INITIAL COMMENTS OF THE SOLAR ENERGY INDUSTRIES ASSOCIATION ON THE NEXT GENERATION SOLAR INCENTIVE STRAW PROPOSAL

To the Massachusetts Department of Energy Resources
10.28.16

The Solar Energy Industries Association (SEIA) thanks the Massachusetts Department of Energy Resources (DOER) for soliciting comments on the Next Generation Solar Incentive Straw Proposal (Straw Proposal). Through the stakeholder process, SEIA representatives are working with DOER, the utilities, and other interest groups on designing an incentive program that helps the Commonwealth achieve its energy and environmental goals, reduces costs, and continues to create solar industry jobs.

Established in 1974, SEIA is the national trade association of the United States solar energy industry and is a broad-based voice of the solar industry in Massachusetts. Through advocacy and education, SEIA and its 1,000 member companies are building a strong solar industry to power America. There are approximately 40 SEIA member companies in operation in Massachusetts working in all market segments – residential, commercial, and utility-scale. SEIA member companies provide solar panels and equipment, financing, and other services to a large portion of Massachusetts solar projects.

SEIA commends the Baker Administration and specifically the DOER for advancing an initial proposal for a new incentive program that would support a new 1600 MW (AC) of solar development in the Commonwealth. While there are many critical details that still need to be worked out, and we recognize many design elements are subject to change, the DOER Straw Proposal is a solid foundation upon which to build.

SEIA provides limited initial comments on the Straw Proposal. Our failure to comment on any aspect of the Straw Proposal does not signal support or opposition to any particular issue. SEIA reserves the right to file additional comments throughout this regulatory docket. We also understand that the Straw Proposal may be subject to potentially significant changes given the discussions already underway.

These comments: 1) discuss the overall program objectives; 2) advocate for the need to close the current gap between incentive programs for solar projects larger than 25kW; 3) briefly discuss the consultant analysis and the proposed incentive levels themselves; 4) discuss block size, block management and the application process; 5) address issues related to billing and crediting; 6) urge caution on implementing the proposed siting restrictions on solar for certain areas; 7) address specific issues related to community solar; and 8) discuss mechanics and the need to see draft regulatory language as soon as possible.

1. Overall Program Objectives

SEIA commends the DOER for advancing an initial proposal that supports another 1600 MW of new solar development in the Commonwealth. SEIA supports and shares the Baker Administration's overall goal of providing more predictable incentives to the solar industry at a lower cost to ratepayers.

As proposed, DOER's new incentive structure attempts to level the playing field between net energy metered (NEM) and non-NEM projects in Massachusetts. We commend the Baker Administration and the DOER for advancing a proposal that attempts to protect the solar industry from market disruptions caused by delays in addressing the state's utility net metering caps.

A) Straw Proposal Should Not Be Considered a Replacement for Net Metering

Despite the proposal's laudable intent on this issue, SEIA cautions that the proposal should not be a replacement for NEM in the Commonwealth. SEIA acknowledges that DOER is not advocating a specific position on NEM through the proposal, but notes that NEM is a foundational policy upon which successful solar markets have been built across the country. NEM remains a key to the solar industry's success in Massachusetts, and will be the cornerstone of solar policy in a post-incentive market within the Commonwealth.

SEIA supports the DOER's efforts to provide market certainty for non-NEM projects through the incentive program, but policymakers should remain cognizant that non-NEM compensation structures for solar energy in Massachusetts currently fail to accurately capture the broader benefits solar systems bring to the grid. A robust net metering program, or other more accurate compensation structures and rate designs, are still needed and should be the goal of future efforts by DOER and the Massachusetts Department of Public Utilities (DPU).

B) Revisit the Stakeholder Process Timeline

The DOER has launched an ambitious stakeholder process to consider the implementation details of the new incentive program. The stakeholder process is intended to produce a set of consensus recommendations to inform a final DOER emergency regulation to be issued by January 8, 2017. Based on the initial meetings, it is clear that this timeline is too aggressive for a program that is meant to fundamentally change the solar incentive regime in Massachusetts for the next several years.

