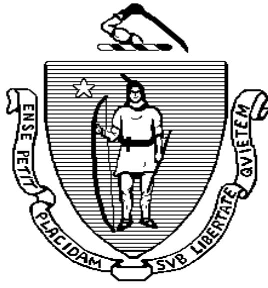

The Commonwealth of Massachusetts

DEPARTMENT OF PUBLIC UTILITIES

D.P.U. 20-150-A May 3, 2021

Investigation by the Department of Public Utilities on its own Motion into Updating its Energy Efficiency Guidelines.

ORDER APPROVING REVISED ENERGY EFFICIENCY GUIDELINES

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I. INTRODUCTION AND PROCEDURAL HISTORY

The Green Communities Act[1] requires all electric and gas distribution companies and approved municipal aggregators (collectively, "Program Administrators")[2] to develop three-year energy efficiency plans with the purpose of expanding energy efficiency efforts in the Commonwealth by acquiring "all available energy efficiency and demand resources that are cost effective or less expensive than supply." G.L. c 25, § 21(b)(1). The energy efficiency guidelines ("Guidelines") set forth the filing requirements and process by which the Department of Public Utilities ("Department") reviews and evaluates the three-year energy efficiency plans. On December 10, 2020, the Department opened this investigation to revise its Guidelines to incorporate changes in laws and Department policies and experience concerning energy efficiency. Order Opening Investigation, D.P.U 20-150 (December 10, 2020).

In that Order, the Department presented proposed edits to the Guidelines ("Straw Proposal") with seven categories of revisions: (1) incorporation of directives set forth in previous Department Orders related to cost-effectiveness, annual energy efficiency surcharge ("EES") changes, and program planning and administration ("PP&A") costs; (2) the

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1 An Act Relative to Green Communities, Acts of 2008, chapter 69, section 11.

2 The Program Administrators include: The Berkshire Gas Company; Fitchburg Gas and Electric Light Company d/b/a Unitil; Liberty Utilities (New England Natural Gas Company) Corp. d/b/a Liberty; Boston Gas Company, Massachusetts Electric Company and Nantucket Electric Company, each d/b/a National Grid; NSTAR Gas Company, Eversource Gas Company of Massachusetts and NSTAR Electric Company, each d/b/a Eversource Energy; and the Cape Light Compact ("Compact").

mid-term modification process; (3) demonstration projects; (4) the three-year term report template; (5) the application of evaluation study results; (6) the calculation of the EES; and (7) additional revisions. The Department sought written comments on the Straw Proposal with an initial comment submission deadline of January 19, 2021, and a reply comment submission deadline of February 3, 2021.[3] The Department received comments from the following entities: the Massachusetts Attorney General's Office ("Attorney General"); Massachusetts Department of Energy Resources ("DOER"); the Program Administrators; Acadia Center, Conservation Law Foundation, Clean Water Action, Green Energy Consumers Alliance, Health Care Without Harm, Sierra Club Massachusetts Chapter, and Metropolitan Area Planning Council (collectively, "Joint Commenters"); Low-Income Energy Affordability Network, Low Income Weatherization and Fuel Assistance Program Network, and the Massachusetts Energy Directors Association (collectively, the "Low Income Network"); the Northeast Energy Efficiency Partnerships ("NEEP"); Opower; and the Northeast Clean Energy Council ("NECEC"). The Department appreciates the thoughtful comments and participation of the interested stakeholders.

Following receipt of public comments and with this Order, the Department herein updates its Guidelines for use during the 2022-2024 three-year plan review process.[4]

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3 On December 29, 2020, the Department extended the original initial and reply comment submission deadlines of January 8, 2021, and January 25, 2021, respectively.

4 Unless otherwise indicated, the Department will apply the Guidelines as approved in <u>Investigation by the Department of Public Utilities on its own Motion into Updating</u>

Additionally, on March 26, 2021, the Governor signed into law An Act Creating a Next Generation Roadmap for Massachusetts Climate Policy, St. 2021, c. 8 ("Climate Act of 2021"), effective June 24, 2021. Because this investigation was opened to revise the Guidelines to incorporate changes in laws and inform the next three-year plan, the Department herein also revises the Guidelines to include updates from the Climate Act of 2021.

II. THREE-YEAR PLANS ORDER DIRECTIVES

A. Cost-Effectiveness

1. Introduction

Under the Green Communities Act, as amended by St. 2018, c. 277 ("Energy Act of 2018") and the Climate Act of 2021, energy efficiency programs are aggregated by sector (low-income, residential, and commercial and industrial ("C&I")) for the purpose of cost-effectiveness review. G.L. c. 25, § 21(b)(3). Accordingly, the Department proposed to amend Guidelines § 3.4: Energy Efficiency Program Cost-Effectiveness to include the new requirements set forth in the Energy Act of 2018. The Department has also found that in the pursuit of all cost-effective energy efficiency, the Program Administrators must balance the additional flexibility in program design and implementation afforded by sector-level cost-effectiveness review under the Energy Act of 2018, with bill impacts and the prudent use of ratepayer funds. 2019-2021 Three-Year Plans Order, D.P.U. 18-110 through

its Energy Efficiency Guidelines, D.P.U. 11-120-A, Phase II (2013) to the 2019-2021 three-year plan.

D.P.U. 18-119, at 72-74 (2019) ("2019-2021 Three-Year Plans Order"). In doing so, the Program Administrators must consider cost-efficiency, as well as cost-effectiveness. To assess cost-efficiency and, thereby, the prudence of expenditures, the Department requires the Program Administrators to continue reporting cost-effectiveness at the program and core initiative levels, in addition to the sector level. 2019-2021 Three-Year Plans Order, at 73-74; see also 2013-2015 Three-Year Plans Order, D.P.U. 12-100 through D.P.U. 12-111, at 105 (2013) ("2013-2015 Three-Year Plans Order"); D.P.U. 18-110 through D.P.U. 18-119, Hearing Officer Procedural Memorandum at 2 n.1 (October 3, 2018).

To ensure that the Guidelines appropriately incorporate this directive, the Department proposed to amend Guidelines § 2: Definitions, to add a definition for "core initiative." In addition, the Department proposes to amend Guidelines § 3.4.3.1 to ensure that the Program Administrators seek to implement any new energy efficiency core initiative in a cost-effective manner (Straw Proposal § 3.4.3.1).

2. Summary of Comments

Multiple commenters argue that programs and core initiatives do not need to be cost-effective to meet the sector level cost-effectiveness requirement of the Energy Act of 2018 (Attorney General Reply Comments at 2; Joint Commenters Comments at 2-3; Compact Comments at 2-3). Further, DOER and the Joint Commenters argue that requiring Program Administrators to include cost-effective programs and core initiatives removes program design flexibility (DOER Comments at 3-4; Joint Commenters Comments at 2-3). Several intervenors recommend removing the requirement that programs and core initiatives

need to be projected to be cost-effective over the term (DOER Comments at 3; Compact Comments at 4; Joint Commenters Comments at 4). Acknowledging that three-year plans must maximize net economic benefits, the Attorney General suggests that the Department should explain how a measure or program that is not projected to be cost-effective may remain as an approved cost-effective sector strategy (Attorney General Reply Comments at 2-3, citing G.L. c. 25, § 22(b)).

The Joint Commenters further claim that energy efficiency and demand management resources are not required to be provided at the absolute least cost to customers, and that the Department alone should be required to consider bill impacts in reviewing plans, not the Program Administrators (Joint Commenters Comments at 3-4). The Program Administrators disagree, stating that prudent spending of ratepayer dollars is a bedrock ratemaking principle, and that it would be unreasonable and inefficient to file a plan that does not consider bill impacts (Program Administrators Reply Comments at 18-19).

Finally, NEEP argues for the inclusion of societal costs and benefits of avoided greenhouse gas ("GHG") emissions in cost-effectiveness testing by either modifying the Total Resource Cost ("TRC") test, or by using principles from the National Standard Practice Manual for Distributed Energy Resources (NEEP Comments at 1-2).

3. Analysis and Findings

The Department is required to review the three-year plans for cost effectiveness. G.L. c. 25, § 21(b)(3). This review ensures that the three-year plans are designed to capture energy savings and other benefits with values greater than costs. G.L. c. 25, § 21(b)(3).

Under the Green Communities Act, as amended by the Energy Act of 2018 and the Climate Act of 2021, for the purpose of cost-effectiveness screening, programs are aggregated by sector. G.L. c. 25, § 21(b)(3). Several commenters express concern over the Department's previous decision to continue cost-effectiveness screening at the program and core initiative levels, arguing that the Green Communities Act requires only sector-level cost-effectiveness review (DOER Comments at 3-4; Joint Commenters Comments at 2-3; Compact Comments at 2-3).

The Department will continue to review cost-effectiveness at the sector level as required by the Energy Act of 2018. The Department already determined that it would continue to require cost-effectiveness reporting at the program and core initiative level to monitor prudent spending of ratepayer funds throughout the term and we are not persuaded to revisit that decision at this time. 2019-2021 Three-Year Plans Order, at 74. The Department is obligated to not only determine if the programs are cost-effective but also ensure that the programs are delivered in a cost-effective manner. G.L. c. 25, § 19(a), (b). If a program or core initiative is not projected to be cost-effective, the Program Administrators are not barred from implementing such a program, but are required to provide further documentation and explanation in their three-year plans, as well as annual and term reports, of how the program is a prudent use of ratepayer funds and how they intend to achieve cost-effective programs and core initiatives going forward.[5]

[5] The Program Administrators may be required to provide invoices supporting all expenditures under a non-cost effective program or core initiative, as well as a

The Climate Act of 2021 also expanded the benefits that may be included in cost-effectiveness screening. In calculating the TRC, program benefits shall include calculations of the societal value of GHG emissions reductions, except in the cases of conversions to fossil fuel heating and cooling. The Department directs the Program Administrators to include the societal value of GHG emission reductions for measures consistent with the Climate Act of 2021.[6] The Program Administrators should consider the GHG emission reductions associated with each measure when applying these additional benefits. The Program Administrators may not include benefits associated with GHG emission reductions for fossil fuel heating or cooling equipment, regardless of the customer's prior fuel source. The Department updates Straw Proposal § 3.4.4 accordingly.

