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

August 26, 2013

Dwayne Breger, Ph.D.
Massachusetts Department of Energy Resources
100 Cambridge Street, Suite 1020
Boston, MA 02114

Re: SREC-II Policy Design Comments

Dear Dr. Breger:

SunEdison appreciates this opportunity to comment on the Department of Energy Resource's (DOER) latest proposal for the RPS Solar Carve-Out II Program (SCO-II) design, outlined at the August 12, 2013 stakeholder meeting. In general, SunEdison applauds DOER for its forward thinking incentive program structure, and particularly for its responsiveness to stakeholder concerns regarding the challenges associated with the SREC Adjustment Factor and the attendant complications of selling into two separate REC markets.

While the SCO-II design is a marked improvement over the original construct, there remain aspects of the program design that are problematic. Specifically, our comments address the following three aspects of SCO-II:

1. The "Managed Market"
2. SREC Factors
3. Solar project economics and incentive levels

1. DOER Should Minimize Uncertainty around the Annual Capacity to be Procured within the Managed Market.

DOER has proposed creating a separate “Managed Market” wherein ground mounted projects exceeding 500 kW and/or applying less than two-thirds of system output to on-site usage would be subject to a competitive bidding process for the right to secure a Statement of Qualification within the SCO-II Program. DOER anticipates a minimum of two annual Managed Market solicitations, with the annual contestable capacity determined as the delta between future SREC obligations and the weighted average SREC production from the total installed capacity in the “unfettered” market segments. Thus, the Managed Market is considered more of a “flex” market with annual capacity solicited intended to keep the overall SREC market in balance.

While SunEdison understands and supports DOER’s goal of maintaining a healthy market balance, we are concerned that the use of a market governor selectively applied to the Managed Market will create real (and potentially fatal) uncertainty surrounding future development of the large, virtually net metered systems that have fueled much of Massachusetts solar market to date. These tend to be the longest lead-time solar resources, with development cycles on the order of 18-24 months. The inability to predict with a reasonable degree of certainty whether, and to what extent, these resources will be called upon in the future will dampen developer and investor interest, and increase the financial risk for those willing to invest even in the face of this uncertainty. Although, in response to questions posed at the August 12 stakeholder meeting, DOER dismissed concerns that robust development in the Unfettered Markets could translate into little to no residual demand for Managed Market we nevertheless see this as a distinct outcome, particularly if DOER adopts its companion policy of establishing market differentiated SREC Factors.

The introduction of new policies to throttle market growth within the large ground-mount market runs directly counter to the goals and policies of the Green Communities Act, which introduced the nation’s most progressive and effective policies for virtually net metered solar projects. Countless communities across the Commonwealth are the beneficiaries of this tool, allowing municipalities and other public and private offtakers to reap the energy savings benefits and economies of scale of centrally-sited solar systems.

As noted in our June comments, If DOER is concerned with the lack of market diversity – a concern that we believe is exaggerated given historical market share that is robust across all major market segments – then the solution is to address market barriers preventing greater penetration within targeted markets. Indeed, this is precisely the strategy that DOER has adopted with regard to forward minting within the residential-direct sale market to address the challenges individual homeowners face in monetizing SRECs.

SunEdison therefore continues to oppose the relegation of the large ground-mounted system market to a separate and inferior program classification. However, should DOER adhere to this bifurcation of the Massachusetts solar market, at a minimum, DOER should provide greater certainty as to the scope and timing of available capacity with the Managed Market.

SunEdison supports the SEIA/NECEC recommendation for DOER to commit to a specific capacity allocation on a rolling multi-solicitation basis. As recommended by SEIA/NECEC, the DOER would establish a set capacity amount to be bid in each of the next 5 solicitations on a rolling forward basis. While this might lead to some deviations - either shortage or surplus - from a market in perfect equilibrium, SunEdison believes this is an acceptable trade-off given the greater certainty it provides to developers and customer-hosts of large systems.

Alternatively, SunEdison suggests that DOER establish a two-part Managed Market annual capacity allocation consisting of: 1) a *baseline annual capacity* amount; and 2) a *variable annual capacity* amount. The baseline capacity would be a set amount of capacity offered in each year of the program through 2020. Baseline capacity could be determined as a percentage of historical market share applied to the incremental annual capacity requirement¹; or alternatively, as a fixed percentage of future incremental capacity requirements.² The variable capacity amount would represent any anticipated capacity shortfall taking into consideration both the Unfettered Market build rate and the Managed Market baseline capacity. This balances DOER's desire to have a mechanism to calibrate market activity, while giving developers some certainty that there will be a substantial, stable and certain ground mount market going forward. To the extent this creates a modest additional risk of overall SREC market over-supply, this could be addressed by "borrowing" Managed Market capacity from future year solicitations.³

