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Solar Massachusetts Renewable Target (SMART) Program Emergency Rulemaking  
Massachusetts Department of Energy Resources

## Comments of Arcadia on SMART Emergency Rulemaking

Thank you for the opportunity to provide comments as part of the SMART Emergency Rulemaking. Massachusetts is a global leader in solar development, and the state's emphasis on continuous improvement and incorporating stakeholder feedback are commendable and result in a cleaner, more accessible, and resilient energy sector for all residents.

Below we provide an overview of Arcadia's extensive experience working in the energy sector across the United States and specifically in Massachusetts; an introduction to our recommendations; and specific recommendations on how DOER can further refine the SMART program.

### Background

Founded in 2014, Arcadia is the first nationwide digital energy services platform. Our job is to connect residential utility customers with clean energy while helping them save money. Depending on the local market structure, we provide a number of services to our customers, including renewable energy credit purchasing, retail supply brokerage, and community solar. We currently have more than 400,000 customers, spread across all 50 states, including more than 16,200 in Massachusetts.

Arcadia is the market leader in managing residential community solar subscriptions. We have more than 23,000 customers signed up to join community solar projects across DC, CO, IL, MA, MD, NY, and RI, and more than 200 MW of community solar projects under management, with 50 MW in operation and already providing savings to subscribers.

We have developed the most consumer-friendly approach to community solar in the market, providing a simple, two-minute sign-up with guaranteed savings, no credit checks, and no cancellation fees. Our proprietary software includes algorithms that automatically match customers to projects, manage churn replacement, optimize allocations across every subscriber, and check for billing errors, every month, to ensure full subscription rates without imposing any risk on the customer.

### Introduction

The Solar Massachusetts Renewable Target (SMART) Program is a nation-leading solar energy development program. DOER's emergency rulemaking process provides an opportunity to further expand and improve the program. Arcadia applauds DOER for expanding the SMART

program size to 3,200 MW. This reaffirmed and strengthened commitment to solar energy development at such a critical time will deliver positive reverberations throughout the industry for years to come.

We understand issues involving land use; adder and subtractor modifications; and requirements around the incentive payment effective date are attracting considerable attention and generally agree with the views of project developers and sponsors on these issues. Given Arcadia's uniquely close relationship with residential customers and the associated insights we have learned directly from them, our comments are focused on issues that can substantially improve the customer experience with community solar.

DOER should leverage the emergency rulemaking process to pave the way for better customer terms, improving the customer experience, and ultimately strengthening the community solar market. We are providing a summary of our suggestions here, which are all detailed in the Recommendations section below:

- **Embrace prudent, flexible disclosure processes:** Enhance the customer disclosure form process by allowing for practical flexibility in how disclosures are presented to and accepted by customers; provide an alternative customer disclosure form that allows for flexibility on the specific project to which a customer will be assigned so long as material terms (such as any fees, savings, term length, cancellation provisions) are identical.
- **Increase Subscriber Allocation update frequency:** Increase the frequency with which distribution companies must update project subscriber allocations.
- **Specify Low income eligible areas:** We strongly support DOER's decision to expand the definition of a low income customer. To make this expanded definition actionable and unambiguous, we suggest census tracts be included as an acceptable definition of neighborhoods for determining low income eligible areas.
- **Qualify projects for full compensation by the Commercial Operation Date (COD):** Move up the timeline for Large Incentive Claims to be processed before COD to allow sites to operate as a qualifying facility (QF) or alternate on-bill credit (AOBC) immediately on COD.

## Recommendations

### Embrace prudent, flexible disclosure processes

Customers are most likely to sign up for and stay subscribed to a project if they are provided important, accurate information in a way they can accept without undue burden.

DOER should ensure that all community solar project subscribers receive necessary information, and that processes for providing that information do not inadvertently block participation with unnecessary hurdles. DOER would benefit consumers with increased flexibility around customer disclosure form processes, execution, and acceptance. We are convinced that these process changes are possible while still ensuring that customers have the same protections granted under the current process.

