

December 19, 2023

Mark D. Marini, Secretary
Massachusetts Department of Public Utilities
One South Station, 3rd Floor
Via electronic mail to dpw.efiling@mass.gov, stephanie.mealey@mass.gov, and
lauren.morris@mass.gov

**Re: *Investigation by the Department of Public Utilities On its Own Motion into
Establishing Guidelines for Municipal Aggregation Proceedings, D.P.U. 23-67***

Dear Secretary Marini:

Arcadia Power, Inc., Solar Simplified, Solstice, and Perch Energy Inc (collectively, the “Companies”)¹²³⁴ provide these comments in response to certain comments submitted by other stakeholders in the above-captioned proceeding. On August 15, 2023, the Department of Public Utilities (Department) opened this proceeding and invited interested persons to submit comments. The Department did not indicate in its Order, Notice, or accompanying documents that it was seeking comments on whether municipal aggregations should or may include a Solar Massachusetts Renewable Target (SMART) Program opt-out element. Dozens of stakeholders have submitted comments in this proceeding over the past few months. Some comments have raised issues relating to the implementation of the SMART Program in connection with municipal aggregations, and the possibility of an opt-out approach.

Implementation of the SMART program is an important issue affecting multiple clean energy policies in the Commonwealth that is under review in at least one pending docket (*Revised SMART Program Tariff, D.P.U. 20-145*). The Companies submit these comments to

¹ Arcadia is the largest community solar subscriber manager in the United States, serving more than 200,000 subscribers across 1,800 MW in thirteen states and the District of Columbia. This includes 200 megawatts across 54 projects in Massachusetts.

² Solar Simplified is an all inclusive customer lifecycle solution for Community Solar projects. We manage projects across the country, including dozens of projects in Massachusetts, in their entirety from marketing and customer acquisition to billing, collection and subscription management guaranteeing full subscription and full collection to our developers and asset owners.

³ Solstice was originally founded in 2014 as a nonprofit dedicated to expanding access to solar for underserved populations. In 2016, Solstice created a software to provide turnkey customer management services for community solar, with an acquisition strategy focused on community engagement and local partnerships. Solstice manages a portfolio of projects in Massachusetts, including several in the low-income carveout.

⁴ Perch Energy is the second largest community solar subscriber management provider in the nation. Perch manages over 600MWs of community solar capacity across multiple states. In the Commonwealth of Massachusetts we have over 240MWs across 87 active community solar projects including several Low Income Community Shared Generation Units.

address that critical issue, which emerged following the initial Notice in this proceeding. In these comments, the Companies emphasize that any potential SMART opt-out program is fraught with complications and detrimental unintended consequences. The Companies thank the Department for the opportunity to comment on this important matter.

I. SMART COMMUNITY SOLAR OPT-OUT SHOULD BE KEPT SEPARATE FROM THIS PROCEEDING.

The Department should address an opt-out SMART program only in a properly structured and noticed proceeding, and only in clear coordination with other dockets, such as D.P.U. 20-145. Any attempt to approve or adopt an opt-out SMART program as part of this proceeding will bog down an otherwise relatively straightforward process. Further, addressing the possibility of an opt-out SMART element in this proceeding risks moving forward without the engagement of important stakeholders, whose input is necessary to reach optimal outcomes.

Careful consideration of such a program with notice to all stakeholders and adequate due process to ensure those stakeholders are aware of and able to weigh in on the issues being considered is critical. The addition of an opt-out program to SMART challenges the very essence and makeup of the SMART program and, therefore, any such discussion should be undertaken in a separate, dedicated proceeding with appropriate procedural safeguards. Indeed, related issues are currently pending before the Department in D.P.U. 20-145.

II. SMART COMMUNITY SOLAR OPT-OUT ENROLLMENT SHOULD NOT BE ADOPTED.

If the Department were to consider approving or adopting an opt-out SMART program in this proceeding, there are many reasons why it should ultimately decline to adopt such a dramatic step:

1. Opt-in community solar is the most cost-effective way for Massachusetts to reach both climate and environmental justice goals.

