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Brinda Westbrook-Sedgwick, Commission Secretary
Public Service Commission of the District of Columbia
1325 G Street NW, Suite 800
Washington, DC 20005

VIA ELECTRONIC SUBMISSION

Re: Notice of Proposed Rulemaking for Chapter 29 as Published on October 23, 2020 (the “October NOPR”)

Dear Commission Secretary:

Thank you for the opportunity to provide comment on the October NOPR. Solvitect is a D.C.-based developer of renewable energy and stormwater management infrastructure projects. Solvitect is focused on supporting newly-formed green programs with early stage development resources that benefit businesses and nonprofit organizations in underserved neighborhoods in the District and Prince George’s County, MD. In addition to early investment in multiple District green programs, Solvitect has made significant investment in solar energy systems in locations served by D.C. feeder lines with the goal to advance renewable energy deployment as well as equity and inclusivity in the solar market.

On June 12, 2020, the Commission issued a Notice of Proposed Rulemaking (the “June NOPR”)¹ to amend the Commission’s renewable energy portfolio standard (the “RPS”) rules to clarify the operation of certain provisions of the Distributed Generation Amendment Act of 2011 (the “DGAA”).² Specifically, the Commission sought to confirm the eligibility criteria for solar energy systems located either in the District or in locations served by a distribution feeder serving the District.

In response to comments submitted to the June NOPR, the Commission issued the October NOPR to further clarify that solar energy systems that are neither located in the District nor in a location served by a distribution feeder serving the District cannot become eligible for certification to meet the solar portion of the Tier One requirement of the RPS via a new service connection and/or extension of the distribution system.

Despite the Commission’s stated goal, Paragraph 5 of the October NOPR provides:

Subsection 2902.1 has been amended to disallow solar energy systems connecting to a distribution feeder serving the District through a service connection and/or extension of

¹ RM29-2020-02, In the Matter of 15 DCMR Chapter 29-Renewable Energy Portfolio Standard, published June 12, 2020.

² Distributed Generation Amendment Act of 2011, D.C. Law 19-36, effective October 20, 2011 (“DGAA”).



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the distribution system from being eligible for certification to meet the solar portion of the Tier One requirement of the Renewable Energy Portfolio Standard.

The Commission's formulation above does not distinguish between solar energy systems in locations served by a distribution feeder serving the District and solar energy systems not in locations served by a distribution feeder serving the District. In the proposed amended language of Subsection 2902.1(b), however, the Commission clearly states, "Solar Energy Systems that are ***not located within the District or in a location served by a distribution feeder serving the District are not eligible*** for certification to meet the solar portion of the Tier One requirement of the RPS through a new service connection and/or an extension of the distribution system."

Solvitect respectfully requests that the Commission confirm that the clarification language in Subsection 2902.1(b) is meant to apply only to solar energy systems not in locations served by a distribution feeder serving the District. As pointed out in the comments to the June NOPR from the MDV-SEIA, the eligibility criteria for the solar portion of the Tier One requirement of the RPS is best understood in terms of geography.³ The geographical location of the solar energy system rather than the means of interconnection is the relevant factor for determining SREC eligibility under the Tier One requirement of the RPS. To impose interconnection constraints for eligible solar energy systems located outside of the District would be discriminatory, arbitrary, and run counter to the Commission's stated objectives of promoting the growth and development of solar renewable systems in the District's energy footprint.

In fact, the legislative history with respect to the DGAA and RPS standards demonstrates the intent to impose geographic restrictions. The Committee Report regarding the DGAA provides, "A few changes have been made to the bill since its introduction. These changes include (1) changing the term 'distribution grid' to 'distribution feeder' in order to provide the Public Service Commission with precise physical and geographic borders so that it may properly certify or deny applications based on location."⁴ The Historical and Statutory Notes⁵ for the Renewable Portfolio Standard §34-1432 state that D.C. Law 19-36 rewrote subsection (e), which had read in part: "(e) Subject to subsections (a) and (c) of this section, an electricity supplier shall meet the solar requirement by obtaining the equivalent amount of renewable energy credits from solar energy systems located within the District *or interconnected to the distribution grid serving the District.*" The Council explicitly removed the interconnection requirement and replaced it with the current geographic location requirement.

³ See generally RM29-2020-02, In the Matter of 15 DCMR Chapter 29-Renewable Energy Portfolio Standard, Comments of MDV-SEIA, filed July 13, 2020 ("Geographic eligibility, namely the location in D.C. or served by a D.C. feeder line, is a key criterion for determining SREC eligibility per D.C. Code § 34-1432 (e) (1), which defines systems eligible for the D.C. solar portion of the RPS as 'located within the District or in locations served by a distribution feeder serving the District.'")

⁴ Council of the District of Columbia, Committee Report on Public Services and Consumer Affairs, dated May 26, 2011, Report on Bill 19-10 "Distributed Generation Amendment Act of 2011"; available at: https://lims.dccouncil.us/downloads/LIMS/25766/Committee_Report/B19-0010-COMMITTEEREPORT.pdf

⁵ See Chapter 14A. Renewable Energy Portfolio Standards, Historical and Statutory Notes, available at: [http://dccode.elaws.us/gateway/codepdf/title34/chapter34-14a/1753-01-01/chapter34-14a\(1753-01-01\).pdf](http://dccode.elaws.us/gateway/codepdf/title34/chapter34-14a/1753-01-01/chapter34-14a(1753-01-01).pdf)

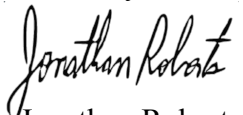


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If the Commission's intent is to subject solar energy systems in locations served by a distribution feeder serving the District to any interconnection requirement, then the Commission should explicitly grandfather those solar energy systems as SREC eligible, provided that on or before December 31, 2020 those solar energy systems have achieved site control, substantial permitting, and completed interconnection feasibility study and system impact study.

The Commission should act to protect the interests of developers like Solvitect that were induced to build solar energy systems in either the District or in locations served by a distribution feeder that serves the District based on a clear reading and accepted understanding of the prior RPS rules and good faith reliance on those rules.

Sincerely,


Jonathan Roberts
Chairman