As it exists today, the DOER disclosure form acceptance process makes it difficult for interested consumers to complete their enrollment in a community solar project. This will in turn make it more difficult to keep projects fully subscribed, which provides a perverse incentive for developers to restrict subscribers' ability to leave or switch projects - an anti-consumer outcome.

DOER can also improve the forms themselves. Model disclosure forms provide a straightforward way for market participants to comply, but consumers would benefit from other approaches that meet the same objectives. DOER should retain standard model disclosure forms but provide the opportunity for market participants to obtain approval of modifications to the standard disclosure form and allow for a variety of ways for customers to accept them.

Changes to this process that retain DOER's desired customer protections while increasing flexibility include:

1. DOER should pre-approve any alternate method for the display and acceptance of the disclosure form if the following three criteria are met which ensure that the customer receives and accepts DOER's desired disclosure:
  - a. An affirmative action is required for the customer to acknowledge receipt of the disclosure form. This action should be verifiable, with documentation that can be presented to DOER upon request, such as an electronic record of acceptance.
  - b. A link to read or download the disclosure form is clearly and conspicuously displayed for the customer's review.
  - c. A legally valid electronic signature<sup>1</sup> method is used by the customer to accept the disclosure form.

If these three requirements are met, the disclosure process is robust, and the agency can be confident that it has provided the desired level of consumer protection while also ensuring a well-functioning market for community solar in Massachusetts.

We believe the current customer disclosure form acceptance process presents an unnecessary barrier to customer acquisition, as it does not reflect current technology or customer expectations for disclosure. DOER should give providers the option to receive pre-approval for a substantively equivalent process.

2. DOER should produce an alternative disclosure form that allows for acknowledgement that the subscriber's specific provider and project will be selected and communicated at a later date (and otherwise matches the initial standard form). The flexibility to determine the customer's specific provider and project at a future time is in the best interest of both the customer and overall program efficiency, as it enables customers to be matched to projects only once timelines are more certain. As a result, customers who sign up earlier can be provided with greater assurance that they will also begin receiving benefits earlier and are not subject to development risk on receiving their benefits. The New York Department of Public Service authorizes such practices for Community Distributed Generation (CDG) projects, and allows for customers to be assigned to a specific project after accepting the customer disclosure form. Per the CDG customer disclosure form's instructions, "If the customer has not been assigned to a specific project at the time the form is provided, the customer must be contacted when the customer is assigned to the project and provided information on the project location, the final allocation, and the expected in-service date."<sup>2</sup> The solar development process and timeline comes with a degree of uncertainty, and this approach would therefore help connect customers on a first-come, first-served basis, as opposed to tying customers to one specific project.

<sup>1</sup> See, e.g., 15 U.S.C. § 7001 et seq. (Federal ESIGN Act).

<sup>2</sup> Distributed Energy Resource Regulation and Oversight, New York Department of Public Service. CDG Disclosure Form and CDG Disclosure Form instructions: <http://www3.dps.ny.gov/W/PSCWeb.nsf/All/EAB5A735E908B9FE8525822F0050A299?>

Such an approach exists in other states. For example, the Maine community solar regulations simultaneously create a standard disclosure form and delegate authority to Commission staff to approve modifications of the form.<sup>3</sup> In Fact, the Maine Public Utilities Commission approved our modified disclosure form in April 2020.<sup>4</sup> DOER should follow this model to ensure that the market is a success.

