

June 1, 2020

Dept. of Energy Resources
Attn: Kaitlin Kelly
100 Cambridge Street, Suite 1020
Boston, MA 02114

RE: "SMART Public Comment"

Sent VIA email attachment to DOER.SMART@mass.gov

Dear Dept. of Energy Resources,

CVE North America submits the following comments on the modified Solar Massachusetts Renewable Target ("SMART") program. CVE North America has invested significantly in renewable energy in MA. CVE North America is bringing clean energy, and good paying jobs to Massachusetts. We have invested based on the SMART program regulations, and that investment and our continued work in the Commonwealth are at risk based on recently promulgated modifications to the SMART program.

The additional capacity of 1,600 megawatts is very much appreciated. However, the program goals a transition to clean energy which cannot be fulfilled without additional changes. To reach the Commonwealth's 2050 net-zero carbon reduction goals established by the Baker-Polito Administration and the 2019 Brattle Group Study¹ we will need significant modifications to the SMART program.

1. WITH SPECIFIC REGARD TO INCORPORATING NEW LAND USE RESTRICTIONS:

- A. BioMap2 was not designed or intended to be used as on a parcel level. It is merely a conservation mapping tool with *no regulatory function*
- B. BioMap2 is not accurate to individual parcels, or partial parcels because it was primarily created using desktop computer modeling. Biologists acknowledge that some land areas

¹ Report available at:

https://brattlefiles.blob.core.windows.net/files/17233_achieving_80_percent_ghg_reduction_in_new_england_by_20150_september_2019.pdf

are incorrectly categorized by the modeling. Only a biologist in the field can provide a specific parcel level determination. In the case of the BioMap2, there is no provision for a landowner to challenge the model if it incorrectly falls onto their property.

- C. DOER is stepping outside of its delegated authority, and in fact giving at least some authority to a private organization -- The Nature Conservancy -- due to their influence in the modeling.
- D. Specific to 225 C.M.R. 20.05(5)(e)(7)(c)(3), which states: "Solar Tariff Generation Units sited on a parcel with 50% or more of its area designated as Priority Habitat, Core Habitat and/or Critical Natural Landscape, that do not meet the criteria of Category 1 Land Use."

This paragraph is particularly troublesome. Let's presume a parcel is 300 acres. If 150 or more acres falls within the shadow of BioMap2, the entire parcel is ineligible. This makes no sense; only a small portion of that parcel could be utilized based upon the 5 MW AC limitation. Why would the regulatory authority try to prohibit 10 acres from being utilized based on the rest of the parcel's designation? What if there are 10 acres that were previously developed, or brownfield, or have no redeeming habitat value?

Conclusion: DOER should delete BioMap2 and any link to "Priority Habitat," "Core Habitat" or "Critical Natural Landscape" provisions from SMART Regulations

2. GREENFIELD SUBTRACTOR

The emergency regulations also increase the "Greenfield Subtractor" by 2.5 times from its original level and eliminates the provision that creates an exception based on local laws. The Greenfield Subtractor will not achieve a policy goal of encouraging solar development on previously disturbed sites – it will effectively stymie most solar development and eliminate the jobs and local tax base associated with it.

Conclusion: DOER should eliminate the "Greenfield Subtractor" or at least strike the new revisions set in the Emergency Regulations

3. GRANDFATHERING MILESTONE

The milestone as proposed does not appropriately account for current conditions for project development. It would result in many projects, initiated under the old rules and with large amounts of sunk resources, failing with significant losses to company investment as well as lost jobs during a time of great economic stress. In addition to the revised greenfield subtractors, DOER is proposing to prohibit projects on certain land type (as discussed above), and project developers advanced many projects on those impacted parcels without any prior notice that exclusion from the SMART Program was a possibility.

DOER proposes allowing projects that have 1) obtained non-ministerial permits and site control as of the Publication Date, and 2) an executed interconnection service agreement (“ISA”) six months from the Publication Date of the emergency regulations to be grandfathered into the old rules. These provisions are not sufficient given the well-documented interconnection problems associated with distributed generation in the Commonwealth. Hundreds of MWs worth of solar projects have already been delayed in transmission studies, with some resolution timelines stretching out several years. The slow interconnection process has also pushed out the timeline to obtain non-ministerial permitting as many projects link non-ministerial permitting to Interconnection.

