

DELAWARE SREC PROCUREMENT PROGRAM

I. Background

- A. Renewable Energy Portfolio Standards (RPS) Act
 - 1. Establishes minimum percentages of electric energy that must come from eligible solar energy resources
 - 2. Utilities may comply by acquiring solar renewable energy credits (SRECs)
 - 3. SRECs expire 3 years from the date created, unless purchased by the SEU, which tolls the expiration
 - 4. SREC procurement costs to be passed through to ratepayers
- B. Legislative Guidelines
 - 1. Establishing SREC aggregation mechanisms encourage the deployment of distributed renewable solar energy technologies.
 - 2. Establishing revenue certainty for appropriate investment in renewable technologies, including, but not limited to, consideration of long term contracts and auction mechanisms.
 - 3. Establishing mechanisms to maximize in-state renewable energy generation and local manufacturing.
 - 4. Ensuring that residential, commercial, and utility scale photovoltaic systems of various sizes are financially viable and cost effective investments in Delaware.
 - 5. Minimizing the cost for complying based upon deliberate and factual analysis and study.
 - 6. Establishing balanced markets mechanisms for SREC trading.
- C. Designation of “eligible energy resources”
 - 1. Requires approval of the Delaware Public Service Commission as a solar photovoltaic eligible energy resource as defined by Title 26 of the Delaware Code.

2. Once approved, applicant receives State of Delaware Certification Number and becomes an eligible energy resource.
 3. Requires an established PJM GATS account
- D. Delaware Renewable Energy Task Force (Task Force)
1. Established pursuant to Senate Substitute No.1 to Senate Bill 119
 - a. Signed into law on July 28, 2010
 2. Operates under auspices of Delaware Energy Office
 3. Made up of 11 members representing different stakeholders from the electric energy industry

II. Summary of Task Force findings/recommendations

- A. Guiding Principles
1. Streamlined procurement process to promote growth across broad range of projects and applications
 2. Greater deployment of distributed solar generation
 3. Balance clean energy job growth, economic and environmental benefits in Delaware with consideration of ratepayer interests including cost control
 4. Reduced administrative and transactional costs for aggregators and utilities
 5. Transparent rules and SREC pricing
 6. Broad participation across all segments of the solar market
- B. RPS Sub Committee to the Task Force proposal
1. Sustainable Energy Utility (SEU) will implement, administer and execute a state-wide pilot program for SREC procurement as designed by the Task Force

- a. SEU to procure the volume of SRECs as defined by the utilities on a best efforts basis
 - b. SEU to execute SREC purchase agreements as defined by the Task Force
 - c. SEU's ability to bank SRECs will enhance development of solar market
2. Key elements of pilot program
- a. Creation of different project classes
 - i. Tier 1 – less than or equal to 50 kW (DC)
 - ii. Tier II – greater than 50 kW (DC) and less than or equal to 500 kW (DC)
 - iii. Tier III – greater than 500 kW (DC) and less than or equal to 2 MW (DC)
 - iv. Tier IV – greater than 2 MW (DC)
 - b. Administratively set pricing for Tiers I and II
 - i. Administratively set SREC prices developed using the PV Planner model with inputs and assumptions developed by the RPS Subcommittee and the Task Force, at the calculated level required for the development of solar projects taking into account available subsidies, grants, tax benefits, etc.
 - ii. Administratively set prices to be reviewed annually
 - iii. Prices for Compliance Year 2011 solicitation are:
 - (a). Tier I - \$290/SREC for years 1-10;
\$50/SREC for years 11-20
 - (b). Tier II - \$270/SREC for years 1-10;
\$50/SREC for years 11-20

- iv. Pricing assumes Tier I and II projects receive Green Energy Program (GEP) grant amounts as per schedule adopted 12/10/2010. (see attached schedule)
 - (a). Standard contract SREC pricing reduced to the extent project owner receives additional GEP or other Delaware grant money or comparative grant money from other states.
- v. Pricing assumes Tier II projects with “for profit” owners have not received any supplementary funding from Delaware or other states.
 - (a). Standard contract SREC pricing reduced to the extent the project owner receives any GEP or other Delaware grant money or comparative grant money from other states.
- c. Pricing for Tiers III and IV subject to competitive bidding
 - i. Only projects that do not receive GEP grant money are eligible
- d. Standard contract terms and conditions
 - i. All Aggregators/Hosts agreements will use the same standard contracts for each individual tier
 - ii. All SEU/Aggregator contracts will be also standardized for each tier.
- e. Procurement program to be reviewed after 1 year
 - i. Special notice should be taken that is a pilot program. Any or all provisions of this program are subject to change. This program may be renewed or may be substantially changed at the 1 year review or any subsequent review. Nothing contained herein should be construed to indicate any individual provision or group of provisions

will survive past any review period. Contracts executed during this pilot program survive as per their contractual obligations.

3. Single Independent Monitor (IM) to oversee all aspects of SREC procurement
 - a. Audit selection of projects to assure compliance with the procurement process as defined by the Task Force
 - b. Monitor compliance with deadlines
 - c. Prepare public reports
 - i. Annual for program
 - ii. Per auction for Tier 3 & 4
 - d. Report any deviations to appropriate regulatory bodies
 - e. Operate under auspices of the Public Service Commission, the Delaware Electric Cooperative Board of Directors and/or the Municipal Town Commissioners as may be appropriate.

