Boston Community Capital

October 28, 2016

Delivered electronically to DOER.SREC@state.ma.us

Commissioner Judith Judson
Massachusetts Department of Energy Resources
100 Cambridge Street, Suite 1020
Boston, MA 02114

Dear Commissioner Judson,

Thank you for the opportunity to provide feedback on the next generation of solar incentives in Massachusetts. This letter outlines Boston Community Capital's ("BCC") comments in response to the straw proposal power point ("PPT") presented to the public on September 23, 2016 at the Federal Reserve in Boston.

First and foremost, BCC appreciates the Department of Energy Resources' ("DOER") efforts so far to fashion a solar incentive program that builds upon the success of the previous SREC programs. The framework presented in the straw proposal has, in our view, the potential to meet the Commonwealth's objectives as outlined in slides 3 and 4 of the PPT. But adjustments to that framework are needed to realize those goals. BCC's comments are made in that spirit and focus on the following issues: (1) Maximizing the opportunity for the straw proposal to expand access to solar, especially to low income residents; (2) Improving the declining block mechanism and adders; and (3) Revising the currently overly restrictive siting criteria.

Boston Community Capital is a thirty year old community development finance institution dedicated to building healthy communities where low-income people live and work. Since 2008, BCC has worked to help low-income communities gain access to the cost savings and price stability of solar power. We have developed and own almost 7 megawatts ("MW") of solar capacity

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across 30 Massachusetts projects. These projects primarily serve affordable, multifamily housing developments. The remainder serves community facilities like schools or non-profits such as the Greater Boston Food Bank. In 2014, BCC was recognized by President Obama as a White House "Champion of Change" for its work to bring solar to low-income communities.

I. Expanding Access to Solar in Low-income Communities

Non-net metered solar projects could create new opportunities for low-income solar

Building on the success of the SREC II program, the straw proposal could significantly enhance the ability for solar to serve low-income ratepayers, affordable housing developments and their residents. That's because the elements of the proposal aimed at encouraging the development of non-net metered solar facilities resolves a number of the issues that currently limit access to solar.

A non-net metered solar project as described in the straw proposal, for example, is not subject to net metering caps, is not subject to the Department of Public Utilities' Single Parcel Rule and can share benefits across utility territories and load zones thereby allowing projects to be built on lower cost land in one utility territory and load zone and leveraged to benefit affordable housing in another utility territory and load zone. In addition, the non-net metered option could simplify administrative and billing issues and make it easier to obtain financing by avoiding the need for net metering offtaker agreements and lender approval of such agreements based on the credit worthiness of the net metering credit recipient.

Assuming adequate compensation for non-net metered solar projects through the tariff, the ability for the straw proposal to benefit low-income communities hinges on mechanics. It's imperative that non-net metered solar projects are able to assign at least a portion of the tariff they would be paid to low-income ratepayers and affordable housing developments. Such an assignment would reduce the cash the non-net metered solar project would receive and be transferred to designated offtakers in the form of a credit on their electricity bill. In this way, it would emulate net metering but improve upon it because credits could be transferred across utility territory and load zone boundaries.

A crediting mechanism such as this is essential because it's a simple way to share the benefits of solar without running into the tax and income issues and restrictions associated with sharing cash. As BCC has noted in previous letters to DOER, cash payments can raise tax issues for low-income individuals and impact eligibility for

programs and services while many affordable housing developments are unable to accept cash that is not rental income.

Of course, a challenge that DOER will need to resolve is what percentage of a project's tariff must be allocated to offtakers in order to qualify as a low-income project. In BCC's view, the percentage should be high enough to be meaningful, i.e. to ensure low-income communities benefit and there's no gaming, but not so high that projects aren't able to cover their construction, financing and operating costs.

If the portion of the tariff value that can be allocated in the form of a credit is limited to the energy value, then a minimum percentage to be allocated to offtakers to qualify as a low-income solar project would need to be adjusted for non-net metered and net metering projects (which would likely have a much higher energy portion of the tariff). Further, offtakers should be able to receive allocations of credits up to their total annual electricity bill and should not be restricted to just offsetting the energy portion of their bills.

Recognizing the administrative burden the above could present to DOER and the distribution companies, BCC suggests that a third party administrator be engaged to administer this and other elements of the solar incentive program, e.g. qualification of projects, administration of queues, calculation and allocation of credits and tariff values, etc.

Adopting a broader definition for affordable housing

The straw proposal notes that "DOER intends to maintain SREC II criteria and Guideline for qualifying facilities that serve low-income properties." The SREC II program defines solar serving affordable housing pursuant to the definition for "low or moderate income housing" set forth in M.G.L. ch. 40B, §20. This definition does not include all types of affordable housing developments because it includes only those built or operated by public agencies, nonprofits or limited dividend organizations. A more inclusive definition is the one set forth in M.G.L. ch. 40T, § 1 for "publicly-assisted housing". BCC would encourage DOER to adopt that definition in the next solar incentive program. As with the SREC II program, solar project output and credits should be able to be allocated to either the publicly-assisted housing property or to the residents of a publicly-assisted housing property.