Recommendation: Any new restrictions should start with Block 9, and any projects that were in the Interconnection queue as of October 15, 2019 be allowed to continue under the old rules. All links to permitting for grandfathering should be removed, as non-ministerial permitting is an inaccurate judge of project development/readiness.

4. SMART BASE COMPENSATION DECLINE

The capacity blocks in SMART for projects larger than 25 kw in Eversource West, Massachusetts Electric (National Grid), and Unitil territories have filled quicker than the public, and I believe DOER could have imagined. The policy goal of the block rates falling in concert with development and equipment prices has been completely undermined. Base Compensation Rates for those territories have declined by over

30% percent, which is not in stride with development costs, labor rates, or materials and equipment. Moreover, costs of interconnection continue to rise. The current base rates are no longer adequate to encourage growth, and projects are becoming unfinanceable.

Recommendation: Due to changes in the market that were not foreseen 6-8 months ago, DOER should revisit and revise cost declines in the tariff and make them commensurate with market realities. Projects below Block 7 are no longer financeable.

5. COMMUNITY SOLAR

- A. As a result of the COVID-19 pandemic, several customer acquisition channels such as public events and door to door are now closed. CVE and its partners have also voluntarily halted telemarketing outreach in an effort to respect the tranquility of prospective customers in these uncertain times. Acquiring customers to be compliant with the 90% subscription rule by the Incentive Payment Effective Date has become challenging. While the six-month extension to SOQs granted by DOER is essential to help companies manage construction delays resulting from COVID, it does not solve the problem of significant revenue delays for project owners as they work to acquire customers in a COVID environment. It is critical that project owners are able to bring projects online as soon as possible to meet financing milestones and initiate revenue, and a grace period for the subscription requirement is a simple mechanism to help accomplish that.

CVE supports the proposition that projects be allowed to enter into service and then submit their Incentive Claim documentation demonstrating 90% subscription within 12 months. This grace period would allow projects to maintain their capacity block and off-taker adder tranche reservations, while delaying SMART payments until the full 90 percent threshold is met and properly documented.

- B. The current SOQ guideline requires applicants to provide an updated Off-taker list to the DOER annually by no later than December 31st. If the applicant does not submit said documents on time, the DOER may revoke their qualification to the Community Solar adder. In an effort to secure financing for community solar projects, it is crucial to have certainty that projects won't automatically lose their community solar adder if they

become uncompliant for a short period of time. CVE is committed to work with the DOER to remain in compliance with the program's requirements and provide documentation to prove compliance. However, losing the community solar adder after only one instance of non-compliance would leave community solar subscribers stranded and negatively impact those who rely on the savings provided by the program.

- C. The current regulation states that the off-taker list for community solar projects can only be changed twice per calendar year by sending a revised list to the utility. This restriction deprives solar developers from some much-needed flexibility to add or remove subscribers from the project as they default or request to leave. This also negatively impacts customer experience as subscribers' allocation cannot be modified at their request and according to their needs.

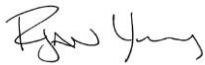
RECOMMENDATION: We request the off-taker list change frequency be increased to twelve times a year, similar to the New York Community Solar program where off taker list can be changed monthly.

Finally, we encourage DOER to act swiftly and responsibly:

1. **Impact of COVID-19.** DOER should consider the economic realities since Novel Coronavirus ("COVID-19").
 - a. **The Impacts on the Industry** - The pandemic has created havoc throughout the energy industry due to permitting challenges, supply chain delays, tightening of tax equity markets, and reduced homeowner and community solar subscriber demand. The impact on jobs in MA should not be overlooked.
 - b. **Jobs and Economic Recovery** – The Commonwealth is in a unique position to create economic and job growth through SMART. DOER already has the authority and the sophisticated framework for the program. **All the DOER and/or the legislature needs to do is fund it by reducing the restrictions and increasing the tariffs!**

2. **Leadership on Clean Energy and Climate Action.** The Commonwealth of Massachusetts has put itself in a position to be a leader on Clean Distributed Energy and Climate action. States, policy makers and developers alike look to MA as the leader to follow. Unfortunately, these regulations set the Commonwealth back significantly. Its not possible to move forward with clean energy with the SMART Emergency Regulations. The sum of the new provisions will grind the industry and our climate action progress to a near halt. We invite you to envision a SMART policy that is more than just a fancy framework – Please fund the program and make it usable so we can reach 3,200 MW together.

Yours sincerely,



Ryan Young,
CVE North America, Inc.