

The Commonwealth of Massachusetts

DEPARTMENT OF PUBLIC UTILITIES

D.P.U. 21-100-A

February 15, 2024

Investigation by the Department of Public Utilities, On Its Own Motion, Instituting a Rulemaking Pursuant to the Acts of 2021, c. 8, §§ 82-85, G.L. c. 30A, § 2, and 220 CMR 2.00 to Amend the Net Metering Regulations at 220 CMR 18.00.

ORDER PROMULGATING FINAL REGULATIONS

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SUMMARY

The Department of Public Utilities (“Department”) promulgates these revisions to 220 CMR 18.00 (“Net Metering Regulations”) for the purpose of implementing the changes to the Commonwealth’s Net Metering Program prescribed by Chapter 8 of the Acts of 2021, An Act Creating a Next-Generation Roadmap for Massachusetts Climate Policy (“2021 Climate Act”) and additional minor changes for administrative clarification. Through this Order the Department also announces changes to the treatment of the Net Metering Recovery Surcharge (“NMRS”), in addition to directing changes to the Standards for Interconnection of Distributed Generation (“DG Interconnection Tariff”), the Net Metering Tariff, and the Massachusetts System Of Assurance of Net Metering Eligibility (“System of Assurance”). The Department will open a separate proceeding to propose further revisions prescribed by Chapter 179 of the Acts of 2022, An Act Driving Clean Energy and Offshore Wind as soon as practicable after the Final Regulations promulgated here are published in the Massachusetts Register.

The 2021 Climate Act, among other things, contains three significant changes to the statutory provisions governing the Net Metering Regulations. First, the 2021 Climate Act allows Net Metering Facilities with a generating capacity of 60 kilowatts (“kW”) or less (“Class I Facilities”) that belong to a Municipality or Other Governmental Entity to participate in the System of Assurance’s public cap of the general Net Metering Program. Previously, only Net Metering Facilities greater than 60 kW (“Class II and Class III Facilities”) that were Net Metering Facilities of a Municipality or Other Governmental Entity could acquire a cap allocation in the public cap. To amend the Net Metering Regulations to allow Class I Facilities of a Municipality or Other Governmental Entity to take service as a Net Metering Facility of a Municipality or Other Governmental Entity, the Department updates the definitions of “Class I Net Metering Facility” and “Net Metering Facility of a Municipality or Other Governmental Entity.” The Department finds that this classification is prospective in nature. Therefore, existing Class I Facilities which may belong to a

Municipality or Other Governmental Entity may not reclassify and receive an allocation in the public cap.

Second, the 2021 Climate Act allows Host Customers of certain Net Metering Facilities to transfer Net Metering Credits to customers of any electric distribution company (“Distribution Company”) located in the Commonwealth. Previously, all credit transfers had to be conducted within the same Distribution Company service territory and within the same ISO-New England (“ISO-NE”) load zone. To facilitate credit transfers across service territories and ISO-NE load zones, the Department updates the applicable section of the Net Metering Regulations regarding credit allocation. Additionally, the Department directs the Distribution Companies to update their interconnection processes to collect the necessary information to allow these transfers and to clarify certain credit allocation rules.

Third, the 2021 Climate Act expands the definition of a Cap Exempt Facility to include Class II and Class III Facilities, so long as such facilities serve On-site Load. Previously, only certain Class I Facilities could take service as Cap Exempt Facilities. The 2021 Climate Act also stipulates that this new category of Cap Exempt Facilities must receive an annual cash-out or crediting of accrued Net Metering Credits at the Avoided Cost Rate. To amend the Net Metering Regulations to allow certain Class II and Class III facilities to be classified as Cap Exempt, the Department updates the definition of “Cap Exempt Facility.” Additionally, the Department adds a new definition to the Net Metering Regulations, “On-site Load,” to clarify the applicability of this new classification, and specifies that battery energy storage systems do not qualify as On-site Load. Furthermore, the Department describes the process by which the Distribution Companies shall annually payout or carryforward the accrued credits of these facilities at the Avoided Cost Rate, which the Department ties to ISO-NE’s Locational Marginal Price. The Department also provides direction as to how the accumulated balances of existing eligible facilities should be treated and how existing eligible facilities shall be reclassified.

In addition to implementing these statutory changes, the Department directs the Distribution Companies to update their respective Net Metering Tariff to clarify that the

NMRS should not be included as a determinant of Net Metering Credits. The Department finds that the circular mathematical calculation for factoring in the NMRS into the value of Net Metering Credits, which were then used to establish the NMRS, resulted in an unnecessary addition to the costs of net metering services. Therefore, the Department directs the Distribution Companies to remove the NMRS from the distribution charge and to implement a new line item for assessing the NMRS on customer's bills. The Department further directs that the Distribution Companies file proposed model Net Metering and DG Interconnection Tariffs to implement certain additional changes to these documents in separate dockets.

I. INTRODUCTION AND PROCEDURAL BACKGROUND

On March 26, 2021, Governor Baker signed into law Chapter 8 of the Acts of 2021, An Act Creating a Next-Generation Roadmap For Massachusetts Climate Policy (“2021 Climate Act”). Among other things, the 2021 Climate Act requires the Department of Public Utilities (“Department”) to promulgate rules and regulations implementing certain changes to the net metering provisions of G.L. c. 164, §§ 138 and 139. St. 2021, c. 8, §§ 82-85. The 2021 Climate Act became effective on June 24, 2021.¹

On July 8, 2022, pursuant to G.L. c. 30A, § 2 and 220 CMR 2.00, the Department commenced a rulemaking and proposed revisions to 220 CMR 18.00 (“Net Metering Regulations”) for the purpose of implementing the changes to the net metering provisions prescribed by the 2021 Climate Act (“Proposed Net Metering Regulations”), as well as additional changes for administrative clarification as discussed below. Order Opening Rulemaking, D.P.U. 21-100 (2022).²

The Department issued a Notice of Public Hearing and Request for Comments, that was published in the Massachusetts Register on July 22, 2022, and in The Boston Globe and Boston Herald on July 25, 2022, which sought comments on specific recommended language

¹ Mass. Const. Amend. Art. 48, Ref. Pt. 1 (laws involving general legislation become effective 90 days after the Governor’s signature).

² Appendix A to that Order set forth a redlined version of the Proposed Net Metering Regulations showing markups to the currently effective Net Metering Regulations (“App. Proposed A”); Appendix B set forth a clean version of the Proposed Net Metering Regulations (“App. Proposed B”).

changes to the Proposed Net Metering Regulations and on ten additional topics listed in the Order Opening Rulemaking. D.P.U. 21-100, at 12-15. On August 16, 2022, the Department held a public hearing to receive comments.³ Initial written comments were due on August 16, 2022,⁴ and reply comments were due on August 30, 2022.⁵ The Department

³ One entity, Solar Design Associates, offered oral comments requesting that the Department consolidate into the present Rulemaking any requisite forthcoming Rulemaking to promulgate changes to the Net Metering Program expressed in An Act Driving Clean Energy and Offshore Wind, St. 2022, c. 179 (“2022 Clean Energy Act”) (Tr. at 7).

⁴ Initial written comments were submitted by: Robert Tuchman; Klavens Law Group, P.C.; Solar Energy Industries Association, Inc. (“SEIA”); Massachusetts Department of Energy Resources (“DOER”); Solar Design Associates; Vote Solar; Coalition for Community Solar Access and the Northeast Clean Energy Council (“CCSA/NECEC”); Resonant Energy, LLC (“Resonant”); Sunrun, Inc. (“Sunrun”); Arcadia; and 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 (“NSTAR Electric”) (collectively “Distribution Companies”) jointly filed initial comments.

Some comments lack pagination, which creates additional work for the Department to determine the appropriate citation. Although we expect that the use of the simple word processing pagination tool to be common practice, we find the need to adopt for the submission of comments the requirements for pagination of briefs of the Massachusetts Rules of Appellate Procedure, Rule 20(a)(4)(A) (consecutive page numbering). See NSTAR Electric Company, D.P.U. 22-22, at 256 n.127 (2022) (Department adopts same pagination requirements for motions and briefs). We direct commenters to include page numbers in future comment letters to increase efficiency for Department staff and other commenters who seek to respond to those comments.

⁵ Reply comments were submitted by: CCSA/NECEC; The Cadmus Group, Inc.; and Berkshire Photovoltaic Services (“BPVS”). In lieu of reply comments, the Distribution Companies filed a letter stating that they rest on the Companies’ Joint Initial Comments.

appreciates the comments, which have assisted us in better understanding the issues related to the changes to the net metering provisions prescribed by the 2021 Climate Act. With this Order, the Department promulgates Final Regulations contained in 220 CMR 18.00⁶ and promulgates a tariff change regarding the net metering recovery surcharge (“NMRS”).

On August 11, 2022, Governor Baker signed into law An Act Driving Clean Energy and Offshore Wind, St. 2022, c. 179 (“2022 Clean Energy Act”). Section 54 of the 2022 Clean Energy Act strikes the current G.L. c. 164, § 139(i) and inserts a new Section 139(i). St. 2022, c. 179, § 54. This change requires further updates to the Net Metering Regulations at 220 CMR 18.00. The Department had already commenced this current rulemaking to revise the Net Metering Regulations pursuant to the 2021 Climate Act. Accordingly, consistent with G.L. c. 30A, § 2 and 220 CMR 2.00, the Department must finalize the revised regulations pursuant to the 2021 Climate Act prior to commencing revisions pursuant to the 2022 Clean Energy Act. The Department will open a new rulemaking to address the further revisions to the Department’s regulations in docket D.P.U. 23-140.

⁶ Attached hereto and incorporated herein as Appendix A is a copy of the Final Regulations marked to show the changes from the current New Metering Regulations. Attached hereto as Appendix B is a clean version of the Final Regulations.

II. NET METERING PROVISIONS OF THE 2021 CLIMATE ACT; PROPOSED REGULATIONS; ADDITIONAL CLARIFICATIONS; AND DEPARTMENT QUESTIONS⁷

A. Net Metering Provisions of the 2021 Climate Act

The 2021 Climate Act changes several aspects of G.L. c. 164, §§ 138 and 139.⁸

St. 2021, c. 8, §§ 82-85. First, the 2021 Climate Act amends the definition of “Class I Net Metering Facility” to include a “Net Metering Facility of a Municipality or Other

Governmental Entity.”⁹ St. 2021, c. 8, § 83. Consistent with that change, the 2021 Climate Act provides “that a ‘Class I net metering facility’ of a municipality or other governmental entity may have a generating capacity of less than or equal to 60 kilowatts per unit.”

St. 2021, c. 8, § 83. Also, the 2021 Climate Act changes how Net Metering Credits may be allocated or transferred by a Host Customer of a New Solar Net Metering Facility by allowing the Host Customer to “designate customers of any distribution company located in the commonwealth to receive such credits in amounts attributed by the solar net metering

⁷ Unless otherwise defined in this Order, capitalized terms have the same meaning as provided in the Final Net Metering Regulations. In some instances, throughout this Order, the Department sets forth the definition of a capitalized term to provide informative context.

⁸ G.L. c. 164, § 138 sets forth definitions applicable to the Department’s regulation of net metering service. G.L. c. 164, § 139 sets forth the basic framework for the Net Metering Program in the Commonwealth as regulated by the Department.

⁹ An “Other Governmental Entity” means a department or agency of the Federal government or of the Commonwealth, and any other entity as approved by the Department. 220 CMR 18.02.

facility.” St. 2021, c. 8, § 84. In addition, the 2021 Climate Act expands the delineation of a Cap Exempt Facility to include a Class II or Class III Net Metering Facility as follows:

A Class II net metering facility or Class III net metering facility with an executed interconnection agreement with a distribution company on or after January 1, 2021 shall be exempt from the aggregate net metering capacity of facilities that are not net metering facilities of a municipality or other governmental entity under [G.L. c. 164, § 139(f)]

St. 2021, c. 8, § 85. These net metering facilities may net meter and accrue Class II or Class III Net Metering Credits if they are generating renewable energy and serve “on-site load, other than parasitic or station load.”¹⁰ St. 2021, c. 8, § 85. For these facilities, “any credits accrued in excess of its annual electricity consumption for the period running from April through the following March shall be credited or paid out for such excess credits at the utility’s avoided cost rate.” St. 2021, c. 8, § 85.

B. Proposed Regulations

The Proposed Regulations set forth the Department’s initial plan to implement the provisions of the 2021 Climate Act regarding the Net Metering Program. The Proposed Regulations also include (i) a definitional revision for internal consistency, (ii) an administrative change regarding capitalization, (iii) the use of a specific date to replace the term “Notification Date,” and (iv) a revision to correct an identified issue with the Distribution Companies’ recovery of the NMRS.

¹⁰ Generally, parasitic or station load is the energy produced by a facility necessary for the operation of the system (e.g., for lights, motors, control systems).

The Proposed Regulations revise the definitions of the following terms by adding the express language set forth in the 2021 Climate Act: Class I Net Metering Facility¹¹ and Net Metering Facility of a Municipality or Other Governmental Entity. St. 2021, c. 8, §§ 82, 83; Apps. Proposed A, Proposed B, § 18.02. To incorporate the statutory provision requiring a change to the definition of a “Cap Exempt Facility,” the Proposed Net Metering Regulations added the following text to that definition:

(b) a Class II Net Metering Facility or Class III Net Metering Facility with an executed interconnection service agreement with a Distribution Company dated on or after January 1, 2021, provided that it is a Renewable Energy generating facility and serves on-site load, other than parasitic or station load, and provided further that it is not a Net Metering Facility of a Municipality or Other Governmental Entity.¹²

St. 2021, c. 8, § 85; Apps. Proposed A, Proposed B, § 18.02.¹³

To incorporate the statutory change to the definition of “Class I Net Metering Facility,” the Proposed Net Metering Regulations, at the end of the definition, include the following language as set forth in the 2021 Climate Act: “provided, however, that a Class I

¹¹ In the Final Regulations, the Department adds an additional sentence to this definition, as set forth in Section II.B.3., below.

¹² In the Final Regulations, the Department adds the word “service” in between “interconnection” and “agreement” in this definition since the term “interconnection service agreement” is the term used throughout the Standards for Interconnection of Distributed Generation (“DG Interconnection Tariff”) and in practice.

¹³ Notably, the language from the 2021 Climate Act that requires this modification to the definition of Cap Exempt includes neither (a) Class I Net Metering Facilities that are sized greater than ten kilowatts (“kW”) on a single-phase circuit or 25 kW on a three-phase circuit, nor (b) any Net Metering Facility of a Municipality or Other Governmental Entity, each of which remains subject to the “private cap” and the “public cap,” respectively (see Section II.B.3., below for a discussion of these caps).

Net Metering Facility of a Municipality or Other Governmental Entity may have a generating capacity of less than or equal to 60 kilowatts per unit.”¹⁴ St. 2021, c. 8, § 82; Apps.

Proposed A, Proposed B, § 18.02. To incorporate the statutory change to the definition of Net Metering Facility of a Municipality or Other Governmental Entity, the Department included the following text from the 2021 Climate Act: “Class I Net Metering Facility.” St. 2021, c. 8, § 82; Apps. Proposed A, B, § 18.02.

Consistent with the 2021 Climate Act’s requirements regarding the allocation of Net Metering Credits, the Proposed Net Metering Regulations included two subsections within Section 18.05 (“Allocation of Net Metering Credits”). The first subsection only applies to a subset of facilities qualified under G.L. c. 164, § 139(b¹/₂), and identifies Customers eligible for designation to receive Net Metering Credits as follows:

For a New Solar Net Metering Facility or a Cap Exempt Facility that is also a Class II Solar Net Metering Facility or Class III Solar Net Metering Facility, each Distribution Company shall allocate Net Metering Credits, as designated in writing by the Host Customer, to other Customers who are a Customer of a Distribution Company located in the Commonwealth. The manner and form of credit designation shall be as specified in the Distribution Company’s Net Metering Tariff pursuant to 220 CMR 18.09(2). Notwithstanding the foregoing, if the Host Customer of a Class I Net Metering Facility, Class II Net Metering Facility, or Class III Net Metering Facility is a Municipality or Other Governmental Entity, including a Governmental Cooperative, it may direct its Distribution Company to allocate Net Metering Credits only to other Customers that are Municipalities or Other Governmental Entities.

¹⁴ In the Final Regulations, the Department adds an additional sentence to this definition, as set forth in Section II.B.3., below.

Apps. Proposed A, Proposed B, § 18.05(1)(b).¹⁵

The credit transfer rules of Section 84 of the 2021 Climate Act do not apply to Class I Net Metering Facilities that are Cap Exempt Facilities or to Class I, Class II, or Class III Net Metering Facilities that are not also Solar Net Metering Facilities because (a) such facilities are either specifically exempted from G.L. c. 164, § 139(b¹/₂) by G.L. c. 164, § 139(i); or (b) subsection (b¹/₂) is not applicable to those categories of facilities. St. 2021, c. 8, § 84.

The credit transfer rules of Section 84 of the 2021 Climate Act do apply to all New Solar Net Metering Facilities and to all Class II and Class III Solar Net Metering Facilities that are Cap Exempt Facilities.

The second added subsection of Section 18.05 would, for a Class II Net Metering Facility or a Class III Net Metering Facility that is also a Cap Exempt Facility, require credits or pay-outs set at the Distribution Company's Avoided Cost Rate. The Proposed Net Metering Regulations provide:

For a Class II Net Metering Facility or Class III Net Metering Facility that is also a Cap Exempt Facility, a Distribution Company shall credit or pay the Host Customer for any Net Metering Credits that are accrued in excess of its annual electricity consumption for the period running from April through the following March. The value of such excess Net Metering Credits shall be equal to the Distribution Company's Avoided Cost Rate.

St. 2021, c. 8, § 85; Apps. Proposed A, Proposed B, § 18.05(4).

¹⁵ The Department has renumbered Section 18.05 consistent with these changes. See Section III.D.

Also, the Department made three administrative revisions in the Proposed Net Metering Regulations. First, consistent with the addition of these two subsections in Section 18.05, the Department has renumbered Section 18.05. Apps. Proposed A, Proposed B, § 18.05(1) through § 18.05(5). Second, throughout the Proposed Net Metering Regulations, the defined term “Renewable Energy” is capitalized only where appropriate, *i.e.*, where referencing the specific defined term.¹⁶ Third, the Proposed Net Metering Regulations eliminated the defined term “Notification Date,” replacing it with the actual date of September 26, 2016, wherever the term was previously used in the Net Metering Regulations.¹⁷

Finally, in the Order Opening Rulemaking, the Department identified a calculational issue with the NMRS¹⁸ that the Department determined resulted in ratepayers overpaying for Net Metering Credits. D.P.U. 21-100, at 7-10. With the NMRS including, among other

¹⁶ The term “Renewable Energy” is capitalized at Apps. Proposed A and Proposed B, §§ 18.02, 18.07(8), and 18.09(1). The term remains lower case at Apps. Proposed A and Proposed B, § 18.04(7).

¹⁷ The term “Notification Date” was established by the promulgation of the Net Metering Regulations pursuant to Net Metering Rulemaking, D.P.U. 16-64-C (2016). D.P.U. 16-64-C at 17-18. The date itself was subsequently established as September 26, 2016, at 2:00 p.m. See Order Announcing Notification Date and Directives to Distribution Companies, D.P.U. 16-64-D at 18 (2016).

¹⁸ The NMRS is a reconciling charge included within each Distribution Company’s Net Metering Tariff. See, e.g., NSTAR Electric Company, M.D.P.U. No. 68J (Net Metering Tariff), § 1.08.

rates, a Distribution Company's distribution rate,¹⁹ and with a Distribution Company's distribution rate including the NMRS,²⁰ there is an apparent circular error that overstates the value of Net Metering Credits. D.P.U. 21-100, at 9. As part of its remedy for this inappropriate rate impact, the Department added to the Proposed Net Metering Regulations as part of the calculation of Net Metering Credits the following at the end of 220 CMR 18.04(7): "nor shall it include the per kilowatt-hour surcharge or surcharges provided for by 220 CMR 18.09(4)." D.P.U. 21-100, at 10; Apps. Proposed A, Proposed B, § 18.04(7).

C. Questions Presented to Stakeholders

In the Order Opening Rulemaking, the Department sought public comments regarding the Proposed Net Metering Regulations allowing for insight into the implementation of the net metering requirements of the 2021 Climate Act. D.P.U. 21-100, at 12. Also, to assist the Department in the formation of its net metering policies, the Department issued the following set of ten specific requests for comments seeking responses from net metering stakeholders:

1. G.L. c. 164, § 138 now permits a Class I Net Metering Facility to be classified as a Net Metering Facility of a Municipality or Other Governmental Entity. Should the Department establish a deadline by which existing Class I Net Metering Facilities must apply to the administrator of the System of Assurance for Net Metering Eligibility to reclassify their Net Metering Facility

¹⁹ G.L. c. 164, § 138 (definitions Class I and Class II Net Metering Credits); 220 CMR 18.04(1)(a); M.D.P.U. No.68J, § 1.0(1)(a)(i).

²⁰ For purposes of recovery from ratepayers, the NMRS is part of a Distribution Company's distribution charge. M.D.P.U. No.68J, § 1.08(2) ("Although the NMRS is a separate surcharge, it may be included in the Distribution Company's Distribution Charge for billing purposes").

under the public cap? If so, what should that deadline be? Please also provide any recommendations on additional administrative steps that should be established in order for such facilities to be reclassified under the public net metering caps.

2. G.L. c. 164, § 139(i) now defines Cap Exempt Facilities to include Class II Net Metering Facilities and Class III Net Metering Facilities that are not Net Metering Facilities of a Municipality or Other Governmental Entity, provided that they serve on-site load, other than parasitic or station load. Please respond to the following:
 - a. How should the Department define on-site load for the purpose of this new definition of Cap Exempt Facility?²¹
 - b. Should battery energy storage (“BESS”) be considered an on-site load other than parasitic or station load? If yes, should this classification permit an otherwise standalone Net Metering Facility (i.e., a facility serving no other on-site load other than the BESS) to qualify as a Cap Exempt Facility or should the Net Metering Facility also be required to serve other on-site load in order to qualify as such?

