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June 13, 2022

VIA ELECTRONIC MAIL ONLY (dpufiling@mass.gov)

Mark D. Marini, Secretary
Department of Public Utilities
One South Station, 5th Floor
Boston, MA 02110

*Re: D.P.U. 21-80 // Track 2
Petition of NSTAR Electric Company d/b/a Eversource Energy for approval
of its Grid Modernization Plan for calendar years 2022 to 2025*

Dear Secretary Marini:

This letter serves as the reply brief of the Cape Light Compact JPE (the “Compact”) in the above-referenced proceeding.¹ On May 16, 2022, the Compact filed its initial brief in this proceeding (“Compact Initial Brief”). On June 1, 2022, NSTAR Electric Company d/b/a Eversource Energy Massachusetts Electric Company (“Eversource” or the “Company”) submitted its Joint Initial Brief with Nantucket Electric Company d/b/a National Grid (“Joint Initial Brief”).

Eversource has proposed a preliminary cost estimate of \$620 million for its advanced metering infrastructure (“AMI”) implementation plan. Given that considerable expense, the Department of Public Utilities (the “Department” or “DPU”) should ensure that any approval of that AMI plan would in turn deliver significant customer benefits. See D.P.U. 15-122 Order at 133 (May 10, 2018) (stating that, prior to preauthorizing an expenditure of ratepayer funds for AMI investments of this magnitude, the DPU would need to have a “high degree of certainty” that the benefits of such deployment would justify the costs). AMI has the potential to be transformational for the Commonwealth’s electric industry, but only if the infrastructure is actually used in a manner that would allow it to achieve significant customer benefits. There is some question in this proceeding whether Eversource’s intentions with respect to its use of AMI – specifically in terms of its

¹ This reply brief is not intended to respond to every argument made or position taken by Eversource or the intervenors. Rather, this reply brief is intended to respond only to the extent necessary to assist the Department in its deliberations. Silence by the Compact on any issue addressed in the Joint Initial Brief or intervenors’ initial briefs should not be construed as assent to those positions.

use for time-varying rates (“TVR”) – would produce such significant customer benefits. Eversource has proposed to invest in and build out infrastructure for AMI, but otherwise has committed to very little in terms of how that infrastructure would be used in the future. The Joint Initial Brief signals that the Company intends to pursue only opt-in TVR and opt-in data access, both of which may severely curtail municipal aggregations’ ability to offer meaningful TVR and customers’ ability to realize the benefits of AMI.

Throughout this proceeding, Eversource has steadfastly sought to delay consideration of key customer benefits from AMI deployment, making it difficult to evaluate what the true benefits of any future Eversource AMI deployment would be. For example, the Company repeatedly references future Department proceedings with respect to TVR and data access. See, e.g., Joint Initial Brief at 136. In addition, Eversource recognized that it has not proposed specific AMI performance metrics at this time. *Id.* at 57. While the Compact takes no issue with the future proceedings themselves, certain core, precedential commitments (e.g., opt-out TVR, opt-out data access and billing facilitated by the distribution companies) should be expressly tied to and conditioned on any AMI approval to ensure customer benefits would result from its deployment.

Accordingly, the Compact requested in its Initial Brief that the Department should issue the following directives with its Order in this proceeding to ensure that customers will in fact reap those AMI benefits:

(a) Eversource² should commence (1) a stakeholder process as discussed herein no later than three (3) months following the DPU’s Order in this proceeding, and (2) a data access and billing proceeding no later than nine (9) months following the DPU’s Order.

(b) Eversource’s plan for the data access and billing proceeding should contain the following: (1) opt-out data access for municipal aggregators to offer TVR that includes access to interval level energy usage data at reasonable costs; (2) implementation of billing for a wide variety of municipal aggregator TVR offerings; and (3) performance metrics that encourage data access and billing for third-party TVR.

Compact Initial Brief at 3, 19-20. The stakeholder process referenced above should include municipal aggregators.

Eversource’s Joint Initial Brief displayed the importance of and need for the Department to issue directives to set the stage for the TVR and data access proceedings to come. Eversource clearly stated that, of its own accord, TVR and third-party data access

² In the Joint Initial Brief, Eversource stated that it should not be “the entity responsible for initiating and facilitating this process because the Department has already identified the benefits of a statewide protocol that will require all EDCs to participate.” Joint Initial Brief at 135. The Compact has intervened in D.P.U. 21-80 so only referred to Eversource in this context; however, the Department should decide how best to commence the proceeding in addition to issuing additional directives related to it.

would be provided only on an opt-in basis. Joint Initial Brief at 60, 123, 132. Specifically, Eversource stated that an opt-in TVR program would be “ideal” to “target those customers with discretionary load to shift” and because “there are real equity concerns that arise with an opt-out TVR approach.” *Id.* at 60. Eversource also provided that it does not “anticipate making AMI data available on an opt-out basis.” *Id.* at 132.