B. EES Rate Adjustments and Reconciliation

1. Introduction

In the 2016-2018 Three-Year Plans Order, the Department found that a return to annual EESs was both administratively efficient and would promote the goal of rate continuity.[7] 2016-2018 Three-Year Plans Order, D.P.U. 15-160 through D.P.U. 15-169,

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detailed explanation of the prudence of each measure and cost, including all PP&A costs, under the program or core initiative.

6 In order to assess the impact of the societal value of GHG emission reductions on cost-effectiveness and ensure that the Program Administrators apply these benefits consistent with the Climate Act of 2021, the Program Administrators shall present the calculation of each measure's benefit-cost ratios ("BCR") with and without the societal value of GHG emission reductions in the BCR screening model.

7 The Department adopted a three-year EES construct in D.P.U. 11-120-A, Phase II at 20.

at 113 (2016). Consistent with this directive, Program Administrators have been making annual EES rate adjustments since January 2016. The Department proposed to update Guidelines § 3.2 to memorialize the change to an annually reconciling EES mechanism (Straw Proposal § 3.2).

2. Summary of Comments

DOER states that it has no issue with revising the Guidelines to require annual EES adjustments, stating the change aligns with current practice and is an effective way to ensure that ratepayers are contributing fairly to energy efficiency (DOER Comments at 6). No other stakeholders commented on this proposed update.

3. Analysis and Findings

The Department seeks to update the Guidelines to reflect experience gained from the ongoing implementation of three-year plans and to bring the Guidelines in line with prior Department decisions. The Department previously found the annual EES adjustment and reconciliation mechanism to be both administratively efficient and supportive of rate continuity goals. 2016-2018 Three-Year Plans Order, at 113. Accordingly, the Department adopts its proposed updates to Guidelines § 3.2: Funding Sources regarding annual EES reconciliation, and the removal of its following subsections: 3.2.1.6.1, 3.2.1.6.2, 3.2.1.6.4, 3.2.1.6.4.1, 3.2.1.6.4.2, 3.2.2.3, 3.2.2.3.1, and 3.2.2.3.2.

C. PP&A Costs

1. Introduction

The Green Communities Act requires the Department to ensure that administrative costs are minimized to the fullest extent practicable. G.L. c. 25, §§ 19(a), (b). In the 2016-2018 Three-Year Plans Order, the Department recognized that PP&A costs had substantially increased from the prior term and directed Program Administrators to provide a breakdown of PP&A costs by component in dollars for all future term reports and three-year plan filings. 2016-2018 Three-Year Plans Order, at 42. Program Administrators addressed this directive by including an additional PP&A data table illustrating both internal and external costs. See, e.g., The Berkshire Gas Company, D.P.U. 16-121, Part One: Data Tables at 22; NSTAR Electric Company, D.P.U. 19-99, Part One: Data Tables at 29. As part of its revisions to the Guidelines, the Department proposed to require Program Administrators to include a breakdown of internal and external PP&A costs in § 3.3.3 of the Guidelines (Straw Proposal § 3.3.3).

In addition, the Department directed Program Administrators to study best practices on minimizing PP&A costs, and Program Administrators submitted the report as part of their 2019-2021 three-year plan filing.[8] 2016-2018 Three-Year Plans Order, at 42. In the 2019-2021 Three-Year Plans Order, the Department directed the Program Administrators to adopt the recommendations of the study and to provide an update of how those

[8] See D.P.U. 18-110 through D.P.U. 18-119, Exh. 1, App. P ("PP&A Study").

recommendations were adopted to the fullest extent practicable in their next annual report. 2019-2021 Three-Year Plans Order, at 50. Consistent with the recommendations in the PP&A Study, at 18-21 and to better evaluate administrative costs of the entire three-year planning process, the Department proposed revising Guidelines § 3.3.5 to require Program Administrators to minimize administrative costs while developing and reporting their three-year plans and providing energy efficiency services (Straw Proposal § 3.3.5).

2. Summary of Comments

DOER supports the addition of the internal and external breakdown of PP&A costs in the Guidelines, and further requests that the budgets and number of internal full-time equivalent ("FTE") employees be projected in plans and reported in term reports to better understand PP&A budget variances (DOER Comments at 6). The Program Administrators oppose this addition, stating it amounts to a complicated and resource-intensive data request (Program Administrators Reply Comments at 4).

DOER further asserts that directing Program Administrators to minimize costs for development and reporting of plans and services may come at the expense of other information being available to stakeholders, and recommends that the Department further modify Guidelines § 3.3.5 to acknowledge that Program Administrators must minimize administrative costs while complying with all statutory and Energy Efficiency Advisory Council ("Council") reporting obligations (DOER Comments at 8, citing G.L. c. 25, § 21(c)). The Joint Commenters support this revision proposed by DOER, stating that

Program Administrators are obligated to provide information requested by the Council (Joint Commenters Reply Comments at 1, citing G.L. c. 25, § 22(d)).

The Program Administrators argue the Department instructed them to minimize all administrative costs, including reporting burdens (Program Administrators Reply Comments at 5, citing 2019-2021 Three-Year Plans Order, at 47). The Program Administrators agree that DOER seeks to balance costs with transparency, but contend that DOER is essentially asking for an exception to the Program Administrators' mandate to minimize administrative costs with regard to Council reporting (Program Administrators Reply Comments at 5-6). The Program Administrators surmise that minimizing administrative costs and reporting to the Council are not mutually exclusive, and the Department should reject DOER's proposal (Program Administrators Reply Comments at 6).

3. Analysis and Findings

No stakeholder opposed the Department's proposal to breakdown internal and external PP&A costs at Guidelines § 3.3.3. Thus, the Department adopts its proposed breakdown of internal and external PP&A costs (Straw Proposal § 3.3.3(a)).

Regarding DOER's additional data request, while the number and budgets of FTE employees may provide some value, the Department must consider the overall cost implications of additional reporting of potentially data-intensive requests. A key recommendation from the PP&A Study is to strike a balance between reporting valuable information and minimizing PP&A costs. PP&A Study at 18-19. Therefore, to maintain the balance between reporting on valuable information and minimizing PP&A costs, the

Department will not revise Guidelines § 3.3.5 to include FTE employee numbers and budgets as an internal cost item.

In response to DOER's request to include Council reporting obligations, the Department acknowledges that the Green Communities Act already requires Program Administrators to both minimize administrative costs and provide quarterly reports to the Council on information that is relevant to their consideration of the plan. G.L. c. 25, § 21(c)(d). As stated above, the Department recognizes that there must be a balance between minimizing administrative costs and reporting beneficial data and information. Consistent with this principle and the recommendations in the PP&A Study, for the 2019-2021 plan term, the Council and the Program Administrators agreed to six relevant key performance indicators to satisfy the quarterly reporting needs while minimizing PP&A costs.[9] 2019-2021 Three-Year Plans Order, at 165-166. Accordingly, the Department will not adopt the proposed additional revision to Guidelines § 3.3.5. The Department emphasizes that our declining to adopt the proposed revision does not excuse the Program Administrators from

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[9] In their testimony for the 2022-2024 Three-Year Plan filing, the Program Administrators shall explain whether and how the agreement regarding key performance indicators minimized administrative costs. Also, consistent with recommendations in the PP&A Study, the Program Administrators shall work with the Council to develop a formal process for how data requests from the Council will be made and satisfied. The process should seek to ensure an appropriate balance of the value and usefulness of the data requested with the cost to provide the data. See PP&A Study at 18. Program Administrators should include a description of the agreed upon process in their three-year plans.

their statutory reporting requirements, including, but not limited to, quarterly reports to the Council pursuant G.L. c. 25, § 22(d).

III. MID-TERM MODIFICATIONS

A. Introduction

During the 2016-2018 Three-Year Plans proceeding, the Department requested comments on potential revisions to the mid-term modifications triggers and process as outlined in Guidelines § 3.8.1, 3.8.2. 2016-2018 Three-Year Plans Order, at 108. The Department proposed to eliminate existing budget triggers and instead require concurrent Department and Council review of a proposed increase of 20 percent or more to a sector budget.[10] 2016-2018 Three-Year Plans Order, at 108. The Department found that it was appropriate to defer consideration of the issue to allow for additional stakeholder input. 2016-2018 Three-Year Plans Order, at 116.

In the Straw Proposal, the Department proposed again to eliminate the two percent bill impact and 20 percent program budget triggers outlined in Guidelines § 3.8.1. To ensure Department review of significant budget changes prior to the annual EES adjustment, the Department proposed a revised budget trigger (Straw Proposal § 3.8.2). The proposed change to § 3.8.2 requires concurrent Department and Council review of the following modifications: (1) the addition of an energy efficiency core initiative, hard-to-measure core

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[10] Guidelines § 3.8.1, 3.8.2 require Council review of midterm modifications if the proposed change resulted in program budget change of 20 percent or more, and Department review of midterm modifications if the proposed change resulted in a bill impact greater than two percent.

initiative, or demonstration project; (2) the transition of a hard-to-measure core initiative to an energy efficiency core initiative; or (3) any modification that results in an increase or decrease to the three-year term sector budget of more than ten percent (Straw Proposal § 3.8.2). The Department also proposed to require Council review of the following modifications: (1) the termination of an existing energy efficiency core initiative or hard-to-measure energy efficiency core initiative; or (2) a modification to the implementation of one or more energy efficiency core initiatives that is projected to result in a decrease in the energy efficiency program benefits over the three-year term that is greater than 20 percent.