3. G.L. c. 164, § 139(i) now includes a provision that requires any credits accrued by Cap Exempt Class II and Class III Net Metering Facilities between April and March of the following year to be credited or paid out to the Net Metering Facility at the Distribution Company’s [A]voided [C]ost [R]ate. Please provide recommendations on:
 - a. A definition for the term “[A]voided [C]ost [R]ate;” and
 - b. How this crediting/payout should be processed.

²¹ The Department has previously defined “Behind-the-Meter” as “a facility that serves an on-site load other than parasitic load or station load utilized to operate the facility.” Net Metering, SMART Provision, and the Forward Capacity Market, D.P.U. 17-146-B at 13 n.25 (2019). This definition was further affirmed in Net Metering and Energy Storage Systems and the Forward Capacity Market, D.P.U. 17-146-E at 13 (2020).

4. G.L. c. 164, § 139(b½)(1) now permits the transfer of Net Metering Credits by New Net Metering Facilities across ISO-NE load zones and Distribution Company service territories [original footnote omitted].²² Please explain:
 - a. How should Net Metering Facilities indicate the percentage of Net Metering Credits that should be allocated to Customers in a different service territory? Should there be a uniform document or system for all Distribution Companies to process this type of allocation? If so, please describe the documentation or system.
 - b. How should a Distribution Company allocate and recover costs associated with providing Net Metering Credit to its Customers that were issued by another Distribution Company?
 - c. Should a Net Metering Facility be permitted to transfer credits to Customers in more than one Distribution Company service territory?
 - d. How often should a Net Metering Facility be able to modify the percentage of Net Metering Credits that should be allocated to Customers in a different service territory?
 - e. (For Distribution Companies only) Please describe what administrative modifications are needed to implement credit allocation across service territories.
5. (For Distribution Companies only) Please provide a status update concerning automation for the Net Metering Program: (1) from National Grid and Eversource regarding the timing and details of automation of Schedule Z; and (2) from Unitil, whether it still believes that the disadvantages outweigh the advantages for automation in its service territory. National Grid's and Eversource's response should include: (a) the kind of automation to be implemented with associated timelines, (b) the number of times the Company plans to allow Customers to update allocation annually once automation is live,

²² Each Distribution Company has the exclusive obligation and right to provide distribution service to retail customers in a defined service territory. G.L. c. 164, § 1B(a); 220 CMR 11.04(2)(a). For the most part, a Distribution Company's service follows municipal boundaries.

and (c) the kind of automation that will not be implemented and the reasons supporting that decision.

6. Please identify possible methods whereby the NMRS could be excluded from Net Metering Credits, including possible recovery via a new standalone charge or part of an existing charge that is not a component of Net Metering Credits. As part of your comment please explain how each method is consistent with existing ratemaking principles, applicable statutes, regulations, and Department Orders.
7. Please identify impacts that the removal of the NMRS from Net Metering Credits may have on existing and future net metering Customers.
8. (For Distribution Companies only) Please identify the estimated time and expense associated with implementing changes to the NMRS identified in your response to question three. Please also identify whether any recommended changes would require tariff revisions.
9. (For Distribution Companies only) In D.P.U. 20-145-B, the Department recognized that certain billing system upgrade issues overlap several contexts, including the Solar Massachusetts Renewable Target program, grid modernization, and net metering. Please describe any billing system upgrade concerns that should be considered in this investigation.
10. (For Distribution Companies only) Please explain the current calculation used when purchasing Net Metering Credits from Host Customers of a Class III Net Metering Facility.

D.P.U. 21-100, at 12-15.

D. Net Metering Recovery Surcharge

The Department established the NMRS consistent with the net metering statutory provisions for Distribution Companies to recover (a) distribution revenue lost as a result of providing net metering service and (b) Net Metering Credits. G.L. c. 164, § 139 (c); 220 CMR 18.09(4); Net Metering Tariff, D.P.U. 09-03-A at 15, 17 (2009). The NMRS is a

reconciling charge included within each Distribution Company's Net Metering Tariff.²³ See, e.g., M.D.P.U. No. 68J, § 1.08.

Generally, the per-kilowatt-hour ("kWh") value of a Net Metering Credit is equal to the sum of the per-kWh basic service, distribution, transmission, and transition rates applicable to the rate class to which the Net Metering Facility is assigned.²⁴ G.L. c. 164, § 138 (definitions Class I and Class II Net Metering Credits); 220 CMR 18.04(1)(a); M.D.P.U. No.68J, § 1.0(1)(a)(i). For purposes of recovery from ratepayers, the NMRS is part of a Distribution Company's distribution charge. M.D.P.U. No.68J, § 1.08(2) ("Although the NMRS is a separate surcharge, it may be included in the Distribution Company's Distribution Charge for billing purposes"). Thus, the calculation of most Net Metering Credits includes the distribution rate, and the NMRS, which recovers Net Metering Credits, as part of the distribution rate. D.P.U. 21-100, at 9.

²³ Each Distribution Company provides Net Metering service to eligible Customers under tariffs, which must be approved by the Department. 220 CMR 18.03, 18.09(2) and 18.09(3); Net Metering, Schedule NM, M.D.P.U. No. 364 (Unitil); Net Metering, M.D.P.U. No. 68J (NSTAR Electric); Net Metering Provision, M.D.P.U. No. 1446 (National Grid) (collectively "Net Metering Tariffs").

²⁴ Some Net Metering Facilities are only eligible to receive Market Net Metering Credits, which are equal to 60 percent of the sum of these charges. G.L. c. 164, § 138 (definition of "Market Net Metering Credit"); 220 CMR 18.04(3). Additionally, some Net Metering Facilities in the private cap that are larger than one megawatt do not have the distribution charge included in the calculation of the Net Metering Credits. G.L. c. 164, § 138 (definition of "Class III net metering credit"); 220 CMR 18.04(5)(a), 18.04(6), 18.04(6A).

In examining this issue, the Department gathered information from each Distribution Company's 2021 annual NMRS filings.²⁵ D.P.U. 21-100, at 9. With this information, the Department determined that, across all Distribution Companies, the aggregate recovery of NMRS charges from ratepayers would have been \$9,600,153 less for 2021 if the NMRS were not a component of each Distribution Company's distribution charge. D.P.U. 21-100, at 9-10. Based on this data and the concern that this rate impact would increase substantially with the growth of the Net Metering Program as a component of the Commonwealth's climate policy, the Department proposed to add the following regarding the calculation of Net Metering Credits at 220 CMR 18.04(7): "nor shall it include the per kilowatt-hour surcharge or surcharges provided for by 220 CMR 18.09(4)." D.P.U. 21-100, at 10; Apps. Proposed A, Proposed B, § 18.04(7).

E. Renumbering Section 18.05

As described in Section II.C., the Proposed Net Metering Regulations make changes to Section 18.05 ("Allocation of Net Metering Credits"). These changes require reorganizing Section 18.05 by renumbering subsections (2) through (5); and dividing subsections (1) and (2) into paragraphs (a) through (c). The Proposed Net Metering Regulations made the following changes: (a) renumber Section 18.05(1) as Section 18.05(1)(a); add new paragraph

²⁵ Changes to the NMRS revenue requirement and rate are part of each Distribution Company's annual distribution charge reconciling mechanism true-up filing. NSTAR Electric Company, D.P.U. 20-124-A (2021); Fitchburg Gas and Electric Light Company, D.P.U. 20-134-A (2021); Massachusetts Electric Company and Nantucket Electric Company, D.P.U. 21-01-A (2021). D.P.U. 21-100, at 9.

(b), pursuant to Section II.C. of this Order; and (b) renumber Section 18.05(2) as Section 18.05(1)(c). Apps. Proposed A, Proposed B, § 18.05(1).

III. FINAL CHANGES TO NET METERING REGULATIONS

A. Introduction

The attached Final Net Metering Regulations implement the changes to the Net Metering Program required by the 2021 Climate Act and make additional modifications to the Net Metering Regulations consistent with the Department's authority to oversee the Net Metering Program in the Commonwealth. As stated above, the Department sought public comments on the Proposed Net Metering Regulations, on whether further clarification is required to implement the net metering requirements of the 2021 Climate Act, and on the appropriate ratemaking treatment of the NMRS. D.P.U. 21-10, at 12. In promulgating the Final Regulations, the Department is mindful that the changes likely will mitigate challenges for developing distributed energy resources but also may increase costs to ratepayers.

Below, we discuss these matters taking into account stakeholder comments.²⁶

B. Definitions

As stated above, the Proposed Net Metering Regulations revised the definitions of the following terms: Cap Exempt Facility, Class I Net Metering Facility, and Net Metering Facility of a Municipality or Other Governmental Entity. Apps. Proposed A, Proposed B,

²⁶ In its comments filed August 16, 2022, SEIA stated that it would not provide specific responses to the questions posed by the Department. Rather, SEIA generally supports the response submitted by CCSA/NECEC. As such, we do not reference SEIA in our summary of comments herein.

§ 18.02. In addition, the Proposed Net Metering Regulations deleted the definition of Notification Date and instead inserted the date September 26, 2016, in the definition of New Solar Net Metering Facility.²⁷ D.P.U. 21-100, at 7; Apps. Proposed A, Proposed B,

§ 18.02. Also, throughout the Proposed Net Metering Regulations, revisions were made to capitalize the term Renewable Energy as follows: Section 18.02 (Definitions) “Anaerobic Digestion Net Metering Facility” and “Cap Exempt Facility,” Section 18.07(8) (Net Metering Capacity), and Section 18.09(1) (Miscellaneous).²⁸

No commenter opposed any of these revisions to the Net Metering Regulations. We find that the revisions in the Proposed Net Metering Regulations to the following definitions are consistent with the provisions of the 2021 Climate Act regarding the Net Metering Program: Cap Exempt Facility, Class I Net Metering Facility, and Net Metering Facility of a Municipality or Other Governmental Entity. Accordingly, the Department promulgates these revised definitions in the Final Net Metering Regulations. Also, in the interest of clarity, the Department promulgates in the Final Net Metering Regulations the revisions deleting the defined term Notification Date and using the specific date September 26, 2016. In addition, for accuracy, the Department promulgates in the Final Net Metering Regulations the revisions regarding the term Renewable Energy. Accordingly, the Department directs the

²⁷ In the Net Metering Regulations, the term Notification Date appears only in this definition.

²⁸ The term appropriately remained lower case in Section 18.04(7) of the Net Metering Regulations. Proposed A and Proposed B, § 18.04(7).

Distribution Companies to revise the Net Metering Tariff consistent with these revisions to the Net Metering Regulations.

C. Classification of a Net Metering Facility of a Municipality or Other Governmental Entity

1. Introduction

Prior to the 2021 Climate Act, Net Metering Facilities of a Municipality or Other Governmental Entity were required to be either a Class II or Class III facility to be eligible for inclusion in the Massachusetts System of Assurance of Net Metering Eligibility's ("System of Assurance")²⁹ public cap.³⁰ If a Municipality or Other Governmental Entity designed a Net Metering facility that was 60 kW or less, the Municipality or Other

²⁹ The System of Assurance is a set of rules governing certain aspects of the Net Metering Program; the Department established the System of Assurance pursuant to G.L. c. 164, § 139(g); Net Metering and Interconnection of Distributed Generation, D.P.U. 11-11-A (2012) (System of Assurance set forth at Appendix A). The System of Assurance is designed to: (1) assure customers that they will be able to receive net metering services when their Net Metering Facilities are ready to interconnect; and (2) facilitate more efficient planning and development of distributed generation resources. D.P.U. 11-11, at 1-2 (2011).

³⁰ The "public cap" represents capacity allocated to Municipalities and Other Governmental Entities to receive net metering service in each Distribution Company's service area. G.L. c. 164, § 139(f). The "private cap" represents capacity allocated to entities that are not a Municipality or Other Governmental Entity to receive net metering service in each Distribution Company's service area. G.L. c. 164, § 139(f). The public cap is set at eight percent of a Distribution Company's highest historical peak load. G.L. c. 164, § 139(f); 220 CMR 18.07(1)(a). The private cap is set at seven percent of a Distribution Company's highest historical peak load. G.L. c. 164, § 139(f); 220 CMR 18.07(1)(b). The Department administratively sets the public cap and the private cap annually for each Distribution Company based on information provided by each Distribution Company pursuant to 220 CMR 18.07(3).

Governmental Entity would need to apply to the System of Assurance's private cap for a cap allocation unless the facility was cap exempt.³¹ Given the change in Net Metering cap eligibility for Net Metering Facilities of a Municipality or Other Governmental Entity, the Department sought comments on: (1) whether we should establish a deadline by which existing Class I Net Metering Facilities must apply to the System of Assurance to reclassify their Net Metering facility under the public cap; and (2) any recommendations on additional administrative steps that should be established for such facilities to be reclassified under the public net metering caps. D.P.U. 21-100, at 12.

2. Summary of Comments

Commenters disagree on whether (a) the Department should require Class I Net Metering Facilities to reclassify from the private to the public cap, and (b) the Department should establish a deadline for such reclassification. Resonant and Vote Solar recommend that, with little motivation for a public entity to reclassify Class I Net Metering Facilities from the private cap to the public cap, the Department direct the Distribution Companies to automatically reclassify Class I Net Metering Facilities that are newly eligible for the public

³¹ Prior to our promulgation of these Final Net Metering Regulations, a Cap Exempt Facility meant a Class I Net Metering Facility that is a renewable energy generating facility and has a nameplate capacity rating equal to or less than: (1) ten kW on a single-phase circuit; or (2) 25 kW on a three-phase circuit. G.L. 164, § 139(i); 220 CMR 18.02. As set forth above, we have amended that definition consistent with the 2021 Climate Act.

cap (Resonant Comments at 1; Vote Solar Comments at 3).³² Vote Solar recommends against setting a deadline for the reclassification because the Distribution Companies may not initially identify all of the Class I Net Metering facilities for reclassification (Vote Solar Comments at 3). Vote Solar maintains that there needs to be an opportunity to reclassify such facilities at a future date to maintain an accurate list of facilities in the System of Assurance (Vote Solar Comments at 3).

Cadmus also argues against a deadline for reclassification because it does not expect this change to impact a substantial number of facilities; it expects an insignificant administrative burden for reclassifying facilities (Cadmus Comments at 1). Cadmus notes that there are multiple facilities currently on National Grid's private cap waiting list that may be eligible for this reclassification and would benefit from moving to the available cap space in National Grid's public cap (Cadmus Comments at 1). Cadmus maintains that the reclassifications also would benefit other private Net Metering facilities by reducing the occupancies and/or waiting list of the respective private cap (Cadmus Comments at 2). Cadmus recommends that the reclassification be optional with a reclassification request made

³² Vote Solar also stated that the Administrator of the System of Assurance ("Administrator") might be the entity to reclassify the net metering facilities (Vote Solar Comments at 3). Cadmus currently serves as the Administrator of the System of Assurance. Proposed Candidate for the Administrator of the System of Assurance of Net Metering Eligibility, D.P.U. 11-11-D at 10 (2012).

via filing a quarterly report through the System of Assurance (Cadmus Comments at 2).³³

Cadmus explains that it could request information via the quarterly report to verify that the net metering facility is eligible to qualify under the public cap (Cadmus Comments at 2).

Cadmus states that the cost of reviewing quarterly reports is included in the existing System of Assurance fee structure, so Cadmus does not recommend increasing or adding an additional fee to process these reclassification changes (Cadmus Comments at 2).

DOER recommends that the Department establish a clear deadline for existing Class I Net Metering Facilities to reclassify under the public cap (DOER Comments at 2). DOER suggests using existing deadlines as a model, such as when DOER allowed 60 days for program applicants to submit administrative changes to DOER under the Solar Massachusetts Renewable Target (“SMART”) program³⁴ (DOER Comments at 2). DOER explains that this timeline was sufficient for participating owners of generating units to provide DOER with administrative requests and for DOER to keep program information up to date (DOER Comments at 2). DOER maintains that, while it encourages establishing a deadline and streamlining the process to alleviate administrative burden on facility owners, it recommends that the Department implement a reclassification process in a similar manner to how other

³³ Under the System of Assurance, Net Metering facilities file a quarterly report with the Administrator (Cadmus) to indicate changes to their respective facility. System of Assurance, § 6(B).

³⁴ 225 CMR 20.06(1)(h)3.ii.

administrative changes are currently made under the Net Metering Tariff (DOER Comments at 2).

The Distribution Companies maintain that the Department should establish a deadline for this reclassification (Distribution Companies Comments at 2). The Distribution Companies do not recommend a specific deadline but propose that a medium-term deadline, such as November 1, 2023, might be reasonable so that cap space would be known by year end (Distribution Companies Comments at 2). The Distribution Companies note fees may apply if the Administrator is the most appropriate entity to receive reclassification applications and review eligibility (Distribution Companies Comments at 2). The Distribution Companies contend that it is not clear what benefit is conferred to existing Class I facilities from reclassification to the public cap (Distribution Companies Comments at 2).

3. Analysis and Findings

With the changes made by the Legislature affecting the definitions of Class I Net Metering Facility and Net Metering Facility of a Municipality or Other Governmental Entity in G.L. c. 164, § 138, which the Department has promulgated in the Final Net Metering Regulations, Class I Net Metering Facilities of a Municipality or Other Governmental Entity now are eligible for a capacity allocation under the public cap. However, with this change, the Legislature did not provide direction for the treatment of a Municipality or Other Governmental Entity's existing Class I Net Metering Facility that is taking a capacity allocation in the private cap.

To implement this legislative change, the Department asked stakeholders to address whether these existing facilities should be reclassified from the private cap to the public cap and, if so, through what process. D.P.U. 21-100, at 12; Section II.C., question 1, above. Upon further examination of the Legislature's actions, the Department determines that the appropriate consideration is whether the Legislature's change regarding Class I Net Metering Facilities of a Municipality or Other Governmental Entity is prospective or retroactive. The Legislature established this change in classification without any directive in the 2021 Climate Act regarding the timing of this substantive change, *i.e.*, retroactive/prospective.

Where there is a statutory gap, the agency charged with the administration of a statute is to spell out details of the legislative policy. United States v. Mead Corporation, 533 U.S. 218, 227 (2001), citing Chevron U.S.A., Inc. v. Natural Resources Defense Council, 467 U.S. 837, 843-844 (1984); Middleborough v. Housing Appeals Committee, 449 Mass. 514, 523 (2007), citing Zoning Board of Appeal of Wellesley v. Housing Appeals Committee, 385 Mass. 651, 654 (1982).³⁵ The Legislature has delegated to the Department the authority to implement and manage the Net Metering Program in the Commonwealth. G.L. c. 164, §§ 138, 139; see also, 220 CMR 18.00. As such, the Department will determine whether the change in classification of a Class I Net Metering Facility of a Municipality or Other Governmental Entity is retroactive or prospective.

³⁵ "When faced with a problem of statutory construction, this Court shows great deference to the interpretation given the statute by the officers or agency charged with its administration." Udall v. Tallman, 380 U.S. 1, 16 (1965).

In making this determination, the Department applies a principle of statutory interpretation. Specifically, it is a general rule of statutory interpretation:

that all statutes are prospective in their operation, unless an intention that they shall be retrospective appears by necessary implication from their words, context or objects when considered in the light of the subject matter, the preexisting law and the effect upon existing rights, remedies and obligations.

Hanscom v. Malden & Melrose Gaslight Company, 220 Mass. 1, 3 (1914); New England Gas Company, D.P.U. 11-84/12-74/13-154, at 10 (2016).

In examining the temporal reach of the Legislature’s provision for a Class I Net Metering Facility of a Municipality or Other Governmental Entity in the 2021 Climate Act, we do not find an “unambiguous directive” by the Legislature for retroactivity. See, e.g., Matthews v. Kidder, Peabody & Company, 161 F.3d 156, 161 (3d Cir. 1998). Without such a clear statement, we apply the principle of the Supreme Judicial Court stated above and we find that the rule that Class I Net Metering Facilities of Public Entities are eligible for a capacity allocation under the public cap is prospective. This rule shall be effective from the effective date of the amended regulations promulgated hereby.

Therefore, a Class I Net Metering Facility seeking a Cap Allocation under the public cap must have submitted an application for a cap allocation (“ACA”) no earlier than the effective date of the Final Net Metering Regulations. A New Solar Class I Net Metering Facility of a Municipality or Other Governmental Entity that submitted an ACA after the effective date of the Final Net Metering Regulations would be eligible to generate Net

Metering Credits pursuant to 220 CMR 18.04(4) if the Net Metering Facility receives a Cap Allocation in the public cap.³⁶

Class I Net Metering Facilities that have submitted an ACA in the private cap prior to the effective date of the Final Net Metering Regulations are not eligible to apply for the public cap. A New Solar Class I Net Metering Facility of a Municipality or Other Governmental Entity that was granted a cap allocation in the private cap prior to the effective date of the Final Net Metering Regulations would continue generating Market Net Metering Credits pursuant to 220 CMR 18.04(3).

A New Solar Class I Net Metering Facility that submitted an ACA under the private cap prior to the effective date of the Final Net Metering Regulations and that expands after the effective date of the Final Net Metering Regulations would be eligible to generate Net Metering Credits pursuant to 220 CMR 18.04(4) provided that it applies for and receives a Cap Allocation for the capacity of the entire facility in the public cap.³⁷ The Department

³⁶ Participation in the general net metering program is limited, or capped, at a total amount of generation specific to each Distribution Company service territory. The Distribution Companies have separate net metering caps for public and private net metering facilities. St. 2010, c. 359, § 29. Thus, for a Host Customer to be eligible to generate Net Metering Credits for a non-cap exempt facility, the Host Customer must first obtain a cap allocation. System of Assurance, D.P.U. 15-32-A, App. A §§ 2, 4 (2020).

³⁷ If the requisite capacity for the expanded facility is not available in the public cap, the Host Customer may choose to forgo the expansion and continue generating Net Metering Credits in the private cap under the preexisting cap allocation or, if the requisite incremental capacity for the expanded portion of the facility is available in the private cap, the Host Customer may submit an ACA for the expansion and generate Net Metering Credits in the private cap for the expanded facility.

found that an expanded Net Metering Facility should generate the same Net Metering Credit for the entire capacity instead of different Net Metering Credit values for certain portions of each solar Net Metering Facility. Order Adopting Final Regulations, D.P.U. 16-64-C at 26 (2016). The Department's narrow exception is to allow residential and small commercial and industrial customers the opportunity to expand their systems to serve additional load while avoiding negative impacts to the electric distribution system. D.P.U. 16-64-C at 28.

