

via email to DOER.SREC@state.ma.us

Dwayne Breger
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Boston, MA 02108

Dear Mr. Breger,

Thank you for the opportunity to comment on DOER's policy framework for the SREC II program. The Patrick Administration is building on a strong foundation and should be justifiably proud of the success of the Green Communities Act in general and the solar program in particular. Thanks to you and your colleagues for your leadership, hard work and focus.

There is much to support in the current SREC II proposal. We are strongly supportive of encouraging residential and small, on-site generation, community solar, and especially encouraged by the Administration's desire to ensure protection of open space in the Commonwealth. Nevertheless, there is a need for further definition and a better balancing of public interests in some of these areas. Our comments below, in response to your specific questions, highlight the areas where we believe that definition and revision are necessary.

- **Incentive Levels: Are the incentive levels offered to the solar market sectors sufficient to maintain project development but low enough to minimize ratepayer impact?**

The incentive levels for residential, rooftop, and landfill/brownfield sites seem appropriate. Nevertheless throughout the proposal there seems to be a structural bias against stand alone, ground-mounted projects as reflected, in part, by lower incentive levels than may be necessary to support these projects. One of the greatest threats to continued political support for a robust solar program in the Commonwealth is the chorus of concern about the cost of the program from powerful political interests. In light of this, it seems ill-advised to disadvantage projects with the lowest cost installation, highest productivity levels, and the lowest levels of incentive support required from ratepayers. The current iteration of the program design is inconsistent; on one hand there is a stated objective to achieve the lowest cost to ratepayers, but on the other there is a positive bias toward some of the more expensive installation types, such as parking canopies.

We are strongly supportive of preserving open space in the Commonwealth and applaud the incentives that encourage use of brownfields and landfills. We believe there are two ways in which this open space preservation objective might be enhanced:

1. Expand the definition of "brownfields" sites to include other areas of little ecological value including sand and gravel pits, industrially-zoned land, and non-21e sites that nevertheless have a history of contamination and have been targeted for economic development by local officials. These are the types of sites that have little to no alternative use and are ideally suited for

solar without displacing agriculture, forestry or other EEA preferred land uses. We would advocate the following categories of projects be added to the landfill/brownfield category:

- A. Facilities that collect, treat and store water and waste water
- B. Industrial parks and business parks
- C. Quarries, mines, gravel pits and sand pits
- D. Environmentally compromised and contaminated sites which are unsuitable or impractically expensive to use for agriculture, and/or other forms of commercial or residential development
- E. Sites fully permitted by the effective date of the rules

2. Provide incentives for creative approaches to dual use of farmland and other natural resource and open space land. As the Massachusetts Farmers Association has indicated in their comments, the use of farmland for solar affords many farmers the ability to retain ownership of their land and remain in farming. BlueWave is proud to have helped a number of multi-generation farming families in this way. Yet neither we nor other developers have maximized the opportunity to find complementary approaches to using common land for both solar generation and agricultural production. The Department of Agricultural Resources understands this phenomenon and can make a useful contribution to promoting this dual land use and its economic and environmental benefits. DOER should incent this activity.

- **Is the design of the incentive with declining forward schedules conducive for project financing?**

No. DOER should retain the concept of a single floor for all SRECs generated by a facility minted on a given year, meaning that projects that qualify in 2014 at an SREC floor of \$285, should have that floor price for the full ten years. Investors will not be receiving a floor price for their SRECs as SRECs will generally be traded in bilateral markets and sell at prices below the floor price set by DOER as they have during the rollout of SREC I. A declining floor adds another level of complexity to an already complex incentive system. The declining floor is unnecessary, as the DOER can affect the underlying value of incentives to any vintage of projects by adjusting the SREC factor, achieving a similar goal as adjusting the floor.

- **Please provide specific information and any suggestions for modifications that are consistent with the principles and constraints of the policy design.**

We strongly favor a flat floor for each minted year with scheduled declines in the floor price for each forward mint year. A project's costs are incurred in the first year of development not during operations. As such, visibility and stability in the forward pricing for SRECs is central to the ability for investors to finance solar projects in the Commonwealth.