To fix this, changes to the SMART program need to be made to three sections of the SMART rules: 20.06(1)B4, 20.06(1)F2, and 20.06(1)H2. Below we have redlined each of these sections to include these updates:

#### **20.06(1)B4**

4. Customer Disclosure Form. Prospective Solar Tariff Generation Units with a capacity of 25 kW or less must submit a copy of a customer disclosure form signed by the Owner as part of its Statement of Qualification Application. **Two**The customer disclosure forms will be developed by the Department, **one listing a single project provider and the other allowing for the provider and project to be communicated at a later date or alternatively listing a schedule of potential providers**, to provide consumer information including, but not limited to, contract pricing for the length of the agreement, complete system cost information, operation and maintenance responsibilities, disposition of associated RECs and tariff terms, and anticipated production. If the Solar Tariff Generation Unit Owner is a Third-Party Owner, the form must be signed by the Customer of Record. **DOER pre-approves alternate methods for the display and acceptance of the disclosure form if the following three criteria are met, which ensure that the customer receives and accepts DOER's desired disclosure:**

- a. **An affirmative action is required for the customer to acknowledge receipt of the disclosure form. This action should be verifiable, with documentation that can be presented to DOER upon request, such as an electronic record of acceptance.**
- b. **A link to read or download the disclosure form is clearly and conspicuously displayed for the customer's review.**
- c. **A legally valid electronic signature method is used by the customer to accept the disclosure form.**

#### **20.06(1)F2**

2. The Owner or Authorized Agent of a prospective Low Income Community Shared Solar Tariff Generation Unit must submit a copy of a customer disclosure form signed by each Customer of Record receiving electricity or bill credits generated by the Low Income Community Shared Solar Tariff Generation Unit as part of its Statement of Qualification Application, with the exception of those participants receiving bill credits in excess of those produced annually by 25 kW of nameplate capacity. **DOER pre-approves methods for the display and acceptance of the disclosure form if the following three criteria are met, which ensure that the customer receives and accepts DOER's desired disclosure:**

<sup>3</sup> Maine Public Utilities Commission, Chapter 313 of the PUC Rules: Customer Net Energy Billing, Page 13: <https://www.maine.gov/mpuc/electricity/renewables/documents/Chapter313NEB.pdf>

<sup>4</sup> Maine Public Utilities Commission, Order Approving Modification of Standard Disclosure for Net Energy Billing: <https://mpuc-cms.maine.gov/CQM.Public.WebUI/MatterManagement/MatterFilingItem.aspx?FilingSeq=106680&CaseNumber=2019-00197>

- a. An affirmative action is required for the customer to acknowledge receipt of the disclosure form. This action should be verifiable, with documentation that can be presented to DOER upon request, such as an electronic record of acceptance.
- b. A link to read or download the disclosure form is clearly and conspicuously displayed for the customer's review.
- c. A legally valid electronic signature method is used by the customer to accept the disclosure form.

TwoThe customer disclosure forms, will be developed by the Department, one listing a single project provider and the other allowing for the provider and project to be communicated at a later date or alternatively listing a schedule of potential providers, to provide consumer information including, but not limited to, contract pricing for the length of the agreement, complete system cost information, operation and maintenance responsibilities, disposition of associated RECs and tariff terms, and anticipated production. The Low Income Community Shared Solar Tariff Generation Unit Owner or Authorized Agent must provide updated customer disclosure forms for any new Customers of Record that receive electricity or bill credits generated by the Low Income Community Shared Solar Tariff Generation Unit after it is granted its Statement of Qualification. These updates must be provided annually by no later than December 31st.

#### **20.06(1)H2**

2. The Owner or Authorized Agent of a prospective Community Shared Solar Tariff Generation Unit must submit a copy of a customer disclosure form signed by each Customer of Record receiving electricity or bill credits generated by the Community Shared Solar Tariff Generation Unit as part of its Statement of Qualification Application, with the exception of those participants receiving bill credits in excess of those produced annually by 25 kW of nameplate capacity noted in 20.06 (1)(i)1. TwoThe customer disclosure forms will be developed by the Department, one listing a single project provider and the other allowing for the provider and project to be communicated at a later date or alternatively listing a schedule of potential providers, to provide consumer information including, but not limited to, contract pricing for the length of the agreement, complete system cost information, operation and maintenance responsibilities, disposition of associated RECs and tariff terms, and anticipated production. DOER pre-approves methods for the display and acceptance of the disclosure form if the following three criteria are met, which ensure that the customer receives and accepts DOER's desired disclosure:

- a. An affirmative action is required for the customer to acknowledge receipt of the disclosure form. This action should be verifiable, with documentation that can be presented to DOER upon request, such as an electronic record of acceptance.
- b. A link to read or download the disclosure form is clearly and conspicuously displayed for the customer's review.

