
Massachusetts Regulatory Update - Distributed Generation in the Spotlight

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Interest in distributed generation power projects, or DG projects, in Massachusetts and throughout New England recently has reached a peak. Numerous entities -- such as the Federal Energy Regulatory Commission, the Massachusetts Legislature, and the Massachusetts Department of Telecommunications and Energy ("DTE") -- have instituted proceedings to identify issues limiting the installation of distributed generation projects. During these proceedings, industry participants noted that the current air permitting process for DG projects discouraged the development of DG project and, in fact, often delayed construction and start up of lower emitting energy projects. To facilitate DG project development, those parties advocated that regulatory agencies establish a streamlined environmental permitting process for projects that install the best available air emission control technology for the type of equipment that would be used -- such as fuel cells, gas turbines, or diesel generators. Such a process would allow Massachusetts to realize the benefits of DG, while building on the air quality improvements made over the last decade.

Overview of Distributed Generation

DG projects are small power plants, typically sited at, and which supply power directly to, sources of electric demand such as manufacturing facilities. More recently, however, DG projects have been proposed which would help alleviate localized areas of transmission or distribution system congestion, or would generate power which would then be sold in the wholesale market. Because DG plants typically connect to the electric grid at distribution

voltages, the size of most DG projects is limited to the range of 5 to 10 MW.

Legislative Interest in Distributed Generation

In the fall of 2001, the Massachusetts Legislature initiated an informal “Energy Crackerbarrel” to review the progress made by the electric industry under the Electric Restructuring Act of 1997 (the “Act”), and determine whether any issues remain to be addressed. At those sessions, numerous parties testified that DG projects were needed to meet the growing demand for electric power in Massachusetts and throughout New England, and that the neither the Act nor current regulations addressed the unique issues faced by DG projects. On the environmental front, several parties testified that the Department of Environmental Protection (“DEP”) should establish presumptive air emission limits, based on the use of best available control technology for different classes of equipment (such as gas turbines and diesel generators), and expedite the environmental permitting process for specific DG projects which meet those presumptive standards. At least one Legislative Committee is expected to propose draft legislation in the near future to address the issues faced by DG projects.

Regulatory Interest In Distributed Generation

In August 2002, the DTE initiated an investigation into the issues facing DG projects in the Commonwealth. The DTE recognized the importance of DG as a resource option in the restructured electric industry, in that DG Projects had the potential not only to meet the host facility’s electric needs, but also to reduce peak loads on distribution facilities, relieve transmission and distribution system constraints, and protect against system outages. Several groups and agencies -- including the Northeast Energy and Commerce Association (“NECA”), the Associated Industries of Massachusetts (“AIM”), the Conservation Law Foundation (“CLF”), and the DEP -- filed comments with the DTE on the environmental issues associated with DG projects.

Both AIM and NECA reiterated their long-standing support for streamlining the environmental permitting process for DG projects, and noted that DTE should work closely with the DEP to ensure that this goal was realized. Specific suggestions offered by NECA included establishing: (1) presumptive best available control technology requirements for nitrogen oxides and carbon monoxide emissions from fossil fuel-fired DG projects, and differentiating those requirements by equipment size, technology, and fuel; (2) a general air emission permit

for those facilities that meet agreed upon “bright line” standards (such as maximum emission limits on criteria air pollutants); and (3) a streamlined and standardized permitting process for DG projects below a specified size threshold. In response, some groups and agencies, such as the CLF and DEP, generally favored the installation of renewable resource DG projects over those that rely on fossil fuel turbines or generators, and expressed concern that DG projects not be allowed to install equipment, which could diminish the air quality gains made by the Commonwealth in the last several years.

Conclusion

Many regulatory issues must be addressed before DG projects can be widely established in New England. DG systems, and the energy and environmental benefits that accompany them, will become more common if regulatory agencies, working with environmental and industry associations, can establish a streamlined environmental permitting process which expedites the review and approval of projects – whether based on conventional or more innovative technologies – using air emission control technologies which are determined to be the best available, and meet emission limits which will protect and improve the existing air quality.

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