B. Summary of Comments

1. Sector Budget Triggers

The Attorney General, DOER, and the Joint Commenters oppose the Department's proposed changes to the budget triggers for the mid-term modification process and argue that the Department should maintain the existing triggers outlined in Guidelines § 3.8.1(3) (DOER Comments at 9-10; Attorney General Reply Comments at 3; Joint Commenters Reply Comments at 1). DOER and the Attorney General argue that removing § 3.8.1(3) from the Guidelines reduces the Council's advisory role and gives the Program Administrators' greater flexibility to make significant funding changes that may not be in line with their three-year plans or Council priorities (DOER Comments at 9-10; Attorney General Reply Comments

at 3).[11] Similarly, the Joint Commenters argue that the Department's proposal would allow Program Administrators to drop programs with significant benefits without any Department or Council review (Joint Commenters Comments at 6).[12]

The Program Administrators support the Department's decision to streamline the mid-term modification process and argue that DOER and the Joint Commenters' concerns are overstated (Program Administrators Reply Comments at 7). The Program Administrators maintain that the Council will continue to have ample opportunity to review changes pursuant to § 3.8.1 of the Straw Proposal, which requires Council review under certain circumstances (Program Administrators Reply Comments at 7-8, citing D.P.U. 20-150 at 6-8). Additionally, the Program Administrators argue that the Council will continue to have opportunities to provide feedback through multiple avenues, including Council meetings, through Council consultant participation in working groups, and other meetings and committees (Program Administrators Reply Comments at 7). Program Administrators argue

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[11] Current Guidelines § 3.8.1(3) specify that the Council shall review any "change in the three-year term budget of an Energy Efficiency Program or Hard-to-Measure Energy Efficiency *Program* of greater than (1) 20 percent, or (2) a dollar value to be specified by the Department" (emphasis added). The budget trigger in the draft guidelines is limited to a 10 percent change in the *sector* budget (Straw Proposal § 3.8.2).

[12] The Joint Commenters argue that under the proposed changes, Program Administrators, for example, could cut a $46 million program that represents 19 percent of the benefits of a core initiative with no review by the Council or the Department provided this change did not affect the sector level budget by more than ten percent (Joint Commenters Comments at 6, citing Massachusetts Electric Company and Nantucket Electric Company d//b/a National Grid, D.P.U. 18-118, Exh. 1, App. C).

that the Council will also have regular insight through monthly dashboards, term reports, plan-year reports, and quarterly reports that are required to be submitted to the Council pursuant to G.L. c. 25, § 22(d) (Program Administrators Reply Comments at 8).

2. Concurrent Council and Department Review of Mid-Term Modifications

DOER argues that the proposed changes make it difficult for the Council to perform its statutory mandate to review and approve plans and budgets because the Straw Proposal does not present a formal path for the Council to weigh in on changes submitted to the Department for review (DOER Comments at 10, citing G.L. c. 25, § 22(b)). DOER and the Joint Commenters request that the Department include in § 3.8.2 of the Guidelines that any proposed new energy efficiency core initiative, hard-to-measure core initiative, or demonstration project will be developed with input from the Council prior to filing a proposed mid-term modification (DOER Comments at 11, citing D.P.U. 20-150 at 7; Joint Commenters Reply Comments at 1). DOER argues that requiring input from the Council prior to proposing a mid-term modification will support the Council in meeting its deadlines and allow for a more streamlined review by the Department (DOER Comments at 11).

The Program Administrators support the Department's proposed language and argue that DOER's proposed modification is unnecessary. The Program Administrators posit that DOER's amendment could be interpreted as a formal requirement and undermine the Department's intended meaning (Program Administrators Reply Comments at 9). The Program Administrators state that they will continue to work closely with the Council and its

consultants through the existing collaborative process (Program Administrators Reply Comments at 9).

C. Analysis and Findings

1. Sector Budget Triggers

The Attorney General, Joint Commenters, and DOER all oppose the proposed ten percent sector level budget trigger, arguing this change will allow the Program Administrators additional flexibility to make budget modifications that do not align with Council priorities (DOER Comments at 9-10; Attorney General Reply Comments at 3; Joint Commenters Reply Comments at 1). The existing budget triggers were designed to strike a balance between allowing the Program Administrators the flexibility to make modifications in response to changing circumstances in order to meet the statutory mandate to pursue all cost-effective energy efficiency, while ensuring that any significant changes would be subject to the appropriate oversight. D.P.U. 08-50-A at 63-64; D.P.U. 11-120-A, Phase II at 27.

The Department recognizes the concerns of the commenters but notes that the Guidelines for mid-term modifications were designed based on a now outdated EES process. When the Department returned to annual EES rate adjustments and reconciliations in plan year 2016, it determined that the two-percent bill impact trigger would no longer be needed in concert with annual EES adjustments, and that a new sector-level budget trigger with concurrent Department and Council review would provide a more efficient process that ensured flexibility for Program Administrators and implementation consistent with Department-approved plans. See 2016-2018 Three-Year Plans Order, at 113, 115. The

proposed changes are designed to create administrative efficiencies in the context of the annual EES rate adjustment reviews and ensure that significant changes in program implementation are subject to an appropriate level of oversight. The Council will continue to have ample opportunities to review budgets and savings through quarterly reports, as well as provide feedback through the Council process. In addition, the Council will have a formal role in concurrently reviewing proposed mid-term modifications.

The Department notes that Program Administrators are still required to pursue all cost-effective energy efficiency. G.L. c. 25, § 21(b). To the extent a Program Administrator eliminates a program, the Department finds that the benefit trigger proposed in § 3.8.1 and the notice requirement outlined below provides the appropriate amount of oversight for significant changes in program benefits. Accordingly, the Department adopts its proposed modifications to the mid-term modification review process as proposed in §§ 3.8.1, 3.8.2 of the Straw Proposal.

While the Department adopts a sector level budget trigger, we are mindful of the concerns that Program Administrators could discontinue significant program offerings without triggering a mid-term modification. As an example, a Program Administrator recently filed a petition with the Department seeking permission to discontinue a behavior offering that does not constitute a mid-term modification. See Liberty Utilities (New England Natural Gas

Company) Corp., D.P.U. 21-18.[13] In that proceeding, DOER submitted comments indicating concern with the termination of significant initiatives without Council review. D.P.U. 21-18, DOER Comments at 3-4.

The Department acknowledges that during a plan term Program Administrators may need to adapt their programs to meet the needs of the evolving market. During a plan term, some measures may no longer be cost-effective, and continuing to include such measures would not be a prudent use of ratepayer funds.[14] The Department's mid-term modification triggers are intended to provide a reasonable level of flexibility to adapt to changing economic conditions and markets. However, the mid-term modification triggers are not intended to be an exception to implementing the plan as drafted as long as Program Administrators achieve their goals. The Department expects that Program Administrators will reasonably and prudently implement the plan developed in consultation with the Council and approved by the Department.

Accordingly, to balance the concerns raised by DOER in D.P.U. 21-18 and the stakeholders in this proceeding, going forward, Program Administrators must submit a notice

[13] Due to contractual terms with its vendor, Liberty Utilities is seeking Department approval to terminate its Home Energy Reports offering. D.P.U. 21-18, Petition at 1-2.

[14] The Department also notes that G.L. c. 25, § 21 provides some flexibility to implement non-cost effective measures and offerings, which may be appropriate where a measure still provides savings and benefits to customers. For example, free ridership for a specific measure may be very high thus reducing its cost effectiveness, yet continuing to provide incentives for the measure may be necessary in the interest of equity to reach late adopters and lower income customers.

to the Council and the Department at least 90 days before discontinuing a measure or offering included in the approved plan.[15] The notice should include an explanation of the basis for discontinuing the measure or offering, along with any supporting documentation and evaluation results. Ultimately, the Program Administrators are responsible for reasonably and prudently implementing the plan and minimizing costs to ratepayers.

2. Concurrent Council and Department Review of Mid-Term Modifications

DOER maintains that eliminating the required Council review prior to Department review when a budget trigger is met complicates the Council's statutory requirement to review and approve plans and budgets (DOER Comments at 10, citing G.L. c. 25, § 22(b)). Specifically, DOER argues that the proposed changes to do not provide a formal path for the Council to weigh in on changes submitted to the Department for review. The Department notes that the Straw Proposal: (1) lists multiple scenarios in which modifications remain subject to Council review prior to any Department review;[16] and (2) requires concurrent review by the Department and the Council of any changes that meet the proposed thresholds

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15 Notice is required when a Program Administrator is eliminating an offering described in the plan or a measure identified in the BCR screening model. Notice is not required where a Program Administrator is substituting a measure with a similar, more efficient measure.

16 A Program Administrator must first seek Council review for: (1) the termination of an existing energy efficiency core initiative or hard-to-measure energy efficiency core initiative; or (2) a modification to an energy efficiency core initiative that is projected to result in a decrease in the energy efficiency program benefits over the three-year term that is greater than 20 percent (Straw Proposal § 3.8.1).

(Straw Proposal §§ 3.8.1, 3.8.2). Further, under the concurrent review process, the Council has a formal opportunity to weigh in on changes prior to the Department's decision.[17] The concurrent review process is intended to ensure both Council and Department review of significant budget changes and a timelier review overall. D.P.U. 20-150, at 6-7. The Department finds that its proposed changes to § 3.8.1 and § 3.8.2 allow adequate Council review of and input into significant modifications to three-year plans, consistent with Council's statutory requirements.

