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By email to: climate.strategies@state.ma.us
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November 30, 2017

Mr. William Space
Department of Environmental Protection
1 Winter Street
Boston, MA 02108

RE: Request for Stakeholder Comments - Expanding Clean Energy Standard Eligibility to Include Existing Clean Energy Generation

Dear Mr. Space:

Associated Industries of Massachusetts (“AIM”) is pleased to provide the following comments to the above-mentioned request for stakeholder comments.

AIM is the largest general trade association in Massachusetts. AIM’s mission is to promote the prosperity of the Commonwealth of Massachusetts by improving the economic climate, proactively advocating fair and equitable public policy, and providing relevant, reliable information and excellent services.

Our members are impacted by the implementation of the Clean Energy Standard (“CES”) and some are harmed directly by its existing vintage requirements as it unnecessarily impedes their ability to remain viable. Additionally, the larger ratepayer community is also harmed because the vintage requirement arbitrarily limits the ability of some sources to compete for CES compliant generation, and this unnecessarily limits the availability of clean energy and raises the cost of compliance and ultimately the cost of electricity.

AIM has followed the development of the CES from its initial proposal and submitted several sets of comments throughout the regulatory process. We were also part of the stakeholder group active during development of the Energy Diversity Act (Chapter 188 of the Acts of 2016). We want to thank the Department for continuing this process in an open manner.

The request for stakeholder comments specifically asks two questions: first, whether DEP should consider a new category of existing clean energy sources (“CES-E”) to include 1990-2010 vintage clean energy sources otherwise eligible for CES compliance (with their own minimum purchase requirements and Alternative Compliance Payments (“ACP”)) and second, whether there should be eligibility requirements (size, location etc.) to limit sources eligible for the CES-E. As we understand it, sources most likely to be included in the 1990-2010 vintage are large-scale hydropower and the Seabrook nuclear power station. Although it is not clear how the mechanics of the CES-E would ultimately work since there are no concrete regulatory proposals, based on DEP’s GHG inventory approximately 9 million MWh of output – 6.2 million MWh

from hydropower and 2.8 million MWh from nuclear generation would potentially meet the proposed vintage and source requirements.

DEP has also indicated that comments do not need to be limited to the specific questions presented in the stakeholder documents.

Since the goal of this process is to preserve existing clean energy generators, AIM supports including all 1990-2010 vintage sources in the CES and would also suggest that DEP consider some limited pre-1990 sources for inclusion. While establishing a separate CES-E is certainly one way to preserve existing sources, for simplicity and cost containment DEP should bring existing sources into the current CES as a first step. This may in fact result in a more cost-effective outcome as some CES-E sources will eventually outlive their useful life and a shortage will then develop in the CES-E, leading to payment of an ACP. Even if the CES-E had a lower ACP than the CES, it is unknown whether that would make a difference in overall compliance costs.

KEEPING ALL EXISTING CLEAN ENERGY SOURCES VIABLE IS VITAL TO MEETING CARBON REDUCTION GOALS AT THE LOWEST POSSIBLE PRICE

As you know Massachusetts has some of the highest electric rates in the country and much of the reason is due to mandates and limits on electricity supply other states do not have. In fact, recent DEP regulations curtailing in-state fossil fuel generation output (310 CMR 7.74) is already attracting the concern of ISO-New England. On November 16, the Internal Market Monitor of ISO-New England sent a memo to the NEPOOL Markets Committee addressing possible reduced profits to generation units because of these declining emission limits. To address this issue, the Internal Market Monitor developed a lost opportunity cost (“LOC”) adder which is likely to add costs to ratepayer’s bill. This development runs counter to the initial statements of DEP that the new standards would have virtually no impact on electricity rates.

While 310 CMR 7.74 is not the topic here, we believe this recent development indicates why it is incumbent upon DEP to strive to allow compliance with the CES regulation in a way that does not impact electricity prices negatively.

In this case that would mean keeping already functioning clean energy resources viable. These resources are already contributing to our GWSA goals and are likely significantly cheaper than new resources. In fact, DEP has made it clear the state will not meet its GWSA goals without existing clean energy generation and that makes it essential to keep them operating. Massachusetts has a CES requirement of 80% by 2050. Why this must be met with new sources is simply puzzling.

ADDING A CES-E WILL FURTHER COMPLICATE CLEAN ENERGY PROGRAMS, MAKING IT IMPOSSIBLE FOR BUSINESSES TO KNOW EXACTLY WHAT TYPE OF POWER THEY ARE USING

The renewable or clean portion of power used by companies should be a relatively easy amount to ascertain, particularly when such a number is often asked during business as a measure of a company’s sustainability commitment.

