



# The Commonwealth of Massachusetts

## DEPARTMENT OF PUBLIC UTILITIES

D.P.U. 21-29

May 12, 2021

Petition of Massachusetts Municipal Wholesale Electric Company for authorization and approval to issue revenue bonds, notes or other evidences of indebtedness in an amount not to exceed \$170,000,000 pursuant to St. 1975, c. 775, §§ 5(p), 9, 11, and 17.

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### HEARING OFFICER RULING ON MOTION FOR EXTENSION

#### I. INTRODUCTION

On March 1, 2021, Massachusetts Municipal Wholesale Electric Company (“Company” or “MMWEC”) filed a petition with the Department of Public Utilities (“Department”) requesting approval to issue revenue bonds, notes or other evidences of indebtedness in an amount not to exceed \$170,000,000 pursuant to St. 1975, c. 775, §§ 5(p), 9, 11, and 17 (“Enabling Act”). The Company states that it will use the revenue to construct, own, and operate a fast-starting nominal 60 megawatt dual fuel simple cycle peaking electric generating unit (“Project”). The Department has docketed this matter as D.P.U. 21-29.

On March 23, 2021, the Department issued a Notice of Filing, Public Hearings and Request for Comments (“Notice”). On April 7, 2021 Mass Climate Action Network (“MCAN”) filed a petition to intervene, and on April 15, 2021 the hearing officer denied MCAN’s petition, but granted MCAN limited participant status. The Notice established a public hearing and an evidentiary hearing, which took place consecutively on April 26, 2021. At the conclusion of the evidentiary hearing, the hearing officer established a briefing schedule with initial and reply briefs due May 13 and May 20, 2021, respectively (Tr. at 121).

On May 11, 2021 MMWEC filed a motion pursuant to 220 CMR 1.02(5) to extend the briefing schedule such that initial briefs are due on June 15, 2021 (“Motion”). The Motion states that on May 10, 2021, the MMWEC Board of Directors voted to pause the Project for a minimum of 30 days (Motion at 1). On May 11, 2021 MCAN filed a letter stating that they do not oppose the Motion.

## II. ANALYSIS AND FINDINGS

MMWEC moves to extend the briefing schedule in this matter, a request the hearing officer has discretion to allow for good cause shown. 220 CMR 1.02(5). At the same time, however, MMWEC's Enabling Act directs the Department to issue an Order on a financing request within 30 days of the final hearing in the matter. Enabling Act at §1-17. The only hearings in this matter took place on April 26, 2021, therefore requiring a Department Order no later than May 26, 2021. Given that the Motion requests an extension of the briefing schedule to a date later than the statutory deadline for issuing an Order, the Department interprets the Motion to constitute a motion to stay the proceeding and toll the 30-day deadline to issue an Order until a date after June 15, 2021.

MMWEC's Motion states that the MMWEC Board of Directors voted to pause the Project for a minimum of 30 days. The impact of a stay would be a delay to MMWEC obtaining financing, and in turn, a potential delay to the commencement of the Project. Therefore, any potential effect from granting the stay would fall on MMWEC.<sup>1</sup> As MMWEC is the moving party, and MMWEC's Board voted to impose a delay, the Department has no concern about the potential impact of the delay on MMWEC or its legal rights established by the Enabling Act as a result of granting the stay. Given the lack of opposition to the Motion and the narrow potential impact to MMWEC described above, the Department stays this proceeding until further notice. Because MMWEC's Board of Directors voted for a *minimum* 30-day delay to the Project, we do not find it advisable to set a specific date to end the stay at this time. The Department tolls the 30-day deadline to issue an Order today, May 12, 2021. Upon resuming this proceeding, the Department will establish a new briefing schedule and have 14 days to issue an Order.

MMWEC shall file an update in this docket no later than June 15, 2021 stating whether it is prepared to resume this proceeding, whether it requires additional time to determine when it will be prepared to resume, and if so, an approximate date when it will be prepared to resume. Upon receipt of MMWEC's update, as appropriate, the hearing officer will establish a date to resume the proceeding, a briefing schedule, the new deadline for the Department to issue an Order pursuant to the Enabling Act, a deadline for a further update, or any other procedural process as necessary.

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<sup>1</sup> MCAN, the only other party in this matter, does not oppose the Motion and would not suffer from a delay in a decision on this matter (MCAN Letter at 1).