



June 29, 2020

Patrick Woodcock, Commissioner  
Massachusetts Department of Energy Resources  
100 Cambridge Street, 10th Floor  
Boston, MA 02116

Sent via email to [DOER.SMART@mass.gov](mailto:DOER.SMART@mass.gov)

Re: Nexamp Comments in Response to SMART Guidelines

Dear Commissioner Woodcock:

Nexamp appreciates the opportunity to provide comments in response to the following SMART Guidelines:

- I. Guideline Regarding Alternative Programs for Community Shared Solar Tariff Generation Units and Low-Income Community Shared Solar Tariff Generation Units
- II. Guideline on SMART Consumer Protection
- III. SMART Guideline on Energy Storage

Nexamp was founded in Massachusetts over a decade ago. Since that time, we have evolved from a small residential solar installer to a fully integrated solar development company with more than 200 employees. We are now creating jobs and offering guaranteed savings to customers in nine states, across nearly 300 MW of solar farms.

The quality of our program offering and the connection our customers have to their community solar farm are at the core of the success Nexamp has had, first in Massachusetts, and now in many other markets across the country. Our customer acquisition and management processes are run with integrity and transparency, due to knowledgeable, responsive CS and customer support teams and an efficient internal billing system. Further, customers can clearly see the value of their participation in CS on their monthly bills – both in terms of their electricity cost savings and the quantifiable positive environmental impact of their share of the farm's production.

We are proud of our offering and present the comments below in the spirit of ensuring a robust, consumer-friendly and innovative SMART program that will continue to serve as an industry leader in the coming years.

As a member of the Solar Energy Industry Association, the Coalition for Community Solar Access, the Northeast Clean Energy Council, the Solar Energy Business Association of New England, and Vote Solar, Nexamp fully supports the filing submitted by the Solar Commenters regarding the SMART guidelines. Our remarks below are intended as a supplement to the comments of these organizations.

- I. **Guideline Regarding Alternative Programs for Community Shared Solar Tariff Generation Units and Low-Income Community Shared Solar Tariff Generation Units.**

As emphasized in our recent SMART Emergency Regulations comments, Nexamp is disappointed to see included in the Regulations the option for electricity or bill credits from CS

STGUs to be allocated through Community Choice Aggregation (CCA) or an Electric Distribution Company (EDC)-led community shared solar program.

Our concerns regarding EDC-led community solar bear repeating here. The impetus for the 400 MW review, little over a year after the program launched, is demonstrative of the success of Massachusetts' provider-led community solar market. Community solar providers are passionate about their offerings, and have the agility, resources, and knowledge to ensure positive customer experiences. The EDCs, by nature of being regulated monopolies, do not.

### *Protecting the Customer Connection to CSS*

Perhaps the most critical consideration when evaluating alternative programs is whether and how the customer's understanding of what it means to participate in community shared solar is impacted. We are concerned that with automatic enrollment, the ownership a customer feels over her decision to support a clean energy project and the clean energy economy is necessarily lost in this process. As stated in our Emergency Regulations comments, a significant component of the Massachusetts market's success is the sense of connection that ratepayers have to their local community solar farm under the current provider-led model; customers can easily see their savings and understand that their participation is making a local solar farm – and all of the environmental and clean energy implications of that farm – possible. This connection is the heart of the Massachusetts community solar program, and something that is lost in automatic enrollment.

### *Value to Ratepayers*

Of additional concern is the actual value to ratepayers of both EDC-led CS and CCA models. Here, where the DOER is inviting a regulated monopoly to compete with the competitive marketplace, it should measure the success of existing offerings not only by how many ratepayers are able to benefit, but by how meaningful the savings participants realize actually are. This is important to Massachusetts ratepayers, and important to the continued momentum behind and enthusiasm for community solar in the Commonwealth.

As stated in our Emergency Regulations comments, comparable proposals from utilities in other markets indicate that EDC-led CS programs are often proposed to be run at higher costs than provider-led programs. In other words, these programs come at an incremental cost to non-participant ratepayers to cover the various systems the EDCs must create in order to provide the same services currently offered by the competitive marketplace. Ratepayers should not be used as venture capitalists, bearing the risk of EDC entry into markets they are not designed to serve.

### *DOER's Proposed Community Choice Aggregation Model*

With regards to CCA, it is our understanding from the Department's June 10<sup>th</sup> webinar that it intends for customers to pay an adjusted per-kWh energy rate for their participation in community solar, rather than seeing a separate line item with bill credits on their bill each month. This model is substantially different from what other markets have adopted, and further distances customers from the community shared solar projects they are enrolled in.

We are eager to continue to work with the Department to preserve the integrity of Massachusetts' successful Community Solar program. It is critical to the program's continued

success that we protect the value, transparency, efficiency, and customer connection to clean energy that a competitive market has allowed for.

### *Better Serving Low Income Customers in Massachusetts*

As communicated in our SMART Emergency Regulation comments, we are appreciative of the Department's efforts to better serve low income and environmental justice communities. This has been a critical shortcoming of the program to date, and one that Nexamp is eager to help resolve.

In our comments last fall, and again in our SMART Emergency Regulation comments this spring, we encouraged DOER to pursue specific consumer protection standards for low-income subscribers, given the disproportionate adverse impact of predatory marketing practices and misleading contracts and customer acquisition tactics our low-income communities in Massachusetts have often been subjected to. We again echo our request that the Department convene a stakeholder working group where developers, low-income advocates and policymakers can discuss how the program can better support low-income solar development. This is an opportunity both for the state to fill a critical void in who our offerings are reaching, as well as to create a model that can be applied to other markets across the country, as Massachusetts has successfully done with its broader community solar program.

