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**47 Bow Street**  
**Portsmouth, NH 03801**  
**July 25, 2025**

**Grace Fletcher, SMART Program Manager**  
**Massachusetts Department of Energy Resources**  
**100 Cambridge Street, 9<sup>th</sup> Floor**  
**Boston, MA 02114**

**Subject: Emergency SMART 3.0 Public Comments**

Dear Ms. Fletcher,

Rewild Renewables, LLC (“Rewild”) appreciates the opportunity to submit comments on the Department of Energy Resources (“DOER”) Emergency Regulations for the SMART 3.0 Program (225 CMR 28.00). As a local developer Rewild has extensive experience working with the Commonwealth to advance clean energy over the last dozen years. Rewild is pleased to have participated in the extensive stakeholder processes to bring these regulations for SMART 3.0 forward. We appreciate the nation’s leading land use framework that has been developed by DOER with a wide range of varied stakeholder work and input. The renewable industry faces significant headwinds from dramatic changes in federal law. Now, more than ever, it is of the utmost importance that the DOER continues to provide leadership in bringing forward clean, affordable energy to the Commonwealth.

While there are many positives to the framework of SMART 3.0 Emergency Regulations, for the program to be deployed successfully there are several critical changes that must be made, as outlined in our “Major Concerns” section. We have tried to emphasize these items to fundamentally enable the program to work and have listed a few minor comments at the bottom. As a prominent solar developer and financier, we hope you appropriately weigh the importance of these suggestions.

## **Major Concerns**

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### **1. Annual Adjustable Block and Rate Structure**

#### **a. Annual Capacity Block Determination**

- i. Issue:** With the dramatic changes to the eligibility timelines for federal tax credits it is critically important that the total SMART 3.0 program capacity allocations for years 2025 and 2026 be sufficient to ensure that projects can move forward quickly, without delays while still eligible for federal tax credits. Accommodating these market conditions brought about due to unprecedented change in federal law will return to the Commonwealth investment, jobs, and

most critically vital energy capacity to reduce the overall cost to every rate payer and keep the lights on.

- ii. **Solution:** To meet federal tax credit construction timelines DOER should provide capacity sufficient to qualify into SMART 3.0 all eligible projects in 2025 and 2026. In addition, it is critical that capacity allocations for 2026 be established and made public in the fall of 2025 to allow for project development planning to meet federally imposed timelines.
- b. Annual Capacity Allocation (EDC)
  - i. **Issue:** In order to enable deployment under the very challenging recent changes in federal policy it is important that program capacity is not limited by EDC territory but spread across all territories on a first come first serve basis allowing for projects to be built where land use and infrastructure such as CIPs dictate, in an efficient manner. Many projects have been under development for years and have no control over when the utilities issue ISAs but when they do it comes with significant ISA upgrade deposits and intense federal pressure to place the project in service before tax credits disappear. In addition, restricting EDC capacity allocations could put rate payers at risk due to lack of CIP participation.
  - ii. **Solution:** For program years 2025 and 2026, combine Distribution Company allocations into a larger single allocation. This will allow projects located in areas enabled through CIPs and land use requirements to move forward in accordance with the Commonwealth's interconnection and land use policy without delay, and in keeping with federal construction requirements.
- c. Set Asides- Capacity Reallocation
  - i. **Issue:** It is essential that the Commonwealth advance projects as swiftly as possible and not penalize projects that are ready to proceed under immense time pressure due to federal changes in law. Set aside allocation can still set priority but if capacity is underutilized it should not penalize projects that are fully developed, waiting for an allocation, and ready to be built.
  - ii. **Solution:** We strongly recommend that DOER allow for the reallocation of capacity set asides. If as of July 1st of a program year, a set aside category of projects is not projected to utilize the available allocations within the program year, such allocation should be allocated to other market segments with a waitlist.
- d. Factors Considered in Setting Program Year's Rate Structure
  - i. **Issue:** Additional factors such as interest rates, federal tax credit availability, and trade restrictions are dramatically impacting project timelines. Future considerations should be included as factors in the annual rate determinations. Changes in federal policy are causing considerable volatility in the market. It is critical that DOER incorporate these factors into the rate setting process to accurately reflect market conditions.