At this time, the National Grid public cap is full and the Department acknowledges that Class I Net Metering Facilities would be placed on the waiting list if they applied to the National Grid public cap.³⁸ The Department clarifies that Class I Net Metering Facilities can only generate Net Metering Credits pursuant to 220 CMR 18.04(4) if the entire capacity of the Net Metering Facility is located in the public cap.

The Department adds the following language to the end of the definition of a "Class I Net Metering Facility" in Section 18.02 of the Net Metering Regulations ("Definitions"):

; provided, however, that a Class I Net Metering Facility of a Municipality or Other Governmental Entity may have a generating capacity of less than or equal to 60 kilowatts per unit. Each Municipality or Other Governmental Entity may have an aggregate generating capacity of not more than ten megawatts.³⁹

³⁸ See <https://app.massaca.org/allocationreport/report.aspx> (last visited February 15, 2024).

³⁹ Host Customers of a Class I Net Metering Facility of a Municipality or Other Governmental Entity are responsible for knowing the amount of capacity remaining available under their aggregate ten megawatt limit and for complying with all applicable Net Metering rules, regulations, and tariffs, including providing any

As a matter of consistency, the Department also finds it necessary to update Section 18.07(2) to include the phrase “Class I Net Metering Facilities” and “Class I Net Metering Facility that is a New Solar Net Metering Facility” in order to fully implement the changes to the definitions directed in this section. Apps. Proposed A, Proposed B, § 18.07(2).

In addition, the Department includes a reference to a Class I Net Metering Facility in the definition of a “Net Metering Facility of a Municipal or Other Governmental Entity” in Section 18.02 (“Definitions”). The Department directs each Distribution Company to revise its Net Metering Tariff accordingly. Also, consistent with the statutory changes in the 2021 Climate Act, the Administrator shall amend its application and application review process for Class I Net Metering Facilities of a Municipality or Other Governmental Entity to apply to the net metering public caps.

D. On-site Load

1. Introduction

Prior to the 2021 Climate Act, only Class I Net Metering Facilities below a certain capacity size were eligible to be cap exempt (i.e., not be subject to the System of Assurance net metering caps). 220 CMR 18.07(5). Due to the change to the definition of Cap Exempt

necessary notifications to the System of Assurance and the relevant Distribution Company, and obtaining any necessary local permits and approvals.

Facility,⁴⁰ the Department sought comments on: (1) how the Department should define On-site Load for the purpose of this new definition of Cap Exempt Facility; and (2) whether BESS should be considered on-site load other than parasitic or station load, and, if so, whether that classification should permit an otherwise standalone net metering facility to qualify as a Cap Exempt Facility. D.P.U. 21-100, at 12-13; (see Section II.C.2., above). In the Proposed Net Metering Regulations, the Department did not include a definition of on-site load.

2. Definition of On-site Load

a. Summary of Comments

Commenters offer different approaches for defining on-site load in the context of the new definition of Cap Exempt Facility. CCSA/NECEC and DOER argue that the Department should consider defining on-site load in a manner consistent with DOER's SMART Regulations at 225 CMR 20.02 (Definitions) (CCSA/NECEC Comments at 2; DOER Comments at 3). That definition provides:

Any new or existing electric load located at the site of a Solar Tariff Generation Unit including parasitic load that may result from the installation of the Solar Tariff Generation Unit, and that is wired to receive a portion of the electrical energy output from the Solar Tariff Generation Unit before the

⁴⁰ The Department has promulgated the revised definition of Cap Exempt Facility in the Final Net Metering Regulations (see Section III.B., above).

balance of such output passes through the Solar Tariff Generation Unit's metered interconnection onto the electric grid.⁴¹

DOER maintains that this definition is understood by stakeholders, and definition consistency with the Net Metering Program may be beneficial to stakeholders participating in both programs, as well as to DOER, Distribution Companies, and the Department (DOER Comments at 3). Vote Solar contends that the definition of on-site load should be identical to the definition of “behind-the-meter” (“BTM”) established in Net Metering, SMART Provision, and the Forward Capacity Market, D.P.U. 17-146-B (2019) (Vote Solar Comments at 3).⁴²

Resonant argues for defining on-site load based on specific usage. Resonant asserts that on-site load should be defined as the trailing twelve months of usage for a building across all meters paid by the Host Customer (Resonant Comments at 1).

The Distribution Companies support a definition for on-site load consistent with the Single Parcel Rule⁴³ approach established by the Department for the Net Metering Program

⁴¹ DOER also cites to its Renewable Energy Portfolio-Class I regulations at 225 CMR 14.05(4)(a) for substantially the same definition for On-site Load (DOER Comments at 3).

⁴² In D.P.U. 17-146-B, the Department stated that BTM “means a facility that serves on-site load other than parasitic load or station load utilized to operate the facility.” D.P.U. 17-146-B at 13 n.25. In compliance with this Order, the Distribution Companies included this definition in their Net Metering tariffs. See, e.g., Net Metering (NSTAR Electric Company), M.D.P.U. No. 68J, § 1.01 (Definitions).

⁴³ The “Single Parcel Rule” is the Department’s three-factor approach used to determine what constitutes a Net Metering facility announced in Definitions of Unit and Facility, D.P.U. 11-11-C at 23 (2012).

(Distribution Companies Comments at 3, citing Definitions of Unit and Facility, D.P.U. 11-11-C (2012)). The Distribution Companies assert that the load in question should be located on the same parcel of land as the Net Metering facility, behind a single interconnection point, and behind the same meter (Distribution Companies Comments at 3). The Distribution Companies further argue that a threshold percentage of load used on-site could be used to determine eligibility for a facility to be cap exempt (Distribution Companies Comments at 3). The Distribution Companies explain that DOER assumes that certain SMART facilities use 65 percent of load on-site, which could be used as a proxy for establishing a potential threshold in the Net Metering Program (Distribution Companies Comments at 3, citing 225 CMR 20.08(2)(b)).

In response to the Distribution Companies Comments, CCSA/NECEC urge the Department to keep the definition of on-site load simple and to reject the Distribution Companies' approach based on the Single Parcel Rule (CCSA/NECEC Reply Comments at 2). Also, CCSA/NECEC contends that the 65-percent threshold referenced by the Distribution Companies is only a value proxy used for calculating incentive payments and is not utilized to qualify facilities for the SMART Program (CCSA/NECEC Reply Comments at 2). CCSA/NECEC claim that using the Distribution Companies' approach would add an unnecessary layer of confusion and administrative burden for applicants and the Department, particularly in the context of changing load usage for customers that may be further electrifying their homes and businesses (CCSA/NECEC Reply Comments at 2). CCSA/NECEC further argue that the annual cash out included in this proceeding is a

sufficient check against oversizing Cap Exempt Facilities (CCSA/NECEC Reply Comments at 2).

b. Analysis and Findings

The 2021 Climate Act provides that a facility “may net meter and accrue Class II or Class III Net Metering Credits if it is generating renewable energy and serves on-site load, other than parasitic load or station load.” St. 2021, c. 8, § 85. The Department finds this language to be clear. The Legislature intends that additional load beyond the presence of parasitic or station load⁴⁴ to qualify a facility as serving on-site load.

The Department agrees with CCSA/NECEC that we should promulgate a simple and meaningful definition of the term “on-site load” as it can avoid confusion and support clarity. We find that the Distribution Companies’ approach adds levels of consideration that are unnecessary in the context of the 2021 Climate Act. Also, Vote Solar’s recommended definition, although simple, lacks sufficient meaning for use in the regulation of the Net Metering Program. Therefore, the Department does not accept the approaches proposed by the Distribution Companies and Vote Solar.

More important than simplicity, the Department finds that using an existing definition in use for the renewable energy sector will minimize regulatory uncertainty for solar developers and customers that are installing solar facilities in Massachusetts and participating

⁴⁴ For purposes of our definition of on-site load, we use the term “parasitic or station load” as the energy or load used to operate the facility itself (such as for lighting, power, and auxiliary needs). See, e.g., D.P.U. 17-140-A at 5-6 n.8.

in multiple programs (e.g., Net Metering Program and SMART Program). Thus, we find that the definition of on-site load in DOER's SMART Regulations is a proper model for use in the Net Metering Regulations. As such, the Department promulgates a modified version of the definition of On-site Load in DOER's regulation, 225 CMR 20.02, which uses Net Metering terminology in place of SMART program terminology, as follows:

On-site Load. Any new or existing electric load located at the site of a Net Metering facility, other than parasitic load that may result from the installation and operation of the Net Metering facility, and that is wired to be served by a portion of the electrical energy output from the Net Metering facility before the balance of such output passes through the Net Metering facility's metered interconnection onto the electric grid. An energy storage system, as defined in M.G.L. c. 164, § 1, does not constitute On-site Load.

Accordingly, the Department amends Section 18.02 ("Definitions") of the Net Metering Regulations to include a new definition of "On-site Load" and promulgates this definition as set forth in Appendices A and B. The Department directs the Distribution Companies to revise the Net Metering tariff to incorporate the new term and definition for "On-site-Load" as set forth herein.

3. On-site Load and BESS

a. Summary of Comments⁴⁵

Commenters disagree on whether BESS should be considered on-site load and whether classification as BESS should allow an otherwise standalone Net Metering facility coupled

⁴⁵ BVPS does not comment on the Department's specific question but maintains that the government should measure the clean energy contributions from solar facilities paired with BESS (BVPS Comments at 2).

with BESS to qualify as a Cap Exempt Facility. CCSA/NECEC, DOER, and Vote Solar contend that a facility with BESS and no other on-site load should not qualify as a Cap Exempt Facility (CCSA/NECEC Comments at 2-3; DOER Comments at 3-4; Vote Solar Comments at 4).⁴⁶ CCSA/NECEC, DOER, and Vote Solar argue that to do so would contradict or circumvent Department Orders and the provisions of other programs such as the SMART Program (CCSA/NECEC Comments at 3, citing 225 CMR 20.00⁴⁷ and Solar Massachusetts Renewable Target Revised Model Tariff, D.P.U. 20-145-B (2021); DOER Comments at 3-4; Vote Solar Comments at 4, generally referencing discussion of term BTM in docket D.P.U. 17-146). Specifically, CCSA/NECEC maintain that the definition of a standalone solar tariff generation unit (“STGU”) was updated through D.P.U. 20-145-B⁴⁸ to clarify how BESS impacts the definitions of “standalone” and “behind-the-meter” solar

⁴⁶ CCSA/NECEC claim that BESS should be considered on-site load but should not be considered on-site load in the same way that end-use consumption load is considered (CCSA/NECEC Comments at 2-3). CCSA/NECEC argue that co-located BESS represent on-site load that is there to only help facilitate the efficient operation of a Net Metering Facility (CCSA/NECEC Comments at 3).

⁴⁷ The SMART Regulations include the following definition: “Standalone Solar Tariff Generation Unit. A Solar Tariff Generation Unit that serves no associated On-site Load other than parasitic or station load utilized to operate the Generation Unit or Coupled Energy Storage System.” 225 CMR 20.02 (Definitions).

⁴⁸ In D.P.U. 20-145-B, the Department approved the Distribution Companies’ proposed definition of “Standalone STGU” for inclusion in the SMART Provision. D.P.U. 20-145-B at 19. That definition is incorporated into the SMART Provision as follows: “Standalone STGU shall mean a STGU that serves no associated On-site Load other than parasitic or station load utilized to operate the Generation Unit or coupled Energy Storage System.” NSTAR Electric SMART Provision, M.D.P.U. No. 74F, § 2.35.

facilities (CCSA/NECEC Comments at 3). CCSA/NECEC contend that to allow the same facility to qualify for a BTM classification in one program, while it is explicitly treated differently in another program, would create confusion for all stakeholders (CCSA/NECEC Comments at 2-3). Similarly, DOER argues that classifying BESS by itself as on-site load could incentivize facilities' pairing with BESS solely to circumvent the Net Metering cap (DOER Comments at 3-4). DOER further explains that allowing BESS to be considered on-site load would increase costs to ratepayers without aligning the BESS with signals to dispatch energy when it would provide wholesale market benefits (DOER Comments at 4).

DOER maintains that if the Department were to allow Net Metering facilities with BESS to be classified as Cap Exempt Facilities, the Department should set additional parameters regarding the minimum required capacity of the BESS in relation to the facility's size (DOER Comments at 4). As an example, DOER cites to the SMART Program that requires the nominal capacity of BESS installed with STGUs to be greater than or equivalent to 25 percent of the nominal capacity of the STGU (DOER Comments at 4, citing 225 CMR 20.06(1)(e)(1)).

Resonant asserts that BESS should be considered on-site load as long as the facility is enrolled in a demand response program managed by a Distribution Company (Resonant Comments at 2). Resonant alleges that having this additional requirement to qualify the Net Metering facility as a Cap Exempt Facility would incentivize the development of battery BESS, which, in turn, would promote grid stability and the development of the Distribution Companies' battery management capabilities (Resonant Comments at 2).

The Distribution Companies argue that BESS should not be considered as on-site load (Distribution Companies Comments at 3). The Distribution Companies contend that doing so would go against the standard meaning of on-site load and would circumvent the plain and ordinary meaning of the new legislative provisions (Distribution Companies Comments at 3).

b. Analysis and Findings

CCSA/NECEC, the Distribution Companies, DOER, and Vote Solar maintain that a facility with BESS and no on-site load should not qualify as a Cap Exempt Facility (CCSA/NECEC Comments at 2-3; Distribution Companies Comments at 3; DOER Comments at 3-4; Vote Solar Comments at 4). The Department agrees with these commenters that the inclusion of BESS to qualify as a Net Metering Facility may incentivize stand-alone renewable energy facilities to pair with BESS solely to game the Net Metering Program by circumventing the Net Metering caps. See D.P.U. 11-11-C at 19, 22 (Department's longstanding goal in adopting policies and rules is to prevent artificial or unfair manipulation of the regulatory system); see also Borrego Solar Systems, Inc., D.P.U. 15-159, at 11 (2016). Such gaming and manipulation would unfairly burden all electric distribution customers with costs as they pay the costs of the Net Metering Program whether or not they receive Net Metering Credits. G.L. c. 164, § 139(c); Net Metering Blanket Exceptions and Streamlining Process, D.P.U. 17-22-A at 43 (2018). The Department supports the development of BESS to provide benefits to the electric grid, not the use of BESS to qualify a facility as a Cap Exempt Facility. Therefore, the Department finds that BESS, with no on-site load, will not qualify a facility as a Cap Exempt Facility.

Furthermore, with our promulgation of the definition of On-site Load in the Final Net Metering Regulations, we find that there is a benefit for customers and the solar community of operating under similar rules across both the Net Metering Program and the SMART Program. See, e.g., D.P.U. 11-11-C at 22 (promoting the goal of regulatory certainty). Consistent with this regulatory approach, we find that this treatment of BESS is consistent with the regulatory provisions of the SMART Program identified above in the SMART Regulations and the SMART Provision. Thus, for the purposes of net metering, BESS does not constitute On-site Load.

E. Reclassification of Affected Class II and III Facilities⁴⁹

1. Introduction

Prior to the 2021 Climate Act, all Class II and Class III Net Metering facilities, in other words, those Net Metering Facilities greater than 60 kW, were required to apply to the System of Assurance and obtain a cap allocation to be eligible to generate Net Metering Credits. G.L. c. 164, §§ 138 and 139. However, the 2021 Climate Act requires that Affected Class II and III Facilities be exempt from the net metering cap. St. 2021, c. 8, § 85. Thus, to comply with the statute, Affected Class II and III Facilities must reclassify as

⁴⁹ For the purposes of this Order, Affected Class II and III Facilities refers to preexisting Class II and Class III Net Metering Facilities with an executed ISA dated on or after January 1, 2021, that generate Renewable Energy, serve On-site Load, other than parasitic or station load, and that are not Net Metering Facilities of a municipality or other governmental entity. Correspondingly, Affected Host Customer refers to the Host Customer of an Affected Class II or III Facility.

a Cap Exempt Facility. The Department specifies the process for reclassification of Affected Class II and III Facilities below.

2. Analysis and Findings

Based on our knowledge of the operation of the System of Assurance, our engagement with the Administrator in the functioning of the System of Assurance, and our experience with the Distribution Companies, the Department finds it appropriate that the reclassification established herein take place through coordinated efforts between the Distribution Companies and the Administrator. Several pieces of information are necessary to appropriately identify Affected Class II and III Facilities that require reclassification. Necessary identification information includes: (1) the Affected Class II or III Facility's size in kW-AC; its Class; the date of the executed ISA; (2) whether the facility is serving On-site Load other than parasitic or station load; and (3) if the cap allocation is in the private cap. St. 2021, c. 8, § 85. The Distribution Companies, but not the Administrator, maintain (i) the date of the executed ISA and (ii) whether the facility is serving On-site Load. Thus, the Distribution Companies shall identify the Net Metering Class, location, and capacity of Affected Class II and III Facilities in their service territories in the informational filing that the Department directs in Section III.G.2.b., below.

Based on the existing role of the Administrator and our constructive experience with the Administrator, we find it appropriate for the Administrator to manage the reclassification process, subject to the Department's supervision and control. Accordingly, the Department will confer with the Administrator in establishing the reclassification process, including such

matters as deadlines, notifications, information for submission, and forms. After conferring with the Administrator, the Department will issue its reclassification policy in this docket. In the interest of offering preliminary guidance, the Department provides the following:

- Within 30 calendar days of the date of receipt of the informational filing from the Distribution Companies, the Administrator shall:
 1. File a letter in this docket indicating that it has the requisite information to proceed with notification to Affected Host Customers of reclassification and cap revocation; or
 2. File a letter in this docket and with the relevant Distribution Company, and/or Affected Host Customer, requesting additional or clarifying information.
- After the Administrator has the necessary information to proceed with the reclassification process, the Administrator shall provide notice to each Affected Host Customer that its cap allocation will be revoked and that the Net Metering facility will be reclassified as a Cap Exempt Facility. The Administrator and the Department will coordinate to develop the language included in the notification.
- After a reasonable time has passed, to be determined by the Administrator and the Department, the Administrator shall revoke the Affected Class II and III Facilities' cap allocations and update the private caps accordingly.

Finally, consistent with the statutory changes in the 2021 Climate Act, the Administrator shall amend its application and its application review process for Affected Class II and III Facilities.

F. Avoided Cost Rate and Crediting/Payout Process

1. Introduction

The 2021 Climate Act requires the Distribution Companies to credit or pay the Host Customer of a Cap Exempt Facility that is also a Class II Net Metering Facility or Class III Net Metering Facility for any Net Metering Credits that are accrued in excess of its annual electricity consumption for the period running from April of each year through the following March. St, 2021, c. 8, § 53. The 2021 Climate Act further requires that the value of the credit or payment be at the Distribution Company’s “avoided cost rate.” St. 2021, c. 8, § 53. However, the Legislature does not define Avoided Cost Rate in the 2021 Climate Act. Accordingly, the Department sought comments on: (1) a definition for the term Avoided Cost Rate; and (2) how this crediting/payout should be processed. D.P.U. 21-100, at 13; (see Section II.C.3., above). In the Proposed Net Metering Regulations, the Department did not include a definition of Avoided Cost Rate.⁵⁰

2. Summary of Comments

Commenters agree that the term Avoided Cost Rate should be defined based on average pricing data from ISO New England Inc. (“ISO-NE”),⁵¹ though opinions differ on

⁵⁰ In Section 18.05(5) of the Final Regulations, the Department does include clarifying information regarding the basis of the Avoided Cost Rate.

⁵¹ ISO-NE is a not-for-profit, private corporation that serves as the regional transmission organization for New England. ISO-NE operates the New England bulk power system and administers New England's wholesale electricity market. Investigation Into The Need For Additional Capacity In NEMA/Boston, D.P.U. 12-77, at 1 n.1 (2013).

exactly which data to use and the associated calculation (CCSA/NECEC Comments at 3; Distribution Companies Comments at 4; Resonant Comments at 2; Vote Solar Comments at 4). CCSA/NECEC, Resonant, and Vote Solar maintain that regulations governing the Distribution Companies' purchase of power from qualifying facilities ("QFs")⁵² should guide the Department in defining this term (CCSA/NECEC Comments at 3; Resonant Comments at 2; Vote Solar Comments at 4). CCSA/NECEC and Resonant argue that the Avoided Cost Rate should be calculated using ISO-NE's locational marginal price ("LMP") (CCSA/NECEC Comments at 3; Resonant Comments at 2). CCSA/NECEC explain that under the Commonwealth's current QF Regulations, the rate that facilities are paid for energy exports is generally referred to as avoided cost (CCSA/NECEC Comments at 3). CCSA/NECEC assert that certain QFs are paid the average monthly clearing prices at ISO-NE (CCSA/NECEC Comments at 3). CCSA/NECEC contend that the value paid for accumulated credits should be based on a similar value, the ISO-NE monthly average LMP that was realized by the settlement⁵³ of the output of the Net Metering Facility

⁵² 220 CMR 8.00 ("QF Regulations").

⁵³ As provided in the Mayflower Wind Energy LLC Long-Term Power Purchase Agreements filed with the Department in NSTAR Electric Company / Massachusetts Electric Company and Nantucket Electric Company / Fitchburg Gas and Electric Light Company, D.P.U. 20-16, 20-17, 20-18, "ISO-NE Settlement" shall mean the process under the ISO-NE Tariff through which the distribution of payments and expenses resulting from ISO-NE administered electric wholesale markets occur" (Exhs. DPU 2-2(a), § 1 (Definitions); DPU 2-4, § 1 (Definitions). The referenced tariff is defined as "ISO-NE Tariff" shall mean ISO-NE's Transmission, Markets and Services Tariff, FERC Electric Tariff No. 3, as amended, superseded or restated from time to time" (Exhs. DPU 2-2(a), § 1 (Definitions); DPU 2-4, § 1 (Definitions)).

