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Ms. Judith Judson
Commissioner
Department of Energy Resources
100 Cambridge St., Suite 1020
Boston, MA 02114

Dear Commissioner Judson:

As a solar development company in the Commonwealth we felt it was crucial that we write to express our opinions on 225 CMR 20.00, the Solar Massachusetts Renewable Target (SMART) program, proposed as emergency regulations on June 5, 2017. Oak Square Partners has a true stake in the final regulations that will ultimately result from discussions, and we hope that Department of Energy Resources (DOER) will seriously consider our suggestions.

State policies in Massachusetts have led to one of the most robust solar industries in the country. DOER has been successful in creating the regulations that encourage and support the industry throughout the state. We appreciate the efforts of DOER in creating the new SMART regulations and in giving us the opportunity to comment on these rules. Although the proposed emergency regulations are obviously the result of the hard work of DOER, we believe that it is imperative to the fairness of the program that the agency include the reasonable suggestions of those that work in the industry.

The following suggestions are the result of the thoughtful discussion between the partners of Oak Square Partners, and we believe that they are reasonable and vital to the success of the SMART program.

1. Remove Prohibition of Contiguous Project Qualifying for Incentives

We take issue with section 20.05(5)(f) Project Segmentation of the proposed regulations that prohibits separate ground-mounted Solar Tariff Generation Units on contiguous parcels of land from being eligible to receive a Statement of Qualification as a Solar Tariff Generation Unit. This restriction is unnecessarily burdensome to developers and is inconsistent and even at odds with § 20.05(5)(a) General Eligibility Requirements in that the latter addresses the concern that developers will subdivide properties for the purpose of obtaining eligibility as a Solar Tariff Generation Unit.

Developers have sited and begun work on many projects in anticipation of the new incentive program without knowledge that such a restriction could be placed on their ventures. These developers are especially caught off guard since previous regulations contain no equal to this prohibition. Additionally, the requirement that only close to fully developed projects can participate in the procurement (section 20.07 (3)(a)2) means

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that many developers may be significantly invested in contiguous projects in anticipation of the procurement but now would be unable to participate with more than one of their projects. Section 20.05(5)(a) solves the issue of subdivision for the purpose of developing solar but section 20.05(5)(f) is arbitrary and unnecessary, and the latter will detrimentally affect developers that have been willing to take risks to improve the solar industry of the State. We request that DOER remove the provision prohibiting separate projects on contiguous parcels from receiving more than one Statement of Qualification as a Solar Tariff Generation Unit.

2. Include Evaluations of Compensation Rates Every Six Months

Periodic evaluations of the compensation rates are imperative to the success of the SMART program. Although section 20.07(6) of the regulations includes a review of base compensation rates and compensation rate adders when the agency issues Statements of Qualification for 400 MW of Solar Tariff Generation Units, regular checks into the base and adder rates are more compatible with the current solar climate. Because of the nature of the solar industry, the economics of solar are vulnerable to wide fluctuations in price that could happen as a result of trade decisions. The International Trade Commission (ITC) has recently accepted Suniva's petition under section 201 of the 1974 Trade Act, 19 U.S.C. § 2251, to review the importation of PV cells and modules. If the ITC agrees with Suniva that a tariff on cells and a minimum module price should be imposed on imports and recommends the President take actions in accordance with the requested relief, the solar industry could see a drastic change in price. These price changes could severely affect the economics of the industry and would make prices agreed upon before the decision unsustainable. In anticipation of a negative decision for the solar industry in the Suniva case, and the potential for other changes in the industry, DOER should implement an evaluation schedule of base and adder compensation rates. A review of prices every six months would allow Massachusetts regulators to respond in a timely fashion to changes that could affect solar prices. This could help protect Massachusetts as a leader in the solar industry.

3. Remove Limits on How Many Adders for which a Project Can Qualify

The incorporation of each adder listed in 20.07(4)(a) through (d) in a solar project is a challenge for developers and should be incentivized no matter how many adders are included in a project. Section 20.07(4)(e)1 already limits solar projects over 25 kW AC from qualifying for more than one Compensation Rate Adder from each category. 20.07(4)(e)2 goes too far in that it establishes an adder ceiling. If policy is meant to incentivize developers to chase adders, then an aggregate cap on adders is arbitrary and goes against the spirit of the SMART program. This rule avoids incentivizing developers for achieving objectives in their projects that have the desired environmental or community impact. Each adder comes with its own level of challenge and difficulty, and those developers that are able to include multiple adders together in their project

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should be rewarded for their efforts. It is important that developers aim to obtain adders since it will make use of sites that are undesirable for other developments. We want to encourage developers to be creative and make use of challenging sites, and to provide solar energy or net metering to communities and low-income customers. Ultimately, each compensation rate adder is justified and each adder included in a project should be compensated.

4. Adders Should Not Decrease as Blocks Proceed

In addition to eliminating the limits on how many adders a project can include, the compensation rate adders should not decrease along with the base rates as contemplated by the current proposed rules. Section 20.07(2) states that "Compensation Rate Adders will decline by four percent per Capacity Block." Although we agree that Base Compensation Rates should decline each block, adders should not. The reason for this is simple: solar energy may get less expensive in the coming years because of cheaper building costs and storage but obtaining adders will only get more difficult. As the blocks proceed developers will aim to include as many adders as possible in their projects making it more difficult for later blocks to obtain the same adders. For instance, easy sites that qualify for the location adder will be developed in the early blocks and as the blocks progress there will be fewer qualifying sites, leaving only those difficult to develop. Since the Commonwealth will still want to encourage use of these challenging sites it should not reduce the incentive for developers willing to develop projects on these sites. Developing projects with adders will only get more difficult, not easier, as the program progresses.