The Program Administrators do not support DOER's proposal to specify in the Guidelines that any proposed new energy efficiency core initiative, hard-to-measure core initiative, or demonstration project be developed with input from the Council prior to Department review (DOER Comments at 11; Program Administrators Reply Comments at 9). Under the Straw Proposal, any information provided by the Council will be part of the record and therefore a factor in the Department's review. As noted above, the concurrent review process is intended to ensure both the Council and Department timely review proposed modifications to the three-year plan. The Department encourages Program Administrators to seek Council and stakeholder input before submitting any proposed new energy efficiency core initiative, hard-to-measure core initiative, or demonstration project for Department review but finds that a concurrent review process will ensure that the Council will be able to formally provide input. The Department notes that DOER may intervene on any such filings,

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[17] Section 3.8.2.1 provides the Council 60 days to file a resolution with the Department opposing any proposed modification.

as may other individual Council members. As such, the Department declines to adopt DOER's amendment to § 3.8.2 of the Straw Proposal.

3. Section 3.8.1 Mid-term Modifications

The Department included in the Straw Proposal that the termination of an existing core initiative and a decrease in benefits greater than 20 percent must be submitted to the Council for review as a mid-term modification. Straw Proposal § 3.8.1. The Department did not receive comments on this proposed change. The Department adopts the proposed changes to § 3.8.1.[18]

IV. DEMONSTRATION PROJECTS

A. Introduction

In D.P.U. 20-150, the Department highlighted that it developed directives in recent orders regarding the categorization and evaluation of demonstration projects. D.P.U. 20-150, at 8-9, citing D.P.U. 16-177; NSTAR Electric Company, D.P.U. 16-178 (2017); Fitchburg Gas and Electric Light Company, D.P.U. 16-184 (2017); NSTAR Gas Company, D.P.U. 19-120 (2020). The Department proposed to add to the Guidelines a definition of "demonstration project" and to outline the relevant review process for reviewing demonstration projects (Straw Proposal §§ 2(3), 3.9).

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[18] The Department notes that while it removed the requirement that the Council act on any proposed modification within 45 days of filing for consistency with the concurrent review outlined in Guidelines § 3.8.2, the Department expects the Council to act on any proposed modification under Guidelines § 3.8.1 in a timely manner. If the Council does not approve or oppose the proposed modification, a Program Administrator may request that the Department open an investigation to review the proposed modification.

B. Summary of Comments

DOER generally supports the Department's changes but proposes that § 3.9.1.1 of the Straw Proposal be revised to read "Demonstration Projects are Hard-To-Measure offerings initially but are anticipated to have measurable savings and benefits *at scale*" (DOER Comments at 12 (emphasis added)). DOER argues that this modification differentiates between the initial demonstration stage and the stage when a demonstration project transitions into a program or core initiative and is expected to be cost-effective (DOER Comments at 12). The Attorney General supports DOER's proposed change (Attorney General Reply Comments at 3-4). Similarly, the Joint Commenters state that DOER's proposed change to § 3.9.1.1 of the Straw Proposal addresses their concerns that the Department's proposed wording would create uncertainty as to what stage a demonstration project is expected to have measurable savings and benefits and meet cost-effectiveness requirements (Joint Commenters Comments at 7-8; Joint Commenters Reply Comments at 2).

The Program Administrators do not support DOER's proposed amendment to include "at scale," arguing that this revision would not resolve the ambiguity in the Straw Proposal (Program Administrator Reply Comments at 10). Instead, the Program Administrators propose to modify § 3.9.1.1 of the draft guidelines to read: "Demonstration Projects are Hard-To-Measure offerings that are not required to be cost-effective but are intended to demonstrate a clear pathway to produce measurable and cost-effective savings and benefits" (Program Administrator Reply Comments at 10).

Additionally, DOER requests that the use of the term "Hard-to-Measure offerings" in § 3.9.1.1 of the draft guidelines be updated to specify "Hard-to-Measure Core Initiative" and "Hard-to-Measure Program" as per the revised definitions in § 2(14) and § 2(15) (DOER Comments at 12). Similarly, DOER recommends that "like a hard-to-measure program" in the last sentence of § 3.9.1.1 of the draft guidelines should be replaced with "like other Hard-to-Measure Programs" or "like other Core Initiatives in the Hard-to-Measure Program" (DOER Comments at 12).

The Joint Commenters also recommend that only Council review should be required for demonstration projects and that Department review should be limited to projects that meet a certain threshold (e.g., total costs, bill impacts, budget impacts, or projected benefits) (Joint Commenters Comments at 7). The Joint Commenters highlight that Department approval of past demonstration projects have taken nearly a year, a delay which could result in increased costs to ratepayers and in certain instances cause the associated administrative and legal costs to exceed the costs of the demonstration project itself (Joint Commenters Comments at 6).

C. Analysis and Findings

The comments indicate a consensus that the Department's proposed definition of a demonstration project does not clearly delineate at which stage a demonstration project is expected to be cost-effective. The Attorney General and the Joint Commenters both support DOER's proposed amendment to specify that a demonstration project need only demonstrate cost-effectiveness "at scale" (DOER Comments at 12; Attorney General Reply Comments

at 3-4; Joint Commenters Comments at 7). The Program Administrators argue that the use of "at scale" does not adequately resolve the issue, and instead suggest language that specifies demonstration projects are only required to demonstrate a "clear pathway" to cost-effectiveness (Program Administrator Reply Comments at 10).

The Department acknowledges that the purpose of classifying a demonstration project as hard-to-measure initially is to allow for further investigation of potential costs and benefits. The Department finds that DOER's amendment appropriately clarifies that we do not expect the Program Administrators to demonstrate cost-effectiveness at any stage of a demonstration project, but do expect the Program Administrators to demonstrate cost-effectiveness if the project transitions to a core initiative or program, i.e., at scale. As such, the Department adopts DOER's proposal to include "at scale" to § 3.9.1.1. However, as stated above, we do not anticipate that at the outset a demonstration project would rise to the level of a core initiative or program. Rather, it is a relatively small, self-contained endeavor, such as a pilot, that may transition to a core initiative or program. Therefore, the Department rejects DOER's additional proposed changes to § 3.9.1.1 of the draft guidelines.

In regard to the Joint Commenters proposal, the Department has previously found that both Council support and Department approval are required prior to implementation of any new or modified energy efficiency demonstration project. Cape Light Compact, D.P.U. 16-177, at 7-8 (2016). We do not intend to revisit that decision at this time. The Department appreciates the Joint Commenters' concern that requiring Department review of all demonstration projects could create an obstacle to innovation. However, the Department

finds it premature to develop a trigger for its review of demonstration projects but may revisit this option in the future as needed.

V. TERM REPORT TEMPLATE ORDER

A. Introduction

Pursuant to the Guidelines, each Program Administrator is required to file an annual report each year of the three-year term in addition to a three-year term report upon the completion of each plan. Guidelines §§ 4.1, 4.2. The Department established May 1 as the filing deadline for the annual reports and August 1 as the deadline to file the three-year term report. Energy Efficiency Guideline Three-Year Term Report Template, D.P.U. 11-120-B, at 9 (2016); Investigation by the Department of Public Utilities on its own Motion into Updating its Energy Efficiency Guidelines, D.P.U. 11-120, Phase II, Hearing Officer Memorandum at 2 & n.60 (May 2, 2014). Program Administrators have sought several extensions for filing plan-year reports.[19] Thus, the Department proposed updating the

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[19] In the 2014, 2017, 2019, and 2020 plan years, the Program Administrators filed motions for extension of time past the original May 1 filing date. The Program Administrators filed their 2014 annual reports with the Department on June 5, 2015 in 2014 Plan-Year Report, D.P.U. 15-49. 2014 Energy Efficiency Plan-Year Report, D.P.U. 15-49, Stamp-Granted Joint Motion for Extension of Deadline to File (April 28, 2014). The Program Administrators filed their 2017 annual reports with the Department on June 8, 2018 in D.P.U. 18-51. 2017 Energy Efficiency Plan-Year Report, D.P.U. 18-51, Stamp-Granted Joint Motion for Extension of Deadline to File (March 19, 2018). The Program Administrators filed their 2019 annual reports with the Department on May 29, 2020 in D.P.U. 20-50. 2019 Energy Efficiency Plan-Year Report, D.P.U. 20-50, Stamp-Granted Joint Motion for Extension of Deadline to File (April 29, 2020). The Program Administrators will file their 2020 annual reports

Guidelines to reflect a June 1 deadline for annual reports, in addition to memorializing the August 1 three-year term report filing date (Straw Proposal §§ 4.1, 4.2).

B. Summary of Comments

DOER has no objection to the proposed June 1 deadline for the first-year annual report, but requests an earlier deadline of April 1 for the second-year annual report to allow more time for review, approval, or comments from the Council (DOER Comments at 13-14). The Joint Commenters support DOER's proposal for an earlier April 1 deadline for the second-year annual report, stating it would allow sufficient time for data to be considered by the Program Administrators and Council in evaluating subsequent three-year plans (Joint Commenters Reply Comments at 1). The Program Administrators oppose DOER's proposal to advance the second-year annual report deadline to the earlier April 1 deadline because it would divert resources away from the April 30 deadline for draft three-year plans (Program Administrator Reply Comments at 10-11).[20]

C. Analysis and Findings

Commenters were overall supportive of formalizing reporting deadlines in the Guidelines, but disagreed over the filing date for the second-year annual report. The

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with the Department on June 4, 2021, Stamp-Granted Joint Motion for Extension of Deadline to File (April 16, 2021).

[20] Program Administrators further suggest that the Department's proposed prospective application of evaluation results (see Section VI) could provide the Council with better numbers for evaluating the April draft three-year plan, reducing the urgency for a full annual report before June 1 (Program Administrator Reply Comments at 11).

