

**Borrego Comments  
on  
Clean Peak Standard and DOER's Stakeholder Questions**

**Dear Commissioner Judson and Director Judge,**

**Borrego Solar Systems, Inc. (Borrego) appreciates the opportunity to provide preliminary feedback on the design of the Commonwealth's first Clean Peak Standard (CPS). We respond to many DOER's questions below. At a high level, we believe DOER should keep the following principles in mind when designing this first-in-the-nation program.**

- Given that this is the first program of its kind in the nation, DOER should expect that we will not get everything right the first time, and that we will need to make changes down the line. DOER should consider mechanisms to provide developers and investors confidence that projects developed with the first set of rules in mind will not be harmed by subsequent changes.**
- The CPS should not provide credit for actions that would have occurred without the CPS. Doing so would provide windfall profits at ratepayer expense without any benefit to the Commonwealth. In other words, the CPS should be designed so that it encourages only incremental investments or behavior change that would not have occurred without the CPS.**
- DOER should ensure that the CPS is designed to be diverse enough to stimulate all forms of eligible resources to participate, while resisting the impulse to be too prescriptive about the types and numbers of projects that may be eligible to participate in the CPS.**

**We look forward to working with DOER and other stakeholders to design this important complement to DOER's other market-leading clean energy and storage programs.**

**Sincerely,**

**Ilan Gutherz  
VP of Policy and Strategy  
Borrego Solar Systems, Inc.**

## Clean Peak Standard (CPS) Stakeholder Questions

### Definitions of Key Terms

#### Clean Peak Resource

Clean peak resource is defined as "a qualified RPS resource, a qualified energy storage system or a demand response resource that generates, dispatches or discharges electricity to the electric distribution system during seasonal peak periods, or alternatively, reduces load on said system."

1. Should only resources interconnected to the electric distribution system be eligible to qualify, or should resources connected to the transmission system also be eligible to qualify?

**Answer: The statutory language seems incredibly clear on this point. The term "distribution system" is used throughout Chapter 25A and Chapter 164 to refer to the portion of the electric grid that is within the jurisdiction of Massachusetts, managed by the electric distribution companies, and generally at low or medium voltage. It is difficult for us to see how the statutory requirement could be met if transmission-connected projects were deemed eligible for the program. For this reason, we do not believe DOER has discretion to allow transmission-connected facilities to participate. However, all facilities that are interconnected to the distribution system should be eligible to participate regardless of whether they are also participating in the ISO-NE market.**

2. Should DOER interpret the use of the term "electric distribution system" to mean that only facilities on the electric distribution system in the Commonwealth should be eligible to qualify as clean peak resources under the CPS? Should the CPS also include all distribution and/or transmission level resources connected in the ISO-NE control area? Should it include adjacent Control Areas such as NYISO, Quebec, or New Brunswick?

**Answer: DOER should interpret this term to mean the electric distribution system in the Commonwealth of Massachusetts. This interpretation would be consistent with the use of the term "electric distribution system" in other parts of the statute, and will maximize the investment and in-state benefits of the policy for Massachusetts ratepayers.**

**DOER should clarify that resources connected to the distribution systems of municipal lighting plants in the Commonwealth may participate.**

#### Demand Response Resource

Demand response resource is defined as "changes in electric usage by end-use customers in the commonwealth from their normal consumption patterns in response to: (i) changes in the price of electricity over time, including, but not limited to, time-of-use rates for residential and small commercial and industrial customers; or (ii) incentive payments designed to induce lower electricity use at times of high wholesale market prices or when system reliability is jeopardized."

