

COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF ENERGY RESOURCES

SMART PROGRAM)

EMERGENCY REGULATIONS)

COMMENT OF THE LOW-INCOME WEATHERIZATION AND FUEL ASSISTANCE PROGRAM NETWORK

INTRODUCTION

This is the Comment of the Low-income Weatherization and Fuel Assistance Program Network (Network) in response to the invitation of the Department of Energy Resources (DOER or The Department) pursuant to its Emergency Regulation Comment Period Extension with respect to the Department's Solar Massachusetts Renewable Target (SMART) Program Emergency Regulations (Proposed Regulations) promulgated April 14, 2020, subsequent to the Department's 400 MW Review. The Network is comprised of the community action programs and other agencies that deliver the federal weatherization and fuel assistance (LIHEAP) programs in the Commonwealth that are administered by the Department of Housing and Community Development (DHCD).

G.L. c. 25, sec. 19(c) (Green Communities Act, St. 2008, c. 169, sec. 11) provides that "The low-income residential demand side management and education programs shall be implemented through the low-income weatherization and fuel assistance program network and shall be coordinated with all electric and gas distribution companies in the commonwealth with the objective of standardizing implementation."

Members of the Network counsel utility customers about rates and payment options, and arrange rate payment assistance (including LIHEAP, arrearage management, and other forms of assistance) for utility customers. The Network is thus in unique possession of information that can help inform the Department's instant deliberations, including direct experience of low-income customers and member agencies of the Network, as well as consequences of the proposals now under consideration by this Department.

The Network reaches every city and town in the Commonwealth and is intimately knowledgeable about the conditions of life for Massachusetts low-income residents. By

definition, living with a low income in Massachusetts means not having sufficient income to afford good health, nutrition, safe housing, and essential utilities. Low-income energy burdens (fraction of income devoted to energy bills) are double those of non-low-income households -- and often much higher. Because they live on an economic edge, one costly event -- a health emergency or major car repair, for instance -- is an economic catastrophe. Low-income consumers are finding it increasingly difficult to afford their energy bills due to both (a) volatile but generally increasing energy prices and (b) continued pressure on their incomes. Low-income households are particularly unable to accept economic risk, particularly in the current economic emergency.

The Network, its member agencies, and their clients are thus substantially interested in this rulemaking. Not only because the energy efficiency, weatherization, education, assistance, and counseling services The Network and its members offer and implement are affected by the outcome of this rulemaking, but especially because their clients depend on these services and the net price to them of electric energy.

Community shared solar can play a critical role in making energy, and thus life, more affordable for low-income consumers. At stake are the level of utility bills after offsets of solar energy and the consequent levels of payment assistance needed.

LOW-INCOME PRINCIPLES

The Network has installed a small number of residential solar systems under Department grants; however The Network is not a solar developer. These comments are written solely from the low-income economic point of view described above.

Underlying our comments are these principles:

1. The Commonwealth's solar energy program should be designed to extend the benefits of solar energy to every low-income household in Massachusetts, not just to a lucky few, and on terms more favorable than those extended to their non-low-income neighbors.
2. The low-income solar benefit should be meaningful. The Network suggests the ultimate goal for this benefit should be 50% of low-income electric energy bills, or an average of about \$500 per year based on current bills.
3. To accomplish the foregoing goals, the cost of delivering low-income solar should be minimized, including by maximizing economies of scale and minimizing customer transaction costs.
4. There should be no cost or risk to low-income customers.

Based on these principles, the Network makes these two recommendations with respect to the Emergency Regulations (225 CMR 20.00, Massachusetts Renewable Target Program):

- A. The Low-Income set-aside should be commensurate with the low-income share of the electric load in the Commonwealth.
- B. The definition of “low-income” should be crafted in a way that it identifies electricity customers who are currently low-income.

ARGUMENT

- A. The Low-Income set-aside should be commensurate with its share of the electric load in the Commonwealth.

Less than three percent of SMART solar capacity has qualified as low-income under SMART rules (DOER September 5, 2019 proposal at slide 5). The proposed response is to establish a low-income set-aside of 5% of future project capacity (225 CMR 20.05(3)d).

By contrast, low-income electricity consumption is in excess of ten percent of total customer electric load (Annual Reports to the Department of Public Utilities of NSTAR Electric at 304), Massachusetts Electric at S12, and Fitchburg Electric at S12). *See* Green Communities Act, G.L. c.25, sec. 19(c) (“Electric and gas energy efficiency program funds shall be allocated to customer classes, including the low-income residential subclass, in proportion to their contributions to those funds; provided, however, that *at least 10 per cent* of the amount expended for electric energy efficiency programs ... shall be spent on comprehensive low-income residential demand side management and education programs.” Emphasis supplied.) Since energy efficiency funding consists of customer contributions that are based on kWh consumption, the Green Communities Act thus provides for benefits that are proportional to consumption.