Department acknowledges DOER and the Joint Commenters' recommendation that an earlier filing would allow the Council more time for review, but the Department must balance the regular requests for filing extensions and demand for resources near the April 30 draft three-year plan deadline. The Department determines that updating Guidelines §§ 4.1, 4.2 to reflect a three-year report deadline of August 1 and annual report deadline of June 1 helps avoid the need for revised or supplemental filings, while still giving appropriate time for Council review.[21]

VI. APPLICATION OF EVALUATION STUDY RESULTS

A. Introduction

The Department proposed to apply evaluation results, including gross impact factors, prospectively to align with its determination in D.P.U. 11-120-A to apply net-to-gross ratios prospectively. See Investigation by the Department of Public Utilities on its own Motion into Updating its Energy Efficiency Guidelines, D.P.U. 11-120-A, at 14 (2012). The Department also proposed applying all evaluation results, including net-to-gross ratios, prospectively to the next program year without a three-year lock-in period. After one program year, savings and benefits may be updated based on the results of a new evaluation, measurement, and verification ("EM&V") study to reflect changes in program delivery or the market.

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21 As discussed in Section VI, infra, the Department also adopted the prospective application of evaluation results. The Department expects that Program Administrators may be able to finalize plan year results earlier; however, the Department will not set an earlier deadline at this time.

B. Summary of Comments

DOER states that it does not support applying all impact factors prospectively as it contends that gross impact factors are more appropriately applied in retrospect (DOER Comments at 15). DOER acknowledges that applying gross impact factors prospectively would be administratively easier but asserts that the proposed change would jeopardize the timeliness and accuracy of adjusted gross savings results (DOER Comments at 16). DOER sees insufficient reason to change the policy of retrospective application of gross savings impact factors because DOER believes that retrospective application of adjusted gross savings results is the best indicator of in-field program impact and the most effective use of ratepayer funds (DOER Comments at 14-17). DOER argues that gross impact factors, such as equipment performance and operation characteristics, are within the Program Administrators' control, while net impact factors, such as free ridership and spillover are unknowable market conditions (DOER Reply Comments at 5). DOER supports the Department's proposal to remove the three-year lock-in period for net savings evaluation results (DOER Reply Comments at 4-5). The Attorney General agrees with DOER that gross impact factors should remain retrospective and argues that a change to prospective application could misrepresent past results (Attorney General Reply Comments at 4). The Joint Commenters also endorsed DOER's comments on this subject (Joint Commenters Reply Comments at 2).

The Program Administrators support the Department's proposal that gross impact factors should be applied prospectively and that the three-year lock-in period should be removed (Program Administrators Comments at 3-5). The Program Administrators argue

that these changes will create a stronger and more aligned feedback loop between evaluation and implementation, allowing the Program Administrators to adapt more easily to changing market conditions (Program Administrators Comments at 4). Additionally, according to the Program Administrators, net-to-gross studies would no longer need to be frontloaded prior to the beginning of a new term and can be scheduled as needed (Program Administrators Comments at 4-5). In response to DOER's comments, the Program Administrators point to the maturation of the Mass Save programs and their evaluation since the Department's order in D.P.U. 11-120-A, the oversight role of the Council's consultants throughout the planning and evaluation process, and the multiple benefits to this change that the Program Administrators feel will strengthen the evaluation process (Program Administrators Reply Comments at 11-16).

C. Analysis and Findings

Gross impact factors currently apply to the program year(s) under study, and then prospectively. Net-impact factors currently apply prospectively and do not change during a three-year term. The current disparate treatment of net-to-gross ratios and other evaluation results complicates the planning process and reduces certainty for Program Administrators because the amount of claimable savings may change after program activities are complete.[22] D.P.U. 20-150, at 11. With this proposed change, gross and net impact factors would be

[22] York, Dan, Charlotte Cohn, and Martin Kushler (2020), *National Survey of State Policies and Practices for Energy Efficiency Program Evaluation*, American Council for an Energy-Efficient Economy Research Report. https://www.aceee.org/research-report/u2009 (last accessed March 5, 2021).

applied to the next program year and then prospectively. The Department finds that the prospective application of gross and net savings impact factors to the next program year without a three-year lock-in period will improve the timing of evaluation studies, simplify the planning process, and increase certainty for Program Administrators while still providing timely feedback. Further, the application of the results will still ensure that the best available data is used for program planning.

This change will also encourage the Program Administrators to implement innovative and effective programs that reduce energy usage. While retrospective application of impact factors may generally improve accuracy of the prior year's actual savings, the Department finds that the additional benefit of applying results retrospectively one year is outweighed by the benefit of timely prospective application of evaluation results. The current uncertainty regarding final savings assumptions may deter innovation and aggressively pursuing new energy efficiency opportunities. D.P.U. 20-150, at 11. A report by the American Council for an Energy-Efficient Economy ("ACEEE") found that about half of states applied net evaluation results prospectively and supported prospective application of results to avoid "chang[ing] the playing field" for program savings.[23] Applying evaluation results on a prospective basis will provide more certainty in the planning process, yet not frustrate the goal of using the most up-to-date information to calculate adjusted gross savings and benefits.

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[23] York, Dan, Charlotte Cohn, and Martin Kushler (2020), *National Survey of State Policies and Practices for Energy Efficiency Program Evaluation*, American Council for an Energy-Efficient Economy Research Report. https://www.aceee.org/research-report/u2009 (last accessed March 5, 2021).

Although DOER argues that net impact factors are unknowable market conditions and, conversely, gross impact factors are within the Program Administrators' discretion, the Department considers the two types of impact factors to be more similar than different. Gross impact factors, such as in-service rates and realization rates, are often calculated as part of a representative survey of participants, metering equipment, and/or bill comparison that adjusts for weather and other factors.[24] Much of this information is unavailable to the Program Administrators and is only revealed as part of an evaluation study, which is similar to net savings results. Accordingly, the Department finds that prospective application of results will encourage continuous adjustments in program delivery to align with the most up-to-date information available, whereas retrospective evaluation has occasionally served to penalize the Program Administrators for what they did not know in the past.

With this change, both gross and net impact factors will be applied to the next program year and will remain in place until another evaluation study is completed.[25] The Department agrees with the Program Administrators that the proposed changes in the application of evaluation results will allow various impact factors and net-to-gross ratios to be assessed on a more regular basis and allow EM&V studies to be spread throughout the

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24 See Violette, Daniel (2013), *The Uniform Methods Project: Methods for Determining Energy Efficiency Savings for Specific Measure; Chapter 13: Assessing Persistence and Other Evaluation Issues Cross-Cutting Protocols*, at §§ 2.2, 2.3, 2.5, Table 1, National Renewable Energy Laboratory. https://www.energy.gov/sites/prod/files/2013/11/f5/53827-13.pdf (last accessed April 15, 2021).

25 The updated factors will not be applied to the current program year.

multi-year program cycle. Given the current evaluation framework, we anticipate that for established energy efficiency measures, evaluation results will likely remain stable over time and new studies would need to be completed less frequently. For new energy efficiency measures and measures where the underlying technology, market conditions, or appliance standards have recently changed, evaluation studies may be completed more often. These changes will allow the Program Administrators and the Council to focus their studies on the newest and/or fastest changing programs and technologies, and energy efficiency measures with less stable evaluation results while keeping evaluation and administrative costs down. The Department also recognizes that this change would reduce the lag between a customer's participation in a program and the collection of net-to-gross data via surveys or market data. D.P.U. 20-150, at 11-12. We still urge the Program Administrators and evaluators to develop protocols to capture both free ridership and market transformations of programs and apply those factors to results in a coherent manner.[26] Accordingly, the Department adopts its proposed modifications to the application of evaluations results as outlined in the Straw Proposal.

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[26] For example, if in the first year only an increase in free ridership is applied, thereby reducing net savings and benefits, and in the second year only an increase in spillover impacts is applied, it may appear the program's effectiveness drastically increased in the second year, when the real net impact was more muted.

VII. ELECTRIC LOW-INCOME EES CALCULATION

A. Introduction

To better align the electric and gas EES calculations and to account for Department directives in Cost Based Rate Design, D.P.U. 12-126A through 12-126I at 23 (2013), the Department proposed to update Guidelines § 3.2.1.6 with a revised electric EES calculation (Straw Proposal § 3.2.1.6). The revised calculation would allocate low-income energy efficiency program costs between a single residential and low-income sector and the C&I sector using a distribution revenue allocator, and collecting the resulting allocation from each rate class in the sector using a volumetric charge. D.P.U. 20-150, at 14, citing, D.P.U. 12-126A through 12-126I at 23. This would result in two surcharges, one for the residential sector, including low-income, and one for the C&I sector, which is the same structure as the gas EES. D.P.U. 20-150, at 14. Low-income customers would continue to receive a discount on their total electric bill. D.P.U. 20-150, at 14.

B. Summary of Comments

Several stakeholders contend that this investigation is not the proper forum for restructuring the low-income EES (Attorney General Comments at 2; DOER Comments at 17; Joint Commenters Comments at 5-6; Low Income Network Comments at 3-4). The Attorney General and DOER propose investigating this proposal in the next three-year plan to allow for a greater review of bill impacts and input from stakeholders (Attorney General Comments at 2; DOER Comments at 17). The Low Income Network and Joint Commenters request further opportunity to cross-examine Program Administrators over cost implications,

and urge that these bill changes should not be implemented in the midst of a pandemic (Low Income Network Comments at 5; Joint Commenters Comments at 5-6).

The Program Administrators state that the impacts vary across service territories and do not include any increases from the Residential Assistance Adjustment Factor[27] (Program Administrator Comments at 11-13; Program Administrator Reply Comments at 11). Should the Department decide to apply the revised EES calculation, both DOER and the Program Administrators recommend a phase-in of the change to mitigate bill impacts (Program Administrator Comments at 13-14; DOER Reply Comments at 3-4).

