

February 23, 2018

SENT VIA ELECTRONIC MAIL

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

**Re: SMART Guideline Comments**

To whom it may concern,

Please find the enclosed comments from SunRaise Investments, LLC (SunRaise) on the SMART program draft guidelines for Land Use and Siting, Agricultural Solar Tariff Generation Units, Statement of Qualification Reservation Period and Low Income Generation Units.

SunRaise appreciates the opportunity to comment and would like to thank the Department of Energy Resources (DOER) for its continued stakeholder engagement in this process and its efforts in developing and administering effective solar programs in the Commonwealth.

We recognize that several of the notes and comments provided by SunRaise are in the form of questions and we include these question as they merit answers, but also to illustrate that there are still various unclear sections of the program and associated draft guidelines that make it challenging for stakeholders to confidently plan their business strategies around the SMART program. We have heard that a Frequently Asked Questions (FAQ) document is being developed and we encourage the DOER to release the first iteration of this document in a timely manner and to continually update the FAQ document with new stakeholder questions as they are received.

Lastly, although this is outside the released guidelines we strongly request that there be an upward adjustment in the Base Compensation Rates given the recent 30% tariff on imported solar modules. A 30% increase on the most expensive component of a solar project is very negatively impactful and will result in a large magnitude of projects to die that otherwise would have barely accomplished breakeven. While this is of course to no fault of any stakeholder or legislator in the Commonwealth, we recognize the DOER may be able to make a state-level adjustment, specifically through the SMART program, to reduce or entirely negate the adverse impacts of the import tariff. Thank you for your consideration on this important issue.

## **Land Use and Siting Guideline**

### *Category 1 Non-agricultural*

*Note 1:* Within Category 1 Non-agricultural STGUs there will be some projects sited within a solar overlay district however, given most towns do not have a solar overlay district, what will be far more common will be projects that are on land that complies with established local zoning explicitly addressing solar or power generation. We strongly believe this definition needs to be clearer for stakeholders to understand the category of the project given each municipality has the jurisdiction to create its own solar bylaws and therefore the language that defines their bylaws varies to some degree. First, most towns do not have a solar overlay district but do have a Special Permit process with specific solar zoning bylaw language. We expect and hope that if a project follows the explicit solar zoning bylaw language to obtain a Special Permit then the DOER would qualify the project as “Category 1 Non-agricultural” if that Special Permit is granted by the town permitting agency. Furthermore, it would be helpful if the DOER could include a few examples of projects sited on land that complies with established local zoning addressing solar or power generation in the guideline. The term “power generation” is particularly ambiguous as many zoning bylaws make references to “utilities” which could be interpreted as including power generation. Additionally, it is unclear if a project greater than 500 kW that requires a variance for a portion of its approval (a reduced setback, for example) but will otherwise be approved through a Site Plan Approval or Special Permit process will qualify as Category 1 Non-agricultural.

SunRaise would request that DOER clarify these concerns with greater context and examples of scenarios that would and would not meet the definition of Category 1 Non-agricultural due to local zoning.

### *Previously Developed*

*Note 2:* The guideline states: “Landscapes altered from current agricultural use, forestry, deforestation, or use as a preserved natural area, per 225 CMR 20.05(5)(e), will not be considered previously developed.”

SunRaise would request that the DOER to clarify the term “current” in this section of the guideline. It raises the question of how a project would be treated if the land underneath it was deforested recently but is no longer being deforested at the time the Statement of Qualification Application is submitted. For example, if a landowner deforested a portion of a parcel and six months after the deforestation was complete a Statement of Qualification Application was submitted for the parcel, would that be considered previously developed since the deforestation is not currently occurring? Similarly, if a portion of the parcel was deforested years prior to a Statement of Qualification Application being submitted for the parcel, would that be considered previously developed? In a specific situation, we had a landowner who wanted to create a parking lot behind his building in an area of his parcel that is currently forested. The landowner asked if we could qualify for a Canopy STGU if the parking lot was built prior to us building the Canopy STGU. It is currently unclear if the creation of the parking lot would be considered previously developed.