SEIA encourages DOER to revisit its timeline to allow the consideration of proposals and new solutions from working group participants. A process moving on a less aggressive timetable will give stakeholders a greater ability to understand how the new tariff-based approach will impact their firms and the overall market. SEIA strongly supports having a new incentive program in place as soon as possible, but numerous open implementation questions require careful consideration and review. Increasing time pressure is at odds with the worthy goal of a consensus-building stakeholder process, and more time is likely needed on certain issues (identified below) to ensure the smooth implementation of a new policy regime.

Executing an extension of SREC II for projects of greater than 25kW in size would allow DOER to relax the stakeholder process timeline and allow more time for stakeholders to reach consensus on program recommendations.

2. Close the Current Gap Between Incentive Programs for Projects Greater Than 25kW

SEIA appreciates the DOER's prior efforts to prevent market disruption at the close of the SREC II program by issuing emergency regulations, finalized on July 1 and further clarified through the DOER's issuance of the August 31 Guideline.

As a result, projects of less than 25 kW remain eligible for the SREC II program until the effective date of the new solar program established by the DOER. But no such continuity currently exists for projects greater than 25 kW.

With the new incentive regime not expected to be effective until summer of 2017 at the earliest, this gap between the programs has largely frozen the market for large scale commercial, industrial and municipal solar projects. Solar projects that cannot be completed by January 8th, or will not reach 50 percent spending by that date, are effectively on hold until the new incentive structure is put in place.

In short, the current expected gap between incentive programs will slow the overall growth of the solar industry and the jobs the industry creates. An even longer gap between programs would have a chilling effect on the market and may undermine the Baker Administration's long-term solar development and job creation goals.

On September 30th, several aligned organizations representing the solar industry – and the vast majority of solar firms in the Commonwealth – submitted a letter requesting that DOER take immediate steps to eliminate this potential gap between the SREC II program and its successor.

We proposed that DOER could:

- Adjust the current extension of SREC II to expand eligibility to all projects that submit a Statement of Qualification Application by January 8, 2017. We further proposed that the extension for mechanical completion should then be tied to the effective date of the new program;
- Allow any project greater than 25 kW to retain its Statement of Qualification provided that it can demonstrate it is mechanically complete by the later of July 8, 2017 and the effective date of the new incentive program; and

- Issue revised Guidance to clarify that the lack of a final, effective successor incentive program would constitute good cause for an extension for all projects that meet the criteria described above. This option could be a way forward without issuing a new emergency regulation.

The letter is attached as Appendix A.

3. Incentive Levels & Consultant Analysis

Based on initial feedback from our member companies, at minimum, incentive levels should not be reduced below the amounts initially proposed by DOER. SEIA's individual member companies will comment in more detail on areas where incentive levels may be insufficient to support activity in their various market segments.

Regarding the analysis that informed the development incentive levels, without more information on the specific calculations performed, the consultant analysis is difficult to critique, and does not invite a clear understanding of the reasonableness of the initial assumptions used. For example, comments from our colleagues at the Coalition for Community Solar Access (CCSA) raise important questions about the extent to which specific community solar customer acquisition costs were factored into the analysis. The answers to this question could have an impact on the final level of the adder.

While we understand the consultant is no longer under contract with DOER, SEIA requests that DOER provides, in the near future, a briefing for all stakeholders on this analysis in an effort to help industry understand the assumptions and calculations that informed the incentive levels.

4. Block Management & Reservation Application Process

A) Block Size

SEIA recommends maintaining the capacity-based block structure described in the Straw Proposal but recommends increasing the initial block sizes to 400 MW per block for the first two blocks. Given the expected gap between incentive programs for solar projects greater than 25kW, SEIA members remain concerned that pent up demand for incentives will yield a significant number of reservation applications upon the start of the program. These applications will quickly fill up the first two blocks.

Furthermore, the expected demand for the initial blocks from large scale projects that require more capacity may crowd out smaller commercial or residential projects, and ultimately may hinder DOER from fulfilling its statutory requirement of supporting "diverse installation types and sizes that provide unique benefits" through the creation of an incentive program.[1] SEIA recommends that larger initial blocks of 400 MW each would allow for a more orderly transition to the new program. Later blocks could be reduced to 200 MW of capacity each.