C. Analysis and Findings

The Department appreciates the comments from the Low Income Network and other stakeholders, and we share the bill impact concerns raised in comments. The Department also notes that no stakeholder was in strict opposition of the proposal to better align the electric and gas EES calculations, rather they argued that these changes should not be implemented at this time and without further information on the potential effects. The Department agrees with the Low Income Network and other stakeholders that it would be better to implement this change as part of a proceeding where a full analysis of the bill impacts can be performed. Given the interaction between the current electric EES structure and the low-income discount, we find it appropriate to conduct this analysis as part of a rate

[27] The Program Administrators estimate the impact of the proposed low-income EES calculation to range from a decrease of $1.02 to an increase of $7.09 per month for most low-income customers (Program Administrator Comments at 11-13).

case proceeding. The Department directs each electric distribution company to submit a revised EES tariff, consistent with the Straw Proposal, as part of its next rate case proceeding.[28] Accordingly, the Department will not update Guidelines § 3.2.1.6 at this time.

VIII. OTHER GUIDELINES REVISIONS

A. Benefits

1. Introduction

The Guidelines currently define benefits separately for gas Program Administrators in Guidelines § 3.4.4.2 and for electric Program Administrators in Guidelines § 3.4.4.1. In recent three-year plan filings, both gas and electric Program Administrators used the same categories of program benefits in their data tables. To simplify the Guidelines and align them with current reporting practices, the Department proposed to amend Guidelines § 3.4.4 to establish a single set of benefits for all Program Administrators.

2. Summary of Comments

The Program Administrators support the Department's proposal to establish a single set of benefits for all Program Administrators, but request additional revisions to further clarify how benefits are defined and to conform the Guidelines to benefits already approved by the Department (Program Administrators Comments at 9-10).

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[28] The Compact is a municipal aggregator that has also received Department approval to administer electric energy efficiency in its service area. Cape Light Compact Municipal Aggregation Plan, D.T.E. 00-47-C. Eversource Energy is the electric distribution company serving the Compact's customers. Accordingly, the Compact shall work with Eversource Energy to update its EES tariff at the time Eversource Energy files its next rate case.

First, the Program Administrators agree that benefits should be either participant or energy system benefits, but argue the Guidelines should allow for the possibility to include in future three-year plans other types of participant or energy system benefits besides those listed (Program Administrators Comments at 10). Therefore, the Program Administrators recommend replacing "which shall be comprised of the following" in the Straw Proposal § 3.4.4(a) and (b) with "which shall include, but not be limited to" (Program Administrators Comments at 10).

Second, the Program Administrators recommend adding "reliability" to the Straw Proposal § 3.4.4(a)(i) regarding avoided capacity costs. In the 2019-2021 three-year plan, the Program Administrators identified and included "reliability benefits" as a category of avoided capacity costs. See, e.g., D.P.U. 18-110 through D.P.U. 18-119, Exh. 1, App. C, at 20 (Benefits Summary Table: Statewide Electric). Accordingly, for clarification, the Program Administrators request that "reliability" be added to Straw Proposal § 3.4.4 (a)(i) (Program Administrators Comments at 10).

Third, the non-energy impacts in Straw Proposal § 3.4.4(e) state that "Non-energy impacts shall be calculated based on benefits that accrue to program participants." However, the Program Administrators argue that non-energy impacts can accrue to both participants and the energy system, as recognized in Guidelines § 3.4.3.[29] Thus, the Program

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[29] Guidelines § 3.4.3 states: "The Department will rely on the Total Resource Cost Test to determine cost-effectiveness. The Total Resource Cost Test includes all benefits and costs associated with the energy system, as well as all benefits and costs associated with Program Participants."

Administrators request a revision to the last sentence in Straw Proposal § 3.4.4(e) to add the following words in underline: "Non-energy impacts shall be calculated based on benefits that accrue to program participants and the energy system." (Program Administrators Comments at 11).

Finally, the Program Administrators proposed expanding the definition in Straw Proposal § 3.4.4(f) for reductions in all costs to the Distribution Company associated with reduced customer arrearages and reduced service terminations and reconnections to clarify that this section includes all the various types of benefits currently accounted for by the Program Administrators including, without limitation, rate discounts, price hedging, bad debt write-offs, customer calls and collections, notices, and safety-related emergency calls. The Program Administrators therefore recommend the addition of the following words in underline to Straw Proposal § 3.4.4(f): "Reductions in all costs to the Distribution Company associated with Energy Efficiency Programs, including, but not limited to, reduced customer arrearages and reduced service terminations and reconnections." (Program Administrators Comments at 11).

DOER supports all four recommendations included in the Program Administrators' comments. DOER argues that these changes would better align the Guidelines with the Department's stated goal of "[i]ncorporat[ing] changes in [its] policies and laws governing energy efficiency, as well as experience gained through the ongoing implementation of the three-year plans" (DOER Reply Comments at 8). The Joint Commenters support the first,

third, and fourth suggested edits to Straw Proposal § 3.4.4 made by the Program Administrators and were silent as to the second (Joint Commenters Reply Comments at 2).

The Joint Commenters raised concerns over the ability of gas programs to claim delivered fuel benefits in Straw Proposal § 3.4.4(c). The Joint Commenters contend that the gas utilities should not be allowed to claim savings through displacement of delivered fuel equipment with gas because they are not permitted to expand gas service to reduce emissions or ratepayer costs (Joint Commenters Comments at 4-5). According to DOER, although delivered fuel benefits are listed as a potential benefit of the gas programs in the Guidelines, gas Program Administrators claim them only in limited circumstances (DOER Reply Comments at 8-9). Therefore, DOER did not take issue with the proposed change, but encouraged the Department to clarify that the § 3.4.4(c) benefits in the Straw Proposal are not intended to change current practice and may not be used for gas Program Administrators to claim delivered fuel benefits for gas equipment conversions (DOER Reply Comments at 8-9).

The Program Administrators assert that the Joint Commenters' explanation of when gas Program Administrators can claim delivered fuel savings is inaccurate (Program Administrators Reply Comments at 18). The Program Administrators state that gas Program Administrators can currently claim delivered fuel savings for weatherization of homes that heat with both gas and a delivered fuel (Program Administrators Reply Comments at 18). The Program Administrators report that they do not claim delivered fuel savings from

converted delivered fuel equipment to gas equipment (Program Administrators Reply Comments at 18).

3. Analysis and Findings

The Program Administrators support the Department's proposal to establish a single set of benefits for all Program Administrators, but request additional revisions to further clarify how benefits are defined and to conform the Guidelines to benefits already approved by the Department. DOER supports the Program Administrators' revisions. The Department agrees and finds that the Program Administrators' revisions are reasonable clarifications of the Guidelines that are in line with existing practices. These revisions will be included in § 3.4.4.

The Joint Commenters raised concerns over the ability of gas Program Administrators claiming delivered fuel benefits in Straw Proposal § 3.4.4(c). The Department notes that gas Program Administrators claim delivered fuel savings for weatherization of homes that heat with both gas and a delivered fuel. The proposed clarification in Section 3.4.4(c) reflects current practice and ensures that the Program Administrators account for all benefits associated with implementing energy efficiency measures. The Department also notes that the Program Administrators do not claim delivered fuel savings from conversions. Accordingly, the Department does not adopt the Joint Commenters' proposed changes to the Guidelines.

B. Evaluation Plans

1. Introduction

Guidelines § 3.5.2 requires each three-year plan to include an evaluation plan describing how the Program Administrator will evaluate energy efficiency programs during the term. In recent three-year plans, the Program Administrators provided a statewide strategic evaluation plan to demonstrate the appropriate level of funding, scope, oversight, and planning of upcoming evaluation activities. See, e.g., D.P.U. 18-110 through D.P.U. 18-119, Exh. 1, Att. S. In addition, each Program Administrator filed separate documentation to support its savings assumptions and calculations, including completed evaluation studies that were applied to the three-year plans. See, e.g., D.P.U. 18-110 through D.P.U. 18-119, Exh. 1, Apps. T & U.

The Department proposed to revise Guidelines § 3.5 to reflect the information provided by the Program Administrators in the three-year plan and term reports, in addition to the information that the Department currently requires, to properly evaluate both completed evaluation studies and proposed evaluation plans (Straw Proposal §§ 3.5.2, 3.5.3).

2. Summary of Comments

DOER supports the increased specificity proposed by the Department regarding information needed to review strategic evaluation plans proposed by the Program Administrators (DOER Comments at 18). No other stakeholder commented on this change.

3. Analysis and Findings

The Department finds that the changes to Guidelines § 3.5 memorialize existing practice by the Program Administrators in the three-year plan and term reports. DOER supported these changes, and no other commenters expressed an opinion. Accordingly, the Department will include these changes in the Guidelines.

C. Hard-to-Measure Core Initiatives and Programs

1. Introduction

In the 2013-2015 Three-Year Plan, the Program Administrators proposed to re-categorize programs as core initiatives and define programs as a bundle of its component core initiatives. The Department accepted this re-categorization, recognizing the benefit of providing the Program Administrators with additional flexibility in delivering their plans. 2013-2015 Three-Year Plans Order, at 105. To recognize this change, the Department proposed a definition for "hard-to-measure core initiatives" in Straw Proposal § 2 to differentiate them from hard-to-measure programs. Also, similar to the proposal in Section III above regarding mid-term modifications, the Department must review significant sector budget changes that would lead to an increase in rates for residential or C&I customers. Therefore, the Department proposed to revise Guidelines § 3.8.1(1) to § 3.8.2 so that the addition of a hard-to-measure core initiative or hard-to-measure program requires Department review, in addition to Council review (Straw Proposal §§ 3.8.1, 3.8.2).