(CCSA/NECEC Comments at 3). Resonant states that Avoided Cost Rate is defined in federal code as “the incremental cost to the electric utility of alternative electric energy” (Resonant Comments at 2, citing 16 U.S.C. § 824a-3(b)).⁵⁴ Resonant claims that the Federal Energy Regulatory Commission (“FERC”) regulations further allow a state regulatory authority or non-regulated electric utility to establish rates for purchasing energy from a QF based on LMP (Resonant Comments at 2, citing 18 C.F.R. § 292.304(e)). Resonant maintains that calculating the Avoided Cost Rate using ISO-NE’s monthly average LMP would provide an easy method of calculation and a true location for the Avoided Cost Rate rather than a standardized QF rate (Resonant Comments at 2). Vote Solar contends that, in this context, “avoided cost” usually refers to the rate that QFs receive for their generation; it argues that the Department should utilize the compensation structure in place for QFs in determining the Avoided Cost Rate applicable to Net Metering facilities (Vote Solar Comments at 4). Based on the QF Regulations, Vote Solar recommends that the weighted average be based on: (i) the price and production of the facility for facilities larger than or equal to one megawatt (“MW”); and (ii) the average short-run energy rate by month and the relevant facility’s production by month for facilities less than one MW (Vote Solar Comments at 4, citing 220 CMR 8.05(2)).

⁵⁴ Under FERC’s associated regulations, avoided cost means “the incremental cost to an electric utility of electric energy or capacity or both which, but for the purchase from the qualifying facility or facilities, such utility would generate itself or purchase from another source.” 18 C.F.R. § 292.101(b)(b).

Klavens Law Group maintains that, while the term Avoided Cost Rate may allude to the rate used to compensate QFs, due to the established position of the Department to keep the Net Metering Regulations and QF Regulations separate and distinct, it would be inappropriate to deviate from that practice in this proceeding (Klavens Law Group Comments at 2). Klavens Law Group claims that because certain Class I Net Metering Facilities are credited at the average monthly clearing price, the Department could develop a definition to accommodate these Class I Net Metering Facilities with this annual cash out for eligible Cap Exempt Facilities (Klavens Law Group Comments at 2, citing 220 CMR 18.04(2)). Klavens Law Group further argues that the Department should establish a definition of Avoided Cost Rate that is clear to all stakeholders (Klavens Law Group Comments at 2).

The Distribution Companies argue that the Avoided Cost Rate should be determined by the actual value of a Net Metering facility's energy realized by the Distribution Company (Distribution Companies Comments at 4). The Distribution Companies explain that the Avoided Cost Rate should be the average per kWh rate received by the Distribution Company, over the course of the year, for all the generated energy from Class II and Class III Net Metering Facilities that the Distribution Company sold in the ISO-NE energy market (Distribution Companies Comments at 4). To implement this derivation for Avoided Cost Rate, the Distribution Companies propose three new terms with definitions: Avoided Cost Rate, average Net Metering Credit rate, and avoided cost ratio, with accompanying definitions (Distribution Companies Comments at 4).

To obtain the cash-out value of the Net Metering Credit balance, each Distribution Company would multiply the remaining credit balance by the ratio of the average Net Metering Credit value and the year's average Avoided Cost Rate (Distribution Companies Comments at 4). The Distribution Companies argue that the cash-out value of the remaining Net Metering Credit balances for a Cap Exempt Facility should be calculated as the average of Net Metering Credit rates that the Net Metering facility received over the course of the year (Distribution Companies Comments at 4).

CCSA/NECEC maintain that the Distribution Company should verify with the Host Customer the number of credits that will be paid out at the Avoided Cost Rate (CCSA/NECEC Comments at 3). CCSA/NECEC further maintains that the enabling statute allows Net Metering facilities to be credited at the Avoided Cost Rate and that this crediting should only be done at the Host Customer's option (CCSA/NECEC Comments at 3). CCSA/NECEC further argue that the default payment option should be a direct payment (CCSA/NECEC Comments at 3). The Distribution Companies propose providing a summary to Cap Exempt Class II and Class III Net Metering Host Customers of the excess balance of their unallocated Net Metering Credits on their billing accounts based on billing cycles that occurred within a recent 12-month period (Distribution Companies Comments at 5). The Distribution Companies further recommend that within two months of the date when summaries are issued, any Cap Exempt Class II or Class III Net Metering facility that has an excess balance of unallocated credits shall receive such credits at the Avoided Cost Rate as a one-time payment by submitting a request that includes the relevant tax and banking

information for the Distribution Company to issue a payment by cash or Automated Clearing House (“ACH”)⁵⁵ (Distribution Companies Comments at 5). This tax and banking information would, according to the Distribution Companies, be required from each of these customers as a condition of participation in the Net Metering Program (Distribution Companies Comments at 5).

3. Analysis and Findings

a. Avoided Cost Rate

The commenters addressing this issue unanimously support using average pricing data from ISO-NE in a definition of Avoided Cost Rate, but they include varying levels of specificity in their recommendations (CCSA/NECEC Comments at 3; Distribution Companies Comments at 4; Resonant Comments at 2; Vote Solar Comments at 4). The Distribution Companies propose that the Avoided Cost Rate be determined “from the average per kWh rate realized by the host Distribution Company for all Class II and Class III Net Metering facilities participating in the ISO-NE energy market” (Distribution Companies Comments at 4). CCSA, NECEC, and Resonant propose that the Avoided Cost Rate be the average ISO-NE LMP rate realized by the settlement of the output of the Net Metering facility (CCSA/NECEC Comments at 3; Resonant Comments at 2). Moreover, Vote Solar recommends that the Department define the Avoided Cost Rate for Net Metering purposes the same way it is defined at 220 CMR 8.05(2) for QFs, including the use of weighted

⁵⁵ ACH is an electronic network that manages electronic banking transactions.

averages (Vote Solar Comments at 4). Finally, Klavens Law Group suggests the Department could adopt a definition to accommodate both Class I facilities and an annual cash out option for eligible Cap Exempt Facilities (Klavens Law Group Comments at 3).

The Department agrees with the general recommendation that average pricing data from ISO-NE be used to determine the Avoided Cost Rate. Accordingly, the Department amends Section 18.02 of the Net Metering Regulations to include a new definition of “Locational Marginal Price (LMP)” as set forth in Appendices A and B. LMP means:

The price of electric energy set by ISO-NE at each load zone, external interface with neighboring regions, and the hub that reflects:

- (a) the operating characteristics of, and the major constraints on, the New England transmission system at each area; and
- (b) the losses resulting from physical limits of the transmission system.

ISO-NE, [FAQs Locational Marginal Pricing](http://www.iso-ne.com/participate/support/faq/lmp), www.iso-ne.com/participate/support/faq/lmp (last visited February 15, 2024).

Thus, the amount of the annual payout or carry forward shall be derived by applying an adjustment factor to the value of the Net Metering Credits that accrued during the preceding 12-month period beginning from April of the preceding year and are remaining on the Host Customer’s billing account as of March 31 of the current year. The adjustment factor ratio shall be the average monthly LMP rate that was realized by the settled output of Net Metering facilities with ISO-NE divided by the average monthly Net Metering Credit rate that the specific Net Metering facility received from the Distribution Company. This ratio is consistent with the cash-out provision in Section 10 of the SMART Tariff. See, e.g., NSTAR Electric Company, Solar Massachusetts Renewable Target, M.D.P.U. No, 74F,

§ 10 (Alternative On-Bill Credits). The average monthly Net Metering Credit rate shall be weighted by the monthly net excess electricity generated (kWh) by the Net Metering facility. Any balance that may have accrued on the Host Customer's billing account prior to the 12-month period that immediately precedes the current year is eligible to be carried forward only and will no longer be eligible for a payout.

To comply with the 2021 Climate Act, the Department promulgates Section 18.05(5) of the Net Metering Regulations as set forth in Appendices A and B to add the following directive regarding Avoided Cost Rate:

The Avoided Cost Rate is based on data used by ISO-NE to set prices for energy purchases and sales. A Distribution Company's annual payout amount for Net Metering Credits shall be derived by applying an adjustment factor to the value of the Net Metering Credits that accrued during the preceding 12-month period beginning from April of the preceding year and are remaining on the Host Customer's billing account as of March 31 of the current year. The adjustment factor ratio shall be the average monthly LMP rate that was realized by the settlement of the output of Net Metering facilities with ISO-NE, divided by the average monthly Net Metering Credit rate that the Net Metering facility received from the Distribution Company, weighted by the monthly net excess electricity generated by the Net Metering Facility.

Apps. A and B, § 18.05(5).

In Section 18.05(4), the Department further adds "as determined pursuant to 220 CMR 18.05(5) to Final Regulations in order to further promote clarity in the Net Metering Credit allocation process. Apps. A and B, § 18.05(4).

b. Crediting/Payout Process

The Department agrees with commenters that the Distribution Company and the Net Metering Host Customers must communicate regarding the excess balance of unallocated Net Metering Credits prior to the processing of a credit or payout. Because the Distribution

Company controls the key account information, it shall initiate the communications with a written report to each relevant Host Customer with pertinent information regarding unallocated Net Metering Credits. To support the credit/payout transaction, the relevant Host Customer must provide necessary instructions and payment information. Consistent with the “April through March” time period set forth in the 2021 Climate Act,⁵⁶ the following process shall apply:

By May 15 of each year, the Distribution Company shall provide a written report to each Host Customer of a Cap Exempt Class II Net Metering facility and to each Host Customer of a Cap Exempt Class III Net Metering facility that includes:

- (a) the excess balance of unallocated Net Metering Credits that had accrued during the preceding 12-month period beginning from April of the preceding year and are remaining on the Host Customer’s billing account as of March 31 of the same calendar year;
- (b) an estimate of the payout/carry forward credit amount, with supporting calculation using the Avoided Cost Rate;
- (c) a directive that the Host Customer send the Distribution Company, by June 1, a written election for payout,⁵⁷ carry forward, or partial carry forward and partial payout;

⁵⁶ St. 2021, c. 8, § 85; G.L. c. 164, § 139(i).

⁵⁷ The written election for payout can be in the form of an email, letter, or other written format as specified by the Distribution Company. The Distribution Company is required to maintain a copy of the written election for payout for a period of at least six years from the date it received the written election.

- (d) notification to the Host Customer that this June 1 election is the only opportunity to choose a payout for the previous 12 months' excess credit balance at the Avoided Cost Rate;
- (e) a directive that the Host Customer, if electing a payout, (i) confirm or update the banking or mailing information and (ii) provide the necessary tax information for processing and issuing the payout;
- (f) the Distribution Company's contact information for any questions; and
- (g) such other information deemed appropriate for the effective processing of the transaction.

Also, excess credit balances on Host Customer accounts of Cap Exempt Class II Net Metering Facilities and Cap Exempt Class III Net Metering Facilities that are carried forward monthly will be done so at the Class II or Class III Net Metering Credit value from April to the following March. The Department acknowledges that for Cap Exempt Class II Net Metering Facilities and Cap Exempt Class III Net Metering Facilities, (a) the value of excess Net Metering Credits earned and posted on Host Customers' accounts at the end of the year will be higher than (b) the value of payouts or credit balances that are carried forward at the end of the year at the Avoided Cost Rate. Thus, the Distribution Companies shall adjust the Host Customers' accrued net balances to the Avoided Cost Rate annually prior to the carry forward of any credit balance or payout. Further, in the event of an over recovery of costs from distribution customers, the Distribution Companies shall return the difference between the Net Metering Credit and Avoided Cost Rate to the Net Metering Program to offset program costs and through the NMRS.

Finally, to provide reasonable notice to Affected Host Customers and to allow for an opportunity to use or allocate accrued Net Metering Credits prior to the value being adjusted to the Avoided Cost Rate, in addition to providing time for the completion of any implementation requirements by the Distribution Companies, April 1, 2024 through March 31, 2025 shall be the first April through March period for the purposes of calculating and adjusting credits accrued in excess of a Cap Exempt Class II Net Metering Facility's or Cap Exempt Class III Net Metering Facility's annual electricity consumption.⁵⁸ Thus, the first report of this kind shall be provided to the Host Customer no later than May 15, 2025 and the first account balance payout or carry forward at the Avoided Cost Rate shall occur after June 1, 2025.

c. Host Customer

By June 1 of each year, in response to the Distribution Company's report, the Host Customer of a Cap Exempt Class II Net Metering facility or the Host Customer of a Cap Exempt Class III Net Metering facility shall provide the following in writing to the Distribution Company:

⁵⁸ At the Distribution Company's discretion, Affected Class III Net Metering Facilities may receive payouts for excess generation at the Net Metering Credit value through March 31, 2024. G.L. c. 164, § 139(b)(1); G.L. c. 164, § 139A(b), 220 CMR 18.05(4). Any credits accrued in excess of the Affected Class III Net Metering Facilities' annual electricity consumption for the period running from April 1, 2024 through the following March, and during each April through March period thereafter, will be credited or paid out at the Distribution Company's Avoided Cost Rate. St. 2021, c. 8, § 85.

- (a) an election for the carry forward or payout of the reported excess balance of unallocated Net Metering Credits at the Avoided Cost Rate, or a stated election for the partial carry forward and partial payout of the balance; and
- (b) if electing a payout, the requested banking, tax, and mailing information.

If the Host Customer fails to make a timely election between carry forward or payout of the balance of reported excess Net Metering Credits, the Distribution Company shall carry forward the excess balance of unallocated Net Metering Credits on the Host Customer's account at the Avoided Cost Rate. Further, if the Host Customer elects a payout but fails to timely provide the Distribution Company with the necessary banking, tax, or mailing information, the Distribution Company shall carry forward the excess balance of unallocated Net Metering Credits on the Host Customer's account at the Avoided Cost Rate.

d. Net Metering Credit Balances on Affected Host Customer Accounts Accrued between January 1, 2022 and March 31, 2025

The Department recognizes that there are timing differences between the effective date of the 2021 Climate Act, the date of this Order, and the effective date of the Final Net Metering Regulations, which affect the timing eligibility for the new payout or carry forward of the excess balance of unallocated Net Metering Credits set forth in the 2021 Climate Act. As stated above, the 2021 Climate Act was effective June 24, 2021. As stated below, the Final Net Metering Regulations will be effective upon publication in the Massachusetts Register after the Department has submitted them to the Secretary of the Commonwealth following issuance of this Order. Further, the 2021 Climate Act provides eligibility for the newly promulgated Net Metering Credit carry forward or payout rule for Affected Class II

and III Facilities. St. 2021, c. 8, § 85; G.L. c. 164, § 139(i). The Department identifies January 1, 2022 as the appropriate start date to calculate accrued Net Metering Credits eligible for the allocation exception, outlined below, given its proximity to the passage of the 2021 Climate Act, to promote administrative efficiency, and for ease and consistency of Distribution Company accounting.

As a result of these timing differences, Affected Host Customers may be carrying Net Metering Credit balances on their accounts that were accrued prior to reclassification. In this scenario, the Department provides for an exception to the current practice that requires Net Metering Credits be allocated prospectively via Schedule Z.⁵⁹ G.L. c. 164, § 139(a)(1), (b)(1). Here, Affected Host Customers whose Affected Class II and Class III Facilities have been reclassified as a Cap Exempt Facility will have the opportunity to reallocate Net Metering Credits that may have accrued and will accrue on their accounts between January 1, 2022 and March 31, 2025. These Affected Host Customers may reallocate Net Metering Credits to other accounts at the Class II Net Metering Credit value or Class III Net Metering Credit value for the credits that accrued prior to April 1, 2025. Any Net Metering Credit balance remaining on the Affected Host Customer's account as of April 1, 2025 will be

⁵⁹ Schedule Z to the DG Interconnection Tariff, which is a form completed by or on behalf of a Host Customer, contains information regarding the Host Customer and the generating facility necessary to receive Net Metering services from the Distribution Company and to allocate Net Metering Credits to the Host Customer and other customer accounts, if applicable.

recalculated at the Avoided Cost Rate and subject to the first annual payout and carry forward report and process described above.

The following process shall apply in those instances where Affected Host Customers are carrying Net Metering Credit balances on their accounts prior to reclassification: Within 45 calendar days of the effective date of the Final Regulations, each Distribution Company shall send a written statement to each Affected Host Customer:

- (a) Identifying the balance of unallocated Net Metering Credits that had accrued from January 1, 2022 and are remaining on the Host Customer's billing account as of the effective date of the Final Regulations;
 - (b) Making clear that any Net Metering Credit balance remaining on the Host Customer's accounts as of March 31, 2025 will be converted to the Avoided Cost Rate at which point the Host Customer may elect for a payout or carry forward;
 - (c) Providing notice to Affected Host Customers of the credit allocation exception by informing them that they may submit Schedule Z to their Distribution Company to reallocate the balance of unallocated Net Metering Credits that had accrued from January 1, 2022 and will accrue through March 31, 2025; and
 - (d) Providing contact information for any questions.
- G. Transfer of Credits Across Distribution Companies Service Territories and ISO-NE Load Zones

1. Introduction

The 2021 Climate Act amends the process for allocating Net Metering Credits by now allowing Host Customers of certain Net Metering facilities to transfer their Net Metering

Credits to customers of any Distribution Company located in the Commonwealth.

St. 2021, c. 8, § 84; G.L. c. 164, § 139(b½)(1). The credit transfer rules of Sections 84 and 85 of the 2021 Climate Act do not apply to Cap Exempt Facilities that are (i) Class I Net Metering Facilities or (ii) Class I, Class II, or Class III net metering facilities that are not also Solar Net Metering Facilities, because such facilities in (i) and (ii) are either specifically exempted from G.L. c. 164, § 139(b½) by G.L. c. 164, § 139(i) or the relevant subsection of Section 139(b½) does not apply to these categories of Net Metering Facilities. St. 2021, c. 8, §§ 84, 85. Accordingly, the credit transfer rules of Sections 84 and 85 of the 2021 Climate Act apply to all New Solar Net Metering Facilities and to all Class II and Class III Solar Net Metering Facilities that are Cap Exempt Facilities. St. 2021, c. 8, §§ 84, 85; G.L. c. 164, § 139(i).

Prior to the 2021 Climate Act, Host Customers of Net Metering facilities could transfer their Net Metering Credits only to customer accounts (1) served by the same Distribution Company and (2) located within the same ISO-NE load zone.⁶⁰ St. 2016, c. 75, § 4; 220 CMR 18.05(1). With the 2021 Climate Act, the Legislature has removed these two limitations on allocating Net Metering Credits.

⁶⁰ ISO-NE load zone means “an aggregation of pricing nodes within a specific area of the New England bulk electric power system for establishing the wholesale price of electric energy and settling the wholesale electric energy market.” ISO-NE Glossary and Acronyms, www.iso-ne.com/participate/support/glossary-acronyms/ (last visited February 15, 2024).

The Distribution Companies utilize Schedule Z to receive and implement the designated Net Metering Credit allocations from Host Customers of Net Metering facilities. See, e.g., NSTAR Electric Company d/b/a Eversource Energy, Standards For the Interconnection of Distributed Generation, M.D.P.U. No. 55A, Sch. Z.⁶¹ Host Customers can update their Schedule Z Net Metering Credit allocations twice per calendar year. See, e.g., M.D.P.U. No. 55A, Sch. Z, ¶ (H). More recently, NSTAR Electric and National Grid have undertaken automation efforts and each now allows a Host Customer to update its Schedule Z four times annually (Distribution Companies Comments at 9-10).⁶²

Given the statutory change regarding the transfer of Net Metering Credits across Distribution Companies and ISO-NE load zones, the Department sought comments on:

- (1) how Host Customers should indicate Net Metering Credits for allocation to customers in a different service territory and uniformity in forms and process for all Distribution Companies to the transfer of the Net Metering Credits;
- (2) how Distribution Companies should allocate and recover costs associated with this transfer of Net Metering Credits across service territories;

⁶¹ Each Distribution Company has substantially the same DG Interconnection Tariff with Schedule Z (currently, National Grid's is M.D.P.U. No. 1468 and Unital's is M.D.P.U. No. 375). The DG Interconnection Tariff sets forth the process and requirements for an interconnecting customer to connect a generating facility to the Distribution Company's electric power system, including discussion of technical and operating requirements, metering and billing options, and other matters.

⁶² National Grid allows some "ad hoc" changes for additional reasons (Distribution Companies Comments at 10). The Department appreciates the flexibility of the Distribution Companies in allowing more frequent changes to Schedule Z, as this practice increases the likelihood that Net Metering Credits are used to defray electricity costs billed to distribution customers.

- (3) whether Net Metering Credits can be transferred to customers in more than one service territory; and
- (4) the frequency for modifying the percentage allocation for Net Metering Credits for transfer to customers in a different service territory.

D.P.U. 21-100, at 13-14; Section II.C., question 4, above.

2. Indicating Net Metering Credits for Allocation

a. Summary of Comments⁶³

There is some disagreement among commenters regarding how Host Customers should indicate the allocations of their Net Metering Credits that should be transferred to customers in a different service territory. Most commenters agree that this process should be uniform across the Distribution Companies' service territories (Arcadia Comments at 2; CCSA/NECEC Comments at 4; DOER Comments at 4; Klavens Law Group Comments at 2; Resonant Comments at 2; Sunrun Comments at 1; Vote Solar Comments at 5).

Arcadia, CCSA/NECEC, Klavens Law Group, Resonant, Sunrun, and Vote Solar support modifying the existing Schedule Z to allow customers to transfer Net Metering Credits across service territories (Arcadia Comments at 2; CCSA/NECEC Comments at 4; Klavens Law Group Comments at 2-3; Resonant Comments at 2; Sunrun Comments at 1;

⁶³ Arcadia claims that when considering process design changes and any associated software builds for Net Metering Credit allocations, the Department should also consider including SMART credit allocations across the Distribution Companies service territories (Arcadia Comments at 2).

Vote Solar Comments at 5).⁶⁴ Arcadia, CCSA/NECEC, Klavens Law Group, and Vote Solar explain that a column or line could be added to Schedule Z for customers to indicate the Distribution Company service territory to which the Net Metering Credits are to be transferred (Arcadia Comments at 2; CCSA/NECEC Comments at 4; Klavens Law Group Comments at 2; Vote Solar Comments at 5). Resonant contends that, because developers across the Distribution Companies' service territories are already familiar with Schedule Z, it would make sense to continue using Schedule Z (Resonant Comments at 2). Resonant and Sunrun argue that Schedule Z should be digitized to improve the allocation update process (Resonant Comments at 2; Sunrun Comments at 1). Sunrun claims that digitizing Schedule Z could serve multiple purposes, making it a worthwhile investment (Sunrun Comments at 1).