5. Include Adder for Solar Projects in Highly Developed Areas

Just like the sites available for the location-based adder will get more difficult to develop, it extremely difficult to develop solar in some parts of the Commonwealth, namely Eastern Massachusetts (Eversource/NStar territory), and an adder should exist for building in such locations. Eversource/NStar territory is the most energy demanding region and also the most saturated in terms of area development. Since these areas will be the most difficult to locate projects and will have a large MW allotment in each block, there should be an adder for developing in high load areas.

6. Increase Ceiling Price and Include a Floor Price in the Procurement

The ceiling price included in section 20.07(3)(a)4 of $0.15 per kWh for 1MW and 2MW projects and $0.14 per kWh for projects over 2MW is too low to support growth of the solar industry in the State. As stated by the New England Clean Energy Council in their comments on the proposed rules, the ceiling price should be raised to at least $0.175 per kWh to ensure that the procurement provides a competitive auction for participants. It is vital that DOER does not set the ceiling price for the procurement too low, as each

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block will decrease by four percent. In addition to raising the ceiling, DOER should include a floor to protect participants from prices that could collapse the solar industry. A floor price of $0.11 per kWh should be considered in order to provide some sort of downside protection for the industry.

7. Clarify the Land Use Restrictions included in the Regulations

The land use restrictions included in section 20.05(5)(e)5 are broad and subjective. These restrictions do not include clear-cut distinctions that would allow developers to follow them. These standards should include definitions to explain what is meant by each of the requirements. The Performance Standards also stand contrary to many of the accepted and widely used practices of the solar industry. For instance, the requirement that only “ballasts or screw-type pilings that do not require footings or other permanent penetration of soils” can be used for mounting does not comport with common practices. Many developers use concrete footings to secure mountings in the ground. Ballasts and earthscrews are both more expensive than using driven poles or poured concrete anchors. DOER should clarify the Performance Standards and consider the impact of these standards on common practices in the solar industry.

8. Include Metrics on how DOER will Evaluate Competitiveness for the Procurement

It is concerning that the proposed regulations include an option for DOER to terminate solicitations (section 20.07(3)(a)13) without providing any guidelines on which they would base their decision. Avoiding collusion between participants of the procurement is a relevant consideration for the agency but a lack of guidelines increases the threat that DOER’s decision to terminate a solicitation would be arbitrary. Such a decision would affect the timeliness of the program and projects intending to participate. Because a decision like this could have such a great impact on the industry and the administration of the program DOER should promulgate guidelines on which anti-competitiveness would be judged.

9. Include Details for On-Bill Crediting and

With the unclear future of net metering in the Commonwealth it is crucial that the tariff establishing on-bill crediting be developed and submitted to the Department of Public Utilities before the next legislative session. Section 20.08(a) contemplates an Alternative On-Bill Credit but a draft tariff has not been released or submitted to DPU. Since the net metering cap has been met and there is a public off-take adder on the table, the details, including the timing, compensation rates, and mechanism, for the on-bill crediting need to be developed so that developers can sell power to public entities without using net metering credits. Having these details hammered out by the fall would help inform the legislature as to the next steps for net metering.

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10. Exclude Subtractors from the Procurement

If adders are excluded in the first 100 MW block then it is inequitable to include subtractors during the procurement. Under section 20.07(3)(a)6 projects selected under the procurement will have a greenfield subtractor applied to its base compensation rate if applicable. Under 20.07(3)(a) 2 b projects that participate in the procurement will not be eligible for compensation rate adders. If projects that would normally be eligible for adders cannot qualify for them during the procurement then projects should not be penalized for the greenfield adders. Areas like brownfields and eligible landfills cost more to build on and that is why they are incentivized. Without anything to incentivize projects on these sites during the procurement developers are unlikely to choose these difficult sites. Developers should not be penalized for developing on greenfield sites when there is no incentive to build on the more difficult adder sites.

11. Remove Any Caps from Storage Adder

Storage is probably the most difficult adder to obtain since the concept is a new one and largely unproven; as such the energy storage adder should not include a cap. Storage should be incentivized to full extent possible as it adds benefits to the whole energy system. As NECEC stated in their comment, storage can "help alleviate problems related to reverse power flows which provide significant reliability benefits and lowers interconnection costs for all distributed energy resources." Because benefits extend outside a single project, DOER should remove the cap on storage incentives. Additionally, basing the threshold on the capacity of the battery rather than the capacity of the solar system will incentivize larger storage systems, increasing the beneficial storage that will be installed.

Again, we appreciate the hard work and dedication of DOER in creating new the SMART program regulations. We believe that the above suggestions will improve the SMART program and encourage further growth of the solar industry in Massachusetts. Thank you for considering our comments and we hope the agency will include our recommendations in the final regulations.

Sincerely,

John Typadis
(on behalf of Oak Square Partners – Sevag Khatchadourian, John Typadis, Demetri Typadis)