3. What types of resources should be included in this definition?

**Answer: All RPS-eligible resources and energy storage devices should be eligible.**

4. Should electric vehicles (EVs) qualify?

**Answer: Borrego does not take a position on this question, other than to point out that DOER should ensure that the program does not inadvertently provide windfall profits to EV owners or manufacturers.**

5. How should DOER interpret the inclusion of different types of rate designs in this definition?

**Answer: DOER should interpret the definition as broadly as possible to allow the market to find the most optimal, cost-efficient approach to meeting these requirements, and to anticipate future changes to utility rate structures. Any resource that is changing end-use electric usage in response to a signal provided by a retail or wholesale rate (including demand charges, capacity tags, and similar rate structures) should be eligible.**

6. Should this definition only be limited to active demand response?

**Answer: Yes, the definition should be limited to active resources. Passive resources should not be included in the definition. There are already other mechanisms (such as energy efficiency programs) to address these passive resources.**

7. Should standalone energy storage resources (i.e. not directly connected to another resource type) be eligible to qualify as demand response resources? What requirements, if any should standalone energy storage resources face in order to qualify as demand response resources?

**Answer: DOER should consider making standalone storage eligible as demand response. Energy storage facilities act as both load and generation, and should be eligible to participate as either demand-response providers (reducing demand during peak periods) or generators (injecting power during peak periods).**

8. Should the DOER view thermal storage facilities as a Demand Response Resource? What requirements, if any, should thermal storage facilities face in order to qualify as demand response resources?

**Answer: DOER's regulations should be technology-neutral, as long as eligible resources are able to affect load on the distribution system.**

#### Qualified Energy Storage System

Qualified energy storage system is defined as "an energy storage system, as defined in section 1 of chapter 164, that commenced commercial operation or provided incremental new capacity at an existing energy storage system on or after January 1, 2019; provided, however, that such system operates primarily to store and discharge renewable energy as defined in said section 1 of said chapter 164."

9. How should DOER define what constitutes "incremental new capacity at an existing energy storage system"?

**Answer: An increase in a storage facility's nameplate power or duration of 10% or more should be considered incremental new capacity.**

10. How should DOER interpret the requirement that a Qualified Energy Storage System operate "primarily to store and discharge renewable energy"?

**Answer: DOER should require that a Qualified Energy Storage System demonstrate that it charges 75% or more from a co-located renewable energy facility, or that the owner of the Qualified Energy Storage System has retired Class I RECs produced in ISO-NE equivalent to 75% of the total MWh consumed on an annual basis.**

- a. Would alignment with the federal ITC requirement that storage is eligible for a credit as long as the battery is charged by a renewable energy system more than 75 percent of the time be appropriate?

**Answer: Yes, this is a reasonable threshold even for facilities that are not ITC-eligible.**

- b. If not directly physically or electrically connected to a renewable energy resource, how can the qualified energy storage system demonstrate that it operates primarily to store and discharge renewable energy? Purchase and retirement of RECs? Some other means?

**Answer: DOER could consider allowing standalone energy storage systems to meet the 75% charging minimum by purchasing and retiring Class I RECs generated within ISO-NE for 75% of the MWh consumed by the facility.**

- 11.** How should DOER view thermal storage facilities with respect to eligibility as a qualified energy storage system?

**Answer: DOER's regulations should be technology-neutral.**

Qualified RPS Resource

Qualified RPS Resource is defined as "a renewable energy generating source, as defined in subsection (c) or in subsection (d) of section 11F that has: (i) installed a qualified energy storage system at its facility; or (ii) commenced commercial operation on or after January 1, 2019."

- 12.** Given the requirement that RPS resources that commenced commercial operation prior to 2019 must be paired with a qualified energy storage system in order to qualify for the CPS, what, if any, requirements should DOER adopt regarding how much energy storage needs to be installed?
- a. Should there be a minimum percentage threshold on the ratio of the size of the energy storage to the size of the renewable resource (e.g. minimum installed storage capacity equal to 25% or more than installed renewable capacity)?