## 2. Definitions

### a. Previously Developed

- i. **Issue:** In general, the inclusion of Previously Developed land (as a defined term) is consistent with the robust process DOER and stakeholders have undertaken to create a leading framework around land use. However, the definition of Previously Developed still lacks reference to some common conditions for STGU sites in the Commonwealth that seemed to have a consensus among stakeholder as “great sites for ground mount solar”.
- ii. **Solution:** Build out the definition to identify commonly disturbed sites where solar is often the highest and best use for redevelopment in the Commonwealth. For example, cranberry bogs, sand and gravel excavation pits, and abandoned commercial and residential subdivisions. Including these references into the definition will provide clarity for advancing the publicly supported siting of ground mount projects on Previously Developed land.

## 3. Application Review Procedures

### a. Review Timelines

- i. **Issue:** It is critical that the review process be completed in a timely manner. Development costs are extremely high in the Commonwealth due to interconnection and other carrying costs and trending higher with federal tax credit requirements and exposure, in addition to tax credit cliffs and seasonal construction realities.
- ii. **Solution:** A total review period of 30 days should be sufficient in most circumstances to determine program eligibility.

### b. Public Comment

- i. **Issue:** Additional public comment is an extremely dangerous concept and objectively unwarranted as it is duplicative of and likely in conflict with the long-established permitting processes at the local and state level. Program participants cannot reopen the process to additional intervention after having fully complied with the dozens of local and state AHJ permits as well as SMART guidelines. Additional public review would cause further delays, and worse, create additional instability and confidence in the market, in a time of heightened uncertainty. It leaves the door open for an outside person or group to unfairly bring opposition to a project that has already undergone a multi-year development process that already contains extensive local engagement, permitting ordinances, and specific permitting conditions to be undermined. For example, many projects now have incurred upwards of \$3 million of development costs (inclusive of non-refundable interconnection upgrade costs) over 2-4 years to get all development complete and compliant with the complex SMART program; It would be terribly damaging to the industry if there is additional discretion introduced via a Public Comment into the evaluation of a PSoQ.

- ii. **Solution:** The Public Comment aspect of the SMART qualification and application process needs to be removed. Projects already have sufficient and well-established public engagement at the local and state permitting level.

#### 4. Eligibility Criteria for Off-taker Based Compensation Rate Adders

- a. Guaranteed Savings Requirement and Low Income Customers Requirement
  - i. **Issue:** Changes to the minimum savings calculation formula from an AOBC to a percentage of R1 net metering rate will result in significant implementation challenges rendering Community Shared Solar projects unworkable and unfinanceable. The net effect of changing from the current SMART 1 & 2 construct of a 10% discount to the AOBC rate to a 20% discount to the NEM R-1 Rate is at least an additional \$0.02/kWh of cost. The LMI customer base is full of mechanical challenges that are very costly and hard to navigate but adding further costs in the form of discounts makes it significantly less workable.
  - ii. **Issue:** Under SMART 2.0 it was clearly demonstrated that without consolidated or net billing in place and available to all program participants, Low Income Community Shared STGU projects were not financeable, due to churn and cost factors. Current market conditions will only exasperate this dynamic without consolidated or net billing. We have a group of projects with LICSS adders in our PSoQ reservation that all financiers have refused to step into due to massive churn and cost concerns with LICSS in Massachusetts and therefore we are dropping the LICSS adder from the PSoQs. Similarly, we had a project in LICSS tranche 1 that has been operating for a couple years, and the community solar aggregator is unable to keep it fully subscribed. This is a truly fundamental issue with the LMI off taker construct and should not be a material part of the SMART 3's off taker construct until the issues are proven to be worked out. To our understanding, billing changes still must go through a DPU process which would take years. The industry cannot wait for this process to be completed and functional to move forward in the interim.
  - iii. **Solution:** We ask that DOER remove the Low-Income Customer requirement within the Community Shared Solar adder of SMART 3 until such time as consolidated or net billing is available and functional for all program participants. Once functional, we ask the DOER to maintain a minimum bill discount methodology for low income customer savings of 10% off the AOBC. However, in the alternative, if it is critical for DOER to have an LMI component, it's worth considering that the requirement shift to a 10% of project output be LMI customers in which they receive a 100% discount. This would ensure there would be little-to-no churn because there would be no invoicing and collection process; and it would ensure material discounts are going to the demographic that needs it the most; further it would spread LMI customers across more projects which will enable a more scalable customer subscriber pool.

