

## Massachusetts DPU Order 11-11-C Imposes New Restrictions on Private Net Metering Solar Projects at 2MW

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On August 24, 2012, the Massachusetts Department of Public Utilities (“DPU”) issued Order 11-11-C (the “Order”) in its ongoing Inquiry into Net Metering and Interconnection of Distribution Generation under D.P.U. 11-11 (the “Inquiry”). The Order resolves questions initially raised by the DPU in the Inquiry on May 11, 2012 related to the definition of the terms “unit” and “facility” under the net metering regulations previously promulgated by the DPU at 220 CMR 18.00 et seq.

The Order puts an end to the long-standing practice of investor-owned local distribution companies treating a “facility” as consisting of all equipment interconnected behind a single utility meter. Several categories of projects appear not to be affected by the policy change:

- projects of municipalities and other governmental entities;
- projects with private host customers that are currently operating under net metering interconnection tariffs, and
- projects that executed an Interconnection Service Agreement before August 24th.

However, the change in policy presents a significant setback to photovoltaic developers in Massachusetts whose project pipelines include projects with non-municipal and non-governmental host customers and prevents such developers from realizing necessary economies of scale for their solar PV projects.

In its Order, the DPU makes the following key findings:

- **2MW Cap:** [W]e find that any renewable energy project that is not the facility of a public entity and that exceeds two MW is ineligible for net metering . . . (See Page 15 of the Order)
- **Definition of Facility:** [W]e define a net metering facility, whether it is powered by agricultural, wind, or solar means, as the energy generating equipment associated with a single parcel of land, interconnected with the electric distribution system at a single point, behind a single meter. Each of these criteria must be met. For instance, a private net metering project cannot have:
  - ▶ more than two MW installed on a single parcel of land;
  - ▶ more than two MW interconnected at a single interconnection point; and
  - ▶ more than two MW installed behind a single meter. These definitions are effective immediately for all net metering facilities, unless an exemption applies. (See Page 23 of the Order)
- **Exemptions:** We recognize that some customers and developers already have invested resources into net metering projects without guidance or clarity on the definitions of unit and facility. Accordingly, we will exempt from our definitions of unit and facility those projects that are either already operating as net metering facilities or that are at an advanced stage of development. . . . as of the date of this Order, an entity must have an executed ISA [Interconnection Service Agreement] to be exempt from the Department’s definitions of unit and facility. (See Page 24 of the Order)

The DPU’s choice of an executed Interconnection Service Agreement as the cutoff point for a project’s exemption from the Order’s change of policy is particularly controversial. Given Massachusetts’ local distribution companies’ failure to comply with the interconnection timelines specified in their approved interconnection tariffs for distributed generation, many projects which are fully developed have not yet received an Interconnection Service Agreement. Lack of enforcement of the interconnection tariffs has therefore led to mature

projects for private sector clients now being disqualified from the exemption available under this Order. Consequently, because this Order limits the size of projects eligible for net metering for the private and non-profit sectors to 2 MW per parcel and per point of interconnection, it materially reduces current economies of scale.

Further, the Order effectively imposes a practical upper limit of 1 MW on certain private net metering projects. Projects with private host customers that are sized at 2 MW would not receive net metering credit attributable to the local distribution company's distribution charge. 1 MW projects would receive this charge. Accordingly the economics of smaller projects may be more suitable for private customer net metering. With these changes, large private sector energy users and large non-governmental entities such as major non-profit medical and educational institutions may find fewer opportunities to participate in the Commonwealth's nation-leading solar program.

This policy development is in direct contrast to the Massachusetts Legislature's recent tripling of the amount of net metering capacity available for the private and non-profit sectors. See Section 27 of *An Act Relative to Competitively Priced Electricity in the Commonwealth*.

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