The second aspect of the Managed Market that is of concern to SunEdison is the overall solicitation process and the imperative that the process be fair, transparent, and easily administered. Our general preference is for bid price to serve as the predominant factor, both as a means of protecting ratepayers and to facilitate a fair and objective system. However, we acknowledge DOER's desire to create a system that serves other public policy objectives. Our only admonition is that any non-price factors used in the bidding process eliminate subjectivity

¹ For example, as depicted in the DOER slide presentation, large-scale ground mounted systems represents 80% of the installed capacity in the Commonwealth under SCO-I. If the incremental installed capacity determined by DOER as necessary to meet the annual compliance obligation is 150 MW, then some portion of this (e.g., 50%) could constitute the baseline capacity, resulting in an annual baseline procurement of $150 \text{ MW} \times .8 \times .5 = 60 \text{ MW}$.

² Again, assume an annual incremental overall capacity requirement of 150 MW. DOER could fix a percentage (e.g., 40%) of this future supply to be derived from large ground mount systems. Any anticipated shortfall based on Unfettered Market supply and baseline Managed Market supply could be addressed through a variable capacity block.

³ This borrowing concept could be applied to the SEIA/NECEC recommendation as well, provided that any adjustments are made to future solicitations beyond the five already announced.

on the part of the evaluators and gaming on the part of bidders to the maximum extent possible, and that any non-price factors be easily reduceable to quantitative metrics. Outside these general considerations, we reserve the right to comment on the model solicitation developed by DOER.

2. SREC Factors Must be Responsive to Changing Market Conditions.

DOER has opted to move forward with the SREC Factor concept in order to differentially incentivize various PV market segments.⁴ DOER anticipates the SREC Factor remaining fixed over the life of the program unless change is necessitated either by “substantial external changes in policy or market conditions”, or by the prospect of unsustainable growth in the non-Managed Market sectors. DOER has specifically invited comment on whether the discretion it has retained to adjust SREC Factors create unacceptable market uncertainty.

SunEdison believes that if DOER goes this route, it must have the latitude to adjust SREC Factors to address unanticipated market conditions that could destabilize the SREC market. To take one obvious example, state policy must have the flexibility to adjust to the dramatically different economics of solar installations were the federal government not to extend the 30% Investment Tax Credit.

Regarding the second cause triggering SREC adjustments; i.e., excessive market supply from the non-managed market, SunEdison likewise believes that intervention could be warranted to prevent market disruption. However, we are concerned that the proposal does not offer any standards or guidance on when or how DOER might intervene.

SunEdison believes a better approach would be for the regulations to specify a formula-based change in SREC Factors. For example, the SREC Factor could be set to automatically adjust if the annual rate of change in segment-specific market activity exceeds a certain desired threshold. A high year-on-year growth rate would imply that the SREC Factor is a contributing factor in over-stimulating a particular market segment. Relying on these market metrics would be preferable to ad hoc regulatory decisionmaking.

⁴ SunEdison has previously questioned the need for market-differentiated incentives given the level of diversity demonstrated within SCO-I; and expressed its concerns over the potential detrimental effects of incorporation of SREC Adjustment Factors in the SCO-II program design. The shift to a single-product SREC Factor in the latest program iteration addresses some, but not all, of our concerns, including the potential for inter-segment market distortions to develop as the underlying costs of market segments diverge over time; and the challenges in coming up with an “average” cost for a prototypical system (which, by definition, means that some projects will cost more, and other projects will cost less, than the average).

3. DOER's Adjustments to the SREC Trading Band are Too Severe.

As stated in our previous comments, SunEdison generally supports the concepts of a downward sloping ACP and SREC Auction Floor price as superior to the proposed SREC Adjustment Factor as the means of imposing market discipline on the industry, limiting ratepayer exposure, and preventing undue market subsidization. However, we believe that the underlying economic parameters should follow a principle of gradualism and reflect a seamless continuation of the SCO-I program.

Unfortunately, the SACP and Auction Price Floor schedules tentatively offered by DOER represent a significant overnight reduction in incentive values, particular when these values are further steeply discounted by the SREC Factor. Although we appreciate that the SCO-II program commitment is predicated on DOER's determination to reduce incentive payments overall, we fear that these reductions are too draconian and will seriously undermine project economics going forward.

SunEdison would be happy to share with DOER and its consultants our project pro forma on a confidential basis to substantiate these concerns, and to arrive at a more sustainable incentive digression schedule.

Sincerely,



Fred Zalcman
Managing Director, Government Affairs – Eastern U.S.

Fred Zalcman
SunEdison LLC
16 Windaway Road
Bethel, CT 06801
(301) 974-2721
fzalcman@sunedison.com