



Patrick Woodcock, Commissioner
Massachusetts Department of Energy Resources
100 Cambridge Street, 10th Floor

Comments of Vote Solar
Regarding: SMART Emergency Regulations
Nathan Phelps, Regulatory Director
June 1, 2020

Introduction

Vote Solar appreciates the opportunity to submit comments to the Department of Energy Resources (“DOER”) on the Solar Massachusetts Renewable Target (“SMART”) emergency regulations (“Emergency Regulations”).

In addition to these comments, Vote Solar is also submitting two other sets of joint comments: (1) the solar commenters;¹ and (2) the low income solar advocates.² To the extent possible, Vote Solar has tried to work with likeminded entities in order to reduce repetition in comments. The immediate comments are not redundant to our joint comments, but Vote Solar’s position should be considered a collection of all the comments to which we are a signatory.

Vote Solar takes this opportunity to address a few discreet issues. Specifically, these comments address the following issues in the Emergency Regulations: (a) the definition of Low Income Eligible Area; and (b) the intent of allowing municipal aggregators and electric distribution companies (“EDCs”) to propose programs.

About Vote Solar

Vote Solar is an independent 501(c)3 nonprofit working to repower the U.S. with clean energy by making solar power more accessible and affordable through effective policy advocacy. Vote Solar seeks to promote the development of solar at every scale, from distributed rooftop solar to large

¹ These comments address a variety of issues, and are submitted jointly by the Solar Energy Industries Association, the Coalition for Community Solar Access, MassSolar, the Northeast Clean Energy Council, the Solar Energy Business Association of New England, and Vote Solar.

² These comments include proposals to enhance low income participation, and are submitted jointly by many parties, including BlueHub Capital, Resonant Energy, Sunwealth Financial, and Vote Solar.

utility-scale plants. Vote Solar has over 80,000 members nationally. Vote Solar is not a trade group nor does it have corporate members.

Definition of Low Income Eligible Area

The definition of Low Income Eligible Area in the Emergency Regulations is:

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 definition raises two issues: (a) the size of Low Income Eligible Areas; and (b) the qualification criteria for Low Income Eligible Areas.

The Size of Low Income Eligible Areas

The introduction of American Community Survey (“ACS”) data introduces an unnecessary level of uncertainty into the definition of Low Income Eligible Areas. The economic characteristics in the ACS data include many different geographic increments, including the following for the Commonwealth: (1) state-wide; (2) county; (3) tract; (4) zip code tabulation area (five digit); (6) elementary school district; (7) secondary school district; (8) unified school district; (9) congressional district; (10) state senate district; (11) state house district; (12) public use microdata area; (13) municipality; (14) county subdivision; (15) New England city and town area; (16) combine New England city and town area; and (17) New England city and town division. The definition of Low Income Eligible Areas could, theoretically, include any of the aforementioned geographic increments, which means that the “areas” in the definition take on an amorphous meaning. If DOER meant to provide flexibility to the size of an “area,” then DOER should provide that clarity in the regulations and/or guidelines.

Notably, the geographies in the ACS data set do not include block groups, the smallest possible census increment aside from blocks. The MassGIS Environmental Justice Populations³ utilizes block groups, and therefore provides a smaller geographic area than the ACS data. A smaller geographic area would allow for better targeting of the most vulnerable “areas,” and minimize the potential for participants that are not vulnerable to participate as a low income customer. Although the MassGIS Environmental Justice Populations are currently based on the last census of 2010 – and therefore may be considered dated – the census currently underway will yield results in the near future.

Recommendation: DOER should utilize a small geographic unit as a definition of an “area,” such as the census block groups that are used in the MassGIS Environmental Justice Populations.