DOER contends that the lack of flexibility in the Distribution Companies' billing systems creates challenges for credit allocation (DOER Comments at 5). DOER argues that the Department should support the development of a centralized database to aid the Distribution Companies' implementation of allocations across service territories (DOER Comments at 5). DOER maintains that centralized databases used by the Net Metering Program for cap allocation and by the SMART program can serve as examples (DOER Comments at 5). DOER argues that using such a data management system to facilitate

⁶⁴ Arcadia does not mention "Schedule Z" but claims that the simplest and most effective way to transfer Net Metering Credits across service territories would be for the Distribution Companies to continue to allocate Net Metering Credits as they do today (Arcadia Comments at 2). The Department interprets these comments to mean using Schedule Z.

transfers across service territories could generate economic efficiencies and minimize the impact of implementation costs on rate payers (DOER Comments at 5).

The Distribution Companies argue that a modified Schedule Z should be used (Distribution Companies Comments at 5). The Distribution Companies contend that an updated Schedule Z should include: (1) the percentage to be allocated to each individual satellite account served by the same Distribution Company regardless of load zone; (2) the total percentage to be allocated to each of the other Distribution Companies; and (3) the total remaining percentage to remain on the host account (Distribution Companies Comments at 5). The Distribution Companies allege that due to the unique capabilities of each Distribution Company's information technology systems, the revised Schedule Z may not look identical but would collect identical information (Distribution Companies Comments at 5).

b. Analysis and Findings

As an initial matter, the Department finds that there is insufficient information for the Department to assess the use and implementation of a centralized database to allocate Net Metering Credits at this time.⁶⁵ For example, to examine the prudence of a central database the Department would need information regarding inputs, function, access, administration, data security, maintenance and modification, cost, and cost responsibility. The Department will not delay implementation of the allocation of Net Metering Credits across load zones and

⁶⁵ No participants to this rulemaking proceeding commented on DOER's idea.

the Distribution Companies' service territories, as authorized by the 2021 Climate Act, to assess a central database at this time. Considering the current use of Schedule Z, the substantial consistency of Schedule Z across the Distribution Companies, the net metering sector's familiarity with Schedule Z, and the comments, the Department determines that a revised Schedule Z shall be the means for Host Customers to indicate the allocation of Net Metering Credits to be transferred to customers in a different service territory and/or different ISO-NE load zone. Accordingly, the Department directs the Distribution Companies to modify Schedule Z to the DG Interconnection Tariff to collect the necessary information to allow Host Customers to transfer Net Metering Credits across ISO-NE load zones and Distribution Companies' service territories. Further, we encourage the Distribution Companies to work together to create a uniform document as soon as practicable.⁶⁶

Regarding the suggestion of digitization, the Department reiterates that any Schedule Z submitted to the Distribution Companies after July 31, 2018, must include an electronic Excel spreadsheet that details the Net Metering Credit transfers in addition to the

⁶⁶ We acknowledge the Distribution Companies' representation that the revised Schedule Z may not be identical in appearance but will collect identical information due to the unique capabilities of their individual information technology systems (Distribution Companies Comments at 5). To avoid confusion and the inadvertent misplacement of customer data by the Host Customers, we encourage the Distribution Companies to create a revised Schedule Z that has the same layout for the information requested (i.e., the same number of and order of data columns).

paper Schedule Z document.⁶⁷ D.P.U. 17-22-A at 48. The Department recognizes that implementing a process for the allocation of Net Metering Credits across the Distribution Companies' service territories and ISO-NE load zones in an accurate and timely manner will be a complicated task. We accept the Distribution Companies' representation that they continue to evaluate solutions (Distribution Companies Comments at 8). Also, we understand that the Distribution Companies are at various stages of developing tools for automation regarding distributed generation ("DG") customer involvement, sometimes limited by information technology system constraints (NSTAR Electric), the status of the development of the DG portal (National Grid), and the relatively lower net metering activity (Unitil) (Distribution Companies Comments at 8-10). To inform our monitoring of the Distribution Companies' revisions to Schedule Z and their efforts at developing online platforms to automate processes, the Department directs the Distribution Companies to provide an informational filing within 45 calendar days of this Order that:

- (1) explains when eligible Host Customers will be able to begin allocating Net Metering Credits to customers across ISO-NE load zones and the Distribution Companies' service territories;
- (2) explains how the Distribution Companies will inform and educate Host Customers regarding whether they are eligible to allocate Net Metering Credits

⁶⁷ The Distribution Companies have the discretion to allow an exception to this rule for customers unable to use or without access to Excel. D.P.U. 17-22-A at 48.

to customers across ISO-NE load zones and service territories (refer to Section III.G., above);⁶⁸

- (3) explains how the Distribution Companies will ensure that only Host Customers of eligible Net Metering facilities are allocating Net Metering Credits to customers across ISO-NE load zones and service territories;⁶⁹
- (4) explains if the Distribution Companies will validate or otherwise ensure the accuracy and active status of the customer accounts of another Distribution Company, and, if so, how;
- (5) includes a revised Schedule Z and final Excel spreadsheet template for Host Customers of eligible Net Metering Facilities to submit their initial or revised allocations of their Net Metering Credits to all the Distribution Companies. Each Distribution Company shall post the final Excel spreadsheet template to its website;

⁶⁸ The credit transfer rules of Sections 84 and 85 of the 2021 Climate Act apply to all New Solar Net Metering Facilities and to all Class II and Class III Solar Net Metering Facilities that are Cap Exempt Facilities. St. 2021, c. 8, §§ 84, 85; G.L. c. 164, § 139(i).

⁶⁹ This explanation should discuss the steps or processes that the Distribution Companies will be taking to ensure that only eligible net metering facilities are allocating Net Metering Credits across ISO-NE load zones and service territories (1) when the Schedule Z is initially submitted and (2) when Host Customers are submitting revised Schedule Z forms.

- (6) explains how the Distribution Companies will affirm that the transfer of Net Metering Credits to other Distribution Company accounts will occur without delay (i.e., at the close of the Host Customer account's monthly billing cycle);
 - (7) explains how the Distribution Companies will ensure that Net Metering Facilities of a Municipality or Other Governmental Entity are allocating credits only to other municipalities or Other Governmental Entities within and outside their service territory; and
 - (8) as directed in Section III.E., identify all Affected Class II and III Facilities and include:⁷⁰
 - a. the Net Metering Class type,
 - b. the location, and
 - c. the capacity in kW-AC.
3. Allocation/transfer of Net Metering Credits to Customers in More Than One Distribution Company Service Territory
- a. Introduction

As stated above, the Legislature set out the following new rule regarding the allocation/transfer of Net Metering Credits as part of G.L. c. 164, § 139(b½)(1):

A solar net metering facility may designate customers of any distribution company located in the commonwealth to receive such credits in amounts attributed by the solar net metering facility.

⁷⁰ This information shall be included with the informational filing as a separate attachment with a copy to the Administrator.

St. 2021, c. 8, § 84; G.L. c. 164, § 139(b½)(1).

Because the Legislature use the singular term “any distribution company,” the Department asked the following question for comment:

Should a Net Metering Facility be permitted to transfer credits to Customers in more than one Distribution Company service territory?

D.P.U. 21-100, at 14 (question 4.c.); Section II.C., above.

b. Summary of Comments

Several commenters assert that the 2021 Climate Act allows for net metering transfers between multiple service territories (Arcadia Comments at 2; CCSA/NECEC Comments at 4; Sunrun Comments at 2; Vote Solar Comments at 5).⁷¹ Arcadia contends that having a uniform allocation template, with standardized data fields, would simplify the transfer process (Arcadia Comments at 2).

DOER and Resonant do not cite to the 2021 Climate Act but they each support permitting eligible Net Metering facilities to transfer credits across more than one service territory (DOER Comments at 5; Resonant Comments at 3). DOER maintains that as more community-shared solar facilities are installed in the state and as customers take advantage of other solar incentive programs, it will become more difficult to site these solar facilities in the same service territory as their potential off-takers (DOER Comments at 6). Therefore, DOER argues that allowing the transfer of Net Metering Credits across multiple service

⁷¹ See also, comment from Mr. Tuchmann at 1 (“[A]ny Net Metering Credits which I generate can be allocated to any Customer I designate in the Commonwealth”).

territories would allow the benefits of community shared solar to reach a larger group of customers while helping the Commonwealth reach its clean energy and climate goals (DOER Comments at 6).

The Distribution Companies do not express an opinion on whether a Net Metering facility should be able to transfer Net Metering Credits across multiple service territories (Distribution Companies Comments at 7).

c. Analysis and Findings

Upon review of the express language of Section 84 of the 2021 Climate Act, the Department finds that the Legislature does not impose restrictions on the number of Distribution Company service territories for the allocation/transfer of Net Metering Credits by eligible Net Metering Facilities. Consequently, an eligible Net Metering Facility is permitted to transfer credits to Customers in more than one Distribution Company service territory. Importantly, as stated above, the express language of Section 84 provides that this new Net Metering Credit transfer rule applies only to all New Solar Net Metering Facilities and to all Class II and Class III Solar Net Metering Facilities that are Cap Exempt Facilities. D.P.U. 21-100, at 13 n.32; Section II.B., above.

To comply with the 2021 Climate Act, the Department promulgates the revised Section 18.05(1) (“Allocation of Net Metering Credits”) of the Net Metering Regulations as

set forth in Appendices A and B.⁷² Additionally, for Section 18.05(1)(b), the Department inserts the phrase “and may allocate credits to customers in more than one Distribution Company service territory” to clarify the allocation process. Further, the Department directs the Distribution Companies, as part of their compliance filings, to revise the Net Metering Tariff consistent with this finding.

Moreover, to prevent the stranding of excess Net Metering Credit balances on customer accounts (e.g., in an instance where a customer moves out of the Distribution Company’s service territory, etc.), the Department directs the Distribution Companies to allow for a one-time transfer of accrued Net Metering Credits to one or more Distribution Company customer electric accounts in the Commonwealth. A net metering customer may request the transfer up to one year after the closure of the account.

4. Frequency of Updates

a. Introduction

Neither the net metering statutes nor the Net Metering Regulations address the frequency with which Host Customers can update with Distribution Companies the customers designated to receive Net Metering Credits and their respective allocations (percentages). This designation is contained in Schedule Z. As stated above in Section III.F.1., in accordance with the Distribution Companies’ DG Interconnection Tariffs, a Host Customer

⁷² Moreover, the Department strikes “the Electric Companies” from its Proposed Regulations and inserts “Each Distribution Company” in its promulgation of the Final Regulations.

can change this designation/percentage twice in a calendar year. DG Interconnection Tariff, Sch. Z, ¶ H, NSTAR Electric M.D.P.U. No. 55A.⁷³ As a matter of practice, NSTAR Electric and National Grid permit a designation/percentage change four times per calendar year (Distribution Companies Comments at 9-10).

From time to time, Host Customers have expressed a desire to increase the frequency for changing their designation of customers to receive an allocation of Net Metering Credits. A Host Customer would communicate a designation change by submitting to the Distribution Company a Schedule Z with the revision. To address this issue, the Department asked the following question for comment:

How often should a Net Metering Facility be able to modify the percentage of Net Metering Credits that should be allocated to Customers in a different Service territory?

D.P.U. 21-100, at 14; Section II.C., above (question 4.d.).

b. Summary of Comments

Several commenters support updating Net Metering Credit allocations more frequently than the Distribution Companies' current frequency (Arcadia Comments at 5; CCSA/NECEC Comments at 4; Resonant Comments at 3; Sunrun Comments at 2). Arcadia, CCSA/NECEC, Resonant, and Sunrun contend that ideally Distribution Companies would allow monthly updates of credit allocations (Arcadia Comments at 5; CCSA/NECEC

⁷³ Each Distribution Company's DG Interconnection Tariff is substantially the same. For purposes of discussing Schedule Z, for ease of convenience, the Department refers to NSTAR Electric's DG Interconnection Tariff, M.D.P.U. No. 55A.

Comments at 4; Resonant Comments at 3; Sunrun Comments at 2). Arcadia, CCSA/NECEC, and Resonant maintain that monthly updates are the standard in other jurisdictions (Arcadia Comments at 5; CCSA/NECEC Comments at 4; Resonant Comments at 3). For example, Arcadia reports that community solar programs in Delaware, District of Columbia, Illinois, Maine, Maryland, New Jersey, and New York allow for monthly updates (Arcadia Comments at 5). CCSA/NECEC asserts that monthly updates are a national standard (CCSA/NECEC Comments at 4). CCSA/NECEC maintains that the Distribution Companies should, at minimum, update their tariffs based on their current practices for permitting updates to designations/percentages for allocations of Net Metering Credits (CCSA/NECEC Comments at 4).

Resonant maintains that while changes to allocations within a service territory should be monthly, changes across territories could be less frequent (Resonant Comments at 3). CCSA/NECEC and Vote Solar argue that the frequency for updating Net Metering Credit allocations across service territories should be the same as for those updating allocations within service territories (CCSA/NECEC Comments at 4; Vote Solar Comments at 5).

DOER explains that allowing more frequent allocation updates would benefit customers who may wish to participate in community-shared solar through a short-term commitment, such as renters (DOER Comments at 7). DOER claims that the Department should consider these potential consumer benefits while balancing the added administrative burden on the Distribution Companies (DOER Comments at 7). Klavens Law Group explains that other jurisdictions allow more frequent updates to allocation forms, like

Schedule Z, than the Department, and that this proceeding represents an opportunity for the Department to address this matter (Klavens Law Group Comments at 2-3).

The Distribution Companies argue that eligible net metering facilities should be allowed to modify the percentage of Net Metering Credit allocations for customers in different service territories twice per calendar year (Distribution Companies Comments at 7). The Distribution Companies explain that this frequency is in line with current regulations and that it allows for efficient modification of processes to enable Net Metering Credit allocation across service territories (Distribution Companies Comments at 7). The Distribution Companies contend that even if some Distribution Companies can support more frequent updates within their service territory, allocations across service territories may require additional processes (Distribution Companies Comments at 7-8). More specifically, NSTAR Electric claims that the current frequency is adequate for most customers and would consider more frequent updates based on an assessment of incremental costs, benefits, and risks associated with any increased allowance (Distribution Companies Comments at 9).

c. Analysis and Findings

As an initial matter, the Department does not find that net metering laws or Distribution Companies' processes support a different frequency for changes in designations/percentages for eligible Host Customers allocating Net Metering Credits across multiple Distribution Company service territories and for eligible Host Customers allocating Net Metering Credits within the same Distribution Company service territory. Thus, the

frequency of changes in designations/percentages that we set will apply to all Host Customers.

The Department agrees with most commenters that a more frequent allocation update would benefit solar developers and net-metering customers, especially those who wish to participate in community-shared solar programs.⁷⁴ Regarding the recommendations to move from the current frequency of twice in a calendar year to monthly for changes in designations/percentages on Schedule Z, the Department lacks important information to support such a substantial change in process. For example, there is no cost data; also, there is no evaluation of a potential decline in quality and accuracy of monthly validation and processing of revised Schedule Zs, particularly for designated allocations across Distribution Company service territories. For these reasons, the Department declines to direct the Distribution Companies to process Schedule Z updates monthly at this time.

As stated above, NSTAR Electric and National Grid have modified their practices to allow for changes in designations/percentages on Schedule Z by Host Customers from twice per calendar year as set in Schedule to four times per calendar year. We understand that Unitol's current practice is to allow changes in designations/percentages on Schedule Z by Host Customers twice per calendar year. The Department agrees that it is appropriate for NSTAR Electric and National Grid to update their DG Interconnection Tariffs (and Schedule

⁷⁴ More frequent updates would allow Host Customers to more quickly replace designated customers who become inactive (i.e., moved or otherwise closed their billing accounts) or no longer want to participate in a community-shared solar program.

Zs) to reflect their current practices that allow changes to Schedule Z four times per calendar year. Regarding Unitil's changing the frequency from twice per calendar year to four times per calendar year, the Department has a strong preference for uniform rules.

In numerous contexts the Department has found a benefit in uniformity across company territories in tariff language, policies, and charges. See Standard Offer Service Fuel Adjustments, D.T.E. 00-66, 00-67, 00-70, Letter Order (December 4, 2000) (finding a clear benefit in adopting a uniform mechanism to implement the standard offer service fuel adjustment ("SOSFA") in the companies' tariffs, and a clear benefit in the uniform implementation of the SOSFA); Commonwealth Electric Company, D.P.U. 91-3C at 2 (1991) (finding a benefit in having the term "fuel charge" referred to uniformly by all electric companies); Competitively Priced Electricity in the Commonwealth, D.P.U. 12-126, at 4 (2012) (finding while the cost-recovery method may be different for different reconciling factors, where possible, the Department seeks to establish a uniform cost-recovery method across distribution companies). Here, uniform rules across Distribution Companies' service territories are a benefit for net metering participants and all stakeholders. Furthermore, Host Customers taking net metering service from Unitil perform only limited Schedule Z updates (Distribution Companies Comments at 10). Given this limited need for updates, the Department does not expect that increasing the frequency of Schedule Z updates from two to four will be an undue burden for Unitil. As such, the Department finds it appropriate to establish uniform requirements across Distribution Companies for allowing Host Customers to update Schedule Z.

The Department finds that increasing the frequency of Schedule Z updates from twice in a calendar year to four times in a calendar year is appropriate. Thus, Host Customers may update Schedule Z four times per calendar year, unless a Distribution Company agrees to process updates more frequently. The Department directs the Distribution Companies to revise Schedule Z to their respective DG Interconnection Tariff to provide that it may be updated up to four times in a calendar year. The Distribution Companies shall revise Schedule Z as part of the DG Interconnection Tariff compliance filing due within 45 days of the date of this Order. The Department expects that the Distribution Companies will explore the incremental costs and upgrades necessary to move towards allowing monthly Schedule Z updates.⁷⁵

5. Distribution Companies' Cost Recovery

a. Introduction

On its face, the new rule allowing the transfer of Net Metering Credits by customers of one Distribution Company to a customer of another Distribution Company (across service territories) produces a subsidy by one Distribution Company's customer group for the other Distribution Company's customer group. Under each Distribution Company's Net Metering Tariff,⁷⁶ eligible customers with on-site generating facilities interconnected to that

⁷⁵ The Department anticipates requesting this analysis during the rulemaking pursuant to the 2022 Climate Act.

⁷⁶ Each Distribution Company's Net Metering Tariff is substantially the same. For purposes of discussing cost recovery, for ease of convenience, the Department refers to NSTAR Electric's Net Metering Tariff, M.D.P.U. No. 68J.

Distribution Company's electric power system receive a credit from the Distribution Company for the net excess electricity generated and fed back to the Distribution Company by the Net Metering facility - a Net Metering Credit. G.L. c. 164, §§ 139(a)(1), 139(b)(1); 220 CMR 18.03(4); M.D.P.U. No. 68J, §§ 1.01 (Definitions), 1.06. Each Distribution Company recovers the Net Metering Credit costs through the NMRS, which is a reconciling charge applied to all kWh delivered to its customers. 220 CMR 18.09(4); M.D.P.U. No. 68J, § 1.08. Under the current operation of the Net Metering Tariff and the NMRS and with the transfer of Net Metering Credits across Distribution Companies' service territories, the customers of the Distribution Company where Net Metering Credits were generated would pay the costs of the Net Metering Credits to the benefit of another Distribution Company's customers receiving the transferred Net Metering Credits and to the detriment of the second Distribution Company that would experience reduced billings after application of the transferred Net Metering Credits without associated NMRS recovery.⁷⁷

To consider possible means to eliminate or mitigate this subsidy,⁷⁸ the Department asked:

⁷⁷ The electricity generated by the net metering facility will not transfer to another Distribution Company service territory.

⁷⁸ Broadly, a subsidy is any form of preferred treatment granted to consumers or producers by a government (e.g., federal tax credit for electric vehicles and plug-in hybrid electric vehicles). Lucy Kitson, et al. "Subsidies and External Costs in Electric Power Generation: A Comparative Review of Estimates" at 6 (International Institute For Sustainable Development 2011). The circumstance we are addressing would involve cross-subsidization where a group of ratepayers and a Distribution Company would bear costs typically borne by another group of ratepayers and another Distribution Company.

How should a Distribution Company allocate and recover costs associated with providing Net Metering Credits to its Customers that were issued by another Distribution Company?

D.P.U. 21-100, at 13; Section II.C., above.

b. Summary of Comments

The majority of comments received support the Distribution Companies' accounting between each other for the value of Net Metering Credits transferred by the customer of one Distribution Company to the customer of another Distribution Company (Arcadia Comments at 3; Distribution Companies Comments at 6-7; Vote Solar Comments at 5).⁷⁹ The Distribution Companies offer the following approach: (1) Distribution Companies would purchase from each other the Net Metering Credits that are transferred by customers across their respective service territories; and (2) account for Net Metering Credits as they are transferred by customers of one Distribution Company to customers of another Distribution Company with the Distribution Companies performing a true up of the net balances on a periodic basis (e.g., monthly, quarterly) (Distribution Company Comments at 6-7). Resonant does not directly address the transfer of the value of Net Metering Credits, but it supports a semi-annual true-up of transferred Net Metering Credits (Resonant Comments at 2-3). Arcadia and Vote Solar support the transfer of the cash value of Net Metering Credits at the same time the credits themselves are transferred (Arcadia Comments at 3; Vote Solar Comments at 5).