A legally valid electronic signature method is used by the customer to accept the disclosure form. The Community Shared Solar Tariff Generation Unit Owner or Authorized Agent must provide updated customer disclosure forms for any new Customers of Record that receive electricity or bill credits generated by the Community Shared Solar Tariff Generation Unit after it is granted its Statement of Qualification. These updates must be provided at least annually by no later than December 31st.

#### Increase Subscriber Allocation update frequency

Our experience shows that customers are better off when they can enjoy the benefits of a community solar subscription without lock-in contracts or early termination fees. As the SMART

rules are written, however, that is not feasible for Massachusetts residents. This is because the existing rules only allow subscriber allocations to be updated twice a year.

The subscriber allocations consist of two core data points: 1) identifying information for the subscribers participating in a community solar project, and 2) the percentage of the project's generation that is allocated to each of those subscribers. For projects participating in the SMART program, these subscriber allocations are updated on the Schedule Z form for net metered projects and the AOBC Payment/Credit Form for AOBC projects. Existing program rules prevent these forms from being updated more than twice a year.

Allowing for more frequent updates would remove major obstacles for customers who wish to join community solar programs. Because currently, project sponsors can update subscriber lists only twice a year, they require long term contracts and impose early termination fees to hedge the risk of a customer exiting the project with many months elapsing before a replacement can be submitted. This is fundamentally against the entire purpose of community solar – to allow customers to participate who may not be permanently tied to a single residence. While creating a negative experience for all customers, these practices disproportionately dissuade low income customers from participating for whom cancellation fees may pose a greater risk and who may have less ability to predict for how long they will remain in the same location, which is in direct confrontation with the SMART Program's emphasis on increasing low income customer participation. Allowing for more frequent updates would significantly improve customer experience and improve public support for and the accessibility of the SMART program.

We understand utilities may be concerned with the cost of manually updating subscriber allocations or implementing an automated system to process more frequent updates. However, every other state that has a third-party community solar program allows more frequent updates. New York; Maryland; Washington, DC; Illinois; Colorado; and soon to be Maine all allow subscriber allocations to be updated on a monthly basis. In fact, we understand that Ameren in Illinois is allowing essentially real-time updates, providing bill credits on a pro rata basis according to the specific day that one subscriber leaves and is replaced by another. It is reasonable to expect the Massachusetts utilities to meet the same standard and update these allocations at a minimum frequency of every month as well.

The Massachusetts Office of the Attorney General (AGO) filed a brief before the Department of Public Utilities (DPU) noting this very problem in April 2018. In their brief, the AGO stated that, "The restriction on the number of times per year that the Payment/Credit Form can be changed makes it difficult for project sponsors to keep projects fully subscribed and creates barriers for customers who wish to end their contracts in a timely manner." The AGO went so far as to recommend that, "Distribution Companies be required to amend the proposed SMART Provision to allow for monthly changes to the Payment/Credit Form."<sup>5</sup> We concur with the AGO and believe this is a reasonable requirement for utilities, which provides significant benefits to customers.

