



June 15, 2016

Mark D. Marini, Secretary
Massachusetts Department of Public Utilities
One South Station
Boston, MA
02110

Re: D.P.U. 16-64 Investigation of the Department of Public Utilities, on its own Motion, Commencing a Rulemaking pursuant to G.L. c. 164, §§ 138 and 139; G.L. c. 30A, § 2; 220 C.M.R. § 2.00 et seq.; and Executive Order 562, to Amend 220 C.M.R. § 18.00 et seq.

Dear Secretary Marini,

On May 11, 2016, the Massachusetts Department of Public Utilities (“Department”) issued an Order commencing a rulemaking proceeding to adopt emergency regulations amending 220 C.M.R. § 18.00 *et seq* (“Net Metering Regulations”) as a result of An Act Relative to Solar Energy, St. 2016, c. 75, §§ 3-9 (“Act”). On the same day, the Department released a Notice of Public Hearing and Request for Comments, including an initial comment deadline of June 15, 2016. Please accept these comments on behalf of Vote Solar.

Vote Solar is a non-profit grassroots organization working to foster economic opportunity, promote energy independence and address climate change by making solar a mainstream energy resource across the United States. Since 2002, Vote Solar has engaged at the state, local and federal levels to remove regulatory barriers and implement the key policies needed to bring solar to scale. Vote Solar is not a trade group and does not have corporate members. Vote Solar is particularly focused on rate design issues related to solar distributed generation, including the billing arrangement known as net metering. Recognizing the importance of this policy for supporting customer-sited solar and other renewables energy technologies, Vote Solar is actively participating in net metering and broader rate design regulatory proceedings in states across the U.S, including: Arizona, California, Colorado, Georgia, Iowa, Kansas, Louisiana, Massachusetts, Minnesota, Nevada, New Mexico, New York, North Carolina, Utah, Vermont, among others.

INTRODUCTION

Vote Solar appreciates the opportunity to comment on the Net Metering Regulations. Vote Solar is also very thankful for all of the hard work of the Department and all of the interested parties that have dedicated valuable time to



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work on the future of net metering in Massachusetts.

Vote Solar does have some recommendations and comments on the topics itemized by the Department. Vote Solar provides comments in the following areas: (1) SEIA's revised net metering regulations; (2) transition to Market Net Metering Credits; (3) minimum bill; (4) technical changes; and (5) answers to some of the questions from the Department.

SEIA'S REVISED NET METERING REGULATIONS

Vote Solar is supportive of the redlined Net Metering Regulations proposed by the Solar Energy Industry Association ("SEIA"). The redlined regulations proposed by SEIA simplify the implementation the Act. Vote Solar believes that the Department can fully implement the Act with fewer changes to the existing net metering regulations, and thereby minimize any potential confusion in the future with regard to the Net Metering Regulations.

Recommendation

Vote Solar recommends that the Department strongly consider the redlined regulations proposed by SEIA when finalizing the Net Metering Regulations.

TRANSITION TO MARKET NET METERING CREDITS

Criteria for the Transition

In D.P.U. 16-64-A, the Department clarified that the phrase "interconnected to a Distribution Company after the Notification Date" is meant to include "all Solar Net Metering Facilities interconnected to a Distribution Company, including those Solar Net Metering Facilities that are in receipt of a cap allocation from the System of Assurance after the Notification Date, even if it is not yet interconnected to a Distribution Company." D.P.U. 16-64-A at 4. Vote Solar appreciates the Department's clarification and guidance on this important issue.

Vote Solar emphasizes that the Department has extensive precedent on the issue of which facilities should be eligible for net metering services, including when those facilities qualify for net metering services. Specifically, the development of the Massachusetts System of Assurance of Net Metering Eligibility ("System of Assurance") in docket D.P.U. 11-11 is immediately relevant and applicable to the determination of which facilities should receive Market Net Metering Credits, and which facilities are eligible for the existing calculation of net metering credits. The System of Assurance is a known process to the solar development community, has



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been in place for several years, and tracks eligibility for net metering services in almost real-time.

As of the Notification Date, the System of Assurance is the logical mechanism for determining which projects receive market net metering credits, and which projects receive the current calculation for net metering credits. Vote Solar believes that the System of Assurance is ideally suited for this task. Furthermore, the Department's use of the System of Assurance for eligibility as of the notification date will minimize additional processes and work for the Department, the distribution companies, and for the solar community.

Nonetheless, Vote Solar notes that there may be limited examples of appropriate exceptions. For example, projects that otherwise would have submitted an application for a cap allocation from the System of Assurance, but are currently requesting an exception from the Department,¹ shouldn't be penalized for their need for additional process. So long as the projects that have applied for exceptions meet the criteria of the System of Assurance, they should be held to the same standard as the projects that do not need to petition for exceptions.

