

The Commonwealth of Massachusetts

DEPARTMENT OF PUBLIC UTILITIES

D.P.U. 21-50

December 28, 2022

Notice of Inquiry by the Department of Public Utilities on its own Motion into procedures for enhancing public awareness of and participation in its proceedings.

INTERLOCUTORY ORDER AND DRAFT POLICY
ON ENHANCING PUBLIC AWARENESS AND PARTICIPATION

I. INTRODUCTION

On April 16, 2021, the Department of Public Utilities (“Department”) issued a Vote and Order opening this inquiry into procedural enhancements to our public notice requirements to increase public awareness of and participation in Department proceedings. In the Vote and Order, the Department solicited comments on questions designed to assist our next steps in this proceeding. The Department received comments from: (1) the Attorney General of the Commonwealth of Massachusetts (“Attorney General”); (2) the Massachusetts Department of Energy Resources (“DOER”); (3) City of Boston; (4) Boston Housing Authority; (5) Climable.org; (6) Pipe Line Awareness Network for the Northeast, Inc. (“PLAN”); (7) Massachusetts Climate Action Network (“MCAN”); (8) the distribution companies jointly;¹ (9) Environmental Defense Fund (“EDF”); (10) Town of Hopkinton; (11) Conservation Law Foundation (“CLF”); (12) PowerOptions; (13) National Consumer Law Center (“NCLC”); (14) Gas Leaks Allies; (15) Browning the Green Space; (16) Betsy Sowers of the Fore River Residents Against the Compressor Station; (17) Andrea Honore; (18) Rosalind Nadeau, Board Member of Sustainable Marblehead and Treasurer of HealthLink, Inc.; and (19) several public interest organizations and interested persons

¹ The following distribution companies submitted joint comments: Boston Gas Company, Massachusetts Electric Company, and Nantucket Electric Company, each d/b/a National Grid; NSTAR Electric Company, NSTAR Gas Company, and Eversource Gas Company of Massachusetts, each d/b/a Eversource Energy; Liberty Utilities (New England Gas Company) Corp. d/b/a Liberty; The Berkshire Gas Company; and Fitchburg Gas and Electric Light Company d/b/a Unitil.

jointly.² On May 25, 2022, the distribution companies filed responses to additional questions from the Department. After reviewing the comments, the Department announced that it would conduct a virtual stakeholder roundtable session (“roundtable”) in coordination with the Energy Facilities Siting Board (“EFSB”) on public engagement issues related to both the Department and the EFSB.³ D.P.U. 21-50, Hearing Officer Memorandum Announcing Roundtable (July 19, 2022).

The Department hosted the roundtable with the EFSB on August 25, 2022. Representatives from numerous entities participated in the roundtable, including the following: (1) Town of Hopkinton; (2) Town of Needham; (3) City of Springfield; (4) GreenRoots, Inc.; (5) Attorney General; (6) EDF; (7) Metropolitan Area Planning

² The following persons submitted these joint comments: (1) Priya Gandbhir, Staff Attorney, CLF; (2) Deb Pasternak, State Director, Sierra Club Massachusetts; (3) Audrey Schulman, Co-Executive Director, HEET; (4) Roseann Bongiovanni, Executive Director, GreenRoots, Inc.; (5) G. Lee Humphrey, Gas Leaks Allies; (6) Claire Miller, Movement Building Director, Unitarian Universalist Mass Action; (7) Karry Muzzey, Co-Chair, Take Back the Grid; (8) Sofia Owen, Staff Attorney and Director of Environmental Justice Legal Services, Alternative for Community and Environment; (9) Alan Ransil, PhD, Sunrise Boston; (10) Sabrina Davis, Lead Organizer, Coalition for Social Justice; (11) Kyle Murray, Senior Policy Advocate – Massachusetts, Acadia Center; (12) Cathy Kristofferson, Secretary, PLAN; (13) Adele Franks, Steering Committee Member, Climate Action Now, Western Mass; and (14) Steven Marantz, Member, Longmeadow Select Board.

³ On June 30, 2021, the EFSB opened its own proceeding to examine procedural enhancements to its public notice requirements to increase public awareness of and participation in EFSB proceedings, including siting-related matters under the Department’s jurisdiction. EFSB21-01. While the Department and the EFSB have similar public notice requirements, each agency has its own separate and distinct procedures and practices. Thus, the Department and the EFSB will issue separate public awareness and participation policies that accord with the needs of each entity.

