Origin Solar

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Massachusetts Department of Energy Resources

October 28, 2016

To whom it may concern,

We are submitting comments as a solar developer regarding the "Next Generation Solar Incentive Straw Proposal" (the "Straw Proposal") released on September 23, 2016.

Cleargrid supports the idea of having a new solar incentive program to succeed the SREC 2 program. We believe that the tariff structures proposed by the DOER Straw Proposal are generally consistent with properly incentivizing new solar generation. The Straw Proposal is a positive step in this regard.

Nevertheless, we have grave concerns regarding the "Siting Criteria" mentioned on slide 10 of the Straw Proposal and the impact of such criteria on solar development in Massachusetts. As a solar developer, we interact with municipalities and communities, landowners, and other stakeholders on a daily basis. We appreciate the need to properly site solar generation away from environmental hazards and other conservation-minded criteria. In fact, we screen sites at an early juncture to avoid these hazards. However, for the reasons discussed below, we believe the Siting Criteria would serve to undermine the DOER's objectives.

I. Concerns Regarding Siting Criteria

The Siting Criteria proposed go far beyond what is necessary to adequately protect the interests of environmental conservation and respect the needs of municipalities and communities, and do so in a crude, over-inclusive fashion. In particular, the exclusion of "Prime Farmland Soils", "Prime Forest Land", and Land Designated as "Forest Land" under Chapter 61 are overly broad and overly inclusive. The effect of including these criteria would be the following:

1. This would stamp on the domain of municipalities and their right to tailor siting requirements according to local needs and preferences.

Municipalities in Massachusetts and in other U.S. states have long had primary responsibility for siting. Certain state-protected categories are excepted, such as land housing state- and federally-listed rare species, and state-protected lands. Wetlands are also subject to a baseline level of state oversight and regulation.

However, beyond these categories, it has long been standard practice for municipalities to take the lead in regulating land use. They do so for good reasons. For example, the impact of different types of uses on municipalities and their residents varies widely from place to place. Removing forest land in one area may have a vastly different impact from removing forest in another area; it all depends on the extensiveness and amount of remaining forest, the type of forest, adjoining land uses and the impact thereon, and other factors which are *local in nature*, not state-wide. Thus, applying a state-wide brightline test is not an effective way to measure such impacts or regulate them effectively. It also deprives municipalities of the ultimate decision-making authority, which goes against the principle of local self-government in land-use matters.

2. This would place a higher standard on solar development than other types of land uses.

Placing standards such as bars on the use of Prime Forest Land and Prime Farm Land for solar places a higher standard on the use of such land for solar than for other land uses which are in fact *higher impact.* For example, building a retail strip-mall or shopping center or a low-density suburban housing development would in many cases be easier to site and permit than solar farms under the new criteria.

This would, perversely, have the effect of encouraging landowners who wish to divest their land from farmland or forest land to sell to *higher impact uses* which have more impact on the surrounding environment. For example, we already find that many landowners we speak with in different states are already deliberating whether they should use their land for a solar farm or pursue permits for a residential subdivision. In many cases, we are able to win them over towards solar, with the argument that solar is generally lower impact on surrounding land uses and simpler to permit. Neighbors are less likely to be disturbed by a solar farm than by a new, high-impact use next to them, such as a housing development or a strip mall, which often add traffic, noise and other factors.

These arguments are likely to fall on deaf ears if the siting of solar farms on land becomes as difficult or more difficult than a strip mall or a subdivision. For example, even if there were capacity for an exception process whereby a solar developer could apply for an *exception* from rules around prime farmland or prime forest land, this would add complexity and risk to the project. In many cases, if landowners are already going to face such permitting complexity, they would rather sell to a residential subdivision or a strip mall where they might make increased profits relative to a solar farm.

3. This would significantly reduce the amount of community-solar available on the marketplace to Massachusetts residents who are unable to build solar on their homes.

Community solar fills a void in the marketplace. Residents who own single-family homes, generally in suburban areas, are able to build solar on their homes and thereby access the associated tax advantages, SREC program, and energy cost savings. Community solar programs which offer people who do not own a roof, or a roof of sufficient size or quality, the ability to access some of these benefits of solar. For this reason, the Straw Proposal justifiably targets offerings of community solar to and offtakes to low-income customers, as well as solar on low income property. Indeed, DOER lists as a key objective to "ensure widespread access to incentives for all ratepayers" and in that context specifically lists "community shared solar" and "low income".

The Solar Siting criteria proposed would severely curtail the amount of community solar that would be available, and in doing so severely limit availability to low-income customers. This would in effect mean that the benefits of solar would be directed to *non-community solar* channels. It would direct the benefits of solar to those who can afford to build it on their own roof, i.e., who can either afford to buy a system or have sufficient credit ratings to borrow the necessary funds or support a PPA. This in effect places community shared solar customers at a disadvantage.

4. This is inconsistent with the approaches deployed in other states, and shown to be effective.

Other states have generally not taken the kind of blunt, broadly over-inclusive prohibitions of the kind contemplated by the Siting Criteria. For example, other states with SREC programs have generally *not* imposed blanket prohibitions on use of forest land, for example. This partly reflects the fact that there are many different of types of forestry; some woodlands are more mature, dense, and rare than others. Where there are barriers to development, these are generally imposed for all uses and not simply solar. New Jersey, for example, regulates pinelands through the New Jersey Pinelands Commission. This Commission regulates not just use for solar but for other uses as well, and considers circumstances in their totality.

5. This would substantially curtail the ability of developers to operate in the state and encourage the development community to leave the state for others, compromising the ability to meet the DOER Objectives listed.

DOER cites as a key objective to "maintain robust growth across installation sectors – residential, small commercial, utility scale", etc.

The Siting Criteria proposed would substantially undermine this objective. Curtailing the universe of available sites in the manner proposed in the Siting Criteria would encourage solar developers to either (i) focus on non-utility scale projects, or (ii) focus on states outside of Massachusetts. Developers would choose to focus their time and energy on non-utility-scale sites because such projects are more likely to move to fruition, and the market size would be substantially larger. In addition, because the universe of sites would be drastically reduced, utility-scale solar developers would choose not to focus on developing projects in Massachusetts in the first place. They would choose to move to other states which are more open to development, which would include nearly every state in the United States.

II. Proposed Solution

We suggest that the Massachusetts continue to regulate the use of forests and farmland at the local level. State-imposed siting criteria, if imposed, should be limited to the areas which are already under the state's purview, such as state-designated wetlands, permanently protected open space and APR land, and archaeological sites. The elements of the Siting Criteria which relate to Forest Land and Prime Farm Land should be eliminated from consideration.

Thank you for your prompt engagement in forming a new program and for considering our comments. If you have any questions, please feel free to reach out to me directly at michael.wyman@originsolarenergy.com.

Thank you.

Sincerely,

Michael Wyman

CEO

Origin Solar