³ The MassGIS Environmental Justice Populations dataset is available at:
<https://docs.digital.mass.gov/dataset/massgis-data-2010-us-census-environmental-justice-populations>

Criteria for Low Income Eligible Areas

The definition of Low Income Eligible Areas includes a requirement that the neighborhood “*has household income equal to or less than 65 percent of the statewide median income for Massachusetts.*” In the Environmental Justice Policy of the Commonwealth⁴ (DOER’s original proposal for broadening the definition of low income customers), the economic criteria is “*25 percent of the households have an annual median income that is equal to or less than 65 percent of the statewide median.*”

The criteria in the Emergency Regulations is significantly more restrictive than the criteria in the Environmental Justice Policy. The end result will be far fewer neighborhoods that qualify as Low Income Eligible Areas, and by extension far fewer vulnerable families that will be eligible for the benefits of solar.

In addition, the criteria in the Emergency Regulations eliminates consideration of two thirds of the considerations for Environmental Justice Policy: race and English isolation. The historical inequities of traditional power generation – inequities that solar can help to address – go beyond just economics to include (but are not limited to) racism and xenophobia. The low income provisions of the SMART program represent an opportunity to start to address these historical inequities. However, if the Commonwealth is going to address these inequities, then the Commonwealth cannot ignore some of the issues.

Vote Solar understands that this is not a simple issue to address, and that the implementation of policies to address environmental justice issues in the energy sector is multifaceted and complex. The SMART regulations may not be the best location to resolve all of the issues associated with environmental justice in the energy sector and historical inequities. As such, DOER should provide enough flexibility in the definition of Low Income Eligible Areas (or a different term to recognize environmental justice more broadly), and also create an opportunity for further discussions of appropriate policies. The additional process could include discussions on the best way to target savings to the most vulnerable populations in the Commonwealth through the low income provisions, and the best way to deliver those savings.

Recommendation: First, DOER should expand the definition of Low Income Eligible Areas to be more inclusive of environmental justice communities, including – at a minimum – race and English isolation. Second, DOER should create a process outside of the regulations to better understand and address environmental justice communities *and* the opportunities to provide economic and environmental benefits to these communities in the SMART program.

⁴ The Environmental Justice Policy of the Executive Office of Energy and Environmental Affairs, adopted January 31, 2017.

Sections 20.06(1)(f)(4) and 20.06(1)(h)(5)

Sections 20.06(1)(f)(4) and 20.06(1)(h)(5) of the emergency regulations state:

“Electricity or bill credits may be allocated through a municipal load aggregation program established pursuant to M.G.L. c. 164, § 134, or through (a low-income) community shared solar program established and administered by a Distribution Company.”⁵

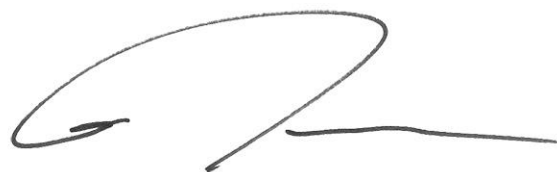
Vote Solar is worried that these sections could be understood to provide exclusive jurisdiction of community solar and low income community shared solar to Distribution Companies and/or municipal aggregators. As has been well demonstrated by Vote Solar and others, SMART adoption by low income customers has been inadequate. However, we do not think that now is the time to limit innovation and the options for the deployment of low income solar to EDCs and/or municipal aggregators.

Recommendation: Vote Solar strongly encourages DOER to clarify that sections 20.06(1)(f)(4) and 20.06(1)(h)(5) are meant to expand (not restrict) the opportunities for the deployment of community solar and low income solar to municipal load aggregators and EDCs.

Conclusion

Vote Solar looks forward to continuing to work with DOER and other interested parties on the deployment of solar to the most vulnerable communities in the Commonwealth. Vote Solar is available to answer any questions that DOER might have on our comments. Vote Solar sincerely thanks DOER for the opportunity to present our perspective. We look forward to working on this issue in the future.

Respectfully submitted this 1st day of June 2020 by:



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⁵ The difference between the sections is that 20.06(1)(f)(4) applies to low income community solar, and 20.06(1)(h)(5) applies to community solar more broadly.