**Answer: The answer to this question depends on how DOER addresses the risk that fully financed and/or constructed facilities would potentially reap windfall profits or double-payments through manipulation of the CPS rules. In our view, a 25% of previously-installed capacity minimum threshold appears appropriate to ensure that existing project owners do not receive CPS credits for minimal investments in existing resources. However, DOER could also address the potential for "peak-washing" electrons from already-constructed resources through appropriate treatment of facility baselines in the issuance of CPS credits. In this case, a minimum capacity threshold may not be necessary. DOER should be careful to design the CPS to ensure that already-constructed systems do not reap windfall profits simply by adding a small, cheap energy storage component that will not meaningfully change the operational characteristics of the resource.**

- 13.** With respect the quantity of its capacity that a Qualified RPS Resource can qualify under the CPS, should the DOER discount a Qualified RPS Resource's eligible capacity based on the capacity it can supply through the duration of each seasonal peak period (e.g. a 2

MW solar resource that can only provide 50% of its capacity value over the peak period would qualify as a 1 MW facility)?

**Answer:** We do not recommend this de-rating approach. CPS credits should be paid based on performance (output) during the peak windows. The simplest way to encourage performance during the peak is to issue CPS credits based on the MWh generated (in the case of generation) or reduced (in the case of demand response). If DOER is concerned about targeting specific hours within a peak period, DOER could consider creating “super-peak” periods during which bonus credit would be issued for performance during windows of concern.

- 14.** Should DOER adopt any additional requirements regarding the CPS eligibility of renewable energy generating sources as defined in subsection (c) or in subsection (d) of section 11F (e.g. emissions thresholds, fuel sourcing, etc.)?

**Answer:** A key concern for the CPS is to ensure that CPS credits are not issued to projects or behaviors that would have existed or occurred without the CPS. It would be wasteful and counterproductive to issue such credits and thereby provide windfall profits to projects that were already built under previous programs, or that would have been built due to support from incentive programs other than the CPS. Instead, the CPS should be designed to drive incremental investments in resources that are not already supported by other state programs. Therefore, existing renewable energy projects, and those that are eligible for other state incentives, should not be eligible to provide Clean Peak credits unless they are modified to target CPS peak periods, or unless the compensation under the CPS or other state program is adjusted to avoid double-payment for the same performance.

For example, facilities participating in the SREC II or SMART program should not receive CPS credits unless they can demonstrate that they were modified to target the peak periods established through the CPS (for example, by adding energy storage, changing their orientation to address the peak hours, or adding technology such as solar trackers). Therefore, the addition of energy storage to existing projects (including those supported by the SREC, SMART and other similar state programs) should make these projects eligible for CPS credits, but projects participating in SREC II, SMART, or other pre-existing programs that make no modifications to address the peak periods should not be eligible for CPS credits. This policy will encourage these resources to convert from non-dispatchable resources aimed at maximizing generation in all hours to resources that are more targeted to peak hours.

DOER’s guiding principle should be to encourage reductions in during the peak periods by encouraging projects (both existing and planned) that would otherwise not discharge during peak periods to be modified to target the hours of concern.

In addition, it is essential that DOER clarify that CPS credits are not “environmental attributes” as that term is used under the SREC, SMART, and other relevant renewable energy programs. Failing to clarify that CPS credits are separate from RECs and SRECs and are not included in the definition of environmental attributes would provide the state’s distribution companies a potentially large windfall of unearned CPS credits from existing SREC, SMART, and other projects, while discouraging owners from retrofitting facilities in these programs with energy storage (because these owners would not receive the CPS credits generated by these assets). In addition, providing the distribution companies with this unearned benefit in the form of free CPS credits would provide an unfair market advantage to the EDCs relative to competitive retail suppliers, which would run counter to the state’s policy in favor of promoting competition for electric supply.

### Seasonal Peak Periods

#### Establishing Seasonal Peak Periods

DOER is required to establish seasonal peak periods, which are defined by that statute as "the daily time windows during any of the 4 annual seasons when the net demand of electricity is the highest; provided however, that a seasonal peak period shall be not less than 1 hour and not longer than 4 hours in any season, as determined by the department."

