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July 25, 2025

Grace Fletcher, SMART Program Manager
Department of Energy Resources
100 Cambridge St, 9th Floor
Boston MA 02114

Re: SMART 3.0 Emergency Regulations

Dear Ms. Fletcher,

The Coalition for Community Solar Access (CCSA) is pleased to submit these comments on the SMART 3.0 Regulations. We greatly appreciate all of DOER's efforts to update and improve the Commonwealth's solar incentive program. The launch of SMART 3.0 comes at a crucial time for solar energy deployment in Massachusetts. As the Department is aware, the "One Big Beautiful Bill Act" passed by Congress and signed by President Trump earlier this month ends the Investment Tax Credit (ITC) for solar. Projects have until July 2026 to commence construction, but are also awaiting guidance from Treasury on the specific actions that will qualify, given Executive Order 14315. This creates a very narrow window to qualify for federal tax credits, and once that window closes, the renewable energy industry will enter a period of significant uncertainty and the cost of generation will likely increase. Massachusetts must act now to ensure the Commonwealth can build as much cost-effective clean energy as possible as soon as possible.

In the Massachusetts context, solar development is finally emerging from prolonged permitting and interconnection delays. The industry now stands ready to build, and the updated, workable incentive structure under SMART 3.0 is the critical missing link needed to unlock this pent-up potential.

Distributed solar is essential for the Commonwealth's energy future. As demonstrated during the recent June heatwave, local solar generation reduces peak load, improves grid reliability, and lowers energy costs for all ratepayers.¹ A well-functioning SMART 3.0 program is not only necessary—it is urgent.

CCSA has joined the Clean Energy Groups in comments reflecting important issues for solar development across our respective memberships and represented solar segments. We are

¹ See <https://www.rtoinsider.com/109579-behind-the-meter-solar-shines-iso-ne-capacity-deficiency-event/>. It is important to note that ISO-NE uses the term "behind-the-meter" to refer to all solar that is not actively participating in wholesale markets, which captures 89% of all solar in New England, and importantly, standalone distributed solar such as community solar.



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submitting these separate CCSA comments to emphasize the issues that are priorities for community solar and other large standalone solar.

Initial Program Opening

We recommend DOER ensure that the initial 2025-2026 program year capacity allocations and timing do not unnecessarily stifle projects that would otherwise be able to qualify for the ITC. One way to do that would be to combine the 2025 and 2026 blocks into a single uncapped MW allocation to provide developers with the flexibility and certainty needed to begin project construction. Alternatively, if separate blocks are maintained, the regulations could be amended to permit DOER to pull forward 2026 capacity into 2025 if the 2025 block fills early. Accelerating the release of the 2026 capacity allocations and incentives would also help projects move quickly. Ultimately, we recommend DOER amend the regulations to allow for greater flexibility in 2025-2026 allocations to accommodate project timelines and maximize the benefits of available federal tax credits.

Community Shared Solar (CSS) Requirements

Low-Income Customer Definition: CCSA strongly supports the expanded definition of a qualified low-income customer, and appreciates DOER's consideration of our input on this issue. In particular, the inclusion of means-tested program participation and self-attestation as pathways to qualify low-income customers will better enable participation in CSS. However, we continue to advocate for including affordable housing as an eligible customer under CSS to better serve this high-need population with greater flexibility than through just the Low Income Property STGU adder.

Minimum Discount Requirements: While we support a minimum discount requirement, CCSA has significant concerns about the change in regulation that ties the CSS discount to the Value of Energy (VOE) for net metering projects under an R-1 rate. This is a significant departure from what was indicated in the Straw Proposal. Under the methodology in 28.07(5)(c)1.b, the discount averages approximately \$0.06/kWh, which is almost the full value of the adder; under the methodology proposed in the Straw Proposal, the discount averages approximately \$0.03/kWh. It is the latter that was modeled to determine the adder values, and the difference is too significant for projects to absorb. Because this approach to a minimum discount will erode almost the entire value of the adder, it will discourage projects from pursuing the CSS route, unintentionally undermining the CSS program and resulting in *fewer* low income customers served through CSS.

We are also concerned that this shift in the discount calculation will be problematic, if not impossible, to implement effectively. Tying the discount to the R-1 net metering VOE creates challenges of sizing subscriptions and delivering the appropriate customer value because the



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discount is not tied to the customer's actual rates. In fact, most low-income customers by definition will not be on an R-1 rate, but will be R-2 or R-4 customers. The approach makes it more difficult to ensure a provider is properly billing a customer because the discount is not a direct corollary to the AOBs actually applied to the customer's bill, and this will also make it difficult for DOER to verify or enforce that the intended savings are indeed being delivered. Critically, we are concerned that a discount rate that is not tied to the value of the bill credit applied will make the roll out of net crediting - as required by the 2024 Climate Law - far more difficult and costly, and potentially impossible.

