



January 21, 2025

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Re: SMART 3.0 Comment Letter

Dear Commissioner Mahony and Director Meserve,  
and SMART Program Manager, Grace Fletcher,

Thank you for filing SMART 3.0 as emergency regulations. We appreciate the effort put into SMART 3.0 to address the interests of ratepayers and many stakeholders. However, recent events at the federal level have, unfortunately, required immediate changes to the proposed compensation, Annual Capacity Block Determination, an announcement this summer that EEA and DOER will continue to support the solar industry in the absence of the ITC, and a reassignment of emission reductions generation considering the lack of offshore wind permitting. At the time of writing, even using SMART 3.0 compensation rates, the post-ITC base SMART 3.0 compensation rate would need to be \$0.2177 to justify moving forward with development. Without additional compensation support, standalone solar development > 1 MW will cease.

The presidential Executive Order issued on July 7, 2025, directed the Secretary of the Treasury and the Secretary of the Interior to focus on reducing the number of solar and wind projects eligible for the ITC. Forty-five days from July 7, 2025, the proposed regulations addressing the Executive Order will be presented. The proposed SMART 3.0 Annual Capacity Block Determination of 450 MW per year for the first year will directly delay the IRS-defined "start of construction by July 4, 2026", and undermine the economic viability of projects that would otherwise qualify for the ITC. The Annual Capacity Block Determination should be unrestricted in 2025 and through 2026 to allow solar projects to qualify for the federal ITC. The Annual Capacity Block for 2027 could be unrestricted, as a growth control mechanism exists in the form of the ISO-NE 360-day Transitional Cluster Study (TCS), which will limit the development of solar projects during 2025 and 2026. The 270-day ISO-NE post-TCS will continue to be a growth-limiting factor beyond October of 2026. The EEA and DOER must recall the significant oversubscription in National Grid territory that occurred over a one-week period during the transition from SREC II to SMART 1.0. The Baker Administration's unresponsiveness to an oversubscription condition that they knew existed significantly affected this firm. If repeated, it will drive other solar companies out of the Massachusetts market.

The offshore wind (OSW) industry has been significantly impacted by the same events affecting the solar industry, as well as others, including a January Executive Order that paused indefinitely the permitting review of OSW projects. These events threaten to erode the progress Massachusetts has made in launching OSW. They are the reason why projects awarded power purchase agreements in the fourth Section 83C OSW solicitation have yet to conclude negotiations with the distribution companies. The fifth Section 83C solicitation is also likely to be delayed given the current state of the OSW industry. At some point, the Commonwealth should disclose the losses and costs incurred by the state and its businesses because of the actions taken by the current administration.

The Clean Energy Climate Plan for 2025 and 2030 targets 3.2 GW of offshore wind and 8.4 GW of solar PV<sup>i</sup>. At a D.P.U. Hearing, when asked about the enforceability of the 8.4 GW of solar PV, Undersecretary Michael Judge stated that the 8.4 GW of solar installation was based on the technology and generation estimates available at the time, without strict compliance with emission reduction requirements. US Judge mentioned Massachusetts could meet emission reductions in any number of generation means and methods. Massachusetts needs to decide how it will power its building and transportation sectors with renewable energy, while growing its technical workforce, such as electricians, to prepare for an electrified, automated, and AI-driven future.

We recommend that the EEA and DOER remove the caps on solar installations in 2025 and 2026 to allow solar PV projects to qualify for the existing ITC and to significantly raise the yearly caps to provide for emission-reduction renewable generation built within Massachusetts.

If Massachusetts wants to maintain its solar industry's contribution to emission reductions in the electric sector, compensation must increase to offset the absence of the federal ITC. Given the current base SMART 3.0 compensation rates, they would need to rise to \$0.2177 per kWh to maintain development. Development pipelines rely on pro forma projections of economic viability. Without viability, solar development halts. Our 30 MW pipeline of projects, required to go through the ISO-NE Transitional Cluster Study, has been halted due to a lack of financial viability.