15. Given these limitations, how should DOER establish different seasonal peak periods to both optimize cost reductions for ratepayers and emissions reductions for the Commonwealth?

**Answer:** Although we support the goal of reducing costs incurred by ratepayers during peak load periods, we note that several mechanisms already exist at the wholesale and retail level that work to reduce load during peak times. For example, ISO-NE capacity market, certain demand charge structures, capacity tags, and RNS charges, among others, already encourage electric suppliers and large customers to modify their loads to reduce load at times of peak demand. These signals are not perfect, but these load-related cost drivers can be addressed and improved through regulatory action by ISO-NE and the DPU.

In contrast, no mechanism currently exists to specifically address the peak *emissions* periods that cause the most health and climate damage on an annual basis. Targeting these periods will also incidentally target times of peak electric demand, because peak electric demand typically causes less efficient, more polluting fossil resources to be called into service. However, we note that the coincidence of peak electric demand with peak emissions could shift over time, as greater numbers of renewable generators and storage are built in the commonwealth. Therefore, we recommend that DOER focus primarily on the periods of peak emissions of criteria pollutants and greenhouse gases, while attempting to ensure that those periods coincide with likely peaks in electric demand in Massachusetts.

In addition, we urge DOER to take a cautious approach with any program that is too closely tied to addressing wholesale market signals. Although the jurisprudence is not settled, it is possible that a CPS program that is linked too closely to ISO-NE market outcomes could run afoul of the Federal Power Act or other federal laws. Keeping the CPS focused on emissions would reduce the likelihood of potential litigation over federal-state jurisdictional concerns.

16. DOER is considering announcing seasonal peak periods on an annual basis based on 1 to 3 years of historical data.
- a. What formula should DOER use to set the seasonal peak periods to reflect real time operating conditions?
  - b. What data sources should DOER use to determine seasonal peak periods?
  - c. What time period(s) should each of the 4 annual peak periods cover?
  - d. Should seasonal peak periods be different lengths depending on the season?
  - e. How often should the seasonal peak periods be examined and/or adjusted to reflect changes in seasonal peak demand over time? What should be the trigger and/or the process for making such adjustments?

**Answer:** We do not have specific comments on the data or methods to be used to establish emissions-based peak periods at this time, although we note that ISO-NE maintains data on emissions across the ISO. We believe DOER should, at a minimum, consider emissions of all known, tracked air pollutants, including various GHGs, conventional pollutants, and air toxics.

In addition, it is important to emphasize that frequent adjustment of peak periods could present significant challenges for financeability, because project lead-times can be lengthy and changes in peak periods or levels that occur too frequently could frustrate efforts to develop larger projects. In addition, too-frequent adjustments could lead to snap-back effects, wherein dispatchable resources that respond to new peak periods could result in the re-occurrence of the “old” peak as dispatch shifts toward the new peak.

The best approach to addressing the snap-back and financeability concerns would be to establish stable, pre-determined peak periods for each eligible resource based on the peak period in effect during the year in which the resource signed its interconnection services agreement (ISA). In other words, DOER could create “resource-year classes” based on the date of ISA that would have stable peak periods and would be expected to continue contributing to peak reductions in those periods until retired. This approach would ensure that resources designed to address peak periods that were in effect in that year would continue performing to address those periods, even if DOER subsequently changes the peak periods.



This “resource-year class” approach has two benefits: first, it would provide certainty to investors about the continuing eligibility of projects for CPS credits over time. Second, it would significantly reduce the potential for a snap-back in peak periods, thus ensuring that as peaks change over time, the Commonwealth would not regress in performance during the earlier peak periods.

17. Are there alternative methods of establishing seasonal peak periods the DOER should consider?

**Answer: No opinion.**

#### Atypical Peak Events

Not all system peaks occur within the same 1-4 window throughout the course of a season (e.g. a 95 degree day on a weekday in May will almost certainly not have a peak that occurs at a similar time of day as the bulk of peak periods in the same month).

