May 30, 2013

Massachusetts Solar Carve-Out Program Reaches 400 MW Cap 4 Years Early

Massachusetts, through the Department of Energy Resources (DOER), announced it has received more than 550 megawatts (MW) of Statement of Qualification Applications (SQAs) to date for solar projects seeking to qualify as a Solar Carve-Out Generation Unit capable of creating valuable Massachusetts solar renewable energy credits (SRECs). This remarkable level of activity far exceeds the goals of Governor Patrick's administration to achieve 250 MW of solar in the Commonwealth by 2017 and satisfies a regulatory cap of 400 MW of solar that will be able to qualify for the Massachusetts Renewable Portfolio Standard (RPS) Solar Carve-Out program. Because of the tremendous volume of applications, DOER is certain that more than 400 MW of the applications received are administratively complete.

This announcement comes on the heels of a recent announcement by Governor Patrick's administration of a new goal for 1,600 MW of solar generation to be installed in the Commonwealth by 2020 and DOER's announcement that, for the first time, SRECs had been deposited in the Solar Credit Clearinghouse Auction account in anticipation of the first-ever Solar Credit Clearinghouse Auction, scheduled for July 26.

What Does This Mean for Massachusetts Solar Stakeholders?

Although most market participants have been aware of the intense solar development in Massachusetts in the past year or two, few (if any) could have forecasted the 400 MW Solar Carve-Out regulatory cap would be reached by mid-2013, four years ahead of the initial goal of 250 MW by 2017. Solar projects that ultimately do not receive a Statement of Qualification as a result of the cap being reached will still be able to qualify as RPS Class I Renewable Generation Units capable of producing conventional Class I Renewable Energy Credits (RECs). However, conventional Class I RECs have sold for substantially less money in the marketplace when compared with SRECs (which are available only to Solar Carve-Out units) since the inception of the Solar Carve-Out program.

DOER will continue to accept applications and will allow two weeks for applicants to address any deficiencies before rejecting the applications. However, applications submitted at this time are not guaranteed to be granted a Statement of Qualification; further, this current practice is anticipated to continue only until June 7, when DOER anticipates promulgating the proposed revisions to the Solar Carve-Out regulations, which will include a new Assurance of Qualification process. DOER has requested that developers submit applications only for projects that are well-prepared for construction and voluntarily withdraw applications or SQAs for projects that are not in active development.

What's Next?

DOER has committed that, no later than June 4, it will post on its website the current list of projects that have received or will receive a Statement of Qualification. Further, DOER has indicated that it will post a list of projects, in order of their eligibility for qualification, that have SQAs deemed administratively complete but exceeding the 400 MW cap of qualified capacity, as well as a list of pending applications under review.

DOER is scheduled to announce its proposed post-400 MW solar program on June 7 in response to input solicited on the issue from various solar industry stakeholders. With a new goal of 1,600 MW by 2020, the June 7 unveiling of proposed new

rules for solar exceeding the current 400 MW cap will certainly shape whether and how future projects may benefit from Massachusetts' solar initiatives. In the meantime, DOER stated it will work diligently to explore opportunities to maintain market activity and keep stakeholders informed.

Day Pitney LLP's energy team will continue to keep our clients and friends abreast of the latest developments in this ever-changing and expanding marketplace. Expect to see a follow-up alert describing the proposed post-400 MW Massachusetts market policy and any changes to the existing Solar Carve-Out program.