are the costs that a customer would have paid had they not entered a Solar Contract (Non-Solar Monthly Utility Costs) under then current load amounts and Utility Rate plus fixed charges.

billing cycle shall be greater than or equal to the monthly payment under the PPA Solar Contract, including the value of any Bill Credits generated during that billing cycle.

Calculating the Monthly Savings of a PPA Solar Contract:

<u>For months when Bill Credits are generated:</u>	<u>For months when Bill Credits are not generated:</u>
<u>Monthly Savings = Non-Solar Utility Bill Costs – (Monthly PPA Payment – Bill Credits Generated)</u>	<u>Monthly Savings = Non-Solar Utility Bill Costs – (Monthly PPA Payment + Payments Sent to the Utility)</u>
<u>Example: \$60 = \$170 – (\$185 – \$75)</u>	<u>Example: \$150 = \$300 – (\$200 + (-\$50))</u>

Given the underlying payment structure of a Levelized Solar Contract,⁴ the Department will consider the billing cycle in this circumstance to be annual, and therefore the required savings must be calculated as detailed below. This requirement is satisfied if the Annual Savings is a positive number, where the sum of Levelized PPA payments over a 12-month period is less than the sum of the Non-Solar Monthly Utility Costs for the same 12-month period.

Calculating the Annual Savings of a Levelized PPA:

<u>Annual Savings = (Non-Solar Monthly Utility Bill * 12) – (Levelized PPA Payment * 12)</u>
<u>Example: \$800 = (\$200 * 12) – (\$100 * 12)</u>

At any time during an STGU's enrollment in the SMART Tariff, the Applicant may be subject to the auditing provisions in this Guideline to confirm compliance with this section.

3) Unfair Methods of Competition and Unfair or Deceptive Acts or Practices

Per 225 CMR 28.12(1), unfair methods of competition and unfair or deceptive acts or practices regarding a STGU or the SMART 3.0 Program are prohibited under 225 CMR 28.00. Unfair or deceptive acts may include, but are not limited to, the following:

- i. misrepresentation of costs, savings, or incentives to consumers;
- ii. misrepresentation of sales representatives' affiliation with utility companies or the Department;
- iii. failure to comply with contractual obligations;
- iv. mishandling of SMART applications (i.e., failure to submit required final claim documentation during the allotted preliminary application time frame);
- v. non-responsiveness to the consumer base or the Department after several failed attempts to contact the Applicant.

The public may report concerns of business practices to the Department by email to DOER.SMART@mass.gov or by filing a complaint with the Office of the Attorney General

⁴ A Levelized Solar Contract is a Solar Contract in which the costs for the solar energy are calculated on a 12-month period and then billed in 12 equal payments (Levelized PPA).

at www.mass.gov/how-to/file-a-consumer-complaint. The Department may conduct additional auditing of an Applicant or company as a result of reported concerns, as necessary.

4) Auditing SMART Applications

Pursuant to 225 CMR 28.16(1), the Department may conduct periodic audits of Applicants' SMART Statement of Qualification Application submissions at random. The Department may consult with other state entities, municipalities, governmental bodies, or other parties to ensure program requirements are met. The Department may contract with third parties to assist with the audit process. Applicants will be informed if the Department begins an audit. The Department will conduct a desk audit to review materials attached to the application in the SMART portal. The Applicant may be required to provide additional documentation. Failure of the Applicant to provide the requested information within 10 Business Days may result in the Department taking actions as outlined in 225 CMR 28.12 (3) and 225 CMR 28.17.

Following an audit, the Department will supply the Applicant with a draft report documenting the findings. The Applicant will have 10 Business Days to review the draft audit report. If the draft audit report had a finding of non-compliance due to sufficient documentation not being presented to the Department, the Applicant may provide the necessary documentation during this time. The Applicant will not be able to make corrections to documentation to address any non-compliance findings due to material defects. Following the Applicant's review of the draft audit report, the Department will issue a final audit report to the Applicant and, if necessary, proceed in accordance with Section 5 of this Guideline.

5) Issuance of Warnings for Consumer Protection Non-Compliance

Within a single audit, an Applicant will receive a warning for each non-compliance event. During an audit, it is possible for more than one warning to be issued on a single application or multiple warnings issued if the same non-compliance is found on more than one application filed with the Solar Program Administrator. Customers of an Applicant that is found to be non-compliant will be held harmless by the Department and no actions will be taken against the customer. The Applicant will be provided with a draft audit report to which they will have the ability to respond and provide documentation of the noncompliance findings before the final report is issued.

Upon the issuance of a third warning, even if all three warnings are issued concurrently, the Applicant will be notified that they may not submit new Statement of Qualification Applications to the SMART program for a period of 12 months ("12-Month Freeze"), or for a specified time period determined by the Department. The duration of the application "freeze" may be determined on a case-by-case basis and informed by the severity of the non-compliance, documentation of the Applicant's attempts for remediation including dated emails or other documents, or other relevant documentation of the Applicant's business practices, such as consumer complaints filed with the Attorney General's Office.

The Department reserves the right to publish a list of Applicants that have received warnings in the interest of transparency for SMART consumers and to provide further guidance to all Applicants regarding the types of non-compliance that constitute a warning.

6) Remediation

After the conclusion of an audit, if the Applicant has one or more instances of non-compliance, the Department will issue a letter detailing the non-compliance and the steps for remediation for the Applicant to return to compliance. Upon issuance of the letter, the Applicant may request a meeting with the Department to discuss the audit and the resulting warning. The Department will consider all remediation attempts submitted by the Applicant on a case-by-case basis.