While the Companies understand the potential allure of including SMART opt-out elements in municipal aggregation, the policy ultimately falls short of the ambitions of Massachusetts' nation-leading community solar program due to the adverse impacts the program would have on the opt-in community solar market. At its core, community solar opportunities promote customer choice, education, and engagement with the clean energy economy, all while expanding clean energy access to the Commonwealth's low income population. Indeed, a vital operating element of community solar is the ability to direct the benefits of clean, distributed generation to customers – particularly renters and others who are unable to access rooftop solar

or who are otherwise excluded from the clean energy economy. Because almost any customer who pays their utility bill is eligible for community solar, the program creates equal access for any household to reap the benefits of clean energy.

Customer choice is a natural function of equal access to the clean energy economy. Unlike municipal aggregation SMART opt-out enrollment, opt-in community solar requires active customer education and action before enrolling into the program. An educated customer who affirmatively chooses to enroll in a community solar project knows that they are a part of the clean energy economy, and that customer is directly and affirmatively choosing to support the development of clean energy in the Commonwealth. Thanks to Massachusetts' focus on creating a community solar program that simultaneously deploys clean energy and emphasizes equity with the inclusion of a special incentive for projects that deliver at least 50% of their energy output to low income customers, opt-in customers will see significant savings thanks to their subscriptions.

The focus on a customer taking an affirmative action to enroll in community solar is not just important for its own sake. Customer choice is a vital feature of community solar for two additional reasons:

1. First, opt-in customers recognize that they are benefitting from a Commonwealth program that is taking action against climate change while also reducing their electricity costs. The relationship that subscriber organizations like the Companies facilitate between the project developer, the Commonwealth's community solar program, and the customer helps build broader support for Massachusetts' Commonwealth-wide clean energy goals.
2. Second, opt-in community solar has a halo effect and provides a gateway to the clean energy economy. Opt-in community solar is a seamless introduction to beneficial electrification interventions since all a customer needs to enroll in the program is a utility bill. The Companies find that customers who elect to participate in community solar are then more likely to engage in other means of managing their energy usage than the average consumer and are more likely to layer on additional electrification interventions. Indeed, opt-in community solar may be one of the lowest-cost means of driving the long-term beneficial electrification that will be critical to meeting the Commonwealth's climate goals.

Additionally, the existing SMART program rules position opt-in community solar to be more successful in attaining the Commonwealth's goals than municipal aggregation SMART opt-out enrollment. Opt-in community solar avoids the central issues of the opt-out model: cherry-picking who will receive the benefits of community solar in a given municipality or implementing a program that will result in de minimis savings to customers. More detail on this

issue may be found below in Sub-section 3. Rather, opt-in community solar ensures that customers know they are participating in the program and are receiving material bill savings.

2. Allowing municipal aggregations to automatically enroll customers will result in ratepayer-funded windfall profits for developers while resulting in lower value for the Commonwealth.

Municipal aggregation SMART opt-out enrollment does not provide the same benefits and additional value to the customer or the Commonwealth's energy goals as the opt-in structure currently in place, because opt-out customers would be almost entirely unaware that they are enrolled in a community solar program. Moreover, municipal aggregation SMART opt-out enrollment would not include the same investment in customer education associated with opt-in community solar.

Without these educational investments, the biggest beneficiary of municipal aggregation SMART opt-out enrollment are project developers. If the Department were to allow opt-out SMART enrollment on a broad scale, that would reduce the cost to developers by eliminating the need to invest in educating and subscribing customers. The current structure of the SMART Program would provide the same compensation in either case, creating an incentive to reduce or eliminate beneficial customer education and enrollment in favor of pursuing opt-out opportunities that provide no similar benefit.