Additionally, based on the guidelines, it is unclear how much of a parcel needs to have been previously developed for the STGU to be considered sited on land that is previously developed. Our hope is that the DOER can allow for broader acceptance of previously developed such that if a portion of the parcel has been previously developed but the footprint of the STGU has not been developed then it would still qualify for a Category 1 Non-agricultural.

### *Greenfield Subtractors*

*Note 3:* Given that 60 cell and 72 cell solar modules are the industry standard, DOER should provide specific examples of the module dimensions in their Greenfield Subtractor scenarios. This would benefit stakeholders as it more accurately indicates in the guideline what a subtractor could be given a specific number of modules. For example:

“If you install a facility with 5,000 72-cell panels (measuring 6.5ft x 3.25ft each) then the impact of the project will be calculated as, with the understanding that 1 acre=43,560ft:

$$\begin{aligned} 5,000 \times 21.125\text{ft} &= 105,625\text{ft} \\ 105,625/43,560 &= 2.425 \text{ acres} \end{aligned}$$

If this project is determined to be under Category 2 land use, the subtractor would be:

$$\begin{aligned} &\$0.0005/\text{kWh per acre of land} \\ &\$0.0005 \times 2.425 = \$0.00121 \text{ kWh reduction to all in compensation rate} \end{aligned}$$

SunRaise does understand these calculations are meant only for example purposes but feels it is worth taking this extra step to provide stakeholders with examples that are as accurate as possible.

### *Project Segmentation*

*Note 4:* “If a generation unit previously qualified as a Solar Carve-out I or Solar Carve-out II subject to 225 CMR 14.00, that capacity and qualification shall not impact the qualification of any STGU qualified on the same parcel or a contiguous parcel.”

SunRaise is requesting the DOER clarify this statement with a brief example. Could the total capacity on a single or a contiguous parcel exceed 5 MW AC if the capacity was comprised of, up to, 5 MW AC of SMART capacity and 2 MW AC of capacity from an operational SREC I or SREC II asset?

### *Eligible STGU Projects*

#### One Building Mounted Unit of a single building

*Note 5:* For a second Building Mounted Unit installed on the same building as another STGU, SunRaise is interested in understanding what it means to be separately metered and connected to the meter of a separate end-use customer as the original STGU. Specifically, what

if the Host Customer (i.e. end-use customer) of the two units is a separate group of Community Shared Solar off-takers that receive the electricity credits virtually? We would ask the DOER to provide a set of examples and clarify this definition.

One Ground Mounted STGU on a single parcel or contiguous parcels

*Note 6:* This section of the guideline does not address the installation of a Building Mounted STGU and Canopy STGU that are separately metered and on the same or contiguous parcels. SunRaise would request the DOER address this potential scenario as a roof mounted facility and parking lot canopy on a single parcel will be a suitable “solar campus” offering for many stakeholders, particularly the individual or entity owning the parcel and wishing to utilize the space from both their roof and parking lot for solar generation.

*Note 7:* Regarding the statements; “One Ground Mounted STGU on a single parcel or contiguous parcels, unless...A STGU submits a Statement of Qualification Application at least 12 months after the Commercial Operation Date of the original STGU.”

SunRaise would request the DOER clarify whether this condition allows for the 5 MW AC limit per parcel to be exceeded with, theoretically, 10MW AC total across two STGUs if the second STGU submits a Statement of Qualification Application at least 12 months after the Commercial Operation Date of the original STGU.

*Note 8:* “Any STGU may apply directly to the Department for a good cause exception to the project segmentation rules set forth in 225 CMR 20.05(5)(f), which the Department will review on a case by case basis.”

Given the definitions in this section of the guideline do not cover all possible scenarios, SunRaise would request the DOER provide additional information about the good cause exceptions and the process for requesting an exception. The information that must be submitted, the means for submitting that information (written, in person, etc.) and the length of time to receive a determination from the DOER are all important aspects of the good cause exception that are not referenced in the guideline.