#### E.4 ELECTRICITY SECTOR METRICS

Electricity Sector	2015	2020	2025	2030	Historical Source	Model Source
<b>Electricity Demand</b>						
MA total load, inclusive of line loss (TWh)	58.1	53.0	60.8	72.8	ISO-NE	RIO
ISO-NE total load, inclusive of line loss (TWh)	107.9	116.9	137.4	165.8	ISO-NE	RIO
ISO-NE clean energy generation (TWh) <sup>154</sup>	55.8	53.4	82.8	126.3	ISO-NE	RIO
MA contribution toward ISO-NE coincident peak (GW)	11.5	11.7	12.9	13.4	ISO-NE	RIO
ISO-NE coincident peak (GW) <sup>155</sup>	24.4	25.1	28.2	30.1	ISO-NE	RIO
<b>Deployment of Renewables</b>						
MA installed offshore wind capacity (GW)	-	-	0.0	3.2	ISO-NE	RIO
MA installed photovoltaic capacity (GW)	1.0	3.4	4.5	8.4	ISO-NE	RIO
MA installed energy storage capacity (GW) <sup>156</sup>	1.8	1.8	2.6	2.9	ISO-NE	RIO

## Land Use:

3. Dual-use Agricultural STGU's. (c)(i) should be **entirely** deleted, as the previous sentence (c) covers the purpose of the Dec 10, 2024, technical session.

**Clearcutting Prohibition. No Newly Created Farmland Project Footprint shall be a result of the clearing or conversion of forest land that does not qualify as permissible tree clearing. Permissible tree clearing may include routine maintenance of existing field boundaries or roads, removing isolated trees in an existing cleared space, or other instances of routine agricultural activity as determined by the Department, in consultation with MDAR.**

This contradicts the concept of creating new farmland and does not align with the intent of the December 10, 2024, Technical session, as shown below. If held to the words intended in this section, no new farmlands will be allowed to be built. No parcels with farmland soils will be returned to agricultural use. There is a need for more farmland in Massachusetts.

c. Eligible Farmland (existing and describes requirements and intent, and should remain)

Newly Created Farmland. To be deemed Newly Created Farmland, the Applicant must demonstrate the viability of agricultural production at the time a Pre-Determination Application is submitted to the Department and MDAR and meet the below criteria.

### December 10, 2024 Technical Session below:

## Context

This proposed framework replaces the Greenfield Subtractors and Community Benefits Adder, as presented in the SMART 3.0 Straw Proposal.

- The proposed framework applies to large (>250kW AC) ground-mounted projects
- Eligible projects will still be subject to:
  - on-site visitation from an Environmental Monitor (and related expense)
  - updated Performance Standards
  - any new Siting & Permitting requirements established by the 2024 Climate Bill
- Projects will NOT be subject to the proposed framework if they are:
  - receiving a locational adder (building, agriculture, canopy, brownfield, landfill)
  - sited on previously developed land
    - *areas degraded by impervious surfaces from existing structures or pavement, absence of topsoil, junkyards, abandoned dumping yards, or other degraded areas as determined by DOER*

Section c. Eligible Farmland also matches up with 225 CMR 28.09 Mitigation Fee.

225 CMR 28.09: Mitigation Fee

(1) Applicability. A ground-mounted STGU with a capacity greater than 250 kW that is not located on Previously Developed Land and does not qualify for a Locational Compensation Rate Adder listed under 225 CMR 28.13(3)(b) shall be subject to the requirements of 225 CMR 28.09.

Section (i) Clearcutting Prohibition in the context of Newly Created Farmland should be deleted.

#### **Year-to-Year Compensation Adjustment:**

(6) Annual Calculation of Base Compensation Rates and Compensation Rate Adders.