## **II. Guideline on SMART Consumer Protection**

In our comments in response to last fall's straw proposal, Nexamp had asked for clarity as to what warranted a "strike," as it pertains to audits. The "material defect" terminology and inclusion of an explanation of what could be considered a material defect is elucidating and we appreciate its inclusion in the Guideline. It is clear that the Department's intent is for strikes to be applied in cases where Applicants are inaccurately communicating the value or substance of customers' participation in their program.

Given the severity of the penalty for three strikes, however, there should be recourse for Applicants who believe that a strike was unduly applied. We request that the Department establish an appeal process for Applicants who believe a strike was applied for an immaterial defect that has no or little material impact on customers' understanding of the program. If the Department finds an Applicant's explanation of how the error did not cause confusion or was not otherwise deceptive, there should be an opportunity to cure the error. This process will both protect community solar participants and ensure that providers making a good faith effort to serve their customers with integrity are not unduly penalized.

### *Auditing: Timeline for CS Provider Provision of Documentation*

The Guideline requires that Applicants being audited provide all requested information to the Department within 10 Business Days. As stated in the Guideline, this could include providing the Department with all customer contracts. We request that the Department, at its discretion and upon request by an Applicant, provide a 10-Business Day extension for provision of

documentation in cases where good cause can be shown that an extension is needed due to the amount of documentation required.

We respect the Department's desire to conduct audits efficiently, and believe that a 10-day discretionary extension strikes a balance between ensuring that Applicants have the time needed to gather all required information and that audits get underway in a timely manner.

#### *Net Savings for LI Customers*

We were pleased to see in the Consumer Protection Guideline (in accordance with the Low Income Generation Units Guideline) the requirement that STGUs must ensure that low income customers will receive net savings through their participation in Community Solar, and that such savings must be made evident in the customer's disclosure form.

#### *Customer Disclosure Exemption*

The Guideline states that LICSS or CS Tariff Generation Unit projects seeking Statements of Qualification may be exempt from the customer disclosure form requirements in certain cases, including when customers are enrolled without signing a customer contract. We respectfully request that the same exemption be applied to other low income program proposals brought before the Department under which customers would not be signing customer contracts. We believe this would be consistent with the intent of the exemption.

We are eager to work with the Department to ensure that Massachusetts' community solar program continues to be an example for markets across the country.

### **III. SMART Guideline on Energy Storage**

Nexamp is proud to be an active participant in energy storage in the Commonwealth, with 31 MWh across nine projects currently under construction and 147 MWh across 27 projects under development. We are excited that storage has gained traction in recent years and believe that its continued success in Massachusetts and beyond is critical to providing services to the grid when they are most needed.

A critical factor in ensuring that Nexamp can continue robust participation in the Massachusetts storage market is having a clear understanding of project requirements. Therefore, we seek clarification regarding the Operational Requirement options for Standalone Systems under Section F of the Guideline on Energy Storage. The Guideline states that:

An Energy Storage System must accomplish one of the following to comply with operational requirements:

- 1) discharge at least 52 complete cycle equivalents in a calendar year, whereby the 52 cycles may be pro-rated in the first operational year of the Energy Storage System based on its Commercial Operation Date; or

2) participate in a demand response program, such as the Distribution Companies' Connected Solutions programs or similar programs approved through the Department of Public Utilities' three-year plans for energy efficiency.

For Standalone Systems, there are two options for demonstrating compliance:

**Option #1:** The Energy Storage System may fulfill the operational requirements by dispatching the Energy Storage System during the summer peak hours and winter peak hours.<sup>5</sup> Energy Storage System Owners may choose when to cycle during any hours included during this window.

**Option #2:** The Energy Storage System may fulfill the operational requirement through registration in the ISO-NE wholesale market or a retail-level program aimed at reducing ratepayer costs, if deemed satisfactory to the Department.

Regarding Option #1 for Standalone Systems, the Department's intent for ESS dispatch requirements is vague. Specifically, it is not clear whether the Guideline requires that an ESS must dispatch during the summer peak hours and winter peak hours in order to demonstrate compliance, or whether an ESS can dispatch during summer and winter peak hours but can also meet this requirement by dispatch 52 times outside of peak hours. An operational requirement of an ESS dispatching 52 times annually is reasonable, and we request that the Department clarify in the Guideline that this is the intent of Option #1 for demonstrating compliance with the operational requirements for standalone systems.

The guideline language regarding Option #2 for demonstrating compliance with the operational requirements for standalone systems is similarly vague. It is not clear whether the intent is for the Department to determine which mix of markets would ensure compliance, or whether, as has been Nexamp's understanding, enrollment and participation in ISO-NE markets demonstrates compliance. We request that the Department clarify the intent of this language. Specifically, we request that the Department make clear in the Guideline language that enrollment and participation in ISO-NE markets is satisfactory for demonstrating compliance with operational requirements.

We thank the Department in advance for helping shed some light on the intent of these two options for Standalone ESS Systems so that storage developers can continue to pursue the Massachusetts market with the confidence that they understand, and can meet, the necessary requirements.

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Ensuring that all residents and communities have access to solar, protecting a vibrant and competitive market, protecting consumers and promoting innovative ways of complimenting traditional distributed generation are essential to the continued success of the SMART program in the years to come. We thank you for your consideration of our comments and look forward to continuing our work together.

Sincerely,

*Kelsey Fiori*

Kelsey Fiori

Northeast Policy Manager