- **Managed Growth Sector and Solicitation: Are there any other market sectors that should be included in the non-managed, non-competitive sector?**

The Green Communities Act by its very definition is intended to provide enhanced benefits to communities, and specifically to cities, towns and other public entities supported by Massachusetts taxpayers. At a time of strained municipal budgets it is appropriate to further incent projects that benefit taxpayer-supported public entities. Many municipalities have already begun to realize these savings. BlueWave's projects in one city alone are providing more than \$500,000 in annual savings on electricity costs. Many more municipalities are counting on prospective savings from planned solar projects serving their communities. And still others are undertaking procurement programs in anticipation of significant electricity cost reductions. These projects are a critical component to local strategies for fiscal management by not only helping to balance budgets in the short term but also by providing long term, energy price certainty. The multiple public benefits associated with these projects warrant incentives separate from and greater than those available to large commercial projects or that can be achieved in a managed, competitive program.

The DOER should also keep in mind is that not all towns or public entities have open space, landfills, or suitable rooftops for solar development. A program that targets particular types of land as preferred, discriminates against smaller towns and public entities that do not own suitable land or property.

- **What are recommended improvements or details to competitive solicitation process?**

We recommend against the competitive solicitation concept. It adds substantial complexity and timing risk that is unnecessary **and may ultimately discourage investment**. Developers are unlikely to invest the required capital with the hope that they can qualify a project under a competitive process that provides little to no revenue certainty. A typical project can require \$100,000-150,000 in investment to get ready to qualify for SRECs and interconnection under the current system. Once a system is qualified, sponsors have 9-15 months to complete a project.

It seems that DOER is proposing that neither entitlement nor interconnection requirements will be required of projects entering the solicitation, and developers will have 18 months to develop and build projects if they receive an "award" under the solicitation. This is a hazardous approach. The current standards for projects receiving SQs are strict and effective, but it is unclear what standards are intended for SREC II. We believe that the Managed Growth Sector (MGS) competitive solicitation concept may raise some problems that could throw the entire solar market out of balance. We encourage the DOER to consider the potential for unintended consequences:

- a) What standard of readiness would projects need to achieve to participate in the MGS solicitation? There is no "good" answer to this question. If the readiness standard is set too high, developers will be unwilling to make pre-development investment, and there will be limited bids into the solicitation. It can cost up to \$200,000 in predevelopment expenses to get a project ready for development, and it is impractical to make such an investment if unsure of a project's eligibility for incentives, the value of those incentives, and the timing of the award. At the same time, setting the readiness standard lower, say at a point where less than \$25,000 of predevelopment investment has been made, allows projects which haven't been fully vetted for flaws into the process. At this earlier stage of development, there are commonly problems with site layout, entitlement or interconnection rendering early estimates of project size incorrect, or projects unviable. We would recommend that DOER adopt the current standard for SREC qualification, where a fully executed ISA and all non-