Unaffiliated Owners

*Note 9:* The guideline states the application must demonstrate to the “Department’s satisfaction” that the owners of STGUs on contiguous parcels are unaffiliated parties. SunRaise would request additional clarity on this aspect of the guidelines through additional context and examples of scenarios that would and would not demonstrate this to the Department’s satisfaction. Specifically, if the two units are owned by separate LLCs (or other organizations) but have the same representatives and contact information, would they be considered unaffiliated or affiliated?

Further, when will the unaffiliated party requirement be evaluated? It is our assumption that this will occur at the time the Statement of Qualification Application is submitted. Therefore, one entity could develop two STGUs on contiguous parcels and transfer one of the STGUs to an unaffiliated party prior the submittal of the Statement of Qualification Applications. The

contiguous STGUs will then be owned by unaffiliated parties despite being previously owned by the same owner or affiliated parties. Please clarify if this assumption is correct.

### Contiguous

*Note 10:* “Land shall be deemed contiguous if it is separated from other land under the same ownership only by a public or private way or waterway.”

SunRaise would request DOER clarify this statement with an example and additional context. Does this mean if one landowner owns two parcels that are divided by a public street and no borders are shared between the two parcels then it is considered contiguous and therefore not acceptable for separate 5 MW STGUs to be sited on the two parcels? We hope not as that is clearly not contiguous.

Another question is if a landowner owns three parcels of land, with each parcel sharing a border with the next, and solar is installed on two of the parcels that do not share a border with no solar installed on the parcel in between the two with solar. Would those projects be considered contiguous?

Finally, if there are two separate landowners wanting to install separate 5 MW STGUs on their respective parcels and their parcels share a boundary, could the landowners move forward with their separate 5 MW STGUs? Would the owners of each of the STGUs simply need to be “unaffiliated parties”?

### **Agricultural Solar Tariff Generation Units**

#### *Special Provisions for Agricultural Solar Tariff Generation Units*

*Note 11:* Point 5 of this section states; “annual reporting to the Department and MDAR of the productivity of the crop(s) and herd, including pounds harvested and/or grazed, herd size growth, success of the crop, potential changes, etc., shall be provided after project implementation and throughout the SMART incentive period”.

SunRaise would request that the DOER update the guidelines to clarify what “project implementation” means, when the first report is due and if there will be a reporting template or form that the DOER would like stakeholders to complete and submit.

Additionally, this section requires the farmer to have sufficient reporting of its yield and means the STGU owner is reliant on the farmer’s reporting methods to then report this information to the DOER. If the farmer’s methods are insufficient and the STGU owner cannot properly report to the DOER, the STGU owner should not be penalized as this is outside of its control.

Point 6 of the guideline’s section continues this subject by stating other system design information shall include the type of crops to be grown (c) and the pounds of crops projected to be grown and harvested (d). Again, the farmer’s reporting and projections should not negatively affect the STGU owner as farming yields are not within its scope of work or professional understanding. The projections should not necessarily become the baseline for the annual

reporting if the projections are not accurately developed by the farmer. SunRaise would also request that the DOER provide context on sub-point (c) which requests the type of crops to be grown and, specifically, if these crops can change over time and how often they can change if so.

#### *Additional Provisions for Agricultural Solar Tariff Generation Units*

*Note 12:* SunRaise would request that, prior to the SMART program start date, the DOER provide information on its review of the applications and site plans to certify requirements, like the design not exceeding more than 50% of baseline field conditions. It is specifically curious what documents the DOER would like to review, how long this review will take and if the DOER will simply reject an application that does not meet each of the provisions or request corrections and provide the applicant with a cure period.

*Note 13:* The additional provisions state that “fixed tilt designs shall include a minimum four feet distance between each panel”. This provision is prohibitive for stakeholders as the adder associated with Agricultural STGUs will not cover the incremental costs of construction and four times acreage required to build the STGU. It would additionally be an inefficient use of both racking and agricultural land. SunRaise would request the DOER modify this provision to allow modules to be stacked vertically and require four feet of space in between each vertical row of racking.