18. Should DOER establish peak periods other than the seasonal peak periods during which clean peak resources are eligible to generate clean peak certificates?
- a. If so, what criteria should DOER use to establish these periods and what mechanism(s) and should be used to trigger and announce these events in advance of them occurring?
  - b. Should DOER specifically target ISO system peaks?

**Answer: In general, we recommend that DOER not attempt to solve all peak- or capacity-related issues with a single program. There exist other market mechanisms (such as the ISO market and utility rate design/DR programs) that are designed to send market signals to address ISO and distribution-level peaks. The CPS should target anticipated peaks that cause environmental damage that are not already directly addressed by other market signals. Specifically, the CPS should be targeted at peak emissions periods, for which there currently exist no mechanisms at the ISO or state level. We do not recommend the creation of “atypical peak” periods unless such periods are announced far enough in advance to allow projects to be designed to address those peaks.**

#### Generation of Certificates

Some clean peak resources may only be capable of generating clean peak certificates during a portion of a seasonal peak period. For example, a solar resource trying to deliver energy for the duration of a summer seasonal peak period that lasts from 6-9 PM may generate a significant number of certificates in the early part of that window compared to the latter.

19. Should only resources that can provide value for the entire duration of a peak period be able to generate certificates?

**Answer: No. As long as the peak periods are designed correctly, reductions during any part of the peak period will value, such that even resources that can't target the entire peak (for example, short duration batteries or demand response) can still contribute to reducing emissions.**

20. Should there be different values provided to resources that can provide value for a portion of a peak period versus the entire peak period? If so, how should DOER differentiate these value streams?

**Answer: Possibly. For example, DOER could consider setting "normal peak" and "super peak" periods with Clean Peak Credit "factors" similar to the SREC factors (e.g., resources would generate 2x the Clean Peak Credits during a super-peak).**

21. Should there be a penalty (i.e. negative credits) if a resource under-produces during the actual monthly peak?

**Answer: No. Failure to receive a credit will provide a significant incentive against underperformance, particularly if the value of CPS credits is meaningful. Penalties would only be appropriate in cases where a resource voluntarily enters into a performance contract (for example, as part of a procurement by a retail supplier or distribution company).**

22. How should resources participating in other state programs (e.g. section 83 procurements, SMART, EE programs, etc.) interact with the CPS?

**Answer: DOER should allow incremental, non-passive, distribution-connected resources to receive CPS Credits even in cases where they are participating in other state programs. However, resources that are already receiving an incentive to target the same peak period identified by DOER should be required to choose between receiving benefits under the CPS and the other program. This is a key, difficult challenge for DOER to manage, but we believe that it is achievable through appropriate CPS design.**

23. Should qualified energy storage systems that can demonstrate they were charged during minimum load windows be provided additional incentives or benefits under the CPS? If so, how should these be structured and how should minimum load windows be established?

**Answer: No. These systems already receive market signals that encourage charging during minimum load windows (typically, prices are lowest during minimum load windows). Providing a**

mechanism to encourage this behavior via the CPS would add complexity with little or no benefit for the system. Rather, to the extent that rate designs do not currently encourage energy use during low load hours, DPU could consider implementing optional Time-of-Use or similar mechanisms for customers.

## **Metering**

### **Verification of Metered Data**

DOER proposes that all clean peak resources be registered with NEPOOL GIS as Non-NEPOOL participants. This would mean that, as required by the NEPOOL GIS operating rules, all resources would be required to report their eligible output to NEPOOL GIS by a DOER approved Independent Third-Party Meter Reader. This entity would be responsible for verifying the accuracy of the reported data before uploading it to NEPOOL GIS for the creation of certificates.

