



# The Commonwealth of Massachusetts

## DEPARTMENT OF PUBLIC UTILITIES

D.P.U. 19-07

June 11, 2020

Investigation by the Department of Public Utilities on its own Motion into Initiatives to Promote and Protect Consumer Interests in the Retail Electric Competitive Supply Market

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### HEARING OFFICER RULING ON PATRIOT ENERGY GROUP, INC. AND EMEX, LLC'S MOTION FOR AN EXTENSION OF TIME

#### I. INTRODUCTION

On May 22, 2020, the Department of Public Utilities ("Department") issued an Order in D.P.U. 19-07-A, Investigation by the Department of Public Utilities on its own Motion into Initiatives to Promote and Protect Consumer Interests in the Retail Electric Competitive Supply Market ("Order on Tier One Initiatives"). On May 27, 2020, the Department announced that it plans to convene a Zoom conference meeting with stakeholders on June 18, 2020. The purpose of the meeting is to allow the Department to better understand any further direction that stakeholders may require to allow for an efficient and effective implementation of the initiatives. On June 9, 2020, Patriot Energy Group, Inc. and EMEX, LLC ("Companies") filed a Motion for Extension of Time ("Motion") for all parties to file any motions for reconsideration or clarification in response to the Order on Tier One Initiatives.

#### II. SUMMARY OF MOTION

The Companies state that the Department should grant the motion and extend the timeline for parties to file any motions for reconsideration or clarification until after the planned June 18 Zoom meeting (Motion at 1). The Companies argue that any clarification gleaned during the Zoom meeting may remove the need for parties to file motions for clarification or reconsideration (Motion at 1).

#### III. ANAYLSIS AND FINDINGS

There are fundamental distinctions between an adjudication and a generic proceeding. In an adjudication, the Department performs its judicial function by affording rights to named petitioners and intervenors, considering evidence, and making specific findings that are

binding upon the parties to the proceeding, which can be subsequently appealed by any aggrieved party. Investigation by the Department of Public Utilities on its own Motion into Rate Structures that will Promote Efficient Deployment of Demand Resources, D.P.U. 07-50-B at 21 (2008), citing G.L. c. 30A, §§ 11, 14. In contrast, in generic proceedings, the Department proposes policies, invites participation and input from interested persons, and adopts final policies that will be generally applied in future adjudications. D.P.U. 07-50-B at 21. Additionally, 220 CMR 1.00, the Department's procedural rules, apply in the context of adjudicatory proceedings, but not in generic proceedings. D.P.U. 07-50-B at 21.

Since the Department opened D.P.U. 19-07 as a generic investigation – in which 220 CMR 1.00 does not apply - the Companies lack standing to file a Motion For Extension of Time to file a motion for reconsideration or a motion for clarification pursuant to 220 CMR 1.11(10), (11), respectively.

#### IV. RULING

Based upon the foregoing, after due consideration, the Companies' Motion for Extension of Time is denied.

Under the provisions of 220 CMR 1.06(5)(d)(3), any party may appeal this Ruling to the Commission by filing a written appeal with supporting documentation within five (5) days of this Ruling. A copy of this Ruling must accompany any appeal. A written response to any appeal must be filed within (5) days of the appeal. The Ruling remains in full force and effect unless and until set aside or modified by the Commission. 220 CMR 1.06(5)(d)(2).

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/s/  
Greggory Wade  
Hearing Officer