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*The Energy Consortium, Inc.*

7/25/2025

Ms. Grace Fletcher  
Massachusetts Department of Energy Resources  
100 Cambridge Street, 9<sup>th</sup> Floor  
Boston, MA 02114

Subject: TEC Comments Regarding 225 CMR 28 Emergency Regulations (Smart 3.0)

Dear Ms. Fletcher,

The Energy Consortium (TEC) appreciates the opportunity to provide these comments on the Emergency 225 CMR 28 Regulations also known as SMART 3.0.

TEC is a non-profit association of commercial, industrial, institutional, and governmental large energy users in Massachusetts and has participated in state and regional energy regulatory matters for forty five years. It advocates positions and sponsors joint actions that promote fair cost-based energy rates, diversified supplies, retail market competition, and reliable service for its member organizations, their employees and all Massachusetts ratepayers.

TEC's Recommended Clarifications to the Emergency Regulations

Due to the significant inflation experienced in the last several years and further uncertainties caused by recent federal legislation repealing most solar tax credits on an accelerated basis, there are many sites that have received preliminary Statements of Qualification (SOQs) under the current SMART regulations (SMART 2.0) that are economically challenged and may not proceed with construction. If these sites have not commenced construction prior to June 20<sup>th</sup>, 2025, the Emergency 225 CMR 28 Regulations appear to allow them to qualify for SMART 3.0 per 28.07(4)(b)(1).

The FAQ issued on the SMART 3.0 Program Details website<sup>1</sup> indicates that sites can withdraw their Preliminary SOQ from SMART 2.0 and reapply to SMART 3.0, but this is not clearly dated in the Emergency Regulations based on TEC's review. Specifically, the FAQ document states:<sup>2</sup>

**"If I have a Preliminary Statement of Qualification under SMART 2.0, can I withdraw and reapply to SMART 3.0?"**

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<sup>1</sup> Available at <https://www.mass.gov/info-details/smart-30-program-details>

<sup>2</sup> SMART 3.0 FAQ July 11, 2025 Available at <https://www.mass.gov/doc/smart-30-faq/download>

Yes, if a project meets the construction date requirements (see below) and all other eligibility criteria of SMART 3.0, it may choose to withdraw its Preliminary Statement of Qualification under SMART 2.0 and reapply.”

TEC’s concern is that neither the redlined Regulations for 225 CMR 20 or the Emergency Regulations for 225 CMR 28 clearly enumerate the right of SMART 2.0 projects who have not begun construction as of June 20, 2025 to withdraw their Preliminary SOQs from SMART 2.0 and reply to SMART 3.0. Based on the FAQ shared by DOER, it is clearly the intent of the Department to allow this, but the 225 CMR 28 regulations do not clearly include language stating this. TEC’s recommends that this provision be clarified in the final regulations.

Respectfully,

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Robert Espindola  
President  
The Energy Consortium