

## Performance and Payment Bonds



Under M.G.L. c. 25A §11I(l), public entities must require that their solar developer provide the following:

... a payment or a performance bond relating to the installation of energy savings measures in an amount equal to 100 per cent of the estimated contract value from a surety company licensed to do business in the commonwealth and whose name appears on United States Treasury Department Circular 570.

Before any solar-related construction begins on your buildings or land, be sure to confirm that required bonds are in place. These bonds are intended to protect public entities by helping them complete solar EMS projects on their buildings or land if, for example, a developer declares bankruptcy before a project is complete. For more information on solar EMS bonding requirements, see the Energy Management Services [webpage of Massachusetts' Department of Energy Resources \(DOER\)](#).

## Solar Policy Update



As noted in Cadmus' past Massachusetts Solar Updates, state solar incentives are changing. The DOER has developed regulations that will define a new phase of the commonwealth's Solar Carve-Out Program. A draft of these regulations was discussed in a public hearing on January 24, and written comments submitted by the public to DOER.

The proposed regulations, which were provided to the Legislature, are available on DOER's [website](#). The Joint Committee on Telecommunications, Utilities and Energy will review the regulations and submit comments back to DOER within 30 days, beginning February 11, 2014. Upon receiving these comments, DOER must consider them for a period of no less than 30 days, during which any changes sought for the regulations are brought to the Joint Committee on Telecommunications, Utilities and Energy.

## Consider...



### Too Good to be True?: Net Metering Credit Purchase Agreements

Net metering credit purchase agreements (NMCPAs) can supplement energy savings from local solar projects. These agreements can also provide an alternative to communities that are interested in solar PV but that don't have buildings or land available for solar projects. Under an NMCPA (which is typically a 20-year contract), a community buys net metering credits from a solar PV facility operating in its utility's territory. The utility company then applies these net metering credits to the community's electricity bills. Like coupons, the credits reduce the electricity bills. An NMCPA may seem too good to be true in that, without investing any capital upfront, a community's electricity costs are reduced for 20 years.

NMCPAs are similar to Energy Management Services contracts (also called solar PPAs) and competitive supply contracts for electricity. Both competitive supply contracts and NMCPAs can be procured under a power purchase exemption to M.G.L. c. 30B, which requires that the purchaser conduct due diligence.

### Contracts: Where the Rubber Meets the Road

The potential risks and benefits of NMCPAs depend on the contract, so communities interested in these agreements need to review them carefully. Be aware that the solar EMS contract language used by Massachusetts municipalities and solar developers in recent years is often not appropriate for the purchase and sale of net metering credits and may put the purchaser at unnecessary risk. Under solar EMS termination provisions, for example, a community terminating the EMS pays a fee so that the developer can recover development costs. This requirement would not be appropriate in a NMCPA where a community that is contracted to purchase only 10% of the net metering credits from a solar PV facility.

## Consider *(continued)*...

### Serving as the Host Customer

A community may be asked by a developer to serve as the “host customer” of record for a remote solar PV facility; thus, the community would be the utility’s customer of record on the meter associated with the solar PV facility. Before committing to that, it is important to understand the tradeoffs of serving as the host customer. For example, if you are the Host Customer yet you are purchasing only a portion of the credits while another community purchases the rest, you will need an inter-municipal agreement to ensure that the other community fulfills its obligations in return for the net metering credits that you allocate to its electricity accounts.

Also, public entities can serve as the Host Customer to no more than 10 Megawatts (MW) of net metering facilities. If you are the Host Customer under an NMCPA, the PV facility’s capacity counts against your 10 MW cap, even if the PV facility is not physically located in your community.

### Reviewing Savings Projections.

Communities considering entering into an NMCPA should carefully review the seller’s savings projections, because net metering credit value calculations are often confusing. Also, be aware that PV developers may use overly optimistic assumptions about how the value of their projects’ energy credits will increase over time. Calculation errors and unrealistic assumptions in savings projections are not uncommon.

## Net Metering Update

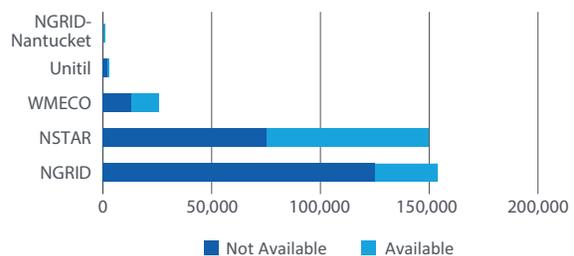


Massachusetts law limits the total capacity of net metering facilities. To view these caps and the remaining net metering capacity, see [www.MassACA.org](http://www.MassACA.org) and click on “Net Metering Cap Updates.” As the availability of net metering services declines, the costs and benefits of a solar project can change significantly. Project proponents should work with developers to determine whether projects require net metering services and, if needed, to secure a guarantee of net metering eligibility. (See [www.MassACA.org](http://www.MassACA.org).)

Available Net Metering Capacity (kW AC) by Utility, Public Net Metering Facilities\*



Available Net Metering Capacity (kW AC) by Utility, Private Net Metering Facilities\*



\*Updated 2/26/14. Net Metering Cap figures are updated in real-time on [MassACA.org](http://MassACA.org)

## Contacts



**Erin Sweet**  
(617) 673-7101  
[erin.sweet@cadmusgroup.com](mailto:erin.sweet@cadmusgroup.com)



**Ryan Fahey**  
(617) 673-7208  
[ryan.fahey@cadmusgroup.com](mailto:ryan.fahey@cadmusgroup.com)

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