Base Compensation Rate and Compensation Rate Adder Change Cap. Year-over-year changes to the Base Compensation Rates and Compensation Rate Adders between Program Years shall not exceed 10%.

This policy should not begin until 2027, after the policy and economic issues surrounding the ITC become clearer. A base compensation rate increase of \$0.2177 would represent a 22% rise in the rate.

#### **Public Comment on Statement of Qualifications:**

Public Comment. The Department may, at its sole discretion, provide an opportunity for public comment on any Statement of Qualification Application. The Department may extend the application review timeline to account for the public comment period

Does this not violate the concept in the Energy Infrastructure Site and Permitting Reform about only “one appeals process”? Under the idea that everything is appealable, political pressure could be brought to bear on every project that has a Statement of Qualifications.

#### **Annual Capacity Block Allocation:**

**(4) Annual Capacity Allocation. Annually, the Department shall determine the allocation of a Program Year’s Annual Capacity for each Distribution Company. Each Distribution Company shall be allocated a minimum of 5% of the Annual Capacity Block. The remaining capacity available shall be allocated proportionally to the total electric load served to Massachusetts End-use Customers by the Distribution Company.**

Why is this section necessary when there is so much to accomplish? It directly affects farmers and landowners in Unitil territory. Although Unitil only has one percent of the load in Massachusetts, its land area includes farmers and landowners who want to install solar projects that will be needlessly restricted by this limiting Annual Capacity Block Allocation. If a capacity must be given, Unitil should have a carve-out of 50 MW per year. The SMART tariff should be statewide, not tied to utility territories.

**Wetlands:**

Regarding wetlands, SMART 3.0 must recognize the decisions and authority of local authorities with jurisdiction, local Conservation Commissions, and MassDEP.

Recognition existed in SMART 2.0, 5. **Ineligible Land Use** (b) provides an exception in: “except as authorized by necessary regulatory bodies.”

**Energy Storage:**

SMART 3.0 needs to encourage storage for a longer duration than 6 hours. With the near elimination of OSW, the capacity markets will change, and storage should be compensated for at least 10 hours of storage.

**Payment of Mitigation Fees:****Existing Proposed Text:**

(3) Payment of Mitigation Fees. Applicants shall be required to pay 25% of the Mitigation Fee at the time of submission of a Statement of Qualification Application, and the remainder of the Mitigation Fee at the time of submission for a Final Statement of Qualification.

**Proposed change:** Applicants shall be required to pay 25% of the Mitigation Fee 60 days after the issuance of a Preliminary Statement of Qualification (PSOQ), and the remainder of the Mitigation Fee at the time of submission for a Final Statement of Qualification.

A project cannot be financed without a PSOQ. Once a PSOQ is issued, funds are more readily accessible for the developer.

**Community Solar:****Community Shared Solar – Discount Requirements**

- **Issue 1:** Minimum discount percentages are tied to the Net Metered “Value of Energy” (VoE), even though most projects will use AOBCs.
  - **Regulatory Reference:** “Low Income Customers must receive a per-kilowatt hour discount... of 20% or greater of the Value of Energy... All other customers must receive... 10% or greater.” (225 CMR 28.07(5)(c)1.b)
  - **Why It’s a Problem:** AOBC bill credits are significantly lower in value than Net Metering credits, as AOBCs are based only on the supply rate. Applying the discount to VoE inflates the real-dollar value of required savings, pushing effective discounts well beyond 10% or 20%.
  - **Proposed Solution:** Tie minimum discount thresholds to the actual dollar value of credits received by subscribers each month, not per-kWh VoE calculations. This will significantly reduce confusion for the customer.
- **Issue 2:** Commercial subscribers are required to receive a minimum 10% discount.
  - **Regulatory Reference:** Same as above.
  - **Why It’s a Problem:** Commercial subscribers do not need guaranteed savings to justify participation, especially large anchor offtakers. The minimum discount requirement may be unnecessary and restrictive.

