

# Green Energy Update

Massachusetts Municipal Association  
January 2014 Annual Meeting



**KOPELMAN AND PAIGE, P.C.**

*The Leader in Public Sector Law*

# The Portfolio Standard

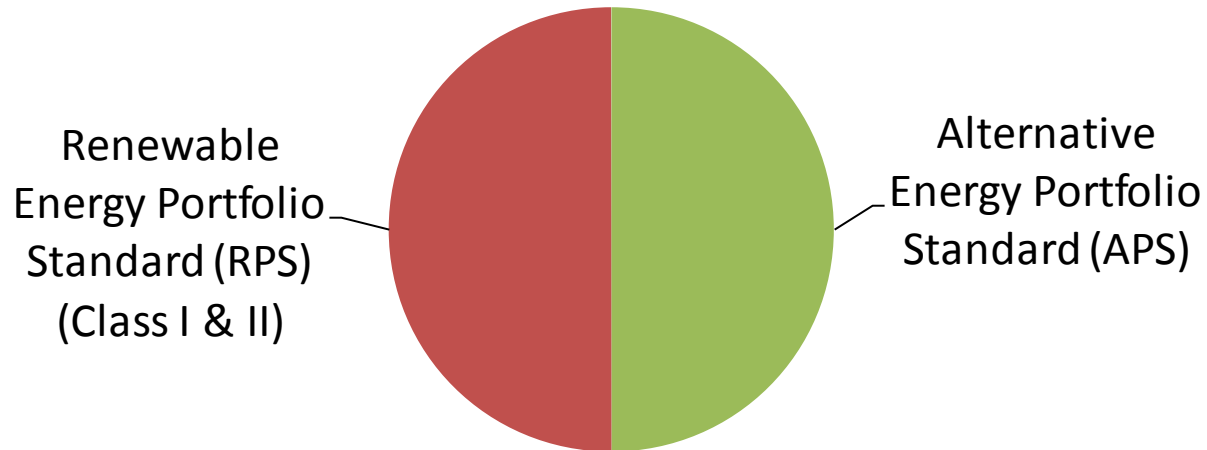
## **SREC Program is Part of Mass. Portfolio Standard**

# The Portfolio Standard

- \* What is it?
  - \* Statutory construct
  - \* Promotes renewable energy
  - \* Supplier purchase requirement

# The Portfolio Standard

## TWO STANDARDS



# The Portfolio Standard

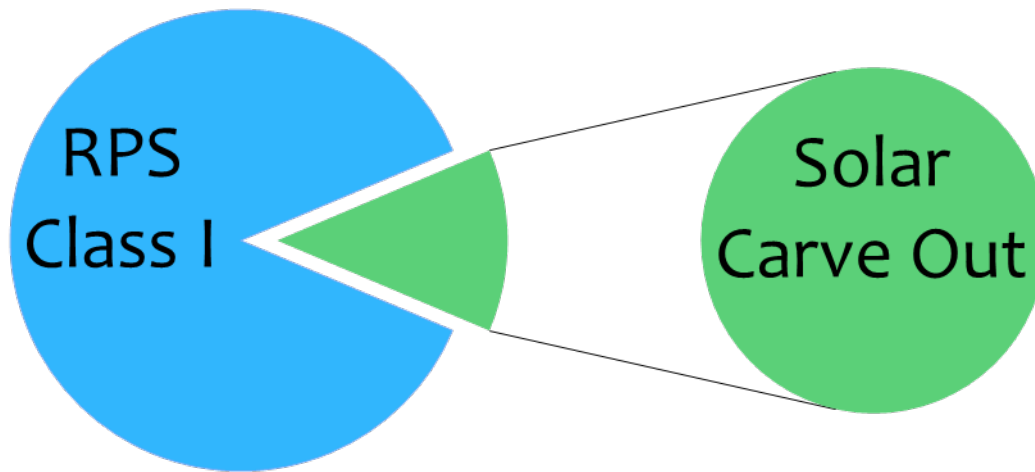
- \* RPS split into two classes:
  - \* Class I: Post-1997 facilities
  - \* Class II: Pre-1998 facilities
- \* Eligible fuel includes solar PV, wind, landfill gas, anaerobic digestion, etc.
- \* **Note:** Waste Energy included in Class II

# The Portfolio Standard

- \* What does this all mean?
  - \* Suppliers must purchase electricity from energy sources in each standard/class—RPS I, RPS II, APS. . . .

# “Solar Carve Out” (2008)

## RPS Class I: Includes Solar Carve Out



# Complying with RPS

- \* How do utilities/suppliers comply?
  - \* Own eligible generator,
  - \* Buy from eligible generator, or
  - \* Buy RECs/SRECs/WECs/AECs



# What this Means for You?

Why should you care  
about SRECs?

# What this Means for You?

- \* Project viability
- \* Three legged revenue stool:
  - \* SRECs
  - \* Net Metering Credits
  - \* Federal benefits

# What this Means for You?

Will SREC II adversely affect project economics and potential for municipal (NMC) savings?

# What this Means for You?

- \* It depends:
  - \* SREC II = fewer SRECs/MWh
  - \* Will demand exceed supply?
  - \* State messages supply/demand
  - \* SREC incentive intended to decline

# What this Means for You?

- \* Net Metering Credits:
  - \* NMC caps being met
  - \* Will they be increased?
- \* Federal tax credits set to expire

# What this Means for You?

- \* Any savings is good?
  - \* Maybe not
  - \* Look at risk as well as savings
  - \* Less savings = less value for risk:
    - \* Less margin for fluctuating NMC
    - \* 20 year contract

# Procurement Refresher (Third-Party Owned Facilities)

- \* On municipal (open) land:
  - \* G.L. c. 30B, s. 16 (RFP), or
  - \* G.L. c. 25A, ss. 11C (RFP)/11I (RFQ)
- \* On municipal building:
  - \* G.L. c. 25A, ss. 11C/11I
- \* NMCPA: 30B-exempt energy contract

# Contracting Traps for the Unwary

- \* Understand NMC value.
- \* Will facility qualify as NMF of Muni?
- \* Will you need to remove panels?
- \* What if facility is not finished/removed?
- \* Understand assignment to SPE.
- \* Understand liquidated damages.
- \* Can you terminate early?



# Contact Information

**Richard T. Holland**  
**Kopelman and Paige, P.C.**  
**101 Arch Street, 12<sup>th</sup> Floor**  
**Boston, MA 02110**  
**617-556-0007**

# This is Not Legal Advice

This information is provided as an educational service by Kopelman and Paige, P.C. It is not legal advice. Neither the giving, nor the receipt, of this information creates an attorney-client relationship between the presenter, Kopelman and Paige P.C., and you, the recipient. You are advised neither to take, nor refrain from taking, any action based on this information without consulting your legal counsel about your specific questions and legal needs.