The unfortunate reality is that subscriber managers, and the customer engagement and education that the opt-in model creates, will be removed from the market should the Commission establish a municipal aggregation SMART opt-out enrollment program. The implementation of such a program would drive project developers en masse to partner with municipal aggregations under an opt-out mechanism, because the program requires no investment in customer education and subscription or the long-term management of these customers. Massachusetts would lose what opt-in community solar has provided to the market: the most efficient mechanism for expanding access to the clean energy economy across underserved communities, a track record of significant progress towards meeting the Commonwealth's climate goals.

3. Municipal aggregation SMART opt-out will result in either officials selecting winners and losers OR de minimis savings for all low income customers

If the Department were to adopt an opt-out SMART program, it would effectively result in one of two negative outcomes. Either, to ensure that customers save the most money on their utility bill, municipalities would be forced to pick which customers benefit from solar projects – which will be winners and which will be losers. Or, if the municipalities do not select winner and loser customers, they will be forced to spread a finite amount of bill credits over a huge swath of

customers, resulting in trivial bill savings for these customers. Neither of these options are desirable public policy outcomes.

If the municipality utilizes a customer selection process, municipal aggregation would create a process that is rife with potential for abuse. Municipal aggregation SMART opt-out puts the power to pick winners and losers (e.g., who is allowed to receive the benefits of community solar) entirely in the hands of a small group of government officials, who may be incentivized to favor specific constituencies. This opaque selection process would be subject to political gamesmanship with no accountability for how customers are selected.

If the municipality instead decides to socialize the bill credits among all low income customers, then these customers are likely to receive negligible utility bill savings. This means that municipalities could size subscriptions at minimal levels, resulting in a few cents in savings per month for each customer. This is not in the spirit of the community solar program, as limited savings to a large population is a less desirable policy outcome than targeted, impactful savings to customers who opt-in to the program.

4. Municipal aggregation SMART opt-out would lead to geographically discriminatory customer access and participation.

The all or nothing nature of opt-out offerings would also create geographical disparities in customer access. Given the socioeconomic makeup of many existing municipal aggregations (which are the entities most capable of implementing municipal aggregation SMART opt-out enrollment program), these programs will be unable to focus on serving overburdened communities with the same reach and rigor that opt-in customer acquisition and management companies can.

Moreover, municipalities that already have a municipal aggregation will be disproportionately well-positioned to take advantage of all the existing community solar capacity in a given utility territory since the set-up and administration of municipal aggregations is a lengthy process – as evidenced by this proceeding. There are serious, practical implementation issues associated with a locality hiring staff and dedicating municipal resources to a program that is not already in place. This means that municipalities with programs in place are likely to be the first movers and to leave little to no capacity left for others.

177 municipal aggregations have been approved to date, and according to Department of Energy Resources Data, there are more than 1.2 million municipal aggregation customers in the Commonwealth.⁵ If all these customers were automatically enrolled in SMART community solar,

⁵ Massachusetts Department of Energy Resources. Electric Customer Choice Data, <https://www.mass.gov/doc/2023-electric-customerchoice/download>.

they would consume between 6,000 and 8,000 MW – more than twice the size of the entire, expanded SMART program.⁶ Therefore, it is reasonable to assume that, if a municipal aggregation SMART opt-out enrollment program were approved, only customers living in these current municipal aggregation communities would have access to the SMART community solar program.

Take the City of Boston, which has indicated their interest in adding a SMART opt-out program to its municipal aggregation. Boston has 271,950 households.⁷ If an opt-out program were to be implemented in the City of Boston's municipal aggregation area, Boston households alone would collectively consume more than 100% of the entire amount of allotted community solar capacity for both of Eversource's territories – 1,813 MW compared to the allotted 1,705 MW territory capacity.⁸ Under these circumstances, it would be impossible for other customers, including low income customers and those residing in environmental justice communities outside of Boston, to subscribe to community solar projects.