III. Description of procurement process

- A. SEU to run solicitation for Tier I, II and III projects
 1. Applicable to SRECs only (no associated energy)
 2. Process not applicable to Tier IV projects for Compliance Years 2011 and 2012, due to current fulfillment of that tier
- B. Delmarva Power's allocations for initial solicitations
 1. Tier 3: 45%, Tier 2: 35%, Tier 1 25%. This split best meets the goals and objectives of ensuring projects of various sizes are financially viable, while maximizing ratepayer interests.
 2. 3,464 SRECs for Tier I and 6,062 SRECs for Tier II
 - a. Solicitation to remain open until allocation fully subscribed

3. 7,794 SRECs for Tier III
 - a. To be divided among 2 separate solicitations throughout year
- C. Task Force retains right to recommend modification or cancellation of the solicitation or to reallocate set-asides for different tiers at any time, subject to pertinent regulatory approval.
 1. Task Force may also recommend changes to qualifications for participation at any time prior to issuance of the public notice of a solicitation, subject to pertinent regulatory approval

IV. Qualifications to participate in procurement process

A. Projects

1. Must be solar eligible energy resource as defined by Title 26 of the Delaware Code
2. Must be “new”
 - a. Requires final approval to operate from interconnection utility dated after 12/1/10
3. Criteria for determining size of projects
 - a. Aggregate STC DC name plate rating(s) of all solar arrays located on the same property and described in the same host authorization agreement
 - b. Aggregate STC DC name plate rating(s) of all solar arrays located on multiple properties and described in the same host authorization agreement
 - c. Applications submitted within the same compliance year by the same host or any of its affiliates, and located on the same property to be part of the same project

B. Applicants

1. Must be aggregators with a minimum of two distinct hosts, or project owner who has in aggregate more than 100 SRECs per year
2. Utility affiliates allowed to participate

V. Contents of application

A. Fully executed standard owner authorization agreement

1. Standard form

- a. To include (a) specified location, (b) Standard Test Conditions (STC) DC nameplate rating of project, (c) description of equipment, (d) expected annual SREC production, and (e) GEP or comparable grants received or to be received by host
- b. To include acknowledgement that aggregator is entering into corresponding agreement with SEU to sell SRECs produced by project¹
- c. To include provision for survivability of underlying SREC contract if the SEU terminates corresponding agreement with aggregator. Owner would be both entitled and required to enter into replacement contract with another aggregator for balance of term at same pricing as terminated contract.
- d. Upon severance by SEU of aggregator agreement, the owner agreement with the severed aggregator would also terminate.

B. Deposits:

1. Tier 1: \$100
2. Tier 2: \$250,
3. Tier 3: Bid bond, acceptable letter of credit, or escrow funds for 5% of the first year SREC contract value

4. Deposits to be held by SEU
- C. Standard form sales agreement executed by applicant

VI. Review and evaluation of applications

- A. Each project requires a separate application
- B. SEU to validate completeness of application
 1. Partial or incomplete applications will not be accepted
- C. For Tiers I and II –
 1. Complete applications accepted so long as there is available demand in current solicitation.
- D. For Tier III, contract awarded starting at lowest bid for 10 yr. SREC contract price, with second 10 year period at \$50.00 per SREC, so long as there is available demand in current solicitation.
 1. Contract awards prioritized by bid price only on qualified bids.
 2. Price bid is price awarded
 3. In coordination with the SEU, the Utilities reserve the right to not execute contracts on any SREC bids above \$300, with pertinent regulatory approval.
 4. In coordination with the SEU, the utilities reserve the right to cancel any solicitation. Individual bids or groups of bids can only be cancelled if non conforming.
- E. Guaranteed on-line date
 1. Interconnection Final Approval submitted by:
 - a. Tier 1: 6 months from contract award date
 - b. Tier 2: 12 months from contract award date
 - c. Tier 3: 12 months from contract award date

2. Deposit returned within 30 days of final interconnection approval to operate.
 - a. No interest will be paid on deposits
3. Deposit may be used to pay daily liquidated damages for up to [30] days of delay beyond guaranteed date, at the aggregators option. Payment of liquidated damages will extend the guaranteed date for one 30 day period.

VII. Final contract execution terms (Tier I, II and III Projects)

- A. Description of project consistent with information contained in host authorization agreement
- B. Conditions Precedent
 1. Receipt of State of Delaware Certification Number
 2. Executed interconnection agreement.
 3. Establishment of GATS Account
 - a. Copy of Schedule A: Generator Owner's Consent
- C. Tiers 1 and II to be paid out quarterly. Tier III monthly
- D. Pricing
 1. As establish for Tiers I and II
 2. As bid and awarded for Tier III
- E. Invoicing and payment
 1. Based on SRECs registered within GATS, whole units only
 2. Participating utilities to pay SEU within ten (10) days of receipt of SREC certificates transferred from the SEU to the utility.
 3. SEU to pay Aggregator within ten (10) days of transfer of SRECs to SEU via GATS
 - a. Tiers I and II paid quarterly

1. Parties shall not be liable for damages or have the right to terminate Contract Agreements for any delay or default in performing hereunder if such delay or default is caused by conditions beyond its control including, but not limited to Acts of God, Government restrictions (including the denial or cancellation of any export or other necessary license), wars, insurrections and/or any other cause beyond the reasonable control of the party whose performance is affected.

K. Default and Remedies

1. Defaults

- a. Failure to sell full output for entire term, to 120% limit
 - i. Party in default party to pay the difference between contract price and replacement cost or ACP, whichever is lower
- b. Tier III failure to supply 70% of the contracted annual SREC volume
 - i. Party in default to pay the replacement cost or ACP, whichever is lower
- c. Aggregator breach of host authorization agreement
 - i. Owner has the right to contract with alternative aggregator
- d. SEU cancellation of Aggregator contract for cause
 - i. Owner has the right to contract with alternative aggregator

L. Indemnity

M. Assignment

N. Inspection rights

O. Dispute resolution

P. Confidentiality

1. SEU agrees to maintain confidentiality of terms of host authorization agreements
2. Disclosure of financial terms of Owner/Aggregator agreement not required

VIII. FAQs