Consistent with the Green Communities Act, the low-income set-aside should be at least ten percent, applied on a statewide basis to include projects already funded. Therefore the set-aside provision should be revised as follows:

Set-aside for Low Income Community Shared and Low Income Property Solar Tariff Generation Units. Each Capacity Block, ~~starting with the first full capacity block after the Publication Date,~~ shall have a minimum of ~~10~~ 5% of its total available capacity reserved for Low Income Community Shared and Low Income Property Solar Tariff Generation Units.

- B. The definition of “low-income” should be crafted in a way that it identifies electricity customers who are currently low-income.

The proposed regulation defines a low-income customer with respect to income, rather than other characteristics (225 CMR 20.02, Definitions):

Low Income Customer. An End-use Customer that is on a low-income discounted rate of a Distribution Company or a resident in a Low Income Eligible Area.

Low Income Eligible Area. A neighborhood, as identified through American Community Survey data, that has household income equal to or less than 65 percent of the statewide median income for Massachusetts.

The Network appreciates this step in the right direction. However, the proposed regulation includes a definition of income in terms of the median income of geographical areas rather than by individual household, thus including within its definition many households that are not low-income by any reasonable definition. The geographical part of the definition also fails to include many low-income households by encouraging a geographical approach to marketing which will exclude many areas with low-income households.

In fact, it is possible under the Proposed Regulations to build “low-income projects” that serve no low-income customers at all. The concern is three-fold: (1) The definition depends on U.S. Census American Community Survey (ACS) data by “neighborhood,” a term that is nowhere defined, including by the ACS; (2) the stated intention in the proposed Guideline (Guidelines Regarding Low Income Generation Units, promulgated May 18, 2020, no. 2) is to rely on a map based on ACS data from 10 years ago (interactive map developed through MassGIS that is available at: http://maps.massgis.state.ma.us/map_ol/ej.php, based on “Environmental Justice populations 2010”), subsequent to which median incomes have changed by as much as 57%; and (3) any definition based on the median income of a geographic area fails to identify individual households that are low-income.

Fortunately, an up-to-date household-specific definition of low-income is easily at hand, and already referenced in the proposed regulation. About 260,000 individual low-income households have been identified by Massachusetts electric utilities as Low-Income Discount Rate (R-2 and R-4) customers. (Utility reports to the Department of Public Utilities). There is therefore no reason not to use up-to-date household-specific information. Therefore, the definition of Low Income Eligible Area should be deleted and the definition of Low Income Customer should be revised as follows: An End-use Customer that is on a low-income discounted rate of a Distribution Company ~~or a resident in a Low Income Eligible Area.~~

1. “Neighborhood” is not defined

The proposed regulation does not define “neighborhood,” leaving open the possibility of a project developer defining neighborhoods as anything from Census tracts to zip codes to entire Cities or towns. The ACS itself does not publish data by any area it describes as a neighborhood.

2. Proposed Census income data are ten years out-of-date

The proposed Guideline does suggest a specific map of what appear to be Census tracts or blocks. However, the map identifies these data as from the U.S. Census of 2010, a full decade ago. U.S. Census data show that the rate of home movement is inversely correlated with income -- the annual rate of movement is 62% higher for low-income households than for others. (14.1% v. 8.7% in the year 2018 to 2019; <https://www.census.gov/data/tables/2019/demo/geographic-mobility/cps-2019.html>, Tables 1, 15). For that and other reasons, substantial changes in median

incomes by community have occurred in the past decade. (US Census data at <https://www.census.gov/ctps.org/node/3280>)

For example, in 25 cities and towns median income rose by more than 20% just between 2010 and 2015. Thus areas with low-income residents ten years ago have proportionately fewer low-income households in 2020. These cities and towns include:

Cambridge, +22%
North Reading, + 28%
Lynnfield, + 36%
Tolland +57%

On the other hand, in ten towns the median income has dropped by at least 20%. These communities may have proportionately more low-income households in 2020 than they had in 2010. These towns include:

Nahant, -20%
Marion, -24%
Wellfleet, -21%

Thus, the use of ten-year-old data to define low-income is arbitrary and inaccurate. Areas where median income has increased will appear to have lower incomes than they actually have, while areas where median income has decreased will appear to have higher incomes than they actually have. Updating to the 2020 Census, when available, will have questionable validity in this respect since residences (particularly of students) and economic conditions on the Census date – April 1, 2020, near the beginning of the current pandemic – are not likely to be representative of current conditions even one year later. Up-to-date household-specific income is a considerably more accurate indicator of low-income.