Recommendation

Vote Solar recommends that the Department rely heavily on the System of Assurance for determining which projects receive market net metering credits, and which projects receive the current calculation for net metering credits. Vote Solar also recommends that the Department allow for limited exceptions to these rules, where appropriate.

Notification Date

The Notification Date is critically important to the solar community. The solar market will fundamentally change once the Notification Date has been established by the Department. Developers, and ultimately customers, will need to know in advance what the Notification Date is in order to determine whether a project should proceed. Unsurprisingly, the transition to Market Net Metering Credits will change the financial viability of projects throughout the Commonwealth. Without a clear establishment of the Notification Date *in the future*, developers and customers will be suspended in a cloud of uncertainty. As developers and customers proceed

¹ For instance, a project may be requesting an exception from the Department in regard to the definition of a net metering facility. D.P.U. 11-11-C, and D.P.U. 11-11-E.



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from ideas of projects, to development, and finally implementation, they need to know the rules under which the project will operate. If the Department doesn't provide clarity and certainty to the solar community about the inevitable Notification Date, the solar community will be paralyzed with uncertainty until the Notification Date is announced.

Furthermore, net metering and Solar Renewable Energy Certificates ("SRECs") both contribute to the development of solar in the Commonwealth. Both will be changing in the relatively near future. Ideally, the Notification Date would coincide with the effective date of the SREC II successor program in order to minimize disruptions to the solar market.

Recommendation

Vote Solar recommends that the Department provide advance warning of the Notification Date, rather than announce an immediately-effective Notification Date. Vote Solar also recommends that the Notification Date coincide with the effective date of the SREC II successor program.

MINIMUM BILL

Section 9 of the Act generally outlines the rules for the establishment of a "monthly minimum reliability contribution" ("Minimum Bill"). First, Vote Solar notes that the distribution companies *may* propose a Minimum Bill. There is *no requirement* that the distribution companies propose a Minimum Bill. In this regard, any presumption in regulations by the Department that Minimum Bill proposals are inevitable are premature.

Second, there is no need codify the rules of a Minimum Bill in regulations. Just like the Department did not specify the net metering recovery surcharge ("NMRS") in regulations, the Department should reserve discussion of a Minimum Bill for the adjudication of a filing by a distribution company. If the Department wants to consider standardizing any forthcoming Minimum Bill proposals, then the Department should open a generic docket specific to Minimum Bills.

Recommendation

Vote Solar recommends that the Department delete 220 C.M.R. § 18.10 from the Net Metering Regulations.

TECHNICAL CHANGES

Although Vote Solar supports SEIA's revised net metering regulations, Vote Solar



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provides the following specific changes to the Net Metering Regulations. Hopefully, the following are helpful to the Department in consideration of any revisions to the regulations.

220 CMR 18.02: Net Metering Credit

As drafted, the definition of Net Metering Credit reads as follows:

Net Metering Credit means any credit, including a Market Net Metering Credit, provided by a Distribution Company for the excess electricity generated and fed back to the Distribution Company by a Class I, Class II, Class III or Neighborhood Net Metering Facility.

To be clear, the net metering credit is calculated based on the net excess generation at the end of the billing period, and not based on excess electricity. This issue is easily fixed by expanding the definition to clarify that the credit is based on the net excess generation at the end of the billing period.

Recommendation

Vote Solar recommends that the definition for Net Metering Credit is amended as follows:

Net Metering Credit means any credit, including a Market Net Metering Credit, provided by a Distribution Company for the **generation of electricity in excess electricity generated and fed back to the Distribution Company of the usage of the Host Customer over the course of a Billing Period** by a Class I, Class II, Class III or Neighborhood Net Metering Facility.

220 CMR 18.04(6)

As defined, Solar Neighborhood Net Metering Facilities and Class III Solar Net Metering Facilities other than a Solar Net Metering Facilities of a Municipality or Other Governmental Entity “interconnected” after the Notification Date have the same credit calculation as specified in 220 C.M.R. § 18.04(3). This section is redundant. These facilities can just be added to 220 C.M.R. § 18.04(3) and have the same outcome.

Recommendation

Vote Solar recommends that 220 C.M.R. § 18.04(6) be deleted, and the Solar Neighborhood Net Metering Facilities and Class III Solar Net Metering Facilities other than a Solar Net Metering Facilities of a Municipality or Other Governmental



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Entity be added to 220 C.M.R. § 18.04(3).