The CES-E will add another definition (and requirement) to an already complicated list of state-only definitions surrounding renewable and clean power.

Currently there are at least 6 classifications that an energy supplier (and customer) must comply with to be compliant with Massachusetts electricity supply laws and regulations, each with its own minimum purchase requirements and ACPs. The CES-E (which would be similar to the RPS Class II) would add a seventh.

They are as follows:

- RPS Class I – primarily post-1997 wind, solar, small hydropower (30 MW and below) and biomass
- Solar Carve Out – part of RPS Class I but a separate compliance scheme
- RPS Class II Renewables – like RPS Class I but with a commercial operation date prior to January 1, 1998 and with size requirements on hydropower (under 7.5MW)
- RPS Class II Waste-to-Energy – units that burn solid waste to generate steam or electricity
- AEPS (Alternative Energy Portfolio Standard) – primarily Combined Heat and Power (CHP), flywheel storage, and efficient steam technologies
- CES – includes the RPS Class I as above – but non-RPS Class I clean generation units (primarily large-scale hydropower) have a post-2010 vintage requirement (and with proposed amendments under a separate DEP rulemaking include non-vintage units that responded to Section 83D bidding if they are chosen as winners)
- CES-E - (proposed - the subject of these comments). Non-RPS clean generation units with a vintage 1990-2010 (primarily large-scale hydropower and some nuclear units)

In addition, there are pre-1990 non-nuclear clean energy generation units that serve Massachusetts and contribute to lowering greenhouse gases in Massachusetts (primarily hydropower that doesn't meet the other RPS categories). Other clean energy (primarily nuclear) do not currently serve Massachusetts.

Each one of these categories is treated differently (with costs varying significantly across categories), yet in the end virtually all contribute carbon free and efficient power to Massachusetts ratepayers. And all are extremely important.

We urge DEP not to complicate this any further. The 1990-2010 vintage sources that would otherwise meet the CES eligibility should be granted full eligibility for compliance with the existing CES.

DEP'S STATED REASONS FOR EXCLUDING EXISTING SOURCES FROM THE CES IN THE FIRST PLACE WAS NOT CREDIBLE

In the background document DEP states their reasons for not allowing CES eligibility for 1990-2010 sources is that DEP did not want to encourage significant resource shuffling and windfall profits, and also that existing low and zero-emissions generators already benefit from the incentives created by the RGGI since they do not need to purchase allowances. (310 CMR 7.75:

Clean Energy Standard Review of Options for Expanding the CES Stakeholder Discussion Document, page 2-3).

Neither argument is persuasive.

First, these sources are already reducing carbon emissions in the region. While it is possible there could be some attempts to shuffle resources that should not be DEP's concern. DEP's role is to develop options that allow sources to meet *our* regulations – and to the extent that resources find doing business with Massachusetts suppliers more attractive, so be it. Additionally, based on current extensive inventories, this should not even be a significant problem, particularly for sources after 1990. DEP already knows who the applicable 1990-2010 sources are that would be added to the CES and approximately how much output the sources already deliver to Massachusetts. Therefore, limiting CES eligibility to those sources and quantities should not be a large regulatory burden for DEP or anyone else.

Second, the notion that adding 1990-2010 vintage sources might unjustly enrich them because they already have a competitive advantage due to not needing to comply with RGGI is likewise not a valid argument.

By enacting the CES in the first place, DEP already indicated that double dipping is ok – if they had not there would have not been a CES at all.

The *Energy Diversity Act of 2016* required the solicitation of offshore wind and clean energy sources (Section 83C and 83D). Other than those sources that are RPS Class I eligible, there were no incentives available under any regulatory program for non-RPS clean energy sources (like large hydropower), except, like existing clean energy sources, they did not have to pay carbon fees under RGGI. Without any incentives at all, 49 sources bid in the clean energy RFP under Section 83D, the majority of which were non-RPS eligible clean energy sources (primarily large hydropower) – a true market mechanism at work.

If was only *after* the conclusion of the bidding process that DEP promulgated the CES, which retroactively required that electricity suppliers purchase a certain amount of “clean energy” over the next decades, even though there was no opposition to the Section 83C and 83D process and in fact there was every indication they would move forward. Therefore, as AIM argued in our initial comments opposing the CES, the regulation was completely unnecessary to secure clean energy.

By enacting a CES, DEP gave a non-RPS clean energy sources a thumb on the scale in the review process by retroactively making them eligible for a compliance standard they didn't ask for. Like existing clean energy generators, they also don't have to pay RGGI fees – only now if the CES is not met a penalty must be paid – by the ratepayer – a bit of circular regulatory justification.