DOER should amend the SMART Rules to require utilities to update subscriber allocations every month, at a minimum. Being able to update allocations every month significantly reduces the risk on project sponsors and ultimately reduces the burden on customers who wish to move

<sup>5</sup> Massachusetts Attorney General's Office, Initial Brief, April 23, 2018. Re: Joint Petition of Massachusetts Electric Distribution Companies for Approval of Model Solar Massachusetts Renewable Target (SMART) Program Tariff, D.P.U. 17- 140  
<https://fileservice.eea.comacloud.net/FileService.Api/file/FileRoom/9164332>



or terminate their participation in a community solar project. With monthly updates, effective subscriber managers can ensure interested customers can access the benefits of community solar projects without long term contracts or early termination fees.

To make this improvement, DOER should insert a paragraph after 20.05 (6) Reporting Requirements to be as follows:

(7) Subscriber Allocation updates Minimum Requirements

Distribution Companies shall update subscriber allocations through the Schedule Z form for net metered projects and the AOBC Payment/Credit Form for AOBC projects every month, at a minimum. Any Distribution Company that agrees to process updates more frequently is allowed to do so.

Specify Low Income Eligible Areas

Through our work acquiring subscribers, we have also learned that when it comes to verifying low income status, less intrusive means provide a better customer experience. To that end, Arcadia supports DOER's updated definition of "Low Income Customer" to include a resident in a Low Income Eligible Area with minor clarification.

This will allow for less intrusive means to determine whether a customer meets the Low Income Customer definition. While the updated rules define a low income eligible area as, "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," it is not clear what specifically constitutes a neighborhood. The United States Census Bureau's American Community Survey data uses multiple statistical areas to define neighborhoods. Among these statistical areas, census tract data is straightforward, granular, and can be determined without undue burden, when compared to others, including county subdivisions and block groups.<sup>6</sup> DOER should include Census Tracts in the definition of Neighborhoods, and a Census Tract that has a median household income equal to or less than 65% of the statewide median income for Massachusetts should be considered a low income eligible area. The best way to solve this would be to modify the definition of Low Income Eligible Area in Section 20.02 Definitions as noted in this redlined version:

Low Income Eligible Area. A neighborhood, determined by census tract statistical areas 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.

Qualify projects for full compensation at COD

Our experience with customers has shown that the sooner customers can receive financial benefits from a project the happier they are with their subscription and the less likely they are to terminate it.

<sup>6</sup> United States Census Bureau, *Understanding and Using American Community Survey Data*, July 2018, Page 8:  
[https://www.census.gov/content/dam/Census/library/publications/2018/acs/acs\\_general\\_handbook\\_2018.pdf](https://www.census.gov/content/dam/Census/library/publications/2018/acs/acs_general_handbook_2018.pdf)

As the SMART program operates today, it can take as long as two months after the project commercial operation date (COD) to receive full compensation as a QF or an AOBC generating unit. This lag increases subscriber attrition and deteriorates customer support for the program.

DOER should reorient the order of operations for new projects to allow Large Incentive Claims to be submitted and processed one to two months before COD. This would enable DOER and the utility to review the claims and address all concerns before COD. Projects would then be eligible for QF or AOBC status as soon as they are energized.

Reordering the above will allow projects to receive full compensation on COD, resulting in community solar subscribers receiving their full compensation as soon as possible. This will improve the customer experience with community solar projects and reduce project attrition.

## **Conclusion**

DOER's SMART emergency rulemaking is a significant step forward for solar development in Massachusetts. To improve the customer experience, we strongly recommend DOER take action to increase flexibility around the customer disclosure form processes; create a customer disclosure form that includes a schedule of potential providers and system information; ensure project subscriber allocations can be updated monthly, at a minimum. We also urge DOER to use Census Tract data for determining low income eligible areas, and allow projects to operate as QFs or AOBC on COD.

We appreciate the opportunity to provide these comments and look forward to continue working together. Please don't hesitate to contact James Feinstein at [James.Feinstein@arcadia.com](mailto:James.Feinstein@arcadia.com) or 202 999 8916 if you would like to discuss these matters further.

Sincerely,

/s/ James Feinstein

James Feinstein  
Policy Manager  
Arcadia