QUESTIONS FROM THE DEPARTMENT

The process for Distribution Companies to calculate Net Metering Credits for Solar Net Metering Facilities that are interconnected prior to the Notification Date and seek to expand such facilities after the Notification Date

Unless the facilities that seek to expand have met the criteria for qualification prior to the Notification Date, the Department should not allow the facilities to expand under the previously-available rules. Such an outcome would be inconsistent with the clear language of the Act.

As such, if a Host Customer seeks to expand a facility, they should have to proceed with a clearly distinct and separate facility on the same parcel of land; one which is metered independently from the original facility. Naturally, this conflicts with the unit and facility order from the Department. D.P.U. 11-11-C. In order to remedy this situation, the Department should exempt any Host Customer from the unit and facility rules established in D.P.U. 11-11-C that seeks to expand their net metering facility.

Recommendation

Vote Solar recommends that the Department prohibit the expansion of net metering facilities if the expansion would result in the calculation of net metering credits with two different formulas. In addition, the Department should exempt any Host Customer from the unit and facility rules established in D.P.U. 11-11-C that seeks to expand their net metering facility.

At what time and under what circumstances the Department may consider proposals for a monthly minimum reliability contribution

The Act is clear on this topic. “The department may only approve a proposal for a monthly minimum reliability contribution after the aggregate nameplate capacity of installed solar generating facilities in the commonwealth is equal to or greater than 1,600 megawatts” (Act at Section 9). Furthermore, any Minimum Bills must be effective by December 31, 2018 (Act at Section 9).

Vote Solar notes that the Minimum Bill capacity criteria is different from the transition to Market Net Metering credits, which occurs when 1,600 megawatts of solar net metering facilities are qualified under subsection (g) of section 11F of chapter 25A (Act at Section 4).



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Recommendation

The Department should utilize the System of Assurance to track the installed capacity of solar generating facilities in the Commonwealth, and provide notice to the distribution companies and interested parties when the threshold has been met.

What process should the Department use to consider the monthly minimum reliability contribution

The Act is clear that “[t]he department shall conduct a full adjudicatory proceeding when reviewing proposals for a monthly minimum reliability contribution, which shall include at least 1 public hearing and an opportunity for public comment” (Act at Section 9). Furthermore, the Act requires that “[p]roposals shall be filed with the department in: (i) the distribution company’s base distribution rate proceeding; or (ii) a revenue neutral rate design filing that is supported by appropriate cost of service data across all rate classes” (Act at Section 9). Aside from these limitations, the Department has broad discretion in regard to the process.

Whether the Department should exempt or modify a monthly minimum reliability contribution for low-income ratepayers

Recommendation

Vote Solar recommends that this issue not be addressed in the rulemaking, and should be addressed in either (a) a generic docket to look at Minimum Bills, or (b) in each Minimum Bill filing in the future.

Whether the Department should exempt any class or sub-class of net metering facilities that were in service before December 31, 2016

Recommendation

Vote Solar recommends that this issue not be addressed in the rulemaking, and should be addressed in either (a) a generic docket to look at Minimum Bills, or (b) in each Minimum Bill filing in the future.



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What would be a reasonable amount of time between (a) the Department of Energy Resource's ("DOER") determination that the aggregate nameplate capacity of Solar Net Metering Facilities qualified under G.L. c. 25A, § 11F(g), is equal to or greater than 1,600 MW direct current and (b) the Notification Date to be established pursuant to Department Order following receipt of the DOER's determination

Please see Transition to Market Net Metering Credits section above.

CONCLUSION

Once again, Vote Solar appreciates the hard work of the Department. With the goal of improving the Net Metering Regulations, Vote Solar hopes that the Department will consider the recommendations included in these comments. Specifically, Vote Solar recommends that the Department:

- Strongly consider the redlined regulations proposed by SEIA;
- Rely heavily on the System of Assurance for determining which projects receive market net metering credits, and which projects receive the current calculation for net metering credits;
- Allow for limited exceptions to the transition to Market Net Metering Credits;
- Provide advance warning of the Notification Date, rather than announce an immediately effective Notification Date;
- Set the Notification Date to coincide with the effective date of the SREC successor program;
- Delete 220 C.M.R. § 18.10 from the Net Metering Regulations;
- Amend the definition for Net Metering Credit; and
- Simplify the Calculation of Net Metering Credits section of the Net Metering Regulations.



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Vote Solar appreciates the opportunity to submit comments on the Net Metering Regulations. Thank you for your time.

Sincerely,

Nathan Phelps

A handwritten signature in black ink, appearing to read 'Nathan Phelps'.

Program Manager, DG Regulatory Policy

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