



The Commonwealth of Massachusetts

DEPARTMENT OF PUBLIC UTILITIES

MEMORANDUM

TO: Service List in Joint Petition of Fitchburg Gas and Electric Light Company, Massachusetts Electric Company and Nantucket Electric Company, and NSTAR Electric Company for Approval of Revised Model Solar Massachusetts Renewable Target Program Provision, D.P.U. 20-145; Service List in D.P.U. 19-07, Investigation into Initiatives to Promote and Protect Consumer Interests in the Retail Electric Competitive Supply Market; Service List in D.P.U. 20-MA, 2019 Municipal Aggregation Plans; Distributed Generation Electronic Distribution List

FROM: Krista Hawley, Hearing Officer

RE: Additional Intervention Period

DATE: May 21, 2021

CC: Mark D. Marini, Secretary

I. PROCEDURAL BACKGROUND

On December 3, 2020, Fitchburg Gas and Electric Light Company d/b/a Unitil (“Unitil”), Massachusetts Electric Company and Nantucket Electric Company, each d/b/a National Grid (“National Grid”), and NSTAR Electric Company d/b/a Eversource Energy (“Eversource”) (collectively “Distribution Companies”) submitted to the Department of Public Utilities (“Department”) in D.P.U. 20-145 a joint filing (“Filing”) for review and approval of revisions to the current model Solar Massachusetts Renewable Target (“SMART”) tariff (“SMART Provision”) implementing revisions to 225 CMR 20.00 and proposing other changes. The regulations at 225 CMR 20.00 (“SMART Regulations”) set forth a voluntary statewide solar incentive program (“SMART Program”) to implement an Act Relative to Solar Energy, St. 2016, c. 75 (“Act”).

On July 24, 2020, the Massachusetts Department of Energy Resources (“DOER”) promulgated final revised SMART Regulations. The revised SMART Regulations and corresponding revised SMART Guidelines made several changes to the SMART Program, including adjustments to incentive rate formulas, modified eligibility requirements, and created new categories of projects that may be eligible for incentives under the SMART Provision. In the Filing, the Distribution Companies propose changes to the SMART Provision which are intended to reflect the updated SMART Regulations, as well as revisions to provide clarity and to enable a Distribution Company-administered low-income community solar program (Petition at 3-4).

On January 22, 2021, the Department issued a Notice of Filing and Public Hearing in D.P.U. 20-145, in which the Department stated that it had made a preliminary determination that it is appropriate and most efficient to proceed with a phased approach to its review of the Filing in D.P.U. 20-145.¹ For purposes of the Notice, the Department classified as Phase I the proposed tariff revisions intended to align with the revisions made to the SMART Regulations and defined as Phase II additional issues identified in the Filing. The Department, therefore, sought public comments on the proposed Phase I Revisions, including whether any such revisions are more properly considered in a second phase of this proceeding (Notice of Filing and Public Hearing at 3 (January 22, 2021)).

The Attorney General of the Commonwealth of Massachusetts (“Attorney General”) is an intervenor in D.P.U. 20-145 pursuant to G.L. c. 12, § 11E(a). The Department granted intervenor status to the following in D.P.U. 20-145: DOER, Solar Energy Industries Association, Inc. (“SEIA”), and Low-Income Weatherization and Fuel Assistance Program. The Department granted limited participant status in D.P.U. 20-145 to Colonial Power Group, Inc (“Colonial Power”).

On February 11, 2021, the Distribution Companies made a supplemental filing in D.P.U. 20-145 responding to six specific requests made by the Department in a January 22, 2021 letter. On February 17, 2021, the Department conducted a virtual public hearing in D.P.U. 20-145 in lieu of an in-person hearing.² Written comments were filed in

¹ The Distribution Companies identified certain proposed changes required to bring the SMART Provision into alignment with the revised SMART Regulations, and both the Distribution Companies and DOER urged that the first set of revisions be reviewed by the Department on an expedited basis on a separate procedural track within D.P.U. 20-145 (Filing Cover Letter at 2; Comments of DOER at 1-2 (December 15, 2020)).

² On March 10, 2020, Governor Baker issued an Executive Order declaring a state of emergency regarding COVID-19, a contagious and, at times, fatal respiratory disease. See Executive Order No. 591: Declaration of a State of Emergency to Respond to COVID-19, dated March 10, 2020 and available at:

D.P.U. 20-145 by the following: Nexamp, Inc. (“Nexamp”); Attorney General; BlueWave Community Solar, LLC (“BlueWave”); Zero-Point Development, Inc. (“Zero-Point”); WinnCompanies LLC (“WinnCompanies”); and Colonial Power.³

On February 25, 2021, the Department issued a first set of discovery to the Distribution Companies regarding whether certain issues could be deferred to Phase II of the proceeding in D.P.U. 20-145. The Distribution Companies filed responses to the Department’s information requests on March 11, 2021.

On March 24, 2021, the Department stated its intent to issue an Order on the scope of the proceeding in D.P.U. 20-145 considering the differences among the parties on the matters to be included in Phase I and Phase II, and sought further comments from parties on the scope of the phased proceeding given additional information that had been submitted by the parties (Hearing Officer Memorandum, March 24, 2021). The Attorney General, DOER, SEIA, and Zara Dowling, Chair of the New Salem Energy Committee, each filed comments on April 2, 2021.

II. ORDER ON SCOPE AND ADDITIONAL INTERVENTION PERIOD

The Department has issued its Interlocutory Order on Scope of Proceeding (“Scoping Order”) in this matter on this same day, May 21, 2021. Revised Model SMART Provision, D.P.U. 20-145-A (May 21, 2021). In the Scoping Order, the Department defined those issues to be considered as part of Phase I of proceeding, and those to be determined in Phase II. D.P.U. 20-145-A at 13-18. The Department also noted that certain stakeholders who have not intervened or otherwise participated in this matter thus far may be interested in now participating in light of the scope of this proceeding set forth in the Scoping Order. D.P.U. 20-145-A at 18. The Department, therefore, invites stakeholders and potential parties interested in the issues raised in the Scoping Order to file petitions to intervene consistent with Department regulations (220 CMR 1.03).

Any person who desires to participate otherwise in the evidentiary phase of this proceeding shall file a petition for leave to intervene no later than 5:00 p.m. on June 4, 2021. A petition for leave to intervene must satisfy the timing and substantive requirements of 220 CMR 1.03. Receipt by the Department, not mailing, constitutes filing and determines whether a petition has been timely filed. A petition filed late may be disallowed as untimely, unless good cause is shown for waiver under 220 CMR 1.01(4). To be allowed, a petition

<https://www.mass.gov/doc/governors-declaration-of-emergency-march-10-2020-aka-executive-order-591/download> (last visited May 19, 2021).

³ Prior submissions include a DOER letter on December 15, 2020, and an SEIA letter on January 13, 2021.

under 220 CMR 1.03(1) must satisfy the standing requirements of G.L. c. 30A, § 10. All responses to petitions to intervene must be filed by the close of business (5:00 p.m.) on the second business day after the petition to intervene was filed. All potential intervenors and parties also should refer the procedural guidelines established in the procedural memorandum and ground rules issued in this matter (Hearing Officer Memorandum, March 24, 2021). Potential intervenors should note that all motions to intervene should be filed electronically consistent with the procedural rules referenced (Hearing Officer Memorandum at 6, March 24, 2021).