[1] The Acts of 2016, Chapter 75, An Act Relative to Solar Energy, Section 11.

B) Proposed Incentive Level Step Downs Between Blocks Too Aggressive

SEIA supports the Straw Proposal's declining block incentive program design. However, SEIA recommends reducing the percentage step down in incentive levels between blocks from 5% to 3%. The current proposal to reduce the incentive levels by 5% per block would result in an overall reduction of more than 30% in the incentive levels over the eight proposed blocks. This reduction is too steep.

SEIA instead proposes a 3% reduction. This level of reduction would provide a more moderate glide path and is more consistent with the current pace of cost reductions in the industry. The recent experience curve for the solar industry shows that for every doubling of capacity there is a roughly 20% decline in costs. Furthermore, recent industry forecasts through 2020 predict solar capital cost reductions ranging from approximately 1.5-3% per market segment during the expected life of the new incentive program. A 3% reduction between blocks would yield an approximately overall 20 percent reduction in incentive levels and is more consistent with industry trends.

C) Incentive Level Step Downs Should Not Apply to Adders

SEIA supports the use of incentive adders to drive investment in beneficial projects and promote solar development in specific market segments and certain areas (i.e. community shared solar, low income communities, on brownfields and landfills). However, we recommend that DOER should not apply stepwise incentive reductions to the proposed adders. While we recognize this has the impact of essentially increasing the impact of the adder over time the public policy rationale for incentivizing these activities will remain in place for the duration of the incentive program. Instead, decisions about whether to reduce adders for community shared solar projects or other beneficial solar projects should be based on whether the incentive has achieved the objective of stimulating market activity in the chosen sector.

D) Block Allotments by Utility Territory

Further, SEIA is concerned that the current proposal to subdivide blocks by utility service territory creates inequities and inefficiencies in block management. Based on distribution of load, some utility blocks would be orders of magnitude smaller than others. For example, it's conceivable that one 2 MW project in Unitil's service territory would reserve the entire block capacity.

DOER should consider consolidating blocks for some of the smaller utility service territories, or combine blocks of firms that share a parent company, or potentially even regionally to allow for a more efficient block management. New York's declining block incentive model accounts for potential market disparities by separating blocks regionally between downstate and Long Island and upstate New York. A similar division by region or by ISO zone could be workable in the Commonwealth.

E) Block Qualification

SEIA supports a block reservation system based on the criteria currently used by MassACA. That process requires applicants to demonstrate they have obtained all non-ministerial permits, have established site control and have an executed Interconnection Service Agreement. SEIA strongly recommends that these should be the minimum thresholds for firms receiving a block allocation.

Many complex questions remain including: how long does an applicant's block reservation period last, how does attrition within the block impact subsequent blocks; and questions about splitting capacity across blocks. We look forward to working with DOER to develop solutions to these problems.

5. Billing & Crediting

SEIA recommends that incentives should be paid on a monthly basis to the system owner in order to encourage the most efficient financing and align more tightly with the market standards in the capital markets.

Further, although not included in the Straw Proposal presented in September, SEIA supports the concept of hiring a third party administrator, or several administrators performing different functions, to implement aspects of the new incentive program. A third party administrator should measure and verify the output of the solar systems, and review block allocation applications and certify applicant eligibility.

Despite attempts by the utilities to improve their billing processes, utility billing systems are still inadequate, are in some cases still hand-billed, and should be considerably improved. A third party administrator taking on some or all of this functionality on behalf of the utilities may offer considerable value for all solar customers.

Many complex questions on billing and crediting also remain including on issues related to the ownership of production meters, timing of reporting, and how credit calculations would work as time of use rates are implemented across utility territories.

6. Solar Siting & Restrictions

SEIA supports responsible siting of solar systems and responsible project development in the Commonwealth. However, SEIA recommends that issues related to environmentally responsible solar siting should be handled outside the context of preparing DOER's emergency regulation on incentive program design.

SEIA is concerned that the siting restrictions proposed by the DOER in their current form would significantly decrease the amount of land available for solar development throughout the state, and substantially increase overall project costs, undermining the purpose of the incentive program altogether.

