



***Via Electronic Mail***

May 27, 2016

Kaitlin Kelly  
Department of Energy Resources  
100 Cambridge Street, Suite 1020  
Boston, MA 02114

**Re: RPS Class I Emergency Regulations, 225 CMR 14.00 *et seq.* (Issued April 8, 2016)**

Dear Ms. Kelly:

Brightergy, LLC strongly supports Governor Baker's goals of encouraging additional solar development and achieving sustainable growth in the solar industry that has made significant contributions to job growth and economic development in the Commonwealth. Brightergy applauds the work of the staff at the Department of Energy Resources ("Department") in implementing these important policies and appreciates the opportunity to submit these comments.

***Introduction***

On April 8, 2016, the Department filed emergency regulations to address the transition to a new solar carve-out program to succeed SREC II, which had previously capped participation at 1,600 MW of qualified generation. Brightergy recommends finalizing the emergency regulations without significant changes, because market participants are already committing investments to Massachusetts based on the new rules. Significant changes to those rules could disrupt the market expectations supporting those investments and will increase investment risk that is ultimately paid for by consumers. In order to promote additional stability through the transition to the post SREC II program, Brightergy recommends implementing a one-time, four-month extension for projects that can demonstrate 50 percent expenditure of total estimated construction costs by January 8, 2017.

***About Brightergy***

Brightergy provides a range of energy services to commercial and industrial customers, including on-site solar generation, efficiency consulting and installation, and supply-side advisory services. Brightergy has planned and installed more than 1,200 solar projects across several states. Brightergy's office in Charlestown contributes to the Massachusetts economy by



employing a significant local workforce, as well as construction companies and their subcontractors. Brightergy has an active pipeline of projects being developed that help the bottom line of major institutions. Brightergy's plans to further expand its operations and employees in Massachusetts and invest capital depend upon favorable market conditions and a reliable regulatory environment.

### *Background*

This is not the first time that the solar carve-out program has been in transition. On May 29, 2013, DOER announced that it had received over 400 MW of administratively complete applications for the first solar carve-out program ("SREC I"). A significant number of projects were queued up in excess of the cap.<sup>1</sup> Thus, DOER developed emergency regulations to address the post-400 MW program design. An important feature of the emergency regulations was recognition that the regulatory uncertainty, due to the gap between the closing of qualification for SREC I and the effective date of the regulations to implement SREC II, would have a detrimental effect on the ability of many projects in the queue to reach mechanical completion and to receive authorization to interconnect from the distribution company by the December 13, 2013 deadline in the emergency regulations. Thus, the Department's regulations provided an extension for certain projects:

A Unit that has not received an authorization to interconnect or permission to operate on or before December 31, 2013 will be provided an extension to June 30, 2014 only if it can demonstrate to the satisfaction of the Department that the project has expended at least 50% of its total construction costs by December 31, 2013. A Unit provided such an extension must receive its authorization to interconnect or permission to operate on or before June 30, 2014.<sup>2</sup>

The market response under the SREC II program was also robust. The Department promulgated the final regulations implementing SREC II on April 11, 2014. As of April 19, 2016,<sup>3</sup> approximately 1,371 MW of SREC II applications were qualified or under review. At the same time, each electric distribution company was approaching, or had already reached, its net metering caps.

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<sup>1</sup> See 225 C.M.R. § 14.00 (draft emergency regulations, filed June 28, 2013), *available at* <http://www.mass.gov/eea/docs/doer/rps-aps/225-cmr-14-00-062813-tracked-changes.pdf>. The Department filed the final regulations on October 1, 2013.

<sup>2</sup> 225 C.M.R. 14.05(4).

<sup>3</sup> DOER, Solar Carve-Out II Qualified Units, *available at* <http://www.mass.gov/eea/docs/doer/rps-aps/solar-carve-out-ii-qualified-units.xlsx> (last reviewed May 25, 2016).





### *Comments*

A significant backlog of projects developed in the queue while Massachusetts was developing legislative and regulatory actions to address the caps under the net metering and SREC II programs. Many projects that had submitted complete Statement of Qualification Applications could not proceed further with development during this period of regulatory uncertainty. As a result, although the caps have been raised pursuant to emergency regulatory action, those projects will face severe labor and equipment supply constraints, because they will all simultaneously accelerate their development activities in order to meet the January 8, 2017 deadline to receive authorization to interconnect. These shortages may jeopardize the ability of those projects to maintain their Statements of Qualification.

Because the current circumstances are similar to the situation when the SREC I cap was achieved, Brightergy recommends that the Department add the following additional language to 225 C.M.R. § 14.04(9)(s):

A Solar Carve-out II Renewable Generation Unit that has not received an authorization to interconnect or permission to operate on or before January 8, 2017 will be provided an extension to May 8, 2017, only if it can demonstrate to the satisfaction of the Department that the project has expended at least 50% of its total construction costs by January 8, 2017. A Solar Carve-out II Renewable Generation Unit provided such an extension must receive its authorization to interconnect or permission to operate on or before May 8, 2017.

Projects that have met this threshold have already committed significant investments and are highly likely to be completed. A one-time, four-month extension of the deadline to receive authorization to interconnect is a reasonable extension of time and will serve the public interest by enabling those projects to achieve commercial operation.

Thank you for your consideration of our comments and suggestions.

Respectfully submitted,

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