- **Proposed Solution:** Limit the 10% minimum discount requirement to non-LMI residential subscribers only.

### Low-Income Subscriber Requirements

- **Issue:** Community Shared STGUs are required to allocate at least 40% of project capacity to Low Income Customers, each receiving a minimum 20% discount on the Value of Energy (225 CMR 28.07(5)(c)1.a–b).
- **Regulatory Reference:** “No less than 40% of all Bill Credits generated by a Community Shared STGU must be allocated to Low Income Customers.” (225 CMR 28.07(5)(c)1.a)
- **Why It’s a Problem:** This structure creates significant implementation challenges. Massachusetts prevents utility shut-off for many low-income customers during much of the year, which limits the incentive to pay utility bills — including community solar charges. As a result, nonpayment rates are high, subscriber churn is challenging to manage, and developers bear the full risk of repayment. With limited tools to enforce payment, many projects are choosing to bypass the Community Shared adder entirely and enroll under the base feed-in tariff.
- **Proposed Solution:** Replace the 40% LMI at 20% discount requirement with a simpler and more effective alternative, such as requiring that 10% of project capacity be allocated to Low Income Customers at a 100% discount.
  - This broadens the eligible pool of LMI subscribers by eliminating the need for customer payments — reducing reliance on credit checks, billing logistics, and ongoing collections. This makes participation possible for households that would otherwise be excluded from opportunities.
  - This reduces administrative and financial risk for developers by removing repayment obligations from subscribers entirely.
  - This alternative delivers greater total LMI savings: 40% of output at a 20% discount = 8% effective project-wide discount. 10% of production at a 100% discount = 10% effective discount.

### Agrivoltaics – ASTGU Capacity Cap

- **Issue:** The regulations impose a maximum DC capacity for Dual-use Agricultural STGUs (ASTGUs).
- **Regulatory Reference:** “The maximum DC capacity rating of a Dual-use Agricultural STGU shall be no more than twice the AC capacity rating of the STGU and shall not exceed 7,500 kW DC.” (225 CMR 28.07(5)(b)3.b.iii)  
DOER was good enough to raise this past limit to 7500 kW DC, but in light of advancing technology, I never understood why this limit was put in place.
- **Why It’s a Problem:** The cap is arbitrary and may discourage larger agrivoltaic projects that maximize land productivity for both farming and clean energy.
- **Proposed Solution:** Raise the 7,500 kW DC cap to a minimum of 10,000 kW DC (to match the 5,000 kW AC maximum of SMART), or remove the cap entirely, to reflect actual grid and land-use constraints rather than an arbitrary limit.

### Energy Storage Requirement – Rooftop and Canopy Projects

- **Issue:** Rooftop STGUs are exempt from mandatory energy storage co-location, but canopy systems are not.



- **Regulatory Reference:** “225 CMR 28.07(4)(e) shall not apply to Building Mounted STGUs.” (225 CMR 28.07(4)(e)1)
- **Why It’s a Problem:** Canopies often have site constraints similar to rooftop systems, especially in dense urban areas. Requiring storage adds complexity and cost.
- **Proposed Solution:** Extend the exemption from the storage requirement to Canopy STGUs as defined in 225 CMR 28.02.

### **Rates Will Rise Regardless of the Presence of Solar:**

Electrification, increased use of automation and AI, along with upgrading our 100+-year-old electrical system to service the same, will cause rates to rise whether there is a solar industry or not. It will take concerted political and regulatory will for Massachusetts to convince ratepayers that solar will help keep electrical cost down even as the SMART rate rises to take the place of the ITC.

Thank you for your consideration.

Best Regards,

A handwritten signature in dark ink, appearing to read "Doug Pope", with a stylized flourish at the end.

Doug Pope  
CEO

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<sup>i</sup> Appendices to the Massachusetts Clean Energy and Climate Plan for 2025 and 2030, Page 160