April 8, 2016

Massachusetts Legislature Approves Solar Energy Bill

On April 6, the Massachusetts legislature passed significant solar energy legislation that is likely to be signed by Governor Baker. The legislation represents a compromise between the desire to grow the solar energy industry in the Commonwealth and concerns about controlling costs to consumers. The legislation would expand existing net metering caps but reduce the value of net metering credits once Massachusetts reaches its goal of 1,600 megawatts of installed solar capacity, and would provide for a new phase of the Commonwealth's solar incentive program, an SREC III. While allowing for the expansion of the solar incentive program, the legislation also contains some limits on net metering. The legislation preserves virtual net metering and grandfathers in the benefits of SREC I and SREC II facilities installed before Massachusetts reaches 1,600 megawatts (MW) of installed solar capacity.

Increase in Net Metering Caps. The bill would increase net metering caps in the state by raising the aggregate net metering capacity from 4 to 7 percent of the electric distribution company's (EDC) peak load for private net metering facilities (facilities not owned by municipalities or other governmental entities), and from 5 to 8 percent for public net metering facilities (facilities owned by municipalities or other governmental entities).

Changes to Net Metering Compensation. The legislation creates a defined term, "market net metering credits," that will apply to new net metering facilities after 1,600 MW of solar capacity has been installed in Massachusetts. Market net metering credits are defined as 60 percent of the full retail rate for private net metering facilities greater than 25 kilowatts (kW), and 100 percent of the full retail rate for public net metering facilities and for private net metering facilities that are 25 kW or less. The market net metering credits are calculated based on the excess generation in each billing period, and they can be shared with other customers of the same EDC in the same ISO New England load zone. Private net metering facilities greater than 25 kW that are installed before the 1,600 MW threshold is reached would continue to receive the full retail rate for net metering credits for 25 years from the date on which the solar net metering facility was authorized to interconnect to the distribution system, and would receive market net metering credits after that.

Creation of Reliability Contribution for EDCs. EDCs would be permitted to file with the Massachusetts Department of Public Utilities (MDPU) proposals for a minimum monthly reliability contribution to be included on bills of solar net metering facilities once the nameplate capacity of installed solar generating facilities in Massachusetts is equal to or greater than 1,600 MW. The MDPU would be permitted to exempt any class of net metering facilities in service by December 31, 2016 from any minimum reliability contribution through the year 2020.

Increase in Solar Capacity for EDCs. The bill would also increase the aggregate capacity of solar facilities that an EDC can own and operate from 25 MW to 35 MW, with such facilities required to receive cost recovery approval from the MDPU by December 31, 2016 with construction completed by December 31, 2017.

Development of an SREC III Program. Finally, the bill would direct the Massachusetts Department of Energy Resources (DOER) to develop the much-anticipated successor to the existing SREC II program. The DOER is directed to design the new program to achieve existing program goals by creating incentives to support diverse solar installation types and sizes that provide unique benefits, including community-shared solar facilities, low-income solar facilities and municipal or other governmental-entity-owned solar facilities.

***

If this legislation becomes law, the changes created could impact your company. For further information about the legislation or the Massachusetts solar incentive program, please contact any of the attorneys listed in the sidebar.

Authors



Eric K. Runge

Counsel

Boston, MA | (617) 345-4735

ekrunge@daypitney.com