We recommend that the discount rate continue to be tied to the credit value applied to the customer. We also recommend modifying the regulations to note that the minimum discounts apply only to residential customers, and exempt large commercial and anchor customers. These are sophisticated, large customers that have the ability to negotiate a mutually beneficial arrangement with the community solar project sponsor. Many will not require a 10% discount to be interested in participating in community solar, and allowing flexibility with anchor customers will better enable projects to provide deeper discounts to residential and low income customers.

Delay the 40% Low-to-Moderate Income (LMI) offtake requirement until consolidated billing is fully implemented: CCSA agrees with the intent of a low-income offtake requirement under a community solar program, and we strongly support efforts to serve this population. However, we are critically concerned that the requirement to serve low income customers without consolidated billing in place is unworkable and will have unintended consequences. The lack of consolidated billing is the main reason that community solar under the SMART program has not been able to serve more low income customers. Even existing LICSS projects are facing severe challenges because they are experiencing incredibly high attrition from customers who do not know to, or are unable to, pay a separate community solar bill. Because of this issue, investors will not fund projects serving low income customers without consolidated billing.

Until consolidated billing is available, developers will look to pursue other offtake strategies, and will not choose to pursue CSS, unless through the Eversource CSAP program or municipal aggregation programs.² Given that this is not a time to stall projects, the 40% low income requirement should not kick in until net crediting is available.

²The Eversource CSAP program provides a good opportunity to serve low income customers; however, Eversource has not indicated when it will issue its first RFP under that program, and to our primary comment around clearing obstacles from ITC qualification, it may be too late for projects to consider that pathway. The municipal aggregation CSS programs may also be an alternative route to deal with the dual bill issue; however, the current discount requirement tied to the VOE for net metering customers will be a major deterrent because the municipal aggregation projects must have 100% low income offtake.



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Program Transition

CCSA wishes to emphasize the recommendation made by the joint Clean Energy Groups to carry forward land use exemptions from SMART 2.0 into SMART 3.0, for projects that meet the original SMART 2.0 transition milestones and dates.

Additionally, projects that are safe-harbored for ITC purposes, including through the Physical Work Test, should be eligible for SMART 3.0, recognizing their early investment and risk under federal tax timelines.

Annual Blocks and Waitlisting Procedures

Section 28.05(3)(b) should be revised to allow unused capacity to roll over to the next year's allocation. Due to the "lumpy" nature of development in Massachusetts, projects in group studies or CIPs often reach the ISA stage simultaneously. Without rollover, there's a risk of losing valuable capacity in one year and creating bottlenecks in the next. Allowing capacity to rollover would enhance program flexibility and prevent unnecessary delays without increasing the total program capacity or ratepayer costs.

Annual Base Compensation Rate Cap

While we generally support a 10% cap on annual incentive rate changes to ensure market stability, we recommend DOER include a waiver for this requirement for 2027. Projects applying in 2027 are unlikely to qualify for the federal ITC, resulting in steep declines in project economics. A fixed 10% increase in this year could unintentionally halt development—an outcome at odds with the program's purpose. Alternatively, the language in the regulations could be modified to allow for exceptions to the 10% cap whenever major economic factors - such as global recessions, pandemics, international conflicts, or other policy changes - cause dramatic changes in project costs.

Year 1 Treatment of Pre-Determination and Exception Applications

CCSA requests that DOER clarify how projects requiring Pre-Determination Applications (PDA) or exceptions will be treated in Year 1. At this time, it is not evident that DOER will be able to approve these ahead of the October 15 program opening, but these projects should not be inherently at a disadvantage if they can not apply during the 10-day window. CCSA recommends these projects be allowed to apply without the pre-determination and hold a capacity allocation pending successful review of the PDA or exception request.

Public Comment on Applications



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28.06(1)(e)1 allows for DOER to “at its sole discretion, provide for public comment on any Statement of Qualification Application.” CCSA is very concerned that this allowance will stall or potentially kill projects, and it is not clear in what circumstances public comment on a SMART application would be appropriate or necessary. The permitting process already requires extensive public engagement and is the appropriate forum for such input, and we are concerned that a public comment period on a SMART application could undermine or contradict those local processes.

Land Use Eligibility

We strongly urge DOER to align the wetlands and buffer zone restrictions in 28.08(1)(a) with the SMART 2.0 language, which specifies that projects overlapping Wetland Resource Areas and buffer zones are eligible if “authorized by regulatory bodies.” Projects that have received regulatory approval from local and state permitting agencies should not be deemed ineligible by the SMART program. This approach maintains consistency, respects established permitting processes, and avoids arbitrarily disqualifying viable, low-impact sites.