The City of Boston has proposed they would forego enrolling all eligible households and instead enroll 20,000 low income customers in SMART via an opt-out mechanism.⁹ Yet there are 113,000 people living in poverty in Boston so it is unclear how the city will select 20,000 among those 113,000 to benefit in this opt-out program.¹⁰ In a scenario where the City of Boston does not automatically enroll all eligible households in SMART, but rather chooses a subset of the population, it is unclear *who* they would choose to automatically enroll and who would be effectively barred from participation.

Commonwealth-wide, only a handful of municipal aggregations could consume the entire SMART community solar capacity, meaning that people residing in other municipalities that do not currently have municipal aggregations, such as Chelsea and Lawrence, would have little to no access to community solar. Even if municipalities that do not currently have municipal aggregations decided to expand their services and offer community solar, these same administrative and equity burdens would exist. Such municipalities would need to both stand up a new offering, determine trade-offs in who can participate and how to allocate credits, and potentially take up a large share of the market leaving little capacity for individuals living in non-participating municipalities. These are unjust outcomes that the Department should avoid imposing on an otherwise successful SMART program.

⁶ Calculated with the industry average of 150 – 200 households per MW.

⁷ United States Census Bureau. Quick Facts: Boston, Massachusetts.

<https://www.census.gov/quickfacts/fact/table/bostoncitymassachusetts/PST045222>

⁸ United States Census Bureau. Quick Facts: Boston, Massachusetts.

⁹ City of Boston, City of Boston Announces Community Choice Electricity Rates, Discount for Low-Income Residents. December 4, 2020.

<https://www.boston.gov/news/city-boston-announces-community-choice-electricity-rates-discount-low-income-residents>

¹⁰ United States Census Bureau. Quick Facts: Boston, Massachusetts.

<https://www.census.gov/quickfacts/fact/table/bostoncitymassachusetts/PST045222>

5. *Other jurisdictions have grappled with similar issues and have refused to permit municipal aggregation opt-out enrollment for community solar.*

There are currently no large-scale municipal aggregation opt-out programs in any of the third party community solar markets nationwide. The largest community solar market, New York, recently considered allowing Community Choice Aggregation (“CCA”) opt-out, and instead declined to move forward.¹¹ The New York PSC has determined that:

CCA programs may aggregate or otherwise integrate, *on an opt-in basis*, into their program, energy efficiency and distributed energy resources (DERs). In considering how to include a variety of products and energy planning and management activities within the CCA program, CCA Administrators should be open to contracting with different ESCO and DER providers for services.¹² (Emphasis added).

The Department should follow a similar path and not allocate critical Staff time and resources to considering an opt-out process only to reach the same conclusion as New York.

6. *Billing and crediting and broader consumer protections need to be fully addressed before any opt-out program can be pursued, given that municipal aggregation SMART opt-out enrollment will largely remove subscriber organizations from the market.*

Since the inception of the Massachusetts’ SMART community solar program, the utilities have not delivered on their core responsibility to allocate community solar bill credits in a timely and accurate manner. Yet, the long-term success of the community solar program is contingent on the utilities performing their responsibilities of billing and crediting customers on a timely basis so that customers see the material impact of their community solar subscriptions.

Municipal aggregation SMART opt-out enrollment would dramatically reduce the billing oversight role of project owners and subscriber management organizations that have built out competencies in managing subscriptions, validating credits, ensuring timeliness, and providing other vital services. Since municipal aggregation SMART opt-out enrollment would effectively remove subscriber management organizations from the market, along with the benefits that they bring to subscribers, additional consumer protections would need to be implemented before municipal aggregation SMART opt-out enrollment is implemented to ensure utility accountability and retain high value for the customer.

¹¹ In New York, municipal aggregation are referred to as Community Choice Aggregation, or CCA.