⁷⁹ Sunrun and CCSA/NECEC defer to the Distribution Companies in this matter (Sunrun Comments at 2; CCSA/NECEC Comments at 4).

c. Analysis and Findings

As a matter of regulatory principle, the Department disfavors cross-subsidization. Fitchburg Gas and Electric Light Company, D.T.E. 02-24/02-25, at 138 (2002) (shorter recovery period has the potential effect of compelling future ratepayers to subsidize current ratepayers); Interruptible Transportation Service, D.T.E. 93-141-A at 14 (1996) (natural gas transportation service to remain a monopoly function to prevent cross-subsidization of interruptible customers by core customers); Massachusetts Electric Company, D.T.E. 95-40, at 141 (1995) (rate design goal to set class rates to cover costs of serving the class of customers); NYNEX Price Cap, D.P.U. 94-50, at 205-206 (1995) (Department promulgated price floor requirements for Bell Atlantic to prevent anticompetitive pricing and cross-subsidization); see also New England Telephone and Telegraph Company v. Department of Public Utilities, 372 Mass. 678, 685 (1977) (acknowledging the Department's extensive consideration of the important issue of cross-subsidization). Moreover, in the context of base distribution rate proceedings, the Legislature has proscribed cross-subsidization by specifically directing the Department to "phase in elimination of any cross subsidies between rate classes on a revenue neutral basis." G.L. c. 164, § 94I; see also An Act Relative to Competitively Priced Electricity in the Commonwealth, St. 2012, c. 209, § 51 (requiring the Department to "identify each reconciliation factor relied upon and to establish a cost-based rate design for costs that are currently recovered from distribution customers through a reconciling factor. The [D]epartment shall reset reconciliation factors to recover such costs from each rate class under cost-based criteria"). Cross-subsidization is a particular issue

where the purported benefits do not transfer among customer groups. Here the purported avoided costs of providing electricity do not transfer across Distribution Company service territories.

Nevertheless, the Department agrees that, to avoid or mitigate the potential for cross-subsidization in implementing the new rule allowing for the allocation by customers of Net Metering Credits across Distribution Companies' service territories, the Distribution Companies must regularly and accurately account for the value of these Net Metering Credits that are being exchanged as a result of the allocation/transfer transactions. At this time, the Department does not prescribe the method for the Distribution Companies to account for and make themselves whole for the allocated/transferred Net Metering Credits, as well as any discrepant or erroneous transfers (e.g., made to inactive or closed customer accounts), including the use of and frequency of any true-up process.⁸⁰ Instead, the Department directs the Distribution Companies to include in their compliance filings proposed revisions to the Net Metering Tariff to address this circumstance. The Department expects the Distribution

⁸⁰ However, consistent with 220 CMR 51.00, Uniform system of accounts ("USOA") for electric companies, the Department favors such reconciliation at least monthly. Under 220 CMR 51.00, the Department has adopted the FERC USOA, defining "Accounting Period" as:

Each utility shall keep its books on a monthly basis so that for each month all transactions applicable thereto, as nearly as may be ascertained, shall be entered in the books of the utility. Amounts applicable or assignable to specific utility departments shall be so segregated monthly. Each utility shall close its books at the end of each calendar year unless otherwise authorized by the [FERC].

Companies to collaborate on a proposed standard approach and schedule, also, to the extent practicable, the Distribution Companies should confer with net metering stakeholders.

H. Net Metering Recovery Surcharge

1. Introduction

The Distribution Companies provide Net Metering service to eligible Customers under tariffs approved by the Department. 220 CMR 18.03, 18.09(2) and 18.09(3); M.D.P.U. No. 334 (Unitil); M.D.P.U. No. 68H (NSTAR Electric); M.D.P.U. No. 1446 (National Grid). Under each Distribution Company's Net Metering Tariff, eligible Customers with on-site generating facilities interconnected to a company's electric power system receive a credit from the Distribution Company for the net excess electricity generated and fed back to the company by the Net Metering facility—in other words, a Net Metering Credit. G.L. c. 164, §§ 139(a)(1), 139(b)(1); 220 CMR 18.03(4); M.D.P.U. No. 334, §§ 1.01 (Definitions), 1.06; M.D.P.U. No. 68H, §§ 1.01 (Definitions), 1.06; M.D.P.U. No. 1446, §§ 1.10 (Definitions), 1.06. As stated above, each Distribution Company has a NMRS that is set out in its Net Metering Tariff. See, e.g., M.D.P.U. No. 68J, § 1.08.⁸¹ The NMRS is a reconciling charge applied to all kWh delivered to Customers intended for the Distribution Company to recover its costs associated with Net Metering Credits.⁸² See, e.g., M.D.P.U. No. 68J, § 1.08; 220 CMR 18.09(4); G.L. c. 164,

⁸¹ For the NMRS formula see, e.g., M.D.P.U. No. 68J, § 1.08(4).

⁸² A Distribution Company's cost of providing Net Metering Credits is partially offset by revenues generated from energy and capacity payments received from Net

§ 139(c). Changes to the NMRS rate are proposed in each Distribution Company's annual reconciliation filing.⁸³ See, e.g., M.D.P.U. No. 68J, § 1.08(6); NSTAR Electric Company, D.P.U. 20-124-A (2021); Fitchburg Gas and Electric Light Company, D.P.U. 20-134-A (2021); Massachusetts Electric Company and Nantucket Electric Company, D.P.U. 21-01-A (2021).

Generally, the per-kWh value of a Net Metering Credit is equal to the sum of the per-kWh basic service, distribution, transmission, and transition charges applicable to the rate class to which the Net Metering Facility is assigned. G.L. c. 164, § 138 (definitions: "Class I net metering credit;" "Class II net metering credit;" "Neighborhood net metering credit"). As explained throughout this Order, the 2021 Climate Act further incentivizes net metering in the Commonwealth leading to a higher likelihood that the Distribution Companies will issue more Net Metering Credits. More Net Metering Credits will, in turn, increase the costs that a Distribution Company seeks to recover from customers via the NMRS. Because the NMRS is a component of each Distribution Company's distribution charge, it is, therefore, part of the Net Metering Credit issued to a Net Metering Facility adding to the costs of the NMRS. Therefore, based on the NMRS formula and the current billing for the NMRS through the distribution charge, an increase in Net Metering Credits will increase the

Metering Facilities' participating in the ISO-NE Markets. See, e.g., M.D.P.U. No. 68J, § 1.08(8).

⁸³ NSTAR Electric and Unitil submit these filings in late October or early November with effective dates of January 1 and National Grid submits its filing in January with an effective date of March 1.

NMRS component of the distribution charge. The increased distribution charge is then used to calculate an increased Net Metering Credit, which leads to increased costs that the Distribution Company seeks to recover from all customers through the NMRS, thereby perpetuating the cycle. See, e.g., M.D.P.U. No. 68J, § 1.08(4) (NMRS Formula), § 1.08(2) (viability of NMRS – “Although the NMRS is a separate charge, it may be included in the Distribution Company’s Distribution Charge for billing purposes”).

As part of the Department’s review of each Distribution Company’s annual NMRS filings for 2021, in response to the Department’s discovery, each Distribution Company calculated its proposed NMRS excluding the NMRS as a component of any Net Metering Credits in the preceding year.⁸⁴ As shown on Table 1, below, the Distribution Companies estimate that their aggregate revenue requirement would have been \$9,600,153 less for 2021 had the NMRS not been a component of each Distribution Company’s distribution charge. In other words, if the NMRS had been excluded from the Net Metering Credit calculation, in aggregate, the customers would have paid the Distribution Companies \$9,600,153 less through the NMRS. D.P.U. 21-100, at 10. Table 2, below, shows the 2021 average NMRS as proposed by each Distribution Company and as calculated if the NMRS had been excluded from the Net Metering Credit calculation.

⁸⁴ D.P.U. 20-124 (Exh. DPU 2-9); D.P.U. 20-134 (Exh. DPU 1-8); D.P.U. 21-01 (Exh. DPU 1-8).

Table 1

Company/Docket	Exhibit	Amount
NSTAR Electric/D.P.U. 20-124	DPU 2-9	\$2,441,771
Unitil/D.P.U. 20-134	DPU 1-8	\$157,852
National Grid/D.P.U. 21-01	DPU 1-8	\$7,000,530
Total		\$9,600,153

Table 2

Company/Docket	2021 Proposed Average NMRS (\$/kWh)	2021 Average NMRS With NMRS Excluded Net Metering Credits (\$/kWh)	Difference (\$/kWh)	Exhibit
NSTAR Electric/ D.P.U. 20-124	0.00544	0.00533	0.00011	DPU 2-9
Unitil/ D.P.U. 20-134	0.00904	0.00866	0.00038	DPU 1-8
National Grid/ D.P.U. 21-01	0.00848	0.00809	0.00039	DPU 1-6

Based on this data, the Department has identified concerns with both the magnitude of this rate impact as well as the annual rate impact being likely to increase over time due to:

(1) the circular nature of the cost recovery mechanism being a component of the costs it is itself trying to recover; and (2) the expectation that more Net Metering Credits will be

generated as more Net Metering facilities become operational. D.P.U. 21-100, at 10. To address these concerns, the Department sought comments on:

- (1) Please identify possible methods whereby the NMRS could be excluded from Net Metering Credits, including possible recovery via a new standalone charge or part of an existing charge that is not a component of Net Metering Credits. As part of your comment please explain how each method is consistent with existing ratemaking principles, applicable statutes, regulations, and Department Orders.
- (2) Please identify impacts that the removal of the NMRS from Net Metering Credits may have on existing and future net metering Customers.
- (3) (For Distribution Companies only) Please identify the estimated time and expense associated with implementing changes to the NMRS identified in your response to question three.⁸⁵ Please also identify whether any recommended changes would require tariff revisions.

D.P.U. 21-100, at 14 (questions 6, 7, and 8); Section II.C., above.

In addition, the Department asked:

- (4) (For Distribution Companies only) In D.P.U. 20-145-B, the Department recognized that certain billing system upgrade issues overlap several contexts, including the Solar Massachusetts Renewable Target program, grid modernization, and net metering. Please describe any billing system upgrade concerns that should be considered in this investigation.

D.P.U. 21-100, at 14 (question 9); Section II.C. above.

2. Summary of Comments

DOER and Sunrun agree that the NMRS should be recovered through a new, separate line item on Customers' bills that is not included as a component of the Net Metering Credits (DOER Comments at 7; Sunrun Comments at 2). Additionally, they both support moving

⁸⁵ The referenced "question three" is set forth above in Section II.C.

the NMRS to the existing “Renewable Energy System Benefit Charge”⁸⁶ (DOER Comments at 7; Sunrun Comments at 2).

CCSA/NECEC, Klavens Law Group, and Vote Solar maintain that the statute explicitly states that the NMRS is to be included in the calculation of Net Metering Credits (CCSA/NECEC Comments at 5; Klavens Law Group Comments at 3-4; Vote Solar Comments at 6).

CCSA/NECEC contends that establishing the NMRS as its own line item would be creating a troubling precedent and that line-item changes are generally contemplated in the context of a rate case or are initiated by legislative action (CCSA/NECEC Comments at 5). Klavens Law Group argues that the Department does not have the authority to unilaterally exclude the NMRS from the Net Metering Credit value (Klavens Law Group Comments at 3). Klavens Law Group contends that, under well-established principles of administrative law, the plain language of the statute governs any agency interpretation (Klavens Law Group Comments at 3, citing Commonwealth v. Moglenski, 446 Mass. 627, 633 (2013) (“where statutory language is clear, it is to be given its ordinary meaning”). Klavens Law Group continues that the statute specifically enumerates the components of the formula for calculation of Net Metering Credits, which clearly and unambiguously requires inclusion of the entire distribution kWh-charge (Klavens Law Group Comments at 3). Klavens Law

⁸⁶ This term used by DOER appears to refer to the charge used to fund the Massachusetts Renewable Trust Fund pursuant to G.L. c. 25, § 20.

Group claims that any removal of the NMRS would require undertaking the appropriate process to unbundle it from the distribution charge (Klavens Law Group Comments at 4).

DOER, Resonant, and Sunrun agree that the removal of the NMRS from the Net Metering Credit calculation will reduce the value of the Net Metering Credit (DOER Comments at 8; Resonant Comments at 3; Sunrun Comments at 2). However, DOER and Sunrun note that this loss of value is minimal, and not as important as the problematic nature of the cyclical relationship between the NMRS and Net Metering Credits that distorts incentives for Net Metering Customers and creates unnecessary costs for all ratepayers (DOER Comments at 8; Sunrun Comments at 2). CCSA/NECEC argues that, since Net Metering Customers entered into contractual agreements based on a certain number of “value stacks to be included in the credit value,” those Customers must be made aware before any changes to the agreement are implemented (CCSA/NECEC Comments at 5).

The Distribution Companies presented two options for excluding the NMRS as a component of Net Metering Credits. First, to create a new, separate line item for assessing the NMRS on customers’ bills like the SMART Factor; this NMRS will be excluded from the calculation of Net Metering Credits (“Option 1”) (Distribution Companies Comments at 11). The second option is to leave the bill presentation intact but alter the Net Metering Credit calculation to exclude the NMRS (“Option 2”) (Distribution Companies Comments at 11). The Distribution Companies represent that Option 1 is consistent with the method proposed

and approved for other charges⁸⁷ and provides the clearest presentation of rate information to the customer (Distribution Companies Comments at 11). The Distribution Companies explain that they present Option 2 because it may be more efficient from an implementation and cost perspective for some Distribution Companies (Distribution Companies Comments at 11).

NSTAR Electric estimates that implementing Option 1 for its Eastern Massachusetts service territory would take seven months and cost \$920,000, and for its Western Massachusetts service territory, four months and \$200,000 (Distribution Companies Comments at 14). NSTAR Electric estimates that Option 2 would take four months and cost \$320,000 to implement in Eastern Massachusetts and provides no associated timing or cost estimate for Option 2 for its Western Massachusetts service territory (Distribution Companies Comments at 12, 14). National Grid estimates that Option 1 would take six months and cost \$30,000, and it provides no associated timing or cost estimate for Option 2 (Distribution Companies Comments at 12, 15). Unitil estimates that Option 1 would cost \$5,000 and take one month to implement while Option 2 would have minimal costs and be seamless to Customers (Distribution Companies Comments at 15).

Given the estimated costs and implementation timelines, NSTAR Electric proposes implementing Option 2 in Eastern Massachusetts and Option 1 in Western Massachusetts; National Grid prefers Option 1; and Unitil prefers Option 2 (Distribution Companies

⁸⁷ The Distribution Companies reference the SMART Factor, the Energy Efficiency Charge, the Renewables Charge, and National Grid's Electric Vehicle Program Charge (Distribution Companies Comment at 11).

Comments at 12).⁸⁸ The Distribution Companies contend that the implementation of either option would require revisions to their respective Net Metering Tariffs (Distribution Companies Comments at 14).

The Distribution Companies represent that the removal of the NMRS from the calculation of Net Metering Credits will affect Customers differently depending on whether they are BTM or standalone Customers (Distribution Companies Comments at 13). The Distribution Companies explain that standalone customers who generate more energy than received from the Distribution Company will receive fewer Net Metering Credits if the NMRS is removed from the credit calculation, as will BTM Customers who rely on excess Net Metering Credits that are carried over from month-to-month to reduce their bills (Distribution Companies Comments at 13). The Distribution Companies claim that BTM Customers who generate sufficient energy to just partially displace their on-site needs will be unaffected by the removal of the NMRS from the calculation of Net Metering Credits (Distribution Companies Comments at 13).

3. Analysis and Findings

In establishing the charge that would later be named NMRS, the Legislature provided:

The distribution portion of any Class I, Class II or Class III net metering credits and distribution company delivery charges displaced by a Class I, Class II or Class III net metering facility shall be aggregated by the distribution

⁸⁸ NSTAR Electric prefers Option 2 for its Eastern Massachusetts service territory because it expects to migrate to a new billing system in this service territory in 2024 and implementing Option 1 now would increase costs for system changes that would be obsolete under the new system (Distribution Companies Comments at 14).

company and billed to all customers on an annual basis through a uniform kilowatt-hour surcharge or surcharges.

St. 2008, c. 169, § 78; G.L. c. 164, § 139(c).

As explained above, in defining the various categories of Net Metering Credit, the Legislature included the following as a component: “distribution kilowatt-hour charge.”⁸⁹ St. 2008, c. 169, § 78; G.L. c. 164, § 138 (Definitions “Class I net metering credits,” “Class II net metering credits,” “Class III net metering credits”); St. 2016, c. 75, § 78; G.L. c. 164, § 138 (Definition “Market net metering credit”). In setting the charge under G.L. c. 164, § 139(c) or defining Net Metering Credit under G.L. c. 164, § 138, the Legislature did not include the Net Metering Credit as part of the distribution portion of these credits or as part of the kilowatt-hour charge. Also, in establishing the requirements for net metering under G.L. c. 164, §§ 138 through 140 and in establishing the Department’s authority over Distribution Companies and Electric Companies under G.L. c. 164, the Legislature has not defined the terms distribution kilowatt-hour charge or distribution charge. Further, in establishing this charge and its requirements for net metering, the Legislature has not directed where the charge should be included on a Distribution Company’s bill to its ratepayers.

In establishing the NMRS as part of approving a model Net Metering Tariff for all Distribution Companies, the Department provided, consistent with the statute:

Distribution Companies may recover “the aggregate of the distribution portion of any Class I, II, or III Net Metering Credits and the Distribution Company delivery charges displaced by a Class I, II, or III Net Metering Facility

⁸⁹ The term “distribution kilowatt-hour charge” is commonly referred to as distribution charge.

through a uniform per kilowatt-hour surcharge or surcharges billed to all Customers on an annual basis.” 220 CMR 18.09(4).

Model Net Metering Tariff, D.P.U. 09-03-A at 17 n.27 (2009).

The Department did not provide that Net Metering Credits include the surcharge (NMRS). No definition of Net Metering Credits, either from the Legislature or from the Department, includes the NMRS within the definition of Net Metering Credits.

The issue, as clearly presented by the Department in the Order Opening Rulemaking,⁹⁰ is a matter of presentation with the Distribution Companies’ bills to ratepayers. The Department has authority over bills sent to electric and gas retail customers. G.L. c. 164, § 1D (The Department is “authorized and directed to determine information required to be disclosed on the bills ...”). Therefore, it is within the Department’s authority to examine the circular effect of allowing the NMRS to be included in the distribution charge for purposes of billing.

Further, we cannot find that the Legislature intended the identified circular mathematical operation for the calculation of Net Metering Credits and of the amounts to be recovered from ratepayers by a Distribution Company in providing net metering service. Because the inclusion of the NMRS in the calculation of Net Metering Credits unnecessarily adds to the costs of net metering service, the Department finds it appropriate to modify the calculation of Net Metering Credits. Therefore, the Department reverses its prior determination, and we direct that the NMRS shall not be included in the distribution charge

⁹⁰ D.P.U. 21-100, at 7-10.

for purposes of calculating Net Metering Credits.⁹¹ Thus, the Department directs:

(1) National Grid, Unitil, and NSTAR Electric for its Western Massachusetts service territory to exclude the NMRS from the calculation of Net Metering Credits and implement a new, separate line item for billing the NMRS on customers' bills (i.e., Option 1, above); and

(2) NSTAR Electric for its Eastern Massachusetts service territory to exclude the NMRS from the calculation of Net Metering Credits and leave the current bill presentation intact (i.e., Option 2, above), subject to our findings below. Accordingly, the Distribution Companies shall revise Section 1.08(2) of the Net Metering Tariff deleting the second sentence and replacing it with the following: "The NMRS is a separate surcharge." In addition, the Department amends 220 CMR 18.04(7) to add the following concluding language: "nor shall it include the per kilowatt-hour surcharge or surcharges provided for by 220 CMR 18.09(4)." Apps. A and B, § 18.04(7). Furthermore, the Distribution Companies may petition to recover costs associated with implementing directives (1) and (2) above through the annual NMRS filing.

As explained above, the deficiency with the NMRS is a matter of placement on the bill; it is not a matter of statutory construction. The Department created the problem with its own administrative action in providing for the NMRS to be contained in the distribution

⁹¹ Also, as shown on Table 2, above, the change in the calculation of the NMRS as directed by the Department herein is not significant.

charge, a placement that we reverse with this Order.⁹² Also, it is appropriate for the Department to address this NMRS matter in this rulemaking proceeding. The identified issue with the NMRS does not involve a “general increase in rates, prices and charges” for the Distribution Companies, which would be the subject of a base distribution rate case under G.L. c. 164, § 94. Nor is this matter one of rate design, which typically would be examined in a base distribution rate case. Further, an administrative agency has authority to establish policy through adjudication as well as through a rulemaking. Arthurs v. Board of Registration in Medicine, 383 Mass. 299, 312-313 (1981), citing, Securities and Exchange Commission v. Chenery Corp., 332 U.S. 194, 201-203 (1947);⁹³ see also Fitchburg Gas and Electric Light Company, D.P.U. 09-01-A at 184 (2009). Thus, especially where the Department has provided public notice and a clear explanation of the issue in the Order Opening Rulemaking and sought comments, the Department can decide the NMRS matter in this Order.

Moreover, the Department finds that including the NMRS as a new, separate line item in customer bills will result in a more transparent presentation of rate information to distribution customers. While presenting the NMRS as a new, separate line item may lead to

⁹² The Department established the NMRS as part of the Model Net Metering Tariff at D.P.U. 09-03-A at 17-19. The Department approved the specific language that has resulted in the circular calculation at D.P.U. 09-03-A at App. A at 7 (Section 1.08(2)).

⁹³ “To insist upon one form of action to the exclusion of the other is to exalt form over necessity.” Securities and Exchange Commission v. Chenery Corp., 332 U.S. 194, 202 (1947).

increased costs in the short term, we find that those costs are outweighed by the long-term benefit of transparency to Net Metering Customers and distribution customers generally going forward. Therefore, the Department directs National Grid, Unitil, and NSTAR Electric for its Western Massachusetts territory to remove the NMRS from the calculation of Net Metering Credits and present and assess the NMRS on customer bills as a new, separate line item within six months of the issuance of this Order. The Department further directs NSTAR Electric for its Eastern Massachusetts territory to leave the bill presentation intact, for the time being, and alter the Net Metering Credit calculation to exclude the NMRS within four months of the issuance of this Order.

Finally, the Department has approved NSTAR Electric's request to upgrade its billing system for its Eastern Massachusetts service territory. Second Grid Modernization Plans, D.P.U. 21-80-B/D.P.U. 21-81-B/D.P.U. 21-82-B at 217 (2022). The Department expects that the incremental costs of adding a new line item to its upgraded billing system would be significantly less than the estimated \$920,000. Therefore, we direct NSTAR Electric to submit with its compliance filing for its Eastern Massachusetts service territory: (1) an update of the estimated incremental cost to upgrade its billing system for including the NMRS as a new separate line item; and (2) the timeline for implementing the upgrade to its billing system for including the NMRS as a separate line item. The Department encourages NSTAR Electric to prioritize the implementation of the billing system upgrades. At the time NSTAR Electric implements its new billing system, we direct NSTAR Electric to include the

NMRS as a separate line item on Customers' bills for its Eastern Massachusetts service territory, consistent with the directives for the other Distribution Companies, above.