Racking systems are currently designed with two to five panels stacked vertically. What would be reasonable is to require four feet of distance between vertical rows. Four feet of distance from all sides of every module will be so cost and space constraining that the likelihood of adoption is very low. Additionally, aesthetics should be considered. It is one thing to have two to five modules stacked vertically with four feet in between each vertical row, but if you must space modules by four feet vertically as well there will be an exorbitant amount of blank racking showing which will not be pleasing to the eye.

*Note 14:* SunRaise encourages the DOER to increase the maximum system size for Agricultural STGUs to 5 MW to be consistent with SMART in general. If not, this section of the program will be competing against traditional 5 MW ground mounts in a scenario where a farmer has plenty of available land and wants to maximize the lease payment. The farmer would stand to earn more than twice the lease revenue from a 5 MW Category 3 project as compared to a 2 MW Agricultural STGU.

#### **Statement of Qualification Reservation Period**

##### *Initial Application Period*

*Note 15:* DOER should provide information regarding the length of application review periods within the Initial Application Period. For example, is the DOER review period 15 business days at most? More information on the review process will be useful to stakeholders so they can reasonably understand when they will receive a determination following the application submission. Along the same lines, the guidelines states that applicants must complete all required

fields on the Statement of Qualification Application. To ensure this occurs, DOER should release the application to the public prior to the date of the Initial Application Period. This would reduce the risk of incomplete applications as stakeholders will have the opportunity to see what the DOER is specifically requesting on the application.

#### *Cure Process*

*Note 16:* It would be reasonable for the DOER to include more information on the cure periods that will be provided to applicants that submit incomplete Statement of Qualification applications. The guideline states, “the Solar Program Administrator or the Department may set a deadline by which a complete application must be resubmitted”. In the final version of the deadline DOER should include a note describing the general length of deadlines. For example,

“the Solar Program Administrator or the Department may set a deadline by which a complete application must be resubmitted. In general, the deadlines will be 30 days following the request but in no event longer than 60 days.”

Additionally, the guideline is ambiguous as to what occurs if an applicant does not cure its application within the cure period. It states, “If a complete application is not resubmitted by the deadline, the application will lose its priority in the order in which applications are processed and granted Statements of Qualification.” Does this mean the application moves to the end of the queue, or is the application cancelled and the applicant must submit a new Statement of Qualification application altogether?

#### *Extended Reservation Period Pending Authorization to Interconnect*

*Note 17:* The guidelines states that an applicant “may provide a Certificate of Completion, signed by the local wiring inspector”, but does not state what other documents could be provided to certify that the interconnection depends only upon the receipt of authorization to interconnect. An affidavit from the STGU’s independent engineer or engineer of record certifying that mechanical completion has been achieved should be an acceptable document, but it is unclear if that would be accepted by the DOER. Additionally, a Certificate of Completion is reliant on the schedule of the municipal wiring inspector and therefore somewhat outside the control of the applicant. The DOER should clarify if a Certificate of Completion is the only acceptable document to satisfy this extension, or, if other documents are acceptable, it should provide additional examples of those other documents that would satisfy the extension request.

#### *Adder Eligibility and Qualification*

##### Location Based and Solar Tracking Adders

*Note 18:* It seems that the STGU’s design set needs to be submitted to the DOER at the time of the Statement of Qualification Application to verify that it meets all adder eligibility criteria. DOER should clarify what it needs specifically in the Statement of Qualification Reservation Period Guideline so that applicants can meet these requirements without any uncertainty. For example, a 20-50% design set is often all that is required to receive municipal

building permits. These would therefore be a suitable set of drawings to provide to DOER to receive the Location Based or Solar Tracking Adders.

#### Off-taker Based and Energy Storage Adders

*Note 19:* SunRaise would like to express its strong support for the following section of the guideline:

“A Solar Tariff Generation Unit that is applying for an Off-taker Based Adder and/or an Energy Storage Adder as defined in 225 CMR 20.07(4)(b) and (c), respectively, may qualify for an adder at any time during a Solar Tariff Generation Unit’s Reservation Period, or after its Commercial Operation Date...”