To ensure that all data is collected, reviewed, and reported to NEPOOL GIS in a consistent manner, DOER would select a single entity to act as the Independent Third-Party Meter Reader, similar to the process used under the SREC programs, in which the Production Tracking System at the Massachusetts Clean Energy Center serves in this role.

24. Do you support this proposal? If not, please describe why.

**Answer: Yes, this proposal appears reasonable, and has proven reliable in other DOER programs. The complications experienced by the market due to the utility-owned-meter requirements under the SMART program should give DOER pause about adopting any metering arrangement for private projects that involves linking compensation to installation of utility-owned meters (other than the meter at the point of interconnection).**

25. If DOER procures the services of a single Independent Third-Party Meter Reader:
- What criteria should DOER use to evaluate the capabilities of the entity that is selected to act as the Independent Third-Party Meter Reader?
  - Do you support the establishment of a fee structure to support the ongoing services provided by the Independent Third-Party Meter Reader?
  - How should this Third-Party verification take place?

**Answer: No opinion.**

### **Metering Specifications and Requirements**

Because clean peak certificate creation is dependent not just on the quantity of energy output, but also its timing, more sophisticated metering will be required than that which is required for many RPS eligible systems, which only require monthly meter reads.

26. Describe in as much detail as possible the metering standards and requirements (type, accuracy, etc.) that DOER should employ to ensure the accurate collection of data.
27. Should different standards apply to different sizes and types of facilities? If so, please describe your recommendations in as much detail as possible.
28. What other verification mechanisms could be deployed to simplify the process, particularly for small-scale systems for which some types of metering solutions may be cost-prohibitive?

**Answer: In general, it is too early to provide this detail until other details of CPS are worked out. The design of the program will drive metering configurations.**

### **Value of Certificates**

DOER must establish an alternative compliance payment rate and potentially other mechanisms that will help establish the value of clean peak certificates. Please describe in as much detail as possible:

29. How much value is likely needed on a per MWh basis to incentivize different types of existing resources to operate during peak windows and/or new resources developed or financed using CPS revenue streams?

**Answer: We are unable to share this information in public comments, but would be willing to provide this information to DOER in confidence.**

**However, we note that because CPS credits will likely be available during only a small number of hours of the year (i.e., the peak periods), the value per MWh needed to encourage resource participation is likely orders of magnitude higher than the value that is needed to encourage development of resources that can receive RECs or other mechanism for every MWh produced. DOER should not expect that CPS credits will be valued at levels approximating those seen in the state's previous REC/SREC programs.**

30. How should DOER establish these values?

**Answer: DOER should establish a mechanism to avoid wild swings in market prices, similar to those seen under the first SREC program and other states' REC and SREC programs. These wild swings introduce significant risk into the private market, which ultimately results in higher costs to achieve public policy outcomes. DOER should consider a mechanism similar to the SREC II market**

**adjustment mechanism to provide investors with certainty about clean peak value. In addition, DOER should allow resources to bank CPS credits to allow for greater risk management and reduce volatility.**

### **Long-term Contracts**

In establishing certificate values, DOER "may include a process by which electric distribution companies competitively procure clean peak certificates from clean peak resources and enter into long-term contracts, subject to the approval of the department of public utilities."

31. If DOER does require competitive procurements:

- a. What types of facilities should be able to participate in solicitations? Should it be limited to certain types of facilities (e.g. facilities that are either new and/or not already supported by another type of long-term contract or financing tool)?

**Answer: To the extent procurements are allowed, DOER should limit eligibility to only those facilities that are not already supported through other programs. In addition, procurements should only be used if the market signals provided by the CPS appear insufficient to stimulate development of Clean Peak resources. Due to the complexity and risk involved in solicitations, it is likely that smaller projects and those that are customer-sited would be at a significant disadvantage if significant numbers of CPS credits were procured via solicitation.**

- b. How frequently should solicitations take place?