2. Summary of Comments

DOER does not take a position on this proposed change (DOER Comments at 18-19). No other stakeholder commented on this change.

3. Analysis and Findings

The Department finds that the addition of the definition for "hard-to-measure core initiatives" in Guidelines § 2 in order to differentiate them from hard-to-measure programs and the revision to Guidelines § 3.8.1(1) to § 3.8.2 requiring Department and Council review upon the addition of a hard-to-measure core initiative or hard-to-measure program memorializes existing practice and clarifies existing Guidelines. No commenters took a position on these changes. Accordingly, the Department will implement these changes.

D. Funding Sources (Electric)

1. Introduction

When the Guidelines were revised in D.P.U. 08-50-B and D.P.U. 11-120-A, electric Program Administrators did not yet have approved EES tariffs in place to show the calculation of the EES to recover energy efficiency-related costs from customers. Therefore, the Department included a step-by-step calculation in Guidelines § 3.2 for electric Program Administrators to calculate a residential, low-income, and C&I EES. See Massachusetts Electric Company and Nantucket Electric Company, D.P.U. 08-129, at 47 (2009). Since 2015, electric Program Administrators have had approved EES tariffs in place memorializing such calculations. D.P.U. 10-07-A through D.P.U. 10-09-A at 48. Thus, the calculation in Guidelines § 3.2 is no longer needed. To ensure consistency and replace or delete

duplicative or unnecessary information, the Department proposed to revise § 3.2 (Straw Proposal § 3.2.1).

2. Summary of Comments

DOER acknowledges the Department's change reflects current process and does not take a position on this proposed revision (DOER Comments at 19). No other stakeholder commented on these changes.

3. Analysis and Findings

The Department finds that the information in Guidelines §§ 3.2.1.2, 3.2.1.3, 3.2.1.4, 3.2.1.5, and 3.2.1.6 is no longer needed and should be removed. No commenters took a position on these changes. The Department will update the Guidelines to reflect this change.

E. All Available Energy Efficiency

1. Introduction

The Green Communities Act mandates that electric and natural gas resources must be first met through all energy efficiency and demand reduction resources that are cost effective or less expensive than supply, and that three-year plans must provide for these resources with the lowest reasonable customer contribution. G.L. c. 25 §§ 21(a), 21(b)(1). The Guidelines do not currently provide any specific guidance regarding how Program Administrators can meet their requirement to capture cost-effective energy efficiency and demand reduction resources, nor does it provide guidance on savings goals. In the 2019-2021 Three-Year Plans Order, at 9, the Department found that, in reviewing a savings goal, the Department must ensure that each Program Administrator takes appropriate steps to demonstrate that its

three-year plan (1) establishes a sustainable effort in its continued delivery of energy efficiency, (2) considers new technologies and enhancements, (3) includes the results of avoided costs, potential studies, and EM&V studies, and (4) seeks to design programs to address identified barriers. See 2016-2018 Three-Year Plans Order, at 25-27; 2013-2015 Three-Year Plans Order, at 37-40. These issues are relevant to the Department's ultimate determination of whether the three-year plans will provide for the acquisition of all available cost-effective energy efficiency and demand reduction resources. See G.L. c. 25, §§ 19(a), 19(b), 21(b)(1).

The Department proposed to amend Guidelines § 3.4.7 to incorporate these requirements to support this mandate (Straw Proposal § 3.4.7). Further, the Department proposed to amend Guidelines § 3.4.7 to incorporate the existing requirement for each Program Administrator to provide energy savings by fuel, demand services, and a net lifetime all fuels savings metric, for each program and core initiative. D.P.U. 08-50-B at 4, 10-12; 2019-2021 Three-Year Plans Order, at 156-157.

2. Summary of Comments

DOER agrees that the Guidelines at § 3.4.7.2 should reflect the requirement that the Program Administrators should provide savings goals, in part, "as a net lifetime all fuel savings goal" (DOER Comments at 22-23). However, DOER urges the Department to exclude the following additional language: "[t]he conversion factor must take into account, when converting electric savings, the embedded energy with heat values from a mix of fuels that generate the electricity" (DOER Comments at 23). DOER asserts that this additional

language preemptively commits Program Administrators to setting savings goals in terms of source MMBtus, without any stakeholder feedback received on the question of whether site or source MMBtus should be used to set the all-fuel savings goal, or whether GHG reduction or some other metric should instead be used as an alternative to a lifetime all fuel savings metric (DOER Comments at 23). The term sheet that added all fuel MMBtu savings to the Program Administrators' energy efficiency goals also added GHG savings goal for the 2019-2021 Three-Year Plan (DOER Comments at 23). Accordingly, DOER requests that the Department add language to § 3.4.7.2 implementing GHG emissions reduction goals (DOER Comments at 23).

According to DOER, a goals framework that includes GHG emissions reductions, site MMBtu savings, and fuel-specific savings goals is appropriate and necessary (DOER Reply Comments at 7). DOER argues that the all-fuel MMBtu savings metric was negotiated in the term sheet for the 2019-2021 three-year plan and was designed to work alongside the GHG reductions, benefits, and fuel-specific savings goals while the MMBtu savings goal was designed to measure the Program Administrators' success in capturing new savings opportunities authorized through the Energy Act of 2018, including electrifying fossil fuel end use (DOER Reply Comments at 7).

The Attorney General agrees that there is merit in examining an additional reporting metric that can report overall progress on all energy savings achieved in the three-year plans (Attorney General Comments at 3). The Attorney General argues that the appropriate conversion factors require further discussion (Attorney General Comments at 3). The

Attorney General contends that there is expert opinion that the most appropriate conversion factors may not be that straightforward, and that there are other, more nuanced conversion factors that should be considered instead (Attorney General Comments at 3). According to the Attorney General, a more comprehensive evaluation related to a new all-fuels metric may be better addressed during the planning process for the next three-year plan (Attorney General Comments at 3-4).

The Joint Commenters concur with DOER and their recommendations for revising the Department's proposed language in Section 3.4.7.2 (Joint Commenters Reply Comments at 1). The Joint Commenters explain that this would maintain 30 years of precedent of reporting energy saved as site metrics, rather than source metrics (Joint Commenters Reply Comments at 1). The Joint Commenters claim that site metrics have clear benefits over source metrics, including simplicity of calculation and alignments with state energy goals to increase electrification and reduce emissions (Joint Commenters Reply Comments at 1).

The Program Administrators support the Department's proposed amendment and expansion of Guidelines § 3.4.7 (Program Administrators Comments at 5-6). The Program Administrators argue that the proposed changes will bring the Guidelines in line with recent Department precedent and will harmonize the statutory requirement to achieve all available cost-effective energy efficiency, G.L. c. 25, §§ 21(a), 21(b)(1), with the statutory requirement to balance the impact to customer bills. G.L. c. 25, § 19(a)(3) (Program Administrators Comments at 5-6). The Program Administrators also support the Department's proposed additions of §§ 3.4.7.1 and 3.4.7.2 to the Guidelines because these

sections codify recent Department precedent and the Program Administrators' current practice in designing three-year plans (Program Administrators Comments at 8). The Program Administrators also support the proposed changes to § 3.4.7.2, including the addition of the net lifetime all fuel savings metric, as these data points are key metrics to measure success and to support the overall holistic approach of reducing and optimizing overall energy use (Program Administrators Comments at 8-9). The Program Administrators assert that the all-fuels MMBtu savings metric will better align with GHG reductions calculations and prove useful in evaluating progress towards the Commonwealth's 2050 statewide net-zero emissions limit (Program Administrators Comments at 8-9).

The Program Administrators disagree with DOER's statement that more stakeholder feedback is needed on whether to use site or source MMBtu (Program Administrators Reply Comments at 16). The Program Administrators contend that as part of the <u>2019-2021 Three-Year Plans Order</u>, the Department signaled that the Program Administrators must use a "more refined method" in the conversion of electric savings to MMBtu savings (Program Administrators Reply Comments at 16, <u>citing</u> <u>2019-2021 Three-Year Plans Order</u>, at 156-157). According to the Program Administrators, they have studied and identified an appropriate methodology to calculate energy savings based on the Department's previous directive (Program Administrators Reply Comments at 16). The Program Administrators also argue that electrification measures must provide MMBtu savings when measured at the source, so the proposed metric will not prevent increased efficient electrification (Program Administrators Reply Comments at 16-17). Finally, the Program Administrators state that

they support the inclusion of GHG reductions calculations in three-year plans but oppose DOER's recommendation for a separate savings goal (Program Administrators Reply Comments at 17).

3. Analysis and Findings

DOER and the Joint Commenters disagree with an all-fuels MMBtu savings metric calculated to include the source of generation, and advocate for an all-fuels MMBtu savings metric calculated at the site of usage. In contrast, the Program Administrators support the proposed all-fuel MMBtu savings metric defined by the Department and state that they have identified a methodology to properly calculate savings when measured at the source (Program Administrators Reply Comments at 16).

In the 2019-2021 Three-Year Plans Order, at 156-157, the Department supported the Program Administrators' attempt to convert all fuel savings into a common unit of measurement and directed the Program Administrators to further refine its method when converting electric savings to take into account the embedded energy with heat values from a mix of fuels that generate the electricity. In response to the Department's directive, the Program Administrators provided a study detailing a specific method for calculating MMBtus.[30] The Department is not persuaded to reverse its previous determination regarding

[30] The Department notes that the Program Administrators complied with the Department's directives and submitted the study as part of the Program Administrator's 2019 Energy Efficiency Plan Year Report. See 2019 Energy Efficiency Plan Year Report, D.P.U. 20-50, 2019 Energy Efficiency Plan Year Report, App. 7.

the calculation of an all-fuels MMBtu savings metric. The Energy Act of 2018 revised the Green Communities Act to allow the Program Administrators to seek to reduce energy use by encouraging customers to convert from non-electric fuel sources to high efficiency electric equipment, as well as allow electric Program Administrators to reduce overall energy use, such as oil and propane. The purpose of an all-fuels savings metric is to capture the overall savings achieved from the programs, including the impact of electrification measures. Accordingly, the Department declines to remove or modify the all-fuels MMBtu savings metric.