This allows applicants and stakeholders to have their Statement of Qualification application approved without needing the Off-taker Based Adder qualification. This is important as the sequencing of when the off-takers are added to a project or the specifics of which Energy Storage system is coupled with the STGU are likely to be after the submission of the Statement of Qualification Application.

*Note 20:* SunRaise would request DOER provide details on what would occur if a STGU falls out of compliance with its Off-taker Adder. For example; if a Community Shared STGU ceases to provide bill credits to customers of record that meet the definition of a Community Shared STGU, does the STGU lose its statement of qualification altogether or simply the adder related to Community Solar? SunRaise strongly recommends that the STGU would only lose the adder revenue and not the entire output’s revenue since they should be bifurcated given the STGU is still providing benefits even though an adder for Energy Storage or Community Shared Solar is no longer applicable.

#### *Compliance with the SMART Tariffs*

*Note 21:* SunRaise understands that Units must remain in “continued compliance” with the eligibility criteria to maintain their adders, however this section is a bit ambiguous as to what continued compliance means. SunRaise would request that the DOER specify, either within the guideline or in a separate document, how stakeholders must prove continued compliance throughout the tariff term for each adder class; Location Based, Solar Tracking, Off-taker Based and Energy Storage.

### **Guideline Regarding Low Income Generation Units**

#### Low Income Property Solar Tariff Generation Unit

*Note 22:* For a Unit seeking qualification as a Low Income Property STGU, the guideline states that “all of the generation output from the Generation Unit be delivered to or serving low or moderate income housing.” However, for privately-owned low or moderate income housing the applicant only needs to demonstrate that at least 25% of the housing available be rented to



households that are at or below 80% of the Area Median Income (AMI), or that at least 20% of the housing available at the properties be rented to households that are at or below 50% of the AMI. These 25% and 20% figures raise the following question: If a private entity receives all the output of the STGU but the population of said private entity is 75%-80% non-Low Income, does 100% of the output of the STGU still receive the Low Income Property Adder? SunRaise would request the DOER clarify this point in its final guidelines.

Additionally, in many affordable housing complexes, private and public, the building owner directly pays for the electricity of all residents. In these circumstances, the individual residents do not have individual electric bills to allocate credits to, but their electricity consumption would be off-set by the STGU. Therefore, the STGU could be serving at least 50% Low Income Customers and the STGU could be a Low Income Community Solar STGU as opposed to a Low Income Property STGU. SunRaise would like the DOER to clarify this scenario.

#### Low Income Criteria Satisfaction

*Note 23:* The guideline states, “failure to renew or extend may result in the loss of a Generation Unit’s Statement of Qualification under the SMART Program”. SunRaise would like the DOER to clarify if the STGU would lose its entire Statement of Qualification, or just lose the adder portion related to Low Income if it does not renew or extend the criteria, similar to Note 18 herein.

#### Schedule Z and Alternative On-bill Crediting

*Note 24:* The Schedule Z form is used for credit allocation through net metering, however it is unclear if this form will also be used for STGU’s that allocate credits to off-takers through Alternative On-bill Crediting.

*Note 25:* To truly open up the financing barriers to offering solar to all socio-economic classes, SunRaise recommends that the STGU’s revenue flows in such a way to remove the off-taker credit risk, which can be done simply by having the STGU owner receive all the revenue from the STGU inclusive of all adders and subtractors, and it be an obligation of the STGU owner to appropriately distribute such credits and discounts to the off-takers. This removes all credit risk and will have a significant impact on opening solar in the Commonwealth up to all customers, regardless of socio-economic class. Proof of discounts to the off-taker could be implemented to show compliance and that would remove any potential abuse with STGU owners not paying out the benefits associated with their off-taker contracts.

#### Conclusion

We thank you for the opportunity to comment on these guidelines and your continued work in bringing solar energy to the Commonwealth, which has had significant environmental and economic benefits.