Regarding eligibility criteria new to SMART 3.0, it is essential that DOER release the carbon storage data layer as soon as possible. As this is a new data set unfamiliar to the solar industry, the uncertainty as to whether sites will be eligible and how they will be scored under the carbon storage criteria is creating a significant obstacle to effectively moving projects forward.

Thirdly, we recommend adding a provision to allow a project to receive an eligibility determination for sites that are included in Core Habitat or Carbon Storage maps, but where on-site verification can demonstrate different conditions that make the site suitable for solar. DOER has recognized that on-site conditions may vary from data layers used to assess mitigation fees by allowing for a review process for mitigation fees, and that principle is perhaps even more important in the context of strict prohibitions on program participation.

Environmental Monitoring and Performance Standards

While performance standards are important, several that are listed in the regulations are inappropriate for standard, non-agrivoltaics projects and may conflict with local permitting norms. In particular, the standards related to moving soil or leveling sites could be very problematic as these activities are likely means to substantiate that a project has commenced construction to qualify for the ITC.

Given the very detailed and varied nature of the performance standards and how they may appropriately apply to different sites, CCSA suggests that they would be more appropriate to include in a Guideline rather than regulation. Moving the performance standards into a guideline will provide a better opportunity for stakeholders to provide detailed and constructive feedback



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to ensure that sites are properly managed while avoiding requirements that are costly, time consuming, and provide minimal environmental benefit.

Further, in thinking about how to minimize and avoid any unnecessary delays in mobilizing projects towards ITC qualification, we are concerned that the limited availability of an environmental monitor could cause such delays. DOER should modify the language so that site visits are utilized as an audit rather than a prerequisite. Shifting from a “shall” to a “may” allows for enforcement without introducing backlogs due to limited monitor availability.

Mitigation Fees

We appreciate DOER’s work to adopt a land use framework utilizing mitigation fees instead of a greenfield subtractor, and overall, are supportive of the mitigation fee approach. The details of the mitigation fee to be laid out in Guidelines will be critical to whether the framework is effective at encouraging development on the most suitable sites for solar without overly restricting ground-mounted solar necessary to meet our climate mandates. CCSA will be ready to review and provide feedback on DOER guidelines specifying how mitigation payments will be calculated.

In the meantime, CCSA encourages DOER to refer back to our December 2024 comments in crafting the guidelines, and we reiterate our recommendation to allow in-kind mitigation, including permanently conserving land on or near the project site, implementing community benefit agreements, and designing ecological enhancements such as fencing or pollinator-friendly plantings. This approach reduces administrative costs, fosters community support, and enhances environmental value. DOER and partner agencies could determine eligibility based on ecological metrics.

We also find that adjustments are appropriate to the mitigation fee factors. In particular, the categories of Grid Alignment and Cumulative Impacts are likely to be at odds with each other. We understand the Grid Alignment category to be intended to recognize projects that are cited within Capital Investment Project (CIP) areas that will be utilizing already built grid infrastructure. CIPs, however, were by definition planned for areas with high penetration of distributed generation. We support combining these two categories into one that would be scored to reduce a mitigation fee score if a project is *either* in a CIP or otherwise utilizing publicly funded grid infrastructure, *or* is in an area with low cumulative solar development.

Lastly, Section 28.09(3) requires payment of 25% of mitigation fees at the time of application, but it is unclear how applicants will know the correct fee amount in advance. CCSA recommends the 25% mitigation fee be collected after the application submission so that the mitigation fee amount can be confirmed, for example, within 90 days of the applicant receiving notice that the application is administratively complete.



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Energy Storage

We appreciate DOER's review of the energy storage operational requirements and attempts to align incentives across SMART and the Clean Peak Standard. However, we share the concerns raised in the joint Clean Energy Groups comments regarding down-time limitations and discharge cycles.

The new Foreign Entity of Concern (FEOC) requirements under OBBB are likely to make it very difficult to find batteries and battery components that qualify for the ITC. Given the stringency of these requirements and the time factors, we recommend expanding or amending the good cause exemption process to allow for a waiver from the requirement to include energy storage for projects over 1 MW if the applicant can demonstrate that they are not able to procure FEOC-compliant components.

Though our comments have focused on recommended changes and clarifications to the SMART 3.0 Regulations, we do wish to emphasize that CCSA and our members remain optimistic about the potential for SMART to encourage low-cost, local solar that can meet the challenges of growing demand and rising costs. We are grateful for DOER's incorporation of many of our recommendations in prior comments, including expanding capacity allocations for Year 1, revising the land use framework, and expanding the low-income customer definition. As challenges to build renewable energy grow across the country, our members are looking to Massachusetts as a leader in clean energy, open for business to solar and ready to welcome the jobs, economic development, and affordable energy our industry can offer. Thank you for your consideration of these comments, and please do not hesitate to reach out with any additional questions.

Sincerely,

/s/ Kate Daniel

Northeast Regional Director
Coalition for Community Solar Access