This is identical to the issue presented here. *Existing* sources only need incentives beyond RGGI to stay viable because DEP determined that *new* sources need additional incentives beyond RGGI to start operation.

It is not even clear if a CES credit will have a monetary value – therefore any notion of enrichment could be premature. If further long-term contracts are required to meet CES goals, it is likely that the CES requirements will easily be met without additional compensation. In fact, having a CES-E with a discreet requirement will make existing sources more valuable and it is possible a CES-E credit may be worth more than a CES credit, since the available units to fulfill the CES-E mandate are finite and output may decline over time creating shortfalls. This would not be a desirable outcome.

ADDING EXISTING SOURCES TO THE CURRENT CES WILL LOWER PRICES

It is clear from projections that the 80% CES standard cannot be met with the current Section 83C and 83D long term contracts, even at full build. While merchant generators could enter the market to supply the remaining supply beyond the Section 83C and 83D solicitations, it is possible that that won't happen and additional legislation requiring further long-term contracts will be required.

DEP should maximize the use of existing clean energy resources and deal with shortfalls or over subscriptions to the CES later when the dust clears. If additional long-term contracts or other changes are necessary in legislation or regulation are later required, support will be broader as it will be evident DEP took advantage of the cheapest options first.

In the end, Massachusetts can only get to 100%. At that time the job is done. There are perfectly good clean energy sources available, the Commonwealth needs to recognize them for the cost-effective benefits they provide.

IF THE CES IS EXPANDED TO INCLUDE EXISTING SOURCES, THE VINTAGE REQUIREMENTS SHOULD BE REVISITED

If the CES is expanded to include existing sources, AIM suggests that vintage requirements be eliminated, except for nuclear units which could remain at a 1990 level. The reason to include earlier vintages is to once and for all eliminate further discussions about clean energy sources and to essentially “lock them up” for our use. There is not likely to be many pre-1990 non-nuclear clean energy sources available and leaving this last amount of clean energy orphaned is simply not in the best interests of ratepayers.

Similarly, for the same reason there should be no limitations on sizes, again to allow DEP to get a firm handle on the types of sources contribution to our greenhouse gas reduction efforts.

ADDING A SEPARATE CES-E WILL STRAIN OTHER RESOURCES

As proposed, the CES-E would be in addition to the CES, like an RPS Class II. Therefore, in 2050 the CES requirement will be near 100%, depending on the capacity of the CES-E. Adding the CES-E is essentially raising the CES. While this may be a noble accomplishment, under current technologies this may be dangerous to our reliable electric grid. Requiring 100% clean energy so fast will essentially drive out backup fossil generation, leaving Massachusetts vulnerable if some clean energy does not perform as expected or goes offline earlier. This could lead to higher prices as backup fossil generation will have to be compensated.

AIM is not suggesting that our clean energy goals stop at 80%. If, after adding existing resources and Section 83C and Section 83D projects are operational CES goals are met early, DEP could consider strategic increases in the CES to maintain balance and forward momentum. We just urge the DEP not to do it now, when things are just beginning to materialize with no guarantee how it will all shake out.

CONCLUSION

The current CES is an arbitrary and artificial accounting of clean energy projects that were already going to happen. Many of the current proposals for clean energy were developed long before the CES standard was even suggested and there was no indication at all that any type of additional incentives were needed.

It is time to simplify the renewable and clean energy sectors in Massachusetts. Bringing all the existing clean energy sources under one umbrella will allow Massachusetts to meet our clean energy goals efficiently and in a cost-effective way. This will “true up” all our clean energy sources. And it will be easily explainable to outsiders looking to locate here because of our sustainability efforts. Should the DEP not want to allow pre-1990 nuclear power, there is no reason that DEP could not establish vintages for nuclear power alone, with no vintage for other sources.

AIM urges the DEP to thread thoughtfully as to whether adding another clean energy standard category is the best option for preserving existing resources. However, should the DEP decide that adding a CES-E is the path they chose to take, our comments above are still applicable to the CES-E. The goal should be simplicity to reduce the costs of compliance. To that extent that any of our comments further that goal we urge DEP to consider them, particularly an all-in approach regarding vintages (except limiting nuclear to post-1990 vintage). Additional flexibility will also be needed in the event a CES-E unit goes offline permanently. What should not happen is a shortage in the CES-E (with ACPs) when the CES itself is fully subscribed. These and other issues need to be fully vetted should the DEP decide to add a CES-E.

Thank you for allowing us to make these comments and we look forward to working with your office in any way possible to help transition Massachusetts to a clean energy economy.

Should you have any questions please do not hesitate to contact me.

Sincerely yours,



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