3. Geographical income data are inherently imprecise.

To state the obvious, in a geographical area where the median household income is set as the definition of low-income, half the households in the area have incomes above low-income. Thus defining low-income geographically assures that non-low-income households will be encompassed in the definition of low-income, which substantially dilutes any well-intentioned targeting of low-income households for solar benefits. But that only begins to describe the unfairness of a geographic definition of low-income.

To illustrate the perverse possibilities, consider the Town of Watertown (zip code 02472), based on 2015 Census data: (<https://www.unitedstateszipcodes.org/02472/>, except where otherwise noted; five-year data.)

- Median household income, \$87,775, 28% higher than Massachusetts median (Census data at <https://www.census.gov/ctps.org/node/3280>)
- 60% of state median income (Fuel Assistance maximum eligibility), household of 2, is \$43,319; household of 3, \$53,511 (for year 2015-2016, National Grid, [gas_fuel_assistance_ma_bill-insert.pdf](#))

- Watertown households with income below \$44,999: 23%

Thus, in a town with median income 28% higher than the Commonwealth's, about a quarter of households may be defined as low-income. However, an income screening system based exclusively on geography would exclude these households and deny them low-income solar benefits. A definition that encouraged marketing based on geography would have a similar effect. Focusing on smaller geographic units, such as Census tracts, would probably reduce the size of this inequity, but the point of this illustration is that the only way to eliminate the inequity altogether is to consider income currently and at the household level.

Similarly, consider the area around Kenmore Square in Boston (zip code 02115) (sources same as above):

- Median household income, \$27,134, 40% of Massachusetts median
- Average household income, \$113,500, 66% higher than Massachusetts median
- Households with income below \$44,999, 63%
- Sample two-bedroom rent, \$7200 per month (Zillow.com. accessed April 24, 2020), 26% higher than Massachusetts median *income*

Thus, in an area with median income well below the state median, almost two-thirds of the households have incomes that qualify as low-income. However, average household income is well above the Massachusetts median, and many pay rents to match. But these households, about a third of the total, would qualify as low-income under the proposed definition.

Geography is a poor test of income.

4. Precise and up-to-date household specific income information is readily available.

As noted, there is an easily accessible, up-to-date, and household-specific definition of low-income that is already referenced in the proposed regulation. About 260,000 individual low-income households have been identified by Massachusetts electric utilities as Low-Income Discount Rate (R-2 and R-4) customers (electric utility reports to the Department of Public Utilities, 2019 average through December). All have current household incomes at or below 60% of the state median income, rigorously certified by agencies administering the federal Low Income Home Energy Assistance Program (LIHEAP) or by agencies of the Commonwealth administering other low-income benefit programs (G.L. c. 164, sec. 1F(4)(i):

... Eligibility for the discount rates established herein shall be established upon verification of a low-income customer's receipt of any means tested public benefit, or verification of eligibility for the low-income home energy assistance program, or its successor program, for which eligibility does not exceed 200 per cent of the federal poverty level based on a household's gross income. Said public benefits may include, but are not limited to, assistance which provides cash, housing, food, or medical care, including, but not limited to, transitional assistance for needy families, supplemental security income, emergency assistance to elders, disabled, and children, food stamps, public housing, federally-subsidized or state-subsidized housing, the low-income home energy assistance program, veterans' benefits, and similar benefits. ...

* * *

In a program year in which maximum eligibility for the low-income home energy assistance program, or its successor program, exceeds 200 per cent of the federal poverty level [now 60% of state median income], a household that is income eligible for the low-income home energy assistance program shall be eligible for the low-income discount rates required by this subparagraph.

* * *

The Department recognizes that low-income customers have rarely been able to obtain the economic benefits of solar energy benefits. Setting aside a portion of solar benefits for low-income customers is a very positive step. It should not be diluted by defining low-income in a way that includes households that are not in fact low-income. Nor should it be diverted by a definition that encourages geographical marketing that not only encompasses non-low-income customers but also excludes areas where many low-income households live.

The definition of low-income customers should be limited to customers already identified as Low Income Discount Rate customers.

CONCLUSION

For all these reasons, the Low-income Weatherization and Fuel Assistance Program Network urges the Department to amend its Emergency Regulations (225 CMR 20.00) to (a) increase the low-income set-aside in section 20.05(3)(d) to at least 10% of total SMART investment, and (b) to delete the geographical definition of low-income in Section 20.02, leaving only enrollment in a Low Income Discount Rate (R2 or R4) as the defining criterion.

Respectfully submitted,

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