IV. ADDITIONAL CONSIDERATIONS

A. Consolidation of Dockets

In this proceeding, various commenters requested that the Department consolidate these proceedings with action required to implement the legislative changes to the Net Metering Program expressed in the 2022 Clean Energy Act, which was signed into law on August 11, 2022. The 2022 Clean Energy Act directed revisions to the Single Parcel Rule and on January 18, 2023, the Department opened an investigation as docket D.P.U. 23-20, to which interested stakeholders are referred for comment. In addition to the Department's investigation into changes to the Single Parcel Rule, the Department will need to update the Net Metering Regulations through a separate and additional rulemaking to address other changes directed by the 2022 Clean Energy Act, namely to the definition of a cap exempt facility. Because significant process is required to prepare any proposed regulations for issuance, including involvement of other administrative agencies within the Executive Branch, like the Executive Office of Energy and Environmental Affairs and the Executive Office of Administration and Finance, the Department declines to consolidate these matters. The Department acknowledges that there has been a lapse of time between the 2021 Clean Energy Act enactment and this Order. We further acknowledge that there is a need to move expeditiously to promulgate regulations to implement the 2022 Clean Energy Act. Consequently, the Department will issue an Order to propose regulations that implement the

2022 Clean Energy Act and seeking public comments as soon as practicable after the Final Regulations promulgated here are published in the Massachusetts Register.

B. Automation of Processing

1. Introduction

The Department has not addressed the automation⁹⁴ of processing Net Metering Credits to date. In D.P.U. 17-22-A, the Department directed the Distribution Companies to implement an Excel spreadsheet with the Schedule Z to help reduce errors on the Schedule Z and to decrease the amount of time for Net Metering Credits to appear on customer accounts. Net Metering Blanket Exceptions and Streamlining Process, D.P.U. 17-22-A at 43-49 (2018).

2. Summary of Comments

NSTAR Electric has utilized online platforms and developed software to automate multiple facets of DG customer enrollment (Distribution Companies Comments at 8). NSTAR Electric states that it has used an online application portal to facilitate participants' enrollment in the Net Metering Program, including the submission of Schedule Z (Distribution Companies Comments at 8). NSTAR Electric also explains that it has developed a tool to automate the validation of Schedule Z and to upload validated allocations to participants' billing accounts, and that it plans to further incorporate automation into its Net Metering Credit allocation processes (Distribution Companies Comments at 8). NSTAR

⁹⁴ For the purposes of this Order, automation refers to the automatic intaking, validating, and processing of initial and revised Schedule Z and Excel spreadsheets as well as the automatic administration, billing, and transfer of Net Metering Credits from Host Customer accounts.

Electric is currently engaged in procuring and launching a billing engine to serve and to support net metering customers, which will likely further automate the account updating process (Distribution Companies Comments at 8-9). However, NSTAR Electric will not implement real-time Schedule Z updates because of system constraints (Distribution Companies Comments at 9).

National Grid explains that DG customers submit initial and revised Net Metering Credit applications, through Schedule Z spreadsheets, to an application portal (Distribution Companies Comments at 9). National Grid first reviews and validates these spreadsheets before being read by an automated program, which replaces the account numbers and allocation percentages within National Grid's billing system (Distribution Companies Comments at 9). The automated program releases a report detailing errors, such as invalid account numbers (Distribution Companies Comments at 9). National Grid then notifies customers that their allocations have been updated successfully, or provides details on any errors (i.e., invalid account numbers, closed accounts) with a request to submit a revised spreadsheet (Distribution Companies Comments at 9). In addition, another National Grid automation tool allows host customers to view the details of their credit transfer histories by logging into an internet-based platform (Distribution Companies Comments at 9-10).

Unitil maintains that the disadvantages continue to outweigh the advantages for automation of net metering Schedule Z credit allocations in its service territory (Distribution Companies Comments at 10). Unitil claims that the complexities and scope of potential system changes remain and that the volume of requests does not warrant the potential costs

(Distribution Companies Comments at 10). Unitil explains that because its current net metering caps are full, it does not anticipate any additional activity for large net metering facilities and that existing accounts perform only limited Schedule Z update activity

(Distribution Companies Comments at 10). Unitil asserts that system enhancements have allowed it to quickly and accurately enter and audit updated Schedule Z submissions

(Distribution Companies Comments at 10).

3. Analysis and Findings

The Department appreciates the efforts that NSTAR Electric and National Grid have made regarding automation and faster processing of Schedule Z. The Department encourages NSTAR Electric and National Grid to continue to prioritize automation of Schedule Z so that at a minimum, Host Customers could enter, update, validate, and view their designations of customers to receive Net Metering Credits with their respective allocation percentages on a near real-time basis (e.g., using a secure online web-based platform). To keep the Department and stakeholders apprised of their progress, NSTAR Electric and National Grid shall file an informational update by July 1 of each year in the DG Docket⁹⁵ on: (1) further progress on automation achieved since the last filing; and (2) its proposed continued implementation plan for achieving automation with an associated timeline.⁹⁶

⁹⁵ The DG Docket can be accessed through the Department's website <https://eeaonline.eea.state.ma.us/DPU/Fileroom/dockets/bynumber> (enter "YEAR-DG"). For 2024, the DG Docket is D.P.U. 24-DG.

⁹⁶ In seeking cost recovery, each Distribution Company must demonstrate that any automation costs are reasonable and prudently incurred. Fitchburg Gas and Electric

Unitil maintains that the disadvantages of automation outweigh the advantages given that it has not experienced any delays or errors in issuing Net Metering Credits and does not expect any additional new activity for large Net Metering Host Customers (Distribution Companies Comments at 10). The Department accepts Unitil's position that incurring additional costs for automation is not warranted at this time. However, the Department directs Unitil to file an information update by July 1 of each year in the DG Docket regarding whether any level of automation of updates to Schedule Z should be considered.

C. Tracking Cap Exempt Facilities

The System of Assurance website displays how much net metering capacity is available within each cap and within the Commonwealth. With the 2021 Climate Act, certain Class II Net Metering Facilities and Class III Net Metering Facilities will now be cap exempt and, therefore, will no longer appear on the System of Assurance website. St. 2021, c. 8, § 85. The Department finds maintaining full information on solar capacity sited in Massachusetts will be beneficial to evaluating whether the Commonwealth is meeting its climate targets. As such, the Department directs the Distribution Companies to file the following information by July 1 of each year in the DG Docket: (1) newly interconnected Class I, Class II, and Class III Cap Exempt Facilities for that year; and (2) cumulative total of Class I, Class II, and Class III Net Metering Facilities that are cap exempt. The

Light Company, D.P.U. 11-01/11-02, at 323 (2011); Oxford Water Company, D.P.U. 1699, at 13 (1984).

information should be provided by Distribution Company and by class (Class I, Class II, and Class III).

V. SUBSEQUENT PROCEEDINGS

In addition to promulgating Final Regulations amending the Net Metering Regulations, in this Order the Department has directed revisions to the Net Metering Tariff, the DG Interconnection Tariff, and has made findings and determinations that will require revisions to the System of Assurance. To provide for the formal review of the Distribution Companies' compliance filing of a revised Net Metering Tariff, the Department establishes docket D.P.U. 23-108. To provide for the formal review of the Distribution Companies' compliance filing of a revised DG Interconnection Tariff, the Department establishes docket D.P.U. 23-113. The Distribution Companies shall submit both Model Net Metering Tariff and Model DG Interconnection Tariff compliance filings within 45 days of the date of this Order. In the near term, the Department will open a separate proceeding to address requisite revisions to the System of Assurance.

VI. DIRECTIVES ESTABLISHED BY ORDER

Given the volume of changes necessitated by the 2021 Climate Act to the Net Metering rules, regulations, tariffs, and System of Assurance, the Department provides a summary of the directives to the Distribution Companies, Host Customers, and Administrator for ease of reference. The actions summarized below are not necessarily exhaustive of all directives required to implement the 2021 Climate Act.

A. Directives to Distribution Companies

- Within 45 calendar days of the final Order, the Distribution Companies must make an informational filing in this docket providing key information about implementing their process of transferring credits across ISO-NE load zones and Distribution Company service territories, as outlined in Section III.G.2.b. This filing should also include a proposed process for identifying if a Net Metering facility is serving On-site Load other than parasitic or station load. Sections III.E.2.; III.G.2.b.
- Within 45 days of the effective date of the Proposed Regulations, each Distribution Company shall send a written statement to each Affected Host Customer regarding the Host Customer's Net Metering Credit balance and the Department's one-time reallocation exception, as outlined in Section III.F.3.d.
- Annually, by May 15, the Distribution Companies must also provide a written report to each Host Customer of a Cap Exempt Class II or III Net Metering Facilities providing the information regarding the Host Customer's unallocated Net Metering Credits and calculation of Avoided Cost Rate payout described in Section III.F.3.b.
- Annually by July 1:

- NSTAR Electric and National Grid must file an informational update in the DG Docket on: (1) further progress on Schedule Z automation since the last filing; and (2) its proposed implementation plan for achieving automation with an associated timeline, as discussed in Section V.B.3.
- Unitil must make an informational filing regarding whether any level of Schedule Z automation should be considered.
Section V.B.3.
- All Distribution Companies shall include information on newly connected Class I, Class II, and Class III Cap Exempt Facilities for that year, as well as the cumulative total of Class I, Class III, and Class III Net Metering Facilities that are Cap Exempt Facilities. Section V.C.

1. Model Tariff Compliance Filings

In this Order, the Department also directs specific changes to both the Net Metering Tarriff and the DG Interconnection Tariff and for the Distribution Companies to make compliance flings in subsequent dockets so that the Department may formally review proposed changes.

- Within 45 days of the date of this Order, the Distribution Companies shall make a compliance filing of a Model Net Metering Tariff in D.P.U. 23-108, with proposed revisions to:

- Section 1.08(2) deleting the second sentence and replacing it with the following: “The NMRS is a separate surcharge.” Section III.H.3.
- Address the NMRS as directed at Section III.H.;
- Allow for the transfer of Net Metering Credits across multiple service territories according to Section III.G.3.c.; and
- For NSTAR Electric only, for both its Eastern Massachusetts and Western Massachusetts service territories. Provide:
 - An update on the estimated incremental cost associated with adding a new, separate line item for the NMRS in the upgraded billing system;
 - Timelines for implementing the separate line item; and
 - Information regarding the amortization period over which these costs would be recovered consistent with the amortization period approved for the cost recovery of the upgraded billing systems. Section III.H.3.
- Also, within 45 days of the date of this Order, the Distribution Companies shall make a compliance filing of a Model DG Interconnection Tariff in D.P.U. 23-113, which will modify Schedule Z to:
 - Allow for updates up to four times per calendar year. Section III.G.4.c.
 - Collect necessary information to allow Host Customers to transfer Net Metering Credits across ISO-NE load zones and Distribution Companies’ service territories. Section III.G.2.b.

Distribution Companies are reminded that they are encouraged to work together to create a uniform document as soon as practicable.

B. Directives to Host Customers

By June 1, Host Customers shall communicate in writing to the Distribution Company an election of payout or carry forward of accrued Net Metering Credits, and include banking information, of the Class II Net Metering Facility or Class III Net Metering Facility credit balance at the Avoided Cost Rate as discussed in Section III.F.3.c.

C. Directives to the Administrator

Within 30 days of the date of receipt of the informational filing from the Distribution Companies, the Administrator shall either:

- File a letter in this docket indicating that it has the requisite information to proceed with notification to Affected Host Customers of reclassification and cap revocation; or
- File a letter in this docket and with the relevant Distribution Company, and/or Affected Host Customer, requesting additional or clarifying information. Section III.E.2.

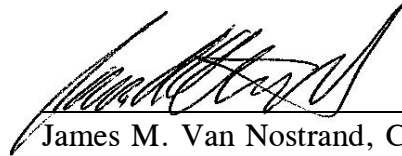
VII. PROMULGATION OF FINAL REGULATIONS

For the reasons stated above, the Department, by this Order, promulgates the attached Final Regulations: 220 CMR 18.00: Net Metering.


The Department will file standard Regulations Filing Forms and the regulations, 220 CMR 18.00, with the Office of the Secretary of the Commonwealth, State Publications

and Regulations Division. These regulations are effective upon publication in the Massachusetts Register.

By Order of the Department,



James M. Van Nostrand, Chair



Cecile M. Fraser, Commissioner



Staci Rubin, Commissioner

220 CMR: DEPARTMENT OF PUBLIC UTILITIES

220 CMR 18.00: NET METERING

Section

- 18.01: Purpose and Scope
- 18.02: Definitions
- 18.03: Net Metering Services
- 18.04: Calculation of Net Metering Credits
- 18.05: Allocation of Net Metering Credits
- 18.06: Eligibility for Net Metering
- 18.07: Net Metering Capacity
- 18.08: Net Metering Reports
- 18.09: Miscellaneous
- 18.10: Monthly Minimum Reliability Contribution
- 18.11: Small Hydroelectric Net Metering Program

18.01: Purpose and Scope

(1) Purpose. 220 CMR 18.00 governs how Distribution Companies are to provide Net Metering services to Customers consistent with the Net Metering provisions of M.G.L. c. 164, §§ 138 through 140.

(2) Scope. 220 CMR 18.00 applies to all Distribution Companies subject to the jurisdiction of the Department.

18.02: Definitions

The terms set forth in 220 CMR 18.02 shall be defined as follows, unless the context otherwise requires.

Administrator. The qualified entity selected by the Department to facilitate the System of Assurance.

Agricultural Net Metering Facility. A Renewable Energy generating facility that is operated as part of an agricultural business and is not participating in the Small Hydroelectric Net Metering Program, generates electricity, does not have a generation capacity of more than two megawatts, is located on land owned or controlled by the agricultural business, and is used to provide energy to metered accounts of the business. Agriculture has the same meaning as provided in M.G.L. c. 128, § 1A; provided that, when necessary, the Commissioner of the Department of Agricultural Resources shall determine if a business is an agricultural business and whether the facility is operated as part of that business.

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Anaerobic Digestion Net Metering Facility. A facility that:

- (a) generates electricity from a biogas produced by the accelerated biodegradation of organic materials under controlled anaerobic conditions;
- (b) has been determined by the Department of Energy Resources, in coordination with the Department of Environmental Protection, to qualify under the Department of Energy Resources' regulations as a Class I ~~renewable energy~~Renewable Energy generating source under 225 CMR 14:00: *Renewable Energy Portfolio Standard – Class I* and M.G.L. c. 25A, § 11F; and
- (c) is interconnected to a Distribution Company.

Billing Period. The period of time set forth in a Distribution Company's terms and conditions for which a Distribution Company bills a Customer for its electricity consumed or estimated to have been consumed.

Cap Allocation. An assurance from the Administrator that a Host Customer will receive Net Metering services upon a Host Customer's receipt from a Distribution Company of notice of authorization to interconnect.

Cap Exempt Facility. ~~A Class I Net Metering Facility that is~~Either:

- (a) a ~~renewable energy~~Class I Net Metering Facility that is a Renewable Energy generating facility; and
- ~~(b) has a nameplate capacity rating equal to or less than:~~
 - ~~1. ten kilowatts on a single-phase circuit; or~~
 - ~~2. 25 kilowatts on a three-phase circuit; or~~
- (b) a Class II Net Metering Facility or Class III Net Metering Facility with an executed interconnection service agreement with a Distribution Company dated on or after January 1, 2021, provided that it is a Renewable Energy generating facility and serves On-site Load, other than parasitic or station load, and provided further that it is not a Net Metering Facility of a Municipality or Other Governmental Entity.

Class I Net Metering Facility. A plant or equipment that is used to produce, manufacture, or otherwise generate electricity, that has a design capacity of 60 kilowatts or less, and that is not a Small Hydroelectric Net Metering Facility participating in the Small Hydroelectric Net Metering Program; provided, however, that a Class I Net Metering Facility of a Municipality or Other Governmental Entity may have a generating capacity of less than or equal to 60 kilowatts per unit. Each Municipality or Other Governmental Entity may have an aggregate generating capacity of not more than ten megawatts.

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Class II Net Metering Facility. An Agricultural Net Metering Facility, Anaerobic Digestion Net Metering Facility, Solar Net Metering Facility, or Wind Net Metering Facility with a generating capacity of more than 60 kilowatts but less than or equal to one megawatt; provided, however, that a Class II Net Metering Facility of a Municipality or Other Governmental Entity may have a generating capacity of more than 60 kilowatts but less than or equal to one megawatt per unit. Each Municipality or Other Governmental Entity may have an aggregate generating capacity of not more than ten megawatts.

Class III Net Metering Facility. An Agricultural Net Metering Facility, Anaerobic Digestion Net Metering Facility, Solar Net Metering Facility, or Wind Net Metering Facility with a generating capacity of more than one megawatt but less than or equal to two megawatts; provided, however, that a Class III Net Metering Facility of a Municipality or Other Governmental Entity may have a generating capacity of more than one megawatt but less than or equal to two megawatts per unit. Each Municipality or Other Governmental Entity may have an aggregate generating capacity of not more than ten megawatts.

Customer. Any person, partnership, corporation, or any other entity, whether public or private, who obtains distribution service at a customer delivery point and who is a customer of record of the Distribution Company for its own electricity consumption.

Department. Department of Public Utilities.

Distribution Company. A company engaging in the distribution of electricity or owning, operating or controlling distribution facilities; provided, however, that a Distribution Company shall not include any entity which owns or operates plant or equipment used to produce electricity, except for facilities provided in M.G.L. c. 164, § 1A(f), steam and chilled water, or an affiliate engaged solely in the provision of such electricity, steam and chilled water, where the electricity produced by such entity or its affiliate is primarily for the benefit of hospitals and non-profit educational institutions, and where such plant or equipment was in operation before January 1, 1986.

Governmental Cooperative. A cooperative, organized pursuant to M.G.L. c. 164, § 136, whose members or shareholders are all Municipalities or Other Governmental Entities.

Host Customer. A Customer with a Class I Net Metering Facility, Class II Net Metering Facility, Class III Net Metering Facility, or Small Hydroelectric Net Metering Facility participating in the Small Hydroelectric Net Metering Program that generates electricity on the Customer's side of the meter.

ISO-NE. ISO New England Inc., the independent system operator for New England,

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or its successor, authorized by the Federal Energy Regulatory Commission to operate the New England bulk power system and administer New England's organized wholesale electricity market pursuant to the ISO-NE Tariff and operation agreements with transmission owners.

Locational Marginal Price (LMP). The price of electric energy set by ISO-NE at each load zone, external interface with neighboring regions, and the hub that reflects:

- (a) the operating characteristics of, and the major constraints on, the New England transmission system at each area; and
- (b) the losses resulting from physical limits of the transmission system.

Market Net Metering Credit. A Net Metering Credit provided by a Distribution Company for the net excess electricity generated and fed back to the Distribution Company by a New Solar Net Metering Facility and other Solar Net Metering Facilities that are not Cap Exempt Facilities after 25 years from the date that each Solar Net Metering Facility was first authorized to interconnect to the electric distribution system as provided by M.G.L. c. 164, § 139(k).

Municipality. A city or town.

Neighborhood. A geographic area within a Municipality, subject to the right of the Department to grant exceptions pursuant to 220 CMR 18.09(7), that:

- (a) is recognized by the residents as including a unique community of interests;
- (b) falls within the service territory of a single Distribution Company and within a single ISO-NE load zone; and
- (c) may encompass residential, commercial, and undeveloped properties.

Neighborhood Net Metering Facility. A Class I Net Metering Facility, Class II Net Metering Facility, or Class III Net Metering Facility that:

- (a) is owned by, or serves the energy needs of, a group of ten or more residential Customers that reside in a single Neighborhood and are served by a single Distribution Company;
- (b) may also be owned by, or serve the energy needs of, other Customers who reside in the same Neighborhood and are served by the same Distribution Company as the residential Customers that own or are served by the facility; and
- (c) is located within the same Neighborhood as the Customers that own or are served by the facility.

Net Metering. The process of measuring the difference between electricity delivered by a Distribution Company and electricity generated by a Class I Net Metering Facility, Class II Net Metering Facility, Class III Net Metering Facility, or Small Hydroelectric Net Metering Facility participating in the Small Hydroelectric Net Metering Program and fed back to the Distribution Company.

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Net Metering Credit. Any credit, including a Market Net Metering Credit and a Neighborhood Net Metering Credit as defined in M.G.L. c. 164, § 138, provided by a Distribution Company for the net excess electricity generated and fed back to the Distribution Company by a Class I Net Metering Facility, Class II Net Metering Facility, Class III Net Metering Facility, Neighborhood Net Metering Facility, or Small Hydroelectric Net Metering Facility participating in the Small Hydroelectric Net Metering Program.

Net Metering Facility of a Municipality or Other Governmental Entity. A Class I Net Metering Facility, Class II Net Metering Facility, or Class III Net Metering Facility:

- (a) that is owned or operated by a Municipality or Other Governmental Entity;
or
- (b) of which the Municipality or Other Governmental Entity is the Host Customer and is assigned 100% of the output.

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New Solar Net Metering Facility.

- (a) A Solar Net Metering Facility that submits an application for a Cap Allocation to the System of Assurance after ~~the Notification Date~~ September 26, 2016 for the entire capacity of the Solar Net Metering Facility; or
- (b) A Solar Net Metering Facility that submits an application for a Cap Allocation to the System of Assurance before ~~the Notification Date~~ September 26, 2016, but which is subsequently deemed complete by the Administrator and does not receive a Cap Allocation from the Administrator until after January 8, 2017; or
- (c) A Solar Net Metering Facility that submits an application for a Cap Allocation to the System of Assurance before ~~the Notification Date~~ September 26, 2016, is subsequently deemed complete by the Administrator and receives a Cap Allocation before or on January 8, 2017, but that seeks to expand the generating capacity at a later date after ~~the Notification Date~~ September 26, 2016, such that the entire facility, including the expanded generating capacity, is a Class II Net Metering Facility or Class III Net Metering Facility.

