



Sky Solar Inc.  
830 Morris Turnpike, 2<sup>nd</sup> Floor #204  
Short Hills, NJ 07078

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Kaitlin Kelly  
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Department of Energy Resources  
100 Cambridge Street, Suite 1020  
Boston, MA 02114

Re: Public Comments on Revised 225 CMR 20.00, the Solar Massachusetts Renewable Target (SMART) Program

Background

Pursuant to notification on the Massachusetts government website page for the Solar Massachusetts Renewable Target (SMART) Program, we are writing to provide our comments on the 225 CMR 20.00, specifically in respect of the energy storage requirement. Undefined capitalized terms in this email have the meanings ascribed to them under 225 CMR 20.00.

Lumens Holdings 3, LLC ("LH3"), an affiliate of our U.S. operating company Sky Solar Inc. ("SKY"), engages in project development in Massachusetts. Each project developed by LH3 has a capacity exceeding 500kW.

At the time of Publication Date, widespread COVID-19 related stay-home orders had already been in place for some weeks, impacting on various governmental agencies upon whom developers' project milestones depend. Those stay-home orders, which have only recently begun to be relaxed somewhat, resulted either in a cessation of day-to-day business of governmental agencies, or a dramatic slow down of their activities.

Submission

The SMART program changes reflected in 225 CRM 20.00 do not address the fact that project developers may have taken steps to meet what had been the applicable requirements, only to have the final stage of development – municipal approval – held up due to the shut down of municipal government offices in early – mid March. In those cases it would be appropriate to permit such projects to continue in their development under the prior provisions.

For the reasons described herein, we respectfully request:

- (a) An extension of the Publication Date by 120 days, to account for delays due to the COVID-19 related curtailment of public works; or
- (b) That projects with a fully executed interconnection agreement in place prior to the Publication Date be granted an exemption to 225 CMR 20.05(5)(k).



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## Commentary

The changes to the SMART program require the use of energy storage equipment except in certain cases. The applicable provision, and the cross-referenced provision are excerpted below (highlighting added for emphasis):

### 20.05: Tariff Based Incentive Program for Solar Photovoltaic Generation Units

#### (5) General Eligibility Criteria for Solar Tariff Generation Units

(k) Energy Storage Requirement. Solar Tariff Generation Units **greater than 500 kW** applying for a Statement of Qualification for any available capacity in any capacity block available after the Publication Date **must be co-located with an Energy Storage System** that meets the eligibility requirements for an Energy Storage Adder pursuant to 225 CMR 20.06(1)(e).

1. **Exceptions** to Energy Storage Requirement. A Solar Tariff Generation Unit shall be exempt from the requirement to be co-located with an Energy Storage System, as prescribed in 225 CMR 20.05(5)(k), if it can demonstrate to the Department's satisfaction that:

a. **documentation required to meet the criteria set forth in 225 CMR 20.06(1)(c) was obtained on or before the Publication Date; or**

b. it should be granted an exception to the provisions of 225 CMR 20.05(5)(k) for good cause.

### 20.06: Qualification and Block Reservation Process for Solar Tariff Generation Units

#### (1) Statement of Qualification Application.

(c) Required Documentation for Solar Tariff Generation Units with Rated Capacities Larger than 25 kW. All Generation Units with a **capacity larger than 25 kW** must provide evidence of the following in order to obtain a Statement of Qualification:

1. **an executed Interconnection Service Agreement**, as tendered by the Distribution Company;

2. demonstrate a **sufficient interest in real estate or other contractual right** to construct the Solar Tariff Generation Unit at the location specified in the Interconnection Service Agreement; and

3. **all necessary governmental permits and approvals** to construct the Solar Tariff Generation Unit with the exception of ministerial permits, such as a building permit, and notwithstanding any pending legal challenge(s) to one or more permits or approvals.



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20.06(1)(c) addresses the three key components needed to develop any project – i.e. interconnection, site control and governmental approvals. Of those components, interconnection work is often the most involved and costly, as it requires the completion of studies and analyses and the payment of interconnection deposits. Where a developer has obtained interconnection, secured site control and prepared submissions for governmental approvals, which in the ordinary course are subject to an uncontentious administrative process, considerable effort has been expended to develop a project. We would submit that in that case it would seem unreasonable to ask the developer and utility to first return funds and then start a new interconnection process.

In addition, in the current environment, the COVID-19 related stay-home orders have stalled the governmental approval process which a developer had reasonably expected to be completed prior to Publication Date. Accordingly, we would also submit that in a case where the COVID-19 stay-home requirements precluded being able to obtain the governmental approvals by the Publication Date, it would be fair and reasonable for the project to request an extension to the Publication Date and not be subject to the mandatory energy storage requirement.

SKY appreciates the opportunity to comment on the Emergency Regulations to the Massachusetts SMART Program and thanks DOER Staff for its work and considerable effort in putting forth these changes. We look forward to continuing to participate in the SMART program and develop clean energy solutions for the State of Massachusetts.

DocuSigned by:  
A handwritten signature in black ink that reads "Frank Ruffolo".  
A95EDD29A3454FC...

Frank Ruffolo  
VP Operations

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