As proposed, DOER's siting restrictions, as stated in a working group meeting, would place more than 99% of Massachusetts' land area effectively off limits to solar development, even before applying other constraints such as land usability, interconnection, or landowner interest.

In brief, DOER should avoid duplicating the land use restrictions that currently exist in law and are currently managed by the state's environmental, land use and local land use agencies. DOER should avoid creating new requirements that potentially conflict with current agency and local practices. We also urge caution with the use of identified GIS layers and designations that are not designed for nor are appropriate for regulatory use.

For example, it is our understanding that the prime forest land, prime farmland, and perhaps other identified land classifications and GIS layers in DOER's straw proposal were not developed for a regulatory purpose, nor were they vetted through an open stakeholder process. It would be inappropriate for DOER to prohibit siting in an area that a non-regulatory body has identified for a particular purpose that is unrelated to solar siting.

Rather than creating limits that will restrict private landowners' rights in ways that no other state program currently does, DOER should consider providing additional incentives for projects that best promote the state's conservation goals (e.g., for projects that meet specified performance standards for soil management and tree clearing). This would reflect the additional costs that meeting these goals imposes on project development.

SEIA strongly recommends that DOER separate the discussions on responsible solar siting from the stakeholder process to inform the emergency regulation and pursue siting questions with the other appropriate state and local officials on a separate path.

7. Community Shared Solar

All of the issues currently under discussion in the working groups will have an impact on all community shared solar (CSS) projects. But one area of particular concern is the lack of understanding of the ways in which community shared solar projects would operate in a non-NEM context.

DOER has said it is open to suggestions and ideas about how these projects would operate and is seeking input from the industry. While SEIA appreciates the intent to make market segments indifferent to NEM through the incentive program design, the lack of a viable path for non-NEM projects is troubling. DOER has designed incentive adders for CSS projects and low income CCS projects, but has not offered specific ideas on how these projects could be structured outside the net metering frame. There are major barriers to creating a community solar arrangement without net metering, and we have not yet seen examples of this structure arise in Massachusetts, even during the times when net metering capacity was unavailable.

This suggests that community solar without net metering may still require some role for the distribution utilities or state agencies, beyond the provision of an incentive. The present conversation would benefit from specific suggestions from DOER.

This issue reinforces our previous argument that the new incentive program should not be considered a replacement for NEM, but must work in tandem with net metering as a compensation mechanism.

Additionally, any mechanism introduced through the incentive program to enable non-net metered CSS should resemble the existing virtual net metering structure to the extent possible for consumer and business model continuity. Indeed, SEIA acknowledges that the introduction of a third party administrator may also yield improved efficiency and flexibility to the bill crediting currently allowed through net metering.

As the working group process continues we will continue to explore pathways for non-net metered CSS models.

8. **Mechanics & DPU Process**

Based on working group discussions to date, the DOER has stated that it has prepared draft regulatory language implementing the Straw Proposal. We strongly recommend that DOER release this draft regulatory language for stakeholder review and initial comment prior to the conclusion of the working group process.

SEIA recognizes that the final draft language may change based on decisions made in the working groups, but the "pre-release" of the language will provide all stakeholders the opportunity to better understand proposal details and identify any problems in advance.

Other states, such as New York, routinely provide pre-release regulatory language to key stakeholders as a way of identifying issues before final draft regulations are issued for formal public comment.

Based on discussions in the working groups, it is also our understanding that the DOER must finalize its regulations prior to DPU taking up model or compliance tariffs for consideration. This means at the earliest, DPU would take up tariffs sometime after April 2017.

Although this new delay will not impact projects of less than 25kW in size which would be eligible for SREC II incentives, it puts further pressure on DOER to close the gap between incentive programs for projects greater than 25kW. We urge DOER to put forward a gap closing proposal as soon as possible.

We thank you for the opportunity to submit these comments. I can be reached at (518) 487-1744 or at dgahl@seia.org with any questions.

We look forward to working with the DOER to design the next iteration of incentives for solar projects and we appreciate DOER's ongoing leadership to date.

Yours sincerely,

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Attachment A