## 5. Performance Standards

### a. Vagueness and contradiction to AHJs

- i. **Issue:** The Performance Standards put forth in this section create an ambiguous set of discretionary requirements that are not only difficult to interpret, but that also duplicate or potentially contradict local AHJ conditions and other state standards. For example, 225 CMR 28.08(7)(b) states that “existing leveled field areas shall be left as is without disturbance”; while nice in concept, there are two practical issues: (i) the reality is that projects must adhere to rigorous stormwater studies and controls which local AHJs hire third party engineers to review such studies and designs on behalf of the project application. It is common that they require “over engineering” of stormwater systems such as detention basins that we argue are overly conservative and hard impact compared with a more natural set of stormwater controls but in order to get the Conservation Commission permit we must follow their suggestion which is put into the Conditions of such permit. If the Environmental Monitor thinks the detention basin on a field is not necessary than the project is put at a major discretionary impasse which could amount major financial damages; (ii) from a practical matter, construction activities will disturb the ground. It is impossible to leave the area “without disturbance”, especially when rain events compound the appearance of a site under construction. We cannot have an Environmental Monitor look at this Performance Standard and determine the project has failed to leave the field are “without disturbance”.
- ii. **Solution:** Rewild strongly recommends that the purview of the Performance Standards and related work by the Environmental Monitor is to review whether the construction of a project is compliant with the permit conditions and SMART program. There should be no new “performance standards” introduced as it inherently can create devastating discretion or conflicts with AHJ conditions. Local AHJs typically require third party engineering reviews of most ground mount projects, and we must abide by their review of the local AHJ ordinance to receive such permit and related conditions of the permits. If the project is not built according to those permit conditions the project will not get a Certificate of Completion (CoC) to turn on, which explicitly acts as the enforcer of a project under construction. This new construct is a good example of overly regulating projects that already have many layers of general and project-specific regulations and conditions. We urge DOER to remove this from the SMART 3.0 framework.

## 6. Environmental Monitor

### a. Site Visits

- i. **Issue:** Rewild understands the intent of the Environmental Monitor, however it is very concerning that Monitor availability could become a serious time constraint on the construction process. Moreover, the ability of a Monitor to contravene local and state determinations would create chaos within the permitting

process. Additionally, the amount that can be charged for the Environmental Monitor is not established.

- ii. **Solution:** Rewild strongly suggests that if a local AHJ requires a third-party consultant to review the construction of the project then the requirement of an Environmental Monitor be waived. In its absence, we recommend the Monitor's visit be random checks to provide for enforcement of the regulations efficiently to prevent creating backlogs and project slowdowns. It is critical that the Environmental Monitor does not introduce conflicting requirements with the conditions of permits from local and state AHJs.