Council; (8) CLF; (9) Acadia Center; (10) NCLC; (11) NSTAR Electric Company, NSTAR Gas Company, and Eversource Gas Company of Massachusetts, each d/b/a Eversource Energy; (12) Boston Gas Company, Massachusetts Electric Company, and Nantucket Electric Company each d/b/a National Grid; (13) Boston Housing Authority; (14) Massachusetts Association for Community Action (i.e., MassCAP); (15) DOER; and (16) Boston Residents Group. Following the roundtable, the Department solicited additional comments on the issues discussed at the roundtable and received comments from the following entities:

(1) Attorney General; (2) PLAN; (3) distribution companies jointly; (4) CLF; (5) several public interest organizations and interested persons jointly;⁴ (6) MCAN; (7) Vote Solar; and (8) Erika Kohl of the Town of Westford's Clean Energy and Sustainability Committee.

II. DEPARTMENT ACTIONS

Throughout this proceeding, the Department has explored avenues to increase both the visibility of our public notices and public and stakeholder involvement in our proceedings.

The pursuit of better and more meaningful outreach and education is a process in which there

⁴ The following persons submitted these joint comments: (1) Jon Yakie, Manager, Environmental Justice and Outreach, Acadia Center; (2) Kyle Murray, Senior Policy Advocate – Massachusetts, Acadia Center; (3) Boston Residents Group; (4) Paulina Casasola, Climate Justice Organizer, Clean Water Action; (5) Sabrina Davis, Lead Organizer, Coalition for Social Justice; (6) Priya Gandbhir, Staff Attorney, CLF; (7) Staci Rubin, Vice President, Environmental Justice, CLF; (8) Alice Arena, President, Fore River Residents Against the Compressor Station; (9) Jolette Westbrook, Director and Senior Attorney, Equitable Regulatory Solutions, EDF; (10) Larry Chretien, Executive Director, Green Energy Consumers Alliance; (11) John Walkey, Director of Waterfront and Climate Justice Initiatives, GreenRoots, Inc.; and (12) Cathy Kristofferson, Co-Founder, PLAN.

will always be room for improvement, and we must balance this process with our ongoing obligation to conduct timely and administratively efficient proceedings. While the Department continues its efforts to enhance public engagement, it is worth noting that the Department has already improved the accessibility of our proceedings and public notices to make these resources more user-friendly through the following actions:

- Consistent with the Executive Office of Energy and Environmental Affairs' ("EEA") 2021 Environmental Justice Policy ("EJ Policy")⁵ and Chapter 8 of the Acts of 2021, An Act Creating a Next-Generation Roadmap for Massachusetts Climate Policy, the Department has developed an agency-specific Environmental Justice Strategy that is currently under review by EEA, our parent agency. This strategy is designed to enhance meaningful involvement of all people and communities with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies, including climate change policies, and the equitable distributions of energy and environmental benefits and burdens. As part of this process, the Department is evaluating methods to promote further public and stakeholder involvement in our proceedings. Currently, the Department generally requires the publication of notices of proceedings on the Department's website, jurisdictional company websites, and in newspapers.⁶ To the extent feasible, the Department's Environmental Justice Strategy will strive to enhance community outreach and participation by requiring publication of Notices of Investigations, Requests for Comments, and other related public notices, especially for regulatory actions with potential substantial impacts on environmental justice populations, through additional platforms.
- Recognizing the importance of ensuring that persons with limited English proficiency have the same opportunity to participate in Department proceedings as

⁵ EEA, *Environmental Justice Policy of the Executive Office of Energy and Environmental Affairs* (2021) available at <https://www.mass.gov/doc/environmental-justice-policy6242021-update/download>.

⁶ In addition, the Department may also require notices to be mailed to customers (e.g., seasonal water company customers) and/or specific groups of potentially affected entities (e.g., competitive suppliers and marketers) in certain types of cases. Also, in some cases impacting specific communities, the Department requires service of the notice on stakeholders and local officials, and, in siting-related Department

those with English proficiency, the Department has provided interpretation services at both in-person and remote public hearings. These include this proceeding as well as the following: Bay State Gas Company, D.P.U. 19-140/D.P.U. 19-141, January 29, 2020 and February 10, 2020 Public Hearings; Joint Petition of Eversource Energy, NiSource Inc., Eversource Gas Company of Massachusetts, and Bay State Gas Company for approval by the Department of Public Utilities of (1) the sale of Bay State Gas Company to Eversource Energy; and (2) a settlement agreement resolving the proposed sale and two pending Department investigations into the Merrimack Valley Incident, D.P.U. 20-59, August 25, 2020 and August 27, 2020 Public Hearings; Boston Gas Company, D.P.U. 20-120, January 26, 2021 and January 28, 2021 Public Hearings; Investigation into the role of gas local distribution companies as the Commonwealth achieves its target 2050 climate goals, D.P.U. 20-80, May 3, 2022 and May 5, 2022 Public Hearings; and NSTAR Electric Company, D.P.U. 22-22, March 29, 2022 and March 31, 2022 Public Hearings. The use of interpreters at public hearings requires a great deal of preparation and coordination by Department staff with the distribution companies involved in the proceedings and the companies providing interpretation services. In addition to selecting the languages to be interpreted, based on the communities affected, the Department also accommodates interpretation for other languages upon request.