II. Improving the Declining Block Mechanism and Adders

BCC has a couple of suggestions for ways to improve the declining block mechanism as outlined in the straw proposal. First, it's absolutely critical that the tariff levels be sufficient to support deployment of a range of solar projects. BCC understands and

supports the desire to lower the costs of the next solar incentive program but if tariff levels are too low, many public policy-driven solar projects, which tend to have higher development costs, won't move forward. What's more, while solar panel costs have declined in recent years and are expected to decline further, overall development costs in the Massachusetts market have not decreased enough to offset some of the proposed reductions in the straw proposal.

Second, BCC also suggests that the overall MW of the program increase significantly so that a real solar market can develop and we avoid creating another short-lived solar opportunity that makes the industry vulnerable to boom-and-bust cycles while discouraging long-term planning. Finally, DOER should also consider adjustable blocks and tariff levels. This would allow DOER to better manage the program and pace of solar development. One concern is that if solar development proceeds at a pace that is slower than anticipated, there's a risk of running into the expiration of the federal Investment Tax Credit and missing an opportunity to fully leverage federal tax dollars for Massachusetts' benefit.

For the adders, BCC has the following suggestions:

- DOER should retain the ability to adjust adder levels in order to avoid over-development and/or under-development in certain project categories. DOER could conduct an analysis after the first two blocks are full to see which types of projects are being built and then have the ability to adjust the adders for new projects based on the results of that analysis.
- There should be no limit on the number of different adders a single project can qualify for.
- Separate adders for low-income and community solar should be retained. DOER should also ensure the adders are high enough to induce participation. The value proposition currently on table in the straw proposal is about 60% less than what is offered by the SREC II program. If the value (i.e. the savings) of participating is too low, the market for these projects could be undermined.
- There should be no distinction between QFs and wholesale market participants in the non-net metering adder.

III. Overly Restrictive Siting Criteria Will Severely Limit Solar Development

Land Use and Siting

BCC fully supports siting solar in a responsible manner and limiting or preventing development of solar on certain types of sensitive or important lands. The straw proposal lists a series of lands on which ground-mounted solar development would be

prohibited. Some of those are appropriate but taken as a whole, the proposed siting criteria are overly broad and highly restrictive. If the proposed criteria are implemented, ground-mounted solar development would not be allowed on a great majority of the land in Commonwealth. A better balance between solar interests and conservation and protection concerns must be found, especially in light of the key role solar play in meeting the emission reduction targets mandated by the Global Warming Solutions Act.

Additionally, the proposal to deny incentives to ground-mounted solar projects that do not meet the siting criteria fails to recognize that the tariffs under discussion are designed to compensate solar for the environmental and societal benefits it provides as a local, distributed, pollution free energy source. This compensation is necessary to offset the substantial subsidies and market imbalances that continue to favor large-scale, centralized fossil fuel and nuclear power stations.

BCC suggests that to the extent DOER seeks to provide guidance with respect to land use, ground-mounted solar should not be more restricted than any other type of development. It shouldn't be harder, for example, to build a solar project than it is to build a parking lot or a development of McMansions. But the straw proposal would prevent solar development on some lands that would remain open to other types of development. For example, the straw proposal would limit solar development on lands designated as "Forest Land" under Chapter 61. But those lands can already be removed from Chapter 61 for development as long as the landowner pays "roll back taxes for five years equal to what they would have paid without Chapter 61 benefits along with 5% interest, and the city or town is given the right of first refusal in the case of a sale."

Land use restrictions that are too broad or absolute will have a host of unintended consequences. For example:

- The proposed siting criteria would prohibit the construction of solar parking canopies in state parks and on other lands;
- The proposed siting criteria could force landowners to sell their lands for real estate development in order to generate income rather than retain ownership and lease it for solar development.
- Solar development might not be possible or economically viable on the lands where development would be allowed for any number of reasons, including being located too far from a grid connection.

Overly broad restrictions will also limit development of solar on land that is good for no other purpose. BCC has experience developing 1 MW ground-mounted solar projects on such lands that are also classified as Natural Heritage land. The lands involved are

massively disturbed with large areas of topsoil stripped off. One of the sites was an old industrial site, one an auto recycling operation and another a staging area for a wind project. Because some portion of each of these sites is wooded, in a priority habitat area or in a zone designated as protected soil land, none of these heavily damaged sites would be eligible for solar development under the proposed restrictions.

But these examples involve lands with no other economic use and limited conservation value. Siting solar on these lands, however, preserves them as open space, creates new revenue opportunities for the landowners and increases access to solar in low-income communities. At the same time, before being able to build anything on these lands, BCC has to ensure compliance with a raft of state and local land use and zoning regulations, obtain a number of permits, and commit to mitigation measures before building could commence. When the useful life of the solar panels has ended, BCC is responsible for decommissioning the projects and returning the land to its former state.

In light of the above, DOER needs to fully examine and carefully consider the implications of any steps it takes to regulate land use beyond what existing laws and regulations already do. Very little ground-mounted solar will be built if projects are denied incentives or if siting criteria are burdensome or overly restrictive. Even a limited set of land use restrictions would severely limit solar development and raise costs depending on the criteria as well as any oversight and verification process. As such, rather than denying incentives or implementing new outright bans on solar development on certain lands, DOER could consider adders for projects that achieve certain land use protection goals.

BCC recognizes that this is a complicated issue. We look forward to continuing the dialogue with DOER and interested stakeholders on this matter and finding a solution that benefits everyone.

Thank you for your consideration.

Regards,

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