- ministerial permits are prerequisites to filing an SQA with timelines for development equal to those under the SREC I program. In addition, rather than a solicitation, we would recommend that DOER create a queue for projects in the MGS so that projects can apply for a queue position once they are fully permitted and would be assigned to a particular mint year based on available MWs each year. Capacity would be filled on a first come first served fashion with projects that do not fit into the current year being placed in queue for the following year.
- b) What timing of solicitation and development is realistic, and how will this affect the health of the overall market, balancing construction activity, and considering that many projects qualify for the Federal ITC? Given the implications of other elements of the DOER draft, it seems that MGS solicitations will be held once or twice a year, with an 18-month development cycle after award. Presumably the solicitation itself will take 2-3 months to conduct to allow adequate time to prepare and submit bids, review bids, and award bids. If a low standard of readiness is used, the awarded projects will then go into entitlement and interconnection studies, and probably not see significant development for the next twelve-months. As such we are looking at the MGS seeing limited construction for a 12-18 month period starting in the spring of 2014. This raises some unfortunate implications:
- a. Instability amongst solar EPCs, due to large fluctuation in quarterly and annual industry volume. This will lead to employment instability, and potentially also financial instability for small EPCs and related businesses in the Commonwealth. Ultimately a healthy EPC industry with balanced activity from quarter-to-quarter is healthy for the entire solar industry and helps drive down costs.
 - b. Many MW of the entire program will be pushed into 2017 and later as a result of the managed growth solicitations, becoming ineligible for the 30% Federal Investment Tax Credit. This will significantly increase ratepayer costs and reduce energy-cost savings in the Commonwealth.
 - c. How to deal with projects that are already at or near shovel-ready status? There are many fully entitled projects, which were unable to take advantage of the SREC I program. The developers of these projects spent substantial sums on engineering, permitting, and interconnection studies. **And the customers for these projects, including dozens of cities and towns and non-municipal entities, are anticipating savings from the Net Metering Credits already contracted for from these projects. Many of these entitlements, contracts, and queue positions will expire if the projects are not developed in the near term, destroying value for those developers and their customers, and representing a missed opportunity for the Commonwealth. If the DOER does pursue the concept of the competitive solicitation, at the very least there needs to be a category within the SREC2 program that allows such projects to be developed in the 2014-2015 timeframe.**
- **Is DOER's plan to provide a model solicitation document for comment during the rulemaking helpful?**

While we feel the concept is misguided, if the DOER proceeds with the MGS solicitation it would be helpful to review and comment on the details of the proposed solicitation structure.

- **DOER Discretion to Modify SREC Factors: Does the regulatory uncertainty of DOER's ability to revise the SREC Factors overshadow the benefits of revisions that might be helpful to the industry or ratepayers as external policy or market conditions change?**

It does overshadow the benefits somewhat. DOER should publish a forward adjustment factor for SREC minting once or twice a year using a transparent process rather than announcing future adjustments to SREC floors years in advance. There is no way to predict the future of module prices or other components and nor to know if the 30% Federal ITC will be extended past 2016.

- **How specifically would you suggest this issue be better addressed?**

Once or twice a year DOER should publish the SREC floor price for projects minted during a specific time period. This is similar to the process used to announce reductions in the Feed-in-Tariff (FIT) rate in Germany where rate announcements are announced months in advance of a change in the FIT rate.

- **Forward Minting: DOER recognizes that the residential third-party owned business model might also benefit from Forward Minting. What are the arguments for and against extending this provision to 3rd Party Owned projects?**

Third party ownership (TPO) should not participate in forward minting. Without special treatment, TPO systems account for over 2/3 of all residential solar in the Commonwealth and virtually all of the commercial and industrial capacity. Forward minting would allow people not interested in expensive and esoteric financing structures to invest in solar in a simple and efficient way.

TPO projects are developed and financed by sophisticated market participants who are capable of investing in projects without this additional policy support. Allowing TPO residential projects to participate in forward minting will provide a windfall gain to the investors in those projects, but serving no public benefit. Excessive amounts of forward minting by the TPO residential projects could imbalance the supply-and-demand for SRECs for all other market participants.

- **How, specifically, would extending Forward Minting to 3rd Party Owned projects benefit MA homeowners?**

It would not. A far greater portion of the benefit would accrue to TPO, leaving homeowners with a very small marginal benefit.

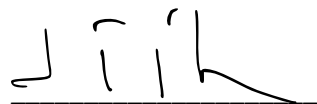
- **What alternatives, or differentiation, to Forward Minting between Direct Owned and 3rd Party Owned sectors would be appropriate and acceptable?**

We do not believe that there should be forward minting for TPO projects

- **Would stakeholders be interested in a "technical session" led by the Consultants to review their analyses?**

Very much so. Each of the consultants is deeply knowledgeable. But there are many experienced participants in the market who bring their own deep knowledge. An exchange of views among all of these parties would no doubt be of benefit to them and to DOER.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'J P DeVillars', written over a horizontal line.

John P. DeVillars
Managing Partner
BlueWave Capital, LLC

A handwritten signature in black ink, appearing to read 'ES Graber-Lopez', written over a horizontal line.

Eric S. Graber-Lopez
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