- The Department has also required the translation of notices into different languages not only for this proceeding but also for the following dockets: Joint Petition of Eversource Energy, NiSource Inc., Eversource Gas Company of Massachusetts, and Bay State Gas Company for approval by the Department of Public Utilities of (1) the sale of Bay State Gas Company to Eversource Energy; and (2) a settlement agreement resolving the proposed sale and two pending Department investigations into the Merrimack Valley Incident, D.P.U. 20-59, Notice of Filing and Public Hearing (July 24, 2020); Boston Gas Company, D.P.U. 20-120, Notice of Filing, Public Hearings, and Procedural Conferences (November 24, 2020); Investigation into the role of gas local distribution companies as the Commonwealth achieves its target 2050 climate goals, D.P.U. 20-80, Notice of Filing and Public Hearing (March 23, 2022); and NSTAR Electric Company, D.P.U. 22-22, Notice of Filing, Public Hearings, and Procedural Conference (January 28, 2022). In addition to selecting the languages into which the notice is translated, based on the communities affected, the Department also accommodates translation into other languages upon request.

matters, abutters and area residents. Finally, the Department typically requires service to be made on service lists of related dockets.

- The Department has directed the distribution companies subject to our jurisdiction to hire translators to translate notices and provide interpreters at public hearings in base distribution rate proceedings as well as proceedings directly impacting environmental justice communities with limited English proficiency populations, such as municipal aggregation proceedings involving Fitchburg, Quincy, and Chelsea.
- The Department has created a new staff position, the Public Access Coordinator. When the position is filled (job posting found [here](#)), the Public Access Coordinator will be dedicated to coordinating environmental justice and language access issues, supervising access to public records, and facilitating enhancements to our public outreach strategies.
- The Department has instructed staff to address language access and environmental justice issues in proceedings where appropriate. We are also working to improve our Language Access Plan.
- The Department has modified its notice procedures to include in its notices a high-level, plain-language summary of the technical information, explaining certain terms so that an average reader can understand the issues involved in the proceeding. The summary also includes bill impacts indicating how the proceeding is expected to affect members of the public, particularly low-income customers.
- The Department has created webpages dedicated to particularly important proceedings, including this docket (<https://www.mass.gov/resource/enhancing-public-engagement>).
- As part of this proceeding, the Department has conducted a survey of how other state public utility commissions are addressing public access issues (including those of California and Connecticut) and sought information directly from other entities (such as the Massachusetts Office on Disability, the Federal Energy Regulatory Commission's Office of Public Participation, and the National Association of Regulatory Utility Commissioners Subcommittee on Consumers and the Public Interest) on their public access experiences. The Department will use these discussions to evaluate changes to its internal notice and outreach policies.
- Also, as part of this proceeding, the Department has is in the process of updating its webpages to add information on the various steps of a Department proceeding, how to more easily find documents related to proceedings, and how to participate in proceedings. The Department expects to complete these updates by summer 2023.

The Department will continue to require translation and interpretation services as necessary for certain dockets, depending on the nature of the docket and the environmental justice communities affected. The Department will also continue its work on improving the educational components of its website to improve public engagement. Additionally, the Department will continue to seek information from various entities to improve public awareness of and participation in our proceedings. The Department will continue to build upon and improve in the aforementioned areas to enable broader public access to and involvement in Department proceedings.

III. DRAFT POLICY

As a further step in this proceeding, the Department seeks comments on the following draft policy. The Department developed the draft policy to balance the rights of parties to an administratively efficient review of proposals, the interests of stakeholders and members of the public, and the cost of conducting a proceeding. As electric energy costs are the highest in Massachusetts history and customers are facing rising energy and transportation costs, the Department is mindful of the importance of expanding the public's understanding of the Department's work while mitigating cost increases. We encourage interested persons to present consensus positions and submit comments jointly, when possible. After the Department reviews all comments, we will determine any further process.

Draft Policy

1. Types of Proceedings

Different types of proceedings should merit different levels of publication and outreach, with certain proceedings receiving the greatest level of publication and outreach, and less significant and routine cases requiring less publication and outreach. Below, the Department sets forth criteria for different tiers of proceedings. These criteria are designed to serve as guidance, but the Department will determine under which tier each proceeding falls on a case-by-case basis.