DOER and other stakeholders propose that the Department include a GHG emission reduction goal in Section 3.4.7.2 of the Guidelines. The Climate Act of 2021, which will become effective prior to the start of the 2022-2024 Three-Year Plan, requires the Program Administrators to include a numerical value of the three-year plan's contribution to meeting statewide GHG emissions limits. Accordingly, consistent with the Climate Act of 2021, the Department has revised Section 3.4.7.2 to include a requirement that the Program Administrators include a GHG emissions reduction goal. Pursuant to Section 28 of Climate Act of 2021, this goal should be consistent with the requirement that the three-year plans must be constructed to meet or exceed any GHG emission limit set by the Secretary of Energy and Environmental Affairs pursuant to G.L. c. 21N § 3B. Accordingly, the Program Administrators shall consult with the Executive Office of Energy and Environmental Affairs to develop the GHG reduction goal included in the three-year plan.

F. Department Review of Energy Efficiency Plans

1. Introduction

The Department's Guidelines establish two procedural tracks for stakeholders to intervene in the three-year plan proceedings. The Department proposed to amend Guidelines § 3.7.2(a) to clarify which track stakeholders must follow to intervene in the three-year plan proceeding. Specifically, members of the Council, as well as any stakeholder who was previously granted intervention as a full party or limited participant status will be considered a General Track participant. Any other party who is substantially and specifically affected by these proceedings but who otherwise did not participate in or whose interests were not adequately represented in the Council process will be considered an Alternate Track participant.

In addition, the Department proposed to modify the Model Procedural Schedule to: (1) remove the requirement of a technical session, (2) extend the discovery period by two days to allow more discovery on intervenor testimony, if any, and (3) shorten the evidentiary hearing period by two days (Straw Proposal § 3.7.3).

2. Summary of Comments

DOER does not take issue with this revision (DOER Comments at 24). No other stakeholder commented on these changes.

3. Analysis and Findings

The Department adopts its proposed revisions to Guidelines § 3.7.2(a) to clarify the intervention tracks for stakeholders. Additionally, the Department adopts the revisions to the Model Procedural Schedule to: (1) remove the requirement of a technical session, (2) extend

the discovery period by two days to allow more discovery on intervenor testimony, if any, and (3) shorten the evidentiary hearing period by two days.

G. Potential Studies

1. Introduction

In the 2016-2018 Three-Year Plans Order, at 25, Program Administrators were directed to conduct service territory-specific analysis of the remaining cost-effective energy efficiency potential every three years. The Department proposed to include a requirement for service territory-specific assessments of statewide cost-effective energy efficiency and demand reduction in the Guidelines (Straw Proposal § 3.4.7.1).

2. Summary of Comments

DOER supports the proposal and recommends that the Department include its previous directives for coordinated timing, formatting, and definitions across potential studies, in addition to detailed testimony and exhibits addressing how the studies' findings informed the development of the Program Administrator's energy savings goal (DOER Comments at 4-5). Additionally, DOER recommends that the Department require one statewide study that includes territory-specific analyses, potentially improving cost efficiency by reducing costs associated with multiple studies (DOER Comments at 4-5). The Joint Commenters agree that coordination among Program Administrators could be achieved with one potential study commissioned statewide (Joint Commenters Reply Comments at 1).

Program Administrators oppose DOER's proposal for a single statewide potential study, arguing it could obscure territory-specific differences (Program Administrator Reply

Comments at 3-4). According to the Program Administrators, because vendors are competitively procured and smaller Program Administrators have traditionally used the same vendor to save procurement costs, a single study will not necessarily lower administrative costs (Program Administrator Reply Comments at 3-4). Further, the Program Administrators oppose DOER's recommendation to revise the Guidelines to include directives for coordinated timing, formatting, and definitions across potential studies (Program Administrator Reply Comments at 3). The Program Administrators argue these directives will likely evolve in future orders and should not be included at this point (Program Administrator Reply Comments at 3).

3. Analysis and Findings

The Department reaffirms its finding that individual potential studies play a key role in helping Program Administrators set savings goals, provide insights specific to their customer base, and allow for further tailoring of program offerings and customer engagement across service territories. 2016-2018 Three-Year Plans Order, at 24-25. We also agree with DOER's recommendation to include the Department's directives related to potential studies set forth in 2019-2021 Three-Year Plans Order, at 38 in the revised Guidelines. The Department finds that these commonalities enhance the value of service territory-specific potential studies and assist in stakeholder review of the potential studies. Accordingly, the Department edits Straw Proposal § 3.4.7.1 to require the Program Administrators to (1) coordinate studies to present findings using common definitions for the various levels of

achievable potential, such that the study results are comparable, and (2) with input from the Council, establish a common study deadline to submit final potential study results.

H. Performance Incentive Guiding Principles

1. Introduction

DOER and the Joint Commenters recommend changes to Straw Proposal § 3.6.2. DOER requests that the Department amend § 3.6.2(b) to require that a performance incentive mechanism also be designed to encourage program designs that will support meeting the Commonwealth's goals pursuant to the Global Warming Solutions Act[31] (DOER Comments at 25).

DOER recommends adding the language shown in underline below to § 3.6.2(b):

> (b) designed in such a way as to encourage Energy Efficiency Program designs that will best achieve the Commonwealth's energy goals, particularly with regard to the goals stated in Chapter 169 of the Acts of 2008 and Chapter 298 of the Acts of 2008;...

DOER also recommends revising the list of guiding principles for designing a performance incentive mechanism to include the following language: "designed to encourage equitable service and participation" (DOER Reply Comments at 9-10).

The Joint Commenters suggest that the Department should consider removing the specific reference to the Green Communities Act and the limitation to energy goals in § 3.6.2(b) (Joint Commenters Comments at 7). The Joint Commenters argue that such an

[31] An Act Establishing the Global Warming Solutions Act, Acts of 2008, chapter 298.

edit would enable consideration of performance incentives for reaching the Commonwealth's GHG targets or environmental justice goals (Joint Commenters Comments at 7).

2. Summary of Comments

The Attorney General supports DOER's proposed addition to § 3.6.2(b), arguing that an express reference to the environmental goals of the Global Warming Solutions Act is fully consistent with the Green Communities Act (Attorney General Reply Comments at 5-6).

The Program Administrators disagree with DOER and the Joint Commenters and argue that the Department should not approve the proposed revisions to Section 3.6.2 (Program Administrators Reply Comments at 20). The Program Administrators argue that the Department reviews three-year plans for compliance with the Green Communities Act, not the Global Warming Solutions Act (Program Administrators Reply Comments at 20). Thus, referencing other statutes creates a lack of clarity (Program Administrators Reply Comments at 20). The Program Administrators assert that the guiding principles for designing performance incentive mechanisms should remain closely aligned with the statutory obligations set forth in the Green Communities Act, which include reducing energy use and reducing energy costs (Program Administrators Reply Comments at 20-21). To the extent that the commenters are seeking to capture the revisions of the Energy Act of 2018, which allow for the inclusion of strategic electrification and conversions to renewable and other clean energy technologies, the Program Administrators suggest that the Guidelines could be updated to replace "Chapter 169 of the Acts of 2008" with the codified sections "G.L. c. 25, §§ 19, 21-22" (Program Administrators Reply Comments at 19-21).

3. Analysis and Findings

The Department received comments recommending changes to the performance incentive section of the Guidelines. The Department did not include any revisions to this section in its Straw Proposal. The intent of the performance incentive mechanism is to provide incentives to achieve the goal set forth in the law establishing the three-year plan. See Guidelines § 3.6. The Department is not persuaded to revise the guiding principles for the performance incentive mechanism to include additional objectives. Accordingly, the Department declines to adopt the proposed additional revisions to the Guidelines.

The Department, however, agrees that since the passage of the Energy Act of 2018 and the Climate Act of 2021 the current reference to Chapter 169 of the Acts of 2008 should be removed. Accordingly, the Department revises Section 3.6.2(b) to state, "designed in such a way as to encourage Energy Efficiency Program designs that will best achieve the Commonwealth's energy goals[.]"

In regard to aligning the performance incentive mechanism with GHG emission reductions, the Department notes that the performance incentive mechanism is based on total benefits and net-benefits. See 2019-2021 Three-Year Plans Order, at 90. General Laws c. 25, § 21, as amended by the Climate Act of 2021, requires the Program Administrators to include the societal value of GHG emission reductions in the calculation of benefits, and therefore, these benefits should be incorporated in the calculation of performance incentives starting with the 2022-2024 Three-Year Plan.

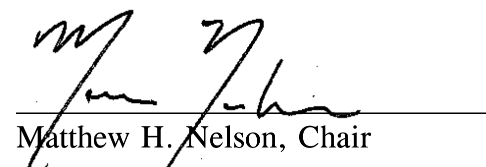
IX. ORDER

After consideration of the comments received, it is

ORDERED: That the revised Energy Efficiency Guidelines adopted in this Order shall apply to the Department's review of three-year energy efficiency plans and energy efficiency program performance; and it is

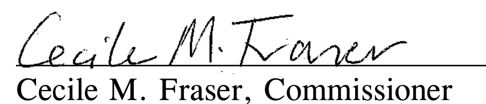
FURTHER ORDERED: That the Program Administrators shall comply with all directives contained herein.

By Order of the Department,



Matthew H. Nelson, Chair

Robert E. Hayden, Commissioner



Cecile M. Fraser, Commissioner