**Answer: The answer to this question depends in part on how large the procurements are, and what kinds of Clean Peak resources are desired. In general, more frequent (e.g., quarterly) solicitations would be more conducive to natural development cycles. Infrequent solicitations could create complications related to interconnection and permitting timelines that are governed by their own deadlines.**

- c. How large should the procurements be (e.g. percentage of total load or annual requirement)?

**Answer: Procurements should be small relative to overall requirements, unless DOER determines that the market is not being served through organic development of resources to target the peak. Competitive procurements are inherently risky and subject to attrition risk, and are suboptimal mechanisms for encouraging investment in distributed resources. The best approach is one with which DOER is already familiar through its solar programs—establish a transparent market for CPS credits along with reasonable rules for eligibility, and allow the market to develop the most efficient, least cost solutions to address the market.**

- d. How should the contract price be established? Pay as bid? Reverse auction mechanism with a single clearing price for all resources? Other?

**Answer:** To the extent that DOER chooses to allow competitive solicitations, it should keep several principles in mind. First, procurements should require participants to meet minimum project maturity and bid deposit thresholds to avoid speculative bidding and significant attrition that could compromise the CPS goals. For example, projects should be required to be far along in the interconnection process (e.g., have their ISA in hand), have received all non-ministerial permits, and have secured site control—similar to the requirements under the SMART program. Additionally, projects should be required to submit meaningful bid deposits to discourage speculative bidding behavior. Similarly, projects should be paid as bid, as an important safeguard against speculative bidding behavior and avoid overpaying for capacity. Under no circumstances should DOER use an auction mechanism in which all winning resources receive the highest winning bid. Such an approach would undoubtedly lead to speculative behavior and to overpayment for CPS credits.

#### Post-2019 Minimum Standard Requirements

DOER has established a baseline Minimum Standard requirement of 0% for 2019. Each year after 2019, DOER is required to establish a Minimum Standard requirement for retail suppliers that increases at a rate of at least 0.25% of total retail sales annually.

32. What methodology should DOER use to establish post-2019 Minimum Standard requirements (e.g. fixed annual requirements in a published schedule, supply reactive formula, other)?

**Answer:** DOER should use a supply-reactive formula, similar to that developed for the SREC II program.

33. How large should the minimum standard be?

**Answer:** The standard should be sized to address the overall greenhouse gas intensity of the peak or peaks, with a target of getting to an 80% fossil-free (no GHG) peak by no later than 2050, which would be aligned with the state's current GHG reductions goals.

#### Demand Response Resource Carve-out

Separate from the total Minimum Standard requirement, DOER is required to establish "a minimum percentage of clean peak certificates that must be derived from demand response resources."

34. How should DOER interpret this requirement?

**Answer: No opinion.**

**35. What methodology should DOER use to establish this carve-out of the larger Minimum Standard?**

**Answer: The demand response carve-out should also be designed as a supply-reactive formula to reduce volatility and enable achievement of the Clean Peak goals at lower cost.**

Other

**36. Please discuss any other implementation issues not addressed above.**

**Answer: Generally speaking, it is highly unlikely that we will get all of the rules for the CPS right at the outset. DOER should anticipate the need to adjust major components of the program over time, and should provide clarity about grandfathering methodology and thresholds for projects that are being developed based on the expectation of CPS revenues.**

**In addition, we recommend that DOER outline a timeline for program review to address lessons learned after a reasonable period of time (e.g., 2-3 years).**

**Finally, we reiterate that it is essential that DOER clarify that CPS credits are not “environmental attributes” as that term is used under the SREC, SMART, and other relevant renewable energy programs. Failing to clarify that CPS credits are separate from RECs and SRECs and are not included in the definition of environmental attributes would provide the state’s distribution companies a potentially large windfall of unearned CPS credits, while discouraging owners from retrofitting facilities in these programs with energy storage. In addition, providing the distribution companies with this unearned benefit would provide an unfair market advantage relative to competitive retail suppliers, which would counter the state’s clear policy in favor of promoting competition for electric supply.**