



April 19, 2024

Andrew Strumfels and Katherine Stock  
Hearing Officers  
Massachusetts Department of Public Utilities  
1 South Station, 3rd floor  
Boston, Massachusetts 02110

Re: Public Comments from the Solar Energy Business Association of New England regarding  
Massachusetts Department of Public Utilities Docket 23-20, Single Parcel Statutory Exceptions

The Solar Energy Business Association of New England (SEBANE) is pleased to submit the following public comments to the Massachusetts Department of Public Utilities (DPU) regarding open docket 23-20, which concerns the implementation of Chapter 179 of the Acts of 2022, which sets forth ‘An Act Driving Clean Energy and Offshore Wind.’ Section 55 of Chapter 179 specifies five qualifications where more than one net metering facility can be located on a single parcel of land, and SEBANE wishes to share its members’ feedback regarding the statutory exceptions and the proposed Self-Certification Form and following process undertaken to demonstrate eligibility.

SEBANE’s mission is to protect and promote the New England solar industry through informed policy intervention, coalition building, and stakeholder education. SEBANE’s membership is comprised of companies from across the solar industry, including residential, commercial and community solar companies, along with many of the service providers essential to the success of the solar industry.

To that end, we applaud the Department for its work to advance resolution of this critical issue for the industry as a whole. We appreciate the thoughtful detail in the proposed policy implementation, and we offer constructive feedback as on-the-ground companies who would be engaging often with the forthcoming rule.

I. Staff Proposal

**Potential Challenges in Limiting Certification to One Statutory Exemption**

SEBANE believes that restricting the Self-Certification process to one statutory exception is problematic. The best way to explain why is to provide an example:

If a given parcel has four duplex structures, and each of the eight units wishes to install solar, then such an entity would need to invoke statutory exception number three, *Separate and Distinct Rooftops*, as well as exception number four, *Separate Customers Under the Same Rooftop*. We have provided a photograph of exactly this situation below for illustrative purposes. As of today, only one of the eight solar systems in the photo is net metering; the others were prevented from doing so by the current Single Parcel Rule.

While SEBANE fully understands and supports the Department’s desire to simplify Self-Certification through the restriction of claimed exceptions, we urge the Department to reconsider. The example we’ve offered above is not at all uncommon; in fact, this housing configuration represents many low- and moderate-income residents of the Commonwealth, of whom serving is in the interest of both our



members and the State of Massachusetts. Any barriers in this regard would serve as counter to stated policy priorities with regard to both housing and solar energy.



Upon further examination, another example to consider is a parcel with multiple and separate housing units, where only some of the units are designated for low- and moderate-income residents (LMI). If all the occupants living on the parcel (both LMI and non-LMI) wished to solarize their housing unit, they would have to invoke statutory exception #number two, *Low-or-Moderate-Income Housing*, as well as statutory exception number three, *Separate and Distinct Rooftops*.

In short, the legislation as written did not anticipate limiting exceptions to one category or another; there is no "or" between the exceptions, nor is there language indicating that a customer is limited to one exception. For these reasons, we believe the intent was simply to draft circumstances under which multiple net metering facilities should be allowed. By invoking a limit of the utilization of solely one statutory exception, such a rule will defeat the purpose of the legislation in a sizeable number of instances.

### **Concerns Regarding the Date in Determining Parcel Boundaries**

The Department's March 15, 2024 memorandum states, in Footnote #12, Page 6, that "Under the Department's current practice, the Department uses the parcel boundaries as of January 1, 2010 in determining the parcel of land." While we assume that this is an attempt to limit subdivision as a means that could lead to abuse of the Single Parcel Rule, it is not clear to us why the Department is settling on a date so far in the past. We believe it would make more sense for the Department to use parcel boundaries as of the date that these new provisions are implemented, or, at the least, the date of passage of the 2022 Clean Energy Act, which established such new provisions.

### **Consideration of Additional Exceptions**

On Page 15 of the Department's March 15, 2024 memorandum, it is asked whether reviewers believe it would be acceptable to eliminate the two current options for a Host Customer to obtain an exception (*Blanket Exception or Petition Exception*). SEBANE strongly believes that these two options should remain in place, and at the very least, a *Petition Exception* should remain an option. While the five statutory exceptions make a strong attempt in covering the broadest possible number of



cases where multiple net metering facilities should be allowed, it is likely that in implementation and use of the final rule, we will find a number of additional cases where further consideration will be required. Unless a Host Customer may continue to formally petition the Department for an exception, then deserving customers will be prevented from enjoying the same privileges as other residents of the Commonwealth.

## II. Definitions

### **Clarification Required for Term “Same Rooftop”**

Statutory exception number three, *Separate Customers Under the Same Rooftop*, requires clarification in a final rule. The intent of the legislation was for multiple net metered facilities to exist on the roof of a single structure. Such structures exist that have a number of different roof planes, and we urge that all of these roof planes be considered part of the same “roof.” For that reason, we suggest that further clarification is required and urge consideration of the following language: “the term ‘Rooftop’ shall comprise all roof planes covering a single structure.”

SEBANE thanks the DPU for its work to implement the Clean Energy Act of 2022 to ensure the state can meet its codified climate goals, including through the deployment of solar energy. Thank you for the opportunity to provide such feedback, and please do not hesitate to contact SEBANE with any questions regarding our comments; we are happy to provide further clarification.

Sincerely,

/s/ Nick d’Arbeloff

Nick d’Arbeloff  
President, SEBANE

/s/ Lindsay Bourgoine

Lindsay Bourgoine  
Vice President of Policy, SEBANE