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The Future of Net Metering Caps for Solar Technologies in Massachusetts

The Massachusetts legislature is expected to change existing state laws regarding net metering for renewable energy technologies before the end of the current legislative session, which is expected to conclude at the end of the year. A number of proposals have been floated regarding net metering, and more may be made before the end of the session. This article explores four bills that are now pending in the legislature, which may provide some indication of the ultimate resolution on net metering.

SB 1973, *An Act Providing for the Establishment of a Comprehensive Adaptation Management Plan in Response to Climate Change*. SB 1973 was originally sponsored by the Massachusetts Chairman of the Senate Committee on Global Warming and Climate Change and addressed climate change adaptation management plans. As SB 1973 made its way through the Massachusetts Senate, an amendment (Amendment 18) was added addressing the solar industry specifically, in the following manner:

- Amendment 18 creates a special carve-out for solar net metering, consistent with previously enacted solar carve-outs within the state's renewable portfolio standard rules: the SREC-I and SREC-II programs.
- Amendment 18 would lay the groundwork for community-shared solar net metering, eliminate the caps for solar net metering and emphasize solar distributed generation (DG).
- Amendment 18 defines "community-shared solar facility" as a facility that qualifies as a Class I, II or III net metering facility, with three or more eligible recipients of net metering credits. Such facility cannot have more than 50 percent of the credits produced allocated to two recipients, with further restrictions for each remaining recipient.
- Amendment 18 also adds the concept of a "solar net metering credit," which would be produced by a solar net metering facility if less than 67 percent of that facility's electrical energy on an annual basis is used by on-site load. Solar net metering credits could be transferred to other customers of the same electric distribution company and applied to the transferee's electric bills, but they could not be used before December 31, 2016.
- With regard to net metering caps currently in place (which are currently maxed out in certain service territories), Amendment 18 would immediately raise the caps to 1,600 MW of solar capacity for the entire state, instead of the current rules, which split the caps between utility service territories.
- While the 1,600 MW cap is in place, Amendment 18 would require the Massachusetts Department of Energy Resources (DOER) to develop an incentive program that is sustainable for the long term and focuses on DG solar renewable generating resources.

SB 1973 (as amended) passed in the Senate and was referred to the House Ways and Means Committee on July 27, 2015.

HB 2852, *An Act Relative to Net Metering, Community Shared Solar and Energy Storage*. HB 2852 was introduced in January 2015, and scheduled for hearing on June 2, 2015. HB 2852 remains pending before the Joint Committee on Telecommunications, Utilities and Energy.

- HB 2852 would establish a Commonwealth Solar Program for all retail electricity suppliers selling to end users in the Commonwealth. The program would be structured with the goal of having 20 percent of the retail electricity sold to end-

use customers derived from solar electricity by December 31, 2025. In support of this goal, the bill would raise the net metering cap for solar PV net metering facilities to 1,600 MW statewide.

- The maximum amount of nameplate capacity for facilities eligible for net metering by a municipality or other governmental entity would be 10 MW.
- Community-shared solar energy systems would be exempt from local property taxes for 20 years from the date of interconnection.
- The bill would direct the DOER to open a proceeding to establish an energy storage program on or before January 1, 2016, with the program to take effect no later than January 1, 2017.

HB 2852 is moving through the legislature more slowly than other bills such as SB 1973 and HB 3724, which have garnered more attention.

HB 2879, *An Act Relative to Net Metering*. HB 2879 was also introduced in January 2015. The bill would allow resources that otherwise meet net metering qualifications under current net metering rules to avoid the cap allocation if such eligibility determination is obtained on or before December 31, 2016. HB 2879 was scheduled to go to a hearing on June 2, 2015. However, it was referred to the Joint Committee on Telecommunications, Utilities and Energy before being set for hearing, where it currently remains.

HB 3724, *An Act Relative to a Long-Term, Sustainable Solar Industry*. Proposed by the governor after the introduction of Amendment 18 to SB 1973, HB 3724 is aimed at helping Massachusetts reach the goal of 1,600 MW of solar-generated power by 2020. Under this bill, current incentives would continue to be available until the 1,600 MW target is reached. Furthermore, in order to accelerate reaching this goal, the bill proposes that the current net metering cap be expanded by 50 percent for private entities and 40 percent for public entities – which represents an increase up to 6 percent and 7 percent of the requisite distribution company's peak load, respectively. The Massachusetts Department of Public Utilities (DPU), also would be given authority to raise the net metering cap when it is in the public interest to do so. When the 1,600 MW target is reached, the incentives would be adjusted in the following ways:

- All solar generators already receiving net metering credits would continue to receive those credits under existing net metering programs for a period of 20 years.
- All residential and small-business solar generators would continue to be excluded from existing or future net metering caps.
- All new medium- and large-scale solar generators would receive net metering credits equivalent to the monthly commodity price of energy.

The bill would also allow DOER to create a solar incentive program for new solar generators and create similar incentive programs for other renewable technologies. HB 3724 was referred to the Joint Committee on Telecommunications, Utilities and Energy on August 10, 2015, and has not yet been set for a hearing.

The governor noted that "in filing this bill, our administration reaffirms our commitment to diversifying the Commonwealth's energy portfolio, reducing our carbon footprint, and protecting ratepayers."[1] Specifically with regard to net metering, Governor Baker filed this legislation in order to provide an additional revenue stream to many solar projects, with the goal of fast-tracking Massachusetts toward the previously stated goal of 1,600 MW by 2020. Beyond the 1,600 MW goal, HB 3724 "provides for a slightly higher credit value for solar installations developed by government entities, municipalities, low income ratepayers, and community shared net metering projects, as the net metering credits for these customers will be at the higher level of the basic service price."[2]

One distinction between HB 3724 and SB 1973 is the impact each bill would have on distribution companies with respect to their service territories. SB 1973 would raise the net metering cap without regard to service territories that have already reached the cap. HB 3724 would raise the net metering cap but still maintain different caps tied to the particular load of the utility in a customer's service territory. This distinction is important for distribution companies that may be in an area where

more customers take advantage of net metering and have already reached the existing caps.

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Adjusting the net metering caps for the solar industry in particular continues to be a hot topic for the Massachusetts state legislature. The legislature's action on these bills and/or any other net metering proposals in the coming months, whether it eliminates or adjusts net metering caps or allows the current caps to stand, could have a substantial impact on the future of solar energy in Massachusetts.

We will continue to monitor and will report on any material developments. For further information about this legislation, including its status, please contact any of the attorneys listed in the sidebar.

[1.] Press Release, "Baker-Polito Administration Files Solar Legislation to Raise Net Metering Caps, Continue Industry Growth," Press Office of the Governor of Massachusetts, August 7, 2015.

[2.] Ibid.

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