- Tier 1 proceedings are major, significant proceedings (which may include gas or electric base distribution rate cases or significant policy change initiatives) or proceedings with significant geographic-specific impact on environmental justice communities (as identified by the Massachusetts Environmental Justice information and maps, <https://www.mass.gov/environmental-justice>) and shall receive the following publication and outreach efforts: prominent publication on the petitioner's website; newspaper postings; outreach to interested persons and service lists; email notification to customers; outreach to municipal and community leaders; and social media posts. In addition, customers will also receive bill insert messaging for base distribution rate cases and significant policy change initiatives. These cases shall also have translated notices and interpretation services at the public hearing consistent with the Department's Language Access Plan.⁷
- Tier 2 proceedings will encompass the majority of proceedings, include ratemakings, rulemakings, and proceedings requiring public hearings (which may include Department policy change initiatives, rulemaking proceedings, and forecast and supply plans), and shall receive the following publication and outreach efforts: prominent publication on the petitioner's website; newspaper postings; and outreach to interested persons and service lists.
- Tier 3 proceedings will encompass routine proceedings that do not include a public hearing (which may include annual rate-setting filings (e.g., gas adjustment factor filings, basic service filings, true-up filings), service quality filings, and

⁷ For any proceeding involving an environmental justice population designated as such on the basis of English isolation (i.e., limited English proficiency), the Department may require the translation of notices and interpretation services at the public hearing into relevant languages. For any proceeding requiring translation and interpretation services, interested parties may request that additional languages be accommodated.

informational filings) and shall receive the following publication and outreach efforts: prominent publication on the petitioner's website; and outreach to service lists. Customers will continue to receive 30-day notice of changes in basic service rates. Default Service Pricing and Procurement, D.T.E. 99-60-C at 7 (2000).

For Tier 1 proceedings, the Department will provide information on its website on how community-based organizations and other interested parties may subscribe to particular dockets and to receive notices of the proceeding. The Department will also provide regular updates of such proceedings on its website. The Department will also seek to establish links for interested parties to receive notices of all Department filings or particular types of filings or issues.

2. Petitioner Outreach Plan

When making a filing seeking Department review and approval, a petitioner must include with the filing a community outreach plan relevant to the subject matter and geographic scope of the filing and consistent with the level of scrutiny required by the tier into which it falls. The outreach plan must include a list of the municipal and community organizations to whom the notice will be issued, provide plans for translation and interpretation services (including which languages and the justification for those languages), and indicate which steps of the outreach plan have already been accomplished.

The petitioner must work with stakeholders in affected communities to develop outreach plans and determine which platforms or locations to use to publicize notices. The petitioner must also coordinate with the affected municipalities, including municipal energy managers, chambers of commerce, and community action programs, to develop outreach plans and disseminate the notice.

Distribution companies, when required, must include as a billing insert a succinct, easy-to-understand summary of the petition in a larger font size.

No later than [TBD], distribution companies must establish email and text distribution lists for all notices, with opt-out provisions, specific options for issues and locations, and plans for social media usage.

IV. SOLICITATION OF COMMENTS

The Department welcomes comments on any aspect of the draft policy. All written comments should be filed with the Department no later than **Friday, January 20, 2023**. All

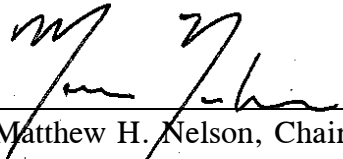
comments must be submitted to the Department by email attachment to dpu.efiling@mass.gov, laurie.e.weisman@mass.gov, and scott.seigal@mass.gov. The text of the email must specify: (1) the docket number of the proceeding (D.P.U. 21-50); (2) the name and contact information of the person or company submitting the filing; and (3) a brief descriptive title of the document. The electronic file name should identify the document but should not exceed 50 characters in length. Importantly, all large files submitted must be broken down into electronic files that do not exceed 20 MB. Written comments will be posted on the Department's website through our online file room at <https://eeaonline.eea.state.ma.us/DPU/Fileroom/dockets/bynumber/21-50>. At this time, all documents will be submitted only in electronic format consistent with the Commission's June 15, 2021 directive related to modified filing requirements. Ordinarily, all parties would follow Sections B.1 and B.4 of the Department's Standard Ground Rules (D.P.U. 15-184-A, App. 1 (March 4, 2020)); until further notice, however, parties must retain the original paper version, and the Department will later determine when the paper version must be filed with the Department Secretary.

V. ORDER


Accordingly, after notice, comment, roundtable session, and due consideration, it is ORDERED: That the Secretary of the Department shall distribute electronically and, where requested, serve by mailing this Order on the Department's distribution list for this proceeding; and it is

FURTHER ORDERED: That written comments on the Department's draft policy are due on January 20, 2023.


By Order of the Department,



Matthew H. Nelson, Chair



Robert E. Hayden, Commissioner



Cecile M. Fraser, Commissioner