

June 1, 2020

**Massachusetts Department of Energy Resources
100 Cambridge Street, Suite 1020
Boston, MA 02114**

Re: 225 CMR 20.00 SMART Emergency Regulation Changes

I. Introduction

Ampion is a third-party service provider for Community Shared Solar ("CSS") developers in the Commonwealth. Ampion provides customer acquisition, billing and payment, customer care, and portfolio management services to facilitate the deployment and management of CSS projects.

Ampion has supported CSS assets in the Commonwealth since 2014. As of the time of this filing, Ampion supports some of the only operational (understood here to mean producing credits) SMART CSS assets. This affords us the unique position to comment on many operational elements of the SMART program, which we assert warrant due attention as part of DOER's 400 MW review and subsequent emergency regulations. Without proper consideration of these operational realities as part of this rulemaking, DOER will miss the opportunity to prevent needless harm to developer revenues, CSS subscribers, and the SMART program as a whole.

We acknowledge that the nature of our requests may fall out of the traditional scope of DOER's regulatory activities. However, we assert that, due to the disproportionately large impact these operational factors have on the success of the CSS program, they warrant consideration from a rulemaking standpoint.

Ampion thereby makes the following comments in the spirit of preventing early stage problems, brought on by both the advent of the SMART program as well as intrinsic to the CSS paradigm, from creating larger challenges to the CSS market as the sector scales.

II. Inability to Elect to Bank AOBCs at the STGU Meter

Currently, the SMART tariffs in effect for all distribution companies allow for banking of unsubscribed generation for AOBC generation units in the event that subscriber accounts close unexpectedly. However, recent conversations with the distribution companies have revealed that developers may not choose to bank unsubscribed generation in the event of under-subscription of the asset, citing the tariff requirement that allocation forms must total 100.00%. This is harmful for two primary reasons:

- Subscribers who wish to cancel but cannot be immediately replaced by the solar developer must either remain on the site, receiving credits that they cannot or do not wish to pay for;
- If subscribers who have cancelled are removed from the asset, but cannot otherwise be replaced, the developer is forced to increase allocations for the remaining subscriber base. This leads to over-crediting and often over-billing, causing subscribers to pay more for their electric bill than they would have without a community solar subscription. This is because developers have no insight into what credits are banked versus what credits are applied to the customer bills each month, nor do they have any insight into monthly customer usage or spend. Developers are therefore only able to bill based on the total volume of credits that were generated on behalf of that subscriber in a particular month, the value of which may far exceed their utility invoice.

In either case, subscribers are harmed, and developers risk revenue loss. Particularly in times of economic uncertainty, such as the current COVID-19 crisis, many subscribers cannot afford to pay more than their anticipated utility spend. This economic uncertainty is far from limited to the present circumstances, especially when given the 15-year contract lifetime of many SMART assets. Therefore, Ampion requests that DOER propose new language to 225 CMR 20.00 that requires developers to update AOBC allocation rosters at least quarterly, preferably monthly. This will ensure that CSS developers maintain an active and engaged relationship with their subscriber base, while also providing relief for the customer cancellation issues described in this section. If the subscriber base has not changed since the last quarter or month, the CSS developer need only indicate to the utility as much in writing.

III. Increasing Permissible Allocation Updates from Twice per Calendar Year

Massachusetts, despite leading the nation with one of the largest community solar programs, lags behind in program administration for its CSS crediting programs. Neighbor state New York allows for monthly updates to CSS subscriber lists, while Minnesota and Maryland allow for changes even more frequently. This rule has persisted across both iterations of the CSS program (i.e., both Net Energy Metering and AOBC) and needs to be changed in order to better serve the CSS constituency.

Much like the concerns with the inability to bank AOBCs outlined in section II, this rule has a disproportionate impact on consumers in the commonwealth who wish to participate in CSS, as well as developers who seek not only to ensure adequate revenues but to avoid customer harm. The ability to add and remove subscribers from a CSS asset under the AOBC paradigm is a fundamental element of program administration. Without this flexibility, subscribers who wish to cancel must remain on the site, and either continue to pay their CSS provider for credits they no longer wish to receive, or simply stop paying and deprive the CSS provider a significant portion of their revenues.

Ampion acknowledges that this is largely a concern with tariff language, and that DOER has no jurisdiction over current NEM operations or distribution company tariffs, nor the AOBC tariffs on file with the Department of Public Utilities (“DPU”); however, given DOER’s jurisdiction over the SMART program via 225 CMR 20.00, we strongly urge DOER to consider language that will support more effective interpretation of this issue at the tariff level.

IV. Provide Clarity on the Overlay between CCA and CSS Programs

Ampion seeks clarity and explicit language guiding the mechanisms of Community Choice Aggregation (“CCA”) and CSS integration. We acknowledge and appreciate the initiative DOER is striving towards by providing explicit authorization for the otherwise symbiotic combination of CCA and CSS initiatives, such as those we have seen in with the CCA and Community Distributed Generation (“CDG”) programs in New York State.

However, we assert that the guidance set forth in the proposed modifications to 225 CMR 20.00 is not sufficient to accommodate for the broad spectrum of complex policy implications of a combined CCA and CSS offering. Rather than allowing ambiguity to remain in this language as

a means of facilitating broader operational interpretations by distribution companies and the DPU, DOER should take a greater stance in establishing structural policy for this program. If implemented, it could easily accelerate community solar by a factor not previously accomplished with traditional incentives, such as the Solar Renewable Energy Certificate (“SREC”) and SMART programs, due to the incredible efficiency the CCA paradigm affords CSS through trusted municipal engagement and waiver of certain consumer protection barriers.

Specifically, Ampion requests that DOER give further consideration, and explicit structure via language modifying 225 CMR 20.00, to the following CCA-CSS topics:

- The most efficient way to transact large amounts of data with distribution companies for CSS enrollments and potential cancellations associated with the CCA offering;
- Language mandating that certain efficiency thresholds be met by the utilities prior to
- Explicit understanding of how CCA will overlay CSS when generation is distributed as credits versus actually sold to subscribers, as well as how CSS is to be distinguished from traditional competitive supplier offerings in the latter scenario;
- Whether or not CSS participation as part of a CCA will occur on an “opt-in” basis, wherein customers must elect to be part of the program, or “opt-out” basis, wherein customers must only take action if they wish to be excluded from the offering (as occurs in today’s traditional CCA model);

In the event that the above considerations extend beyond the initial scope of DOER’s modifications to 225 CMR 20.00 as part of the 400 MW review, Ampion urges DOER to convene stakeholder working groups prior to the implementation of tariff changes to accommodate this paradigm. This will ensure that unforeseen circumstances are unearthed and discussed prior to codification of procedures in distribution company tariffs, which may prove difficult to change in the event that they are incompatible with operational realities of this new paradigm.

V. Conclusion

Ampion thanks DOER for the ability to submit these comments and for their continued work on improving the SMART program.

Sincerely,



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