These Company positions, if implemented, would severely undercut the customer benefits associated with the investment in and deployment of AMI and, significantly, would be a departure from Department precedent. See Compact Initial Brief at 9-13. Yet, Eversource has not provided any evidentiary support for these positions. In its Joint Initial Brief, Eversource offered no justification for its conclusion about opt-in TVR. See Joint Initial Brief at 60. Eversource entirely ignores the long-standing Department policy of opt-out TVR adopted in D.P.U. 14-04 as well as the success of the Worcester opt-out TVR pilot. See *Time Varying Rates*, D.P.U. 14-04-C, Order Adopting Policy Framework at 2-3 (November 5, 2014); Tr. Vol. 5 at 991-92; Exh. GECA-Surrebuttal-KS-1 at 6. Likewise, Eversource’s equity concerns with opt-out TVR ignore evidence presented in this case demonstrating that opt-out TVR has lowered the bills of low to middle income customers. GECA Initial Brief at 16-18; Exh. GECA-Surrebuttal-KS-1 at 10-12. Further, Eversource’s TVR decisions for its own residential customers should have no impact on municipal aggregators’ choices for their own TVR programs. Compact Initial Brief at 17-19 (“Municipal aggregations must be free to design their own TVR offerings that will maximize the customer benefits of AMI.”).

Similarly, Eversource has offered no evidence for its statement that it would change the current system of opt-out data access for municipal aggregators to opt-in for AMI data. See Joint Initial Brief at 123, 132. Eversource seems to argue that, simply because there will be more and different information made available by AMI, the Company would have to restrict access even to data legitimately necessary for municipal aggregators to design and implement their own TVR programs. See Joint Initial Brief at 123. While the Compact respects privacy and cybersecurity considerations, Eversource’s unsupported claims would create an unreasonable barrier to municipal aggregators offering TVR on a meaningful basis. Meanwhile, intervenors in initial briefs agreed that opt-out data access is a crucial aspect of TVR and that, given the large number of Massachusetts residential customers on municipal aggregation, the current process should continue such that municipal aggregators can access opt-out bulk AMI data and billing for TVR purposes. See DOER Initial Brief at 22-23; CLF Initial Brief at 20; GECA Initial Brief at 11-12; NRG Initial Brief at 17-18; Compact Initial Brief at 15-16.

In its Joint Initial Brief, Eversource stated that the Compact “also mispresents the concerns raised by Eversource during hearings with respect to municipal aggregator TVR offerings.” Compact Initial Brief at 17 (stating that Eversource “raised several challenges” to the authority of a municipal aggregator to develop TVR offerings). Eversource offers no explanation for this claim. In addition to Eversource’s stated intentions for opt-in TVR and opt-in data access, Eversource explained during the hearings that:

Our thought was that there would be kind of a standard framework of [TVR] that perhaps are consistent across the Commonwealth that we could build in, and then our competitive suppliers could tap into those types and apply it to their supply piece, the kind of standard time-varying rates, which is what I meant by having the Department kind of create that type of discussion and dialogue.

Tr. Vol. 5 at 840, lines 16-24; see also Compact Initial Brief at 18-19 (citing Tr. Vol. 5 at 832, lines 7-14). That statement appears to envision that municipal aggregators would be restricted or prohibited from designing and implementing their own TVR programs for their own customers. See also Compact Initial Brief 17-19. As the Compact discussed in its Initial Brief, such a “framework appears inconsistent with the Department’s vision in D.P.U. 15-122 and D.P.U. 14-04 that clearly includes municipal aggregators running their own TVR programs.” Compact Initial Brief at 18 (citing Section IV.B at 10-11 (discussing Department precedent requiring municipal aggregation TVR)).

Eversource further responded to the Compact that:

[T]here is the potential for customer confusion if TVR offerings are permitted to vary across towns and service territories and there could be unintended consequences if TVR offerings are not aligned to ensure true grid optimization (id.; see also Exh. DPU 17-6). This is precisely why the Company supports the statewide, stakeholder process.

Joint Initial Brief at 136. However, alignment of TVR offerings to ensure true grid optimization was shown to be a hypothetical issue during the hearings and one that could be resolved by communication between Eversource and municipal aggregators. Tr. Vol. 5 at 839, line 14 to 840, line 14; Tr. Vol. 5 at 995, line 8 to 999, line 2. Further, customer confusion related to TVR offerings can be alleviated by a robust customer education campaign commencing after issuance of the Order in this case. These statements – along with Eversource’s opt-in TVR and opt-in data access intentions – signal Eversource’s intention to limit municipal aggregations’ TVR programs, which the Company does not have the evidentiary support for nor the authority to do.

With the ten-year anniversary of the commencement of the Department’s grid modernization proceeding (D.P.U. 12-76) rapidly approaching, the Compact remains as eager now as it was then to offer the benefits of TVR to its municipal aggregation customers. The Compact’s requested directives on which the Department should condition its Order in this proceeding would help ensure that AMI deployment resulting from this proceeding should deliver significant benefits for customers, including meaningful opt-out TVR facilitated by opt-out data access for the large percentage of residential customers on municipal aggregation.

Secretary Mark D. Marini

June 13, 2022

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Accordingly, the Compact requests that the Department issue an Order consistent with the Compact Initial Brief and this reply brief.

Respectfully submitted,

CAPE LIGHT COMPACT JPE

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RFZ/drb
Enclosure

cc: Kerri Phillips, Hearing Officer, DPU (via email)
Susan Geiser, Hearing Officer, DPU (via email)
D.P.U. 21-80 Service List (via email)
Margaret T. Downey, Compact Administrator (via email)

**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF PUBLIC UTILITIES**

NSTAR Electric Company)	
d/b/a Eversource Energy)	D.P.U. 21-80, Track 2
2022-2025 Grid Modernization)	

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing documents upon the Department of Public Utilities and all parties of record in the respective proceedings identified below, in accordance with the requirements of 220 CMR 1.05(1) (Department's Rules of Practice and Procedure).

Dated this 13th day of June, 2022.

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