¹² New York Department of Public Service. Order Modifying Community Choice Aggregation Programs. May ____ 2023. Page 2. <https://documents.dps.ny.gov/public/MatterManagement/CaseMaster.aspx?MatterCaseNo=14-m-0224>

To ensure this accountability, the Department should not permit municipal aggregation SMART opt-out enrollment until they have implemented utility reporting standards on community solar performance metrics, Negative Revenue Adjustments (“NRAs”), and customer remedial bill credits for when utilities do not meet baseline performance metrics. Facing similar challenges, the New York Public Service Commission has directed Staff and stakeholders to develop, “billing and crediting performance metrics related to distribution utility billing and crediting of Community Distributed Generation (CDG); and (2) a negative revenue adjustment (NRA) mechanism tied directly to the utilities’ CDG crediting and billing performances.”¹³¹⁴

A set of metrics, NRAs, and customer remediation solutions, have been proposed by Arcadia in tandem with the Coalition for Community Solar Access (“CCSA”) and the New York Solar Energy Industry Association (“NYSEIA”) in that market.¹⁵ New York DPS Staff is expected to file a White Paper recommending the development of such metrics by the end of 2023. These metrics are intended to more appropriately align utility incentives with customer protection and satisfaction around community solar participation by penalizing the utilities for not hitting baseline performance, such as applying community solar bill credits to customers on a timely basis.

This additional accountability is necessary even in opt-in markets like New York and Massachusetts with robust project owners and subscriber management organizations to review billing and crediting. Because the result of SMART opt-out enrollment is the elimination of community solar subscriber management organizations like Arcadia, Solar Simplified, Solstice and Perch Energy from the market, the adoption of these metrics should similarly be a prerequisite in Massachusetts before any opt-out program is implemented.

7. Customers enrolled in SMART via opt-out enrollment would be subjected to substantial administrative burden and confusion.

Municipal aggregation SMART opt-out enrollment also has the potential to undermine existing community solar customers, which could erode faith in Massachusetts’ growing community solar market. Municipal aggregations using opt-out for the entire customer base could end up enrolling customers that have already signed a contract with another community solar provider, creating customer confusion and frustration in the process. A significant number of community solar customers have executed subscription agreements with a project owner with the understanding that they will be assigned to the first available project, but are not yet allocated to an active project because those projects are still under development.

¹³ Case 19-M-0463, *In the Matter of Consolidated Billing for Distributed Energy Resources*, (October 14, 2022), at 1.

¹⁴ In New York, the community solar is called “Community Distributed Generation” or “CDG”.

¹⁵ *Community Distributed Generation Performance Metrics and Negative Revenue Adjustments Industry Proposal*, NYSEIA/CCSA, April 2023. <https://www.nyseia.org/policydocuments/utility-accountability-solar-crediting>

This is a common industry practice. Nearly all community solar projects acquire customers before the project is energized and generating credits, thereby ensuring a full revenue stream upon achieving commercial operation. Because subscriber acquisition can take months, projects often start acquiring customers before they are actually generating credits.

Additionally, commercial operation is sometimes delayed before the project is energized and delivers credits to customers, due to construction, interconnection, supply chain delays, or billing interruptions. Once a project reaches operation and is generating electricity, the community solar project typically will still maintain a small waitlist of customers ready to backfill for anticipated customer attrition. Throughout that waiting period a municipal aggregation – and even the utility – will be unable to identify whether a customer is on such a list and may erroneously enroll them in an opt-out program, complicating both community solar providers' ability to tailor their subscription size to maximize customer savings and ensure a pleasant experience.

III. CONCLUSION

The Companies appreciate the Department's efforts to advance customer access to clean energy and savings. The Companies are also supportive of the Commonwealth's Municipal Aggregation program. However, for the reasons described above, the Department should not address, and certainly should not adopt, SMART opt-out mechanisms in this proceeding. The Companies appreciate the Department's decision to hold a technical conference on municipal aggregation and look forward to participating in this process going forward.

Respectfully submitted on December 7, 2023,

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