## 7. Mitigation Fee

### a. Previously Developed

- i. **Issue:** Should an entire parcel not be Previously Developed under the definition but is otherwise eligible the regulations are silent on how to determine a Mitigation Fee, and how a predetermination of a Previously Developed site is made.
- ii. **Solution:** It would be reasonable and necessary to provide a pro-rata acre mitigation fee attributable to the non-previously Developed portion of a site. Additionally, we recommend a simple pre-determination process to determine whether a site is Previously Developed whereby a third-party wetland scientist or environmental consultant provides a document categorizing the site as Previously Developed or not, with accompanying photos which it is then the responsibility of DOER to provide such Predetermination within 10 business days. We do not recommend DOER to have the Environmental Monitor undertake the work because we foresee a large delay in that process and instead can rely on licensed professionals in the Commonwealth to do such work. As proof there must be a significant improvement in pre-determination requests, Rewild has had two failed requests for pre-determination in the last two years due to the process laid out in the regs (one being on a Floating Solar project, and the other on a Previously Developed site). Therefore, we are recommending a far simpler, third-party process to expeditiously make such pre-determinations.

### b. Payment of Mitigation Fees

- i. **Issue:** The payment schedule under this section requires 25% prior to receiving a Statement of Qualification reservation. This puts a material burden on a project that is yet to functionally be a part of the program.
- ii. **Solution:** In the alternative, we recommend that the initial 25% payment be made due within 30 days of a project receiving a Statement of Qualification reservation.

### c. Mitigation Formula – Cumulative Impacts

- i. **Issue:** The assessment of the historical development of ground mounted solar in the SMART program by geographic distribution trends is arbitrary.
- ii. **Solution:** Projects that are interconnecting to approved CIPs should not receive a Cumulative Impact score given they are fulfilling the objective of the CIP to

remove ratepayer costs and pay for the modernization of that regional grid upgrade.

## **Additional Matters for Consideration**

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### **1. Ineligible Land for Ground-Mounted STGUs Above 250kW**

- a. Carbon Map**
  - i. Issue:** Rewild seeks clarification and instructions regarding the Forest Carbon Map.
  - ii. Solution:** Rewild asks that DOER make available the carbon map with all relevant details as soon as possible and be given the opportunity to comment on the final version.
- b. Clarification on Previously Developed**
  - i. Issue:** Rewild seeks confirmation that STGUs on Previously Developed Land are not ineligible, nor subject to Mitigation Fees due to the existence of Core Habitat nor carbon storage score.

### **2. Statement of Qualification Applications for Program Year Capacity**

- a. Application Queue**
  - i. Issue:** The criteria for sequencing applications should be determined by the Interconnection Services Agreement Completion Date, to ensure accuracy and project readiness.

### **3. Program Eligibility**

- a. Energy Storage Requirement**
  - i. Issue:** Rewild agrees that energy storage is an important part of the SMART 3.0 objectives, and those of the Commonwealth. However, the availability of eligible batteries could become a serious problem or impasse under the Trump Administration's Foreign Entity of Concern (FEOC) designations and regulatory requirements, as well as federal trade and other policies. For these reasons Rewild recommends including language to allow for reasonably achievable exceptions within a showing of good cause criteria.
- b. Private Property**
  - i. Issue:** The geographic limitation for public projects on private land is unnecessarily restrictive because project siting is limited to the municipality which is either the owner or principal off taker.
  - ii. Solution:** In the interest of contributing to the public good and providing resources to public entities without access to developable land, Rewild recommends removing the geographic limitation on project siting within the participating municipality. By bifurcating the location of load and generation, SMART 3.0 can allow for increased participation of Urban Public Entities and other public entities seeking to contract for renewable energy.

During such an incredibly challenging time for the Commonwealth's renewable industry it is more important than ever that the DOER continue to lead the way, with policies committed to helping bring clean, affordable energy to our rate payers and citizens. We greatly appreciate DOER's consideration of our comments and welcome further discussion regarding any questions or concerns on these important matters.

Sincerely,

A handwritten signature in blue ink, appearing to read 'E. Dube', with a stylized, cursive-like flow.

Evan Dube  
Rewild Renewables, LLC