~~Notification Date. The date established by Department order after which all New Solar Net Metering Facilities shall generate Market Net Metering Credits only as determined pursuant to M.G.L. c. 164, § 139(b½).~~

~~On-site Load. Any new or existing electric load located at the site of a Net Metering facility, other than parasitic load that may result from the installation and operation of the Net Metering facility, and that is wired to be served by a portion of the electrical energy output from the Net Metering facility before the balance of such output passes through the Net Metering facility's metered interconnection onto the electric grid. An energy storage system, as defined in M.G.L. c. 164, § 1, does not constitute On-site Load.~~

Other Governmental Entity. A department or agency of the Federal government or of the Commonwealth, and any other entity as approved by the Department.

Renewable Energy. Energy generated from any source that qualifies as a Class I or Class II Renewable Energy generating source under M.G.L. c. 25A, § 11F; provided, however, that after conducting administrative proceedings, the Department of Energy Resources, in consultation with the Department of Agricultural Resources, may add technologies or technology categories.

Small Hydroelectric Net Metering Facility. A facility for the production of electrical energy that uses water to generate electricity, with a nameplate capacity of two megawatts or less, and is interconnected to a Distribution Company.

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Small Hydroelectric Net Metering Program. A distinct technology-specific Net Metering program wherein each Small Hydroelectric Net Metering Facility that seeks to net meter while the program is open participates in a separate cap and generates a Net Metering Credit pursuant to M.G.L. c. 164, § 139A.

Solar Net Metering Facility. A facility for the production of electrical energy that uses sunlight to generate electricity and is interconnected to a Distribution Company.

System of Assurance. The Massachusetts System of Assurance of Net Metering Eligibility, as established by the Department pursuant to M.G.L. c. 164, § 139(g).

Wind Net Metering Facility. A facility for the production of electrical energy that uses wind to generate electricity and is interconnected to a Distribution Company.

18.03: Net Metering Services

- (1) Each Distribution Company shall provide services to Customers and Host Customers necessary to permit Net Metering, including those related to interconnection, metering, calculation, and billing of Net Metering Credits, as provided by 220 CMR 18.04 and as specified in a Distribution Company's Net Metering tariff pursuant to 220 CMR 18.09(2) and (3).
- (2) No Distribution Company may impose a special fee on a Host Customer with a Class I Net Metering Facility, including a New Solar Net Metering Facility, such as backup charges and demand charges, or additional controls or liability insurance, except for a monthly minimum reliability contribution or other fee approved by the Department in a ratemaking proceeding, provided that the facility meets the other requirements of the interconnection tariff, and all relevant safety and power quality standards.
- (3) Each Distribution Company shall calculate a Net Metering Credit as set forth in 220 CMR 18.04, and not bill a Host Customer for kilowatt-hour usage, for any Billing Period in which the kilowatt-hours generated by a Class I Net Metering Facility, Class II Net Metering Facility, Class III Net Metering Facility, New Solar Net Metering Facility, or Small Hydroelectric Net Metering Facility participating in the Small Hydroelectric Net Metering Program exceed the kilowatt-hour usage of the Host Customer.
- (4) Each Distribution Company shall bill a Host Customer for net excess consumption for any Billing Period in which the kilowatt-hours consumed by a Host Customer exceed the kilowatt-hours generated by a Class I Net Metering Facility, Class II Net Metering Facility, Class III Net Metering Facility, New Solar Net Metering Facility, or Small Hydroelectric Net Metering Facility participating in the Small Hydroelectric Net Metering Program.

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18.04: Calculation of Net Metering Credits

(1) For a Class I Net Metering Facility that is a Wind Net Metering Facility, Class I Net Metering Facility that is a Solar Net Metering Facility, Class I Net Metering Facility that is an Agricultural Net Metering Facility, Class I Net Metering Facility that is an Anaerobic Digestion Net Metering Facility, Class II Net Metering Facility, a Net Metering Facility of a Municipality or Other Governmental Entity, or a Solar Net Metering Facility that receives approval by Department order, except those Solar Net Metering Facilities governed by 220 CMR 18.04(3) and (4), each Distribution Company shall calculate for each Billing Period a Net Metering Credit equal to:

- (a) 100% of the net excess kilowatt-hours, by time-of-use, if applicable, multiplied by the sum of the following Distribution Company charges applicable to the rate class under which the Host Customer takes service:
 - 1. basic service kilowatt-hour charge in the ISO-NE load zone where the Host Customer is located;
 - 2. distribution kilowatt-hour charge;
 - 3. transmission kilowatt-hour charge; and
 - 4. transition kilowatt-hour charge;
- (b) Except that a Class I Net Metering Facility that is a Solar Net Metering Facility, Class II Net Metering Facility that is a Solar Net Metering Facility, or a Class III Net Metering Facility that is a Solar Net Metering Facility shall receive Market Net Metering Credits as provided in 220 CMR 18.04(3) or (4) after 25 years from the date on which the Solar Net Metering Facility was first authorized to interconnect to the distribution system.

(2) For a Class I Net Metering Facility other than a Class I Net Metering Facility that is a Wind Net Metering Facility, Class I Net Metering Facility that is an Agricultural Net Metering Facility, Class I Net Metering Facility that is an Anaerobic Digestion Net Metering Facility, or a Class I Net Metering Facility that is a Solar Net Metering Facility, each Distribution Company shall calculate a Net Metering Credit for each Billing Period as the product of the:

- (a) 100% of the net excess kilowatt-hours, by time-of-use, if applicable; and
- (b) average monthly clearing price at the ISO-NE.

(3) For a Class I Net Metering Facility that is a New Solar Net Metering Facility, Class II Net Metering Facility that is a New Solar Net Metering Facility, or Class III Net Metering Facility that is a New Solar Net Metering Facility, except for those Solar Net Metering Facilities governed by 220 CMR 18.04(4), each Distribution Company shall calculate for each Billing Period a Market Net Metering Credit equal to 60% of the net excess kilowatt-hours, by time-of-use, if applicable, multiplied by the sum of the Distribution Company's:

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- (a) basic service kilowatt-hour charge in the ISO-NE load zone where the Host Customer is located;
 - (b) distribution kilowatt-hour charge;
 - (c) transmission kilowatt-hour charge; and
 - (d) transition kilowatt-hour charge.
- (4) For a New Solar Class I Net Metering Facility that is a Cap Exempt Facility, or a New Solar Net Metering Facility, of which the Municipality or Other Governmental Entity is the Host Customer and only allocates Net Metering Credits to the accounts of other customers that could also qualify as a Municipality or Other Governmental Entity, each Distribution Company shall calculate for each Billing Period a Market Net Metering Credit equal to 100% of the net excess kilowatt-hours, by time-of-use, if applicable, multiplied by the sum of the Distribution Company's:
- (a) basic service kilowatt-hour charge in the ISO-NE load zone where the Host Customer is located;
 - (b) distribution kilowatt-hour charge;
 - (c) transmission kilowatt-hour charge; and
 - (d) transition kilowatt-hour charge.

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(5) For a Neighborhood Net Metering Facility or a Class III Net Metering Facility other than a Net Metering Facility of a Municipality or Other Governmental Entity, and those Solar Net Metering Facilities governed by 220 CMR 18.04(3) or (6), each Distribution Company shall calculate for each Billing Period a Net Metering Credit equal to:

- (a) 100% of the net excess kilowatt-hours, by time-of-use, if applicable, multiplied by the sum of the Distribution Company charges applicable to the rate class under which the Host Customer takes service:
 - 1. basic service kilowatt-hour charge in the ISO-NE load zone where the Host Customer is located;
 - 2. transmission kilowatt-hour charge; and
 - 3. transition kilowatt-hour charge;
- (b) Except that a Solar Net Metering Facility that is a Neighborhood Net Metering Facility shall receive Market Net Metering Credits, as provided in 220 CMR 18.04(6), after 25 years from the date on which it was first authorized to interconnect to the distribution system; and
- (c) Except those Class III Net Metering Facilities governed by 220 CMR 18.04(1)(b).

(6) For a New Solar Net Metering Facility that is a Neighborhood Net Metering Facility, each Distribution Company shall calculate for each Billing Period a Market Net Metering Credit equal to 60% of the net excess kilowatt-hours, by time-of-use, if applicable, multiplied by the sum of the Distribution Company's:

- (a) basic service kilowatt-hour charge in the ISO-NE load zone where the Host Customer is located;
- (b) transmission kilowatt-hour charge; and
- (c) transition kilowatt-hour charge.

(6A) For a Small Hydroelectric Net Metering Facility that is participating in the Small Hydroelectric Net Metering Program, each Distribution Company shall calculate for each Billing Period a Net Metering Credit equal to 100% of the net excess kilowatt-hours, by time-of-use, if applicable, multiplied by the Distribution Company's basic service kilowatt-hour charge in the ISO-NE load zone where the Host Customer is located.

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(7) The calculation of Net Metering Credits under 220 CMR 18.04 shall not include the demand side management and renewable energy kilowatt-hour charges set forth in M.G.L. c. 25, §§ 19 through 20-, nor shall it include the per kilowatt-hour surcharge or surcharges provided for by 220 CMR 18.09(4).

(8) For any Billing Period for which a Distribution Company calculates a Net Metering Credit for a Host Customer, the Distribution Company shall apply the Net Metering Credit to the Host Customer's account for the subsequent Billing Period, unless the Host Customer provides otherwise pursuant to 220 CMR 18.05.

18.05: Allocation of Net Metering Credits

~~(1)~~ (1) Net Metering Credits shall be allocated to Customer accounts by each Distribution Company as follows:

(a) For a Class I Net Metering Facility, Class II Net Metering Facility, or Class III Net Metering Facility, including that is not a New Solar Net Metering Facility, or or not a Cap Exempt Facility that is also a Class II Solar Net Metering Facility or Class III Solar Net Metering Facility, or a Small Hydroelectric Net Metering Facility participating in the Small Hydroelectric Net Metering Program, each Distribution Company shall allocate Net Metering Credits, as designated in writing by the Host Customer, to other Customers who are in the Distribution Company's service territory and are located in the same ISO-NE load zone. The manner and form of credit designation shall be as specified in the Distribution Company's Net Metering Tariff pursuant to 220 CMR 18.09(2). Notwithstanding the foregoing, if the Host Customer of a Class I Net Metering Facility, Class II Net Metering Facility, or Class III Net Metering Facility is a Municipality or Other Governmental Entity, including a Governmental Cooperative, it may direct its Distribution Company to allocate Net Metering Credits only to other Customers that are Municipalities or Other Governmental Entities.

~~(2)~~ (b) For a New Solar Net Metering Facility or a Cap Exempt Facility that is also a Class II Solar Net Metering Facility or a Class III Solar Net Metering Facility, each Distribution Company shall allocate Net Metering Credits, as designated in writing by the Host Customer, to other Customers who are Customers of a Distribution Company located in the Commonwealth and may allocate credits to customers in more than one Distribution Company service territory. The manner and form of credit designation shall be as specified in the Distribution Company's Net Metering Tariff pursuant to 220 CMR 18.09(2). Notwithstanding the foregoing, the Host Customer of a Class I Net Metering Facility, Class II Net Metering Facility, or Class III Net Metering Facility that is a Municipality or Other Governmental Entity, including a Governmental Cooperative, may direct its Distribution Company to allocate Net Metering Credits only to other Customers

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that are Municipalities or Other Governmental Entities.

(c) For a Neighborhood Net Metering Facility, the Distribution Company may only allocate Net Metering Credits to residential or other Customers who reside in the same Neighborhood in which the Neighborhood Net Metering Facility is located and have an ownership interest in, or are served by, the Neighborhood Net Metering Facility.

(32) The Distribution Company shall carry forward, from Billing Period to Billing Period, any remaining Net Metering Credit balance.

(43) For a Class III Net Metering Facility, including a Class III Net Metering Facility that is a New Solar Net Metering Facility, and a Small Hydroelectric Net Metering Facility participating in the Small Hydroelectric Net Metering Program, a Distribution Company may elect to pay to the Host Customer Net Metering Credits rather than allocating such credits pursuant to 220 CMR 18.05(1).

(4) For a Class II Net Metering Facility or Class III Net Metering Facility that is also a Cap Exempt Facility, a Distribution Company shall credit or pay the Host Customer for any Net Metering Credits that are accrued in excess of its annual electricity consumption for the period running from April through the following March. The value of such excess Net Metering Credits shall be equal to the Distribution Company's Avoided Cost Rate as determined pursuant to 220 CMR 18.05(5).

(5) The Avoided Cost Rate is based on data used by ISO-NE to set prices for energy purchases and sales. A Distribution Company's annual payout amount for Net Metering Credits shall be derived by applying an adjustment factor to the value of the Net Metering Credits that accrued during the preceding 12-month period beginning from April of the preceding year and are remaining on the Host Customer's billing account as of March 31 of the current year. The adjustment factor ratio shall be the average monthly LMP rate that was realized by the settlement of the output of Net Metering facilities with ISO-NE, divided by the average monthly Net Metering Credit rate that the Net Metering facility received from the Distribution Company, weighted by the monthly net excess electricity generated by the Net Metering Facility.

18.06: Eligibility for Net Metering

(1) Distribution Companies shall not provide Net Metering services to a Host Customer who is an electric company, generation company, aggregator, supplier, energy marketer, or energy broker, as those terms are used in M.G.L. c. 164, §§ 1 and 1F and 220 CMR 11.00: *Rules Governing the Restructuring of the Electric Industry*.

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(2) A Governmental Cooperative shall not be considered an electric company, generation company, aggregator, supplier, energy marketer or energy broker, as those terms are used in M.G.L. c. 164, §§ 1 and 1F and 220 CMR 11.00: *Rules Governing the Restructuring of the Electric Industry*.

18.07: Net Metering Capacity

(1) Each Distribution Company shall make Net Metering services available to Host Customers, except for Host Customers of a Small Hydroelectric Net Metering Facility participating in the Small Hydroelectric Net Metering Program, such that the aggregate capacity of:

- (a) Net Metering facilities that are not Net Metering Facilities of a Municipality or Other Governmental Entity does not exceed 7% of the Distribution Company's highest historical peak load; and
- (b) Net Metering Facilities of a Municipality or Other Governmental Entity does not exceed 8% of the Distribution Company's highest historical peak load.

(1A) Distribution Companies shall make an aggregate capacity of 60 megawatts statewide of Net Metering services available to Host Customers of Small Hydroelectric Net Metering Facilities. This aggregate capacity shall be in addition to that applicable to the Net Metering services available under 220 CMR 18.07(1).

(2) The maximum amount of generating capacity eligible for Net Metering by a Municipality or Other Governmental Entity shall be ten megawatts, as determined by the sum of the nameplate ratings of Class I Net Metering Facilities, Class II Net Metering Facilities, and Class III Net Metering Facilities, including a Class I Net Metering Facility that is a New Solar Net Metering Facility, a Class II Net Metering Facility that is a New Solar Net Metering Facility, and a Class III Net Metering Facility that is a New Solar Net Metering Facility for which the Municipality or Other Governmental Entity is the Host Customer, except as provided in 220 CMR 18.07(6).

(3) Each Distribution Company shall identify on an annual basis its highest historical peak load and post that data on its website by February 1st of the following year.

(4) For the purpose of calculating the aggregate capacity of Class I Net Metering Facilities, Class II Net Metering Facilities, Class III Net Metering Facilities, including a New Solar Net Metering Facility, and Small Hydroelectric Net Metering Facilities participating in the Small Hydroelectric Net Metering Program, the capacity of:

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- (a) A Solar Net Metering Facility shall be 80% of the facility's direct current rating at standard test conditions; and
 - (b) All other non-solar Net Metering facilities shall be the facility's nameplate rating in alternating current.
- (5) A Cap Exempt Facility shall be exempt from the calculation of the aggregate capacity of Net Metering facilities.
- (6) A Municipality or Other Governmental Entity that is a member of a Governmental Cooperative may transfer any or all of the Net Metering generating capacity associated with one or more Class II or III Net Metering Facilities, including a Class II Net Metering Facility that is a New Solar Net Metering Facility or a Class III Net Metering Facility that is a New Solar Net Metering Facility, to said Governmental Cooperative by providing written assent to the Governmental Cooperative and obtaining approval from the Department.
- (7) A Governmental Cooperative may serve as a Host Customer for a Net Metering Facility of a Municipality or Other Governmental Entity for all capacity allocated pursuant to 220 CMR 18.07(6) and its own capacity as an Other Governmental Entity, provided that the Net Metering Credits for which such Governmental Cooperative serves as Host Customer shall only be allocated to that same Governmental Cooperative or its members.
- (8) Notwithstanding the capacity limits set forth herein 220 CMR 18.07, a Class I Net Metering Facility shall be eligible for Net Metering if it qualifies under the Department of Energy Resources' regulations as a Class I ~~renewable energy~~ Renewable Energy generating source under 225 CMR 14:00: *Renewable Energy Portfolio Standard – Class I* and M.G.L. c. 25A, § 11F and is a Cap Exempt Facility.

18.08: Net Metering Reports

- (1) Each Distribution Company shall track at least the following:
 - (a) the size, generation type, Net Metering class, fuel type, and the Municipality within which each Net Metering facility receives Net Metering services;
 - (b) the size, generation type, fuel type, and the Municipality within which each Net Metering facility has requested interconnection with the Distribution Company; and
 - (c) the aggregate capacity of Net Metering facilities that have interconnected, and that have requested interconnection, to the Distribution Company.

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(2) Each Distribution Company shall file with the Department information regarding the provision of Net Metering services to its Customers, in a format and according to a schedule as determined by the Department.

(3) Each Distribution Company shall post data to a publicly accessible website tracking the aggregate capacity of eligible Net Metering facilities that have connected, and that have requested interconnection, relative to the Net Metering capacity set forth in 220 CMR 18.07. The data shall be updated on a monthly basis.

18.09: Miscellaneous

(1) The provision of Net Metering services does not entitle Distribution Companies to ownership of, or title to, the ~~renewable energy~~ Renewable Energy or environmental attributes, including ~~renewable energy~~ Renewable Energy certificates, associated with any electricity produced by a Net Metering facility.

(2) Each Distribution Company shall implement its responsibilities and obligations regarding the provision of Net Metering services to Customers and Host Customers pursuant to a Department-approved tariff.

(3) Each Distribution Company shall implement its responsibilities and obligations regarding the provision of interconnection services to Customers and Host Customers pursuant to a Department-approved tariff.

(4) Each Distribution Company shall be allowed to recover the aggregate of the distribution portion of any Net Metering Credits and the Distribution Company delivery charges displaced by a Class I Net Metering Facility, Class II Net Metering Facility, Class III Net Metering Facility, including a New Solar Net Metering Facility, or a Small Hydroelectric Net Metering Facility participating in the Small Hydroelectric Net Metering Program through a uniform per kilowatt-hour surcharge or surcharges billed to all of its Customers on an annual basis.

(5) Nothing in 220 CMR 18.00 is intended in any way to limit eligibility for Net Metering services based upon a third-party ownership or financing agreement related to a Net Metering facility, where Net Metering services would otherwise be available.

(6) Unless otherwise indicated, all capacity and energy measurements referenced in 220 CMR 18.00 refer to alternating current.

(7) The Department may, where appropriate, grant an exception from any provision of 220 CMR 18.00.

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18.10: Monthly Minimum Reliability Contribution

Distribution Companies may submit to the Department proposals for a monthly minimum reliability contribution to be included on electric bills for distribution utility accounts that receive Net Metering Credits provided that the Department receives a proposal from such Distribution Company and subsequently approves the monthly minimum reliability contribution pursuant to M.G.L. c. 164, § 139(j).

18.11: Small Hydroelectric Net Metering Program

- (1) The Small Hydroelectric Net Metering Program shall remain open until the Department certifies that the aggregate capacity of Small Hydroelectric Net Metering Facilities participating in the program is equal to 60 megawatts.
- (2) While the Small Hydroelectric Net Metering Program is open, any Small Hydroelectric Net Metering Facility that seeks to net meter must participate in the Small Hydroelectric Net Metering Program and generate Net Metering Credits pursuant to 220 CMR 18.04(6A).
- (3) Once the Department certifies that the aggregate capacity of Small Hydroelectric Net Metering Facilities participating in the program is equal to 60 megawatts, a Small Hydroelectric Net Metering Facility shall:
 - (a) apply for Net Metering services as a Class I Net Metering Facility;
 - (b) generate Net Metering Credits pursuant to 220 CMR 18.04(2); and
 - (c) apply for a Cap Allocation pursuant to 220 CMR 18.07(1), if it is not a Cap Exempt Facility.

REGULATORY AUTHORITY

220 CMR 18.00: M.G.L. c. 164, §§ 138 through 140.

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220 CMR 18.00: NET METERING

Section

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18.01: Purpose and Scope

(1) Purpose. 220 CMR 18.00 governs how Distribution Companies are to provide Net Metering services to Customers consistent with the Net Metering provisions of M.G.L. c. 164, §§ 138 through 140.

(2) Scope. 220 CMR 18.00 applies to all Distribution Companies subject to the jurisdiction of the Department.

18.02: Definitions

The terms set forth in 220 CMR 18.02 shall be defined as follows, unless the context otherwise requires.

Administrator. The qualified entity selected by the Department to facilitate the System of Assurance.

Agricultural Net Metering Facility. A Renewable Energy generating facility that is operated as part of an agricultural business and is not participating in the Small Hydroelectric Net Metering Program, generates electricity, does not have a generation capacity of more than two megawatts, is located on land owned or controlled by the agricultural business, and is used to provide energy to metered accounts of the business. Agriculture has the same meaning as provided in M.G.L. c. 128, § 1A; provided that, when necessary, the Commissioner of the Department of Agricultural Resources shall determine if a business is an agricultural business and whether the facility is operated as part of that business.

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Anaerobic Digestion Net Metering Facility. A facility that:

- (a) generates electricity from a biogas produced by the accelerated biodegradation of organic materials under controlled anaerobic conditions;
- (b) has been determined by the Department of Energy Resources, in coordination with the Department of Environmental Protection, to qualify under the Department of Energy Resources' regulations as a Class I Renewable Energy generating source under 225 CMR 14:00: *Renewable Energy Portfolio Standard – Class I* and M.G.L. c. 25A, § 11F; and
- (c) is interconnected to a Distribution Company.

Billing Period. The period of time set forth in a Distribution Company's terms and conditions for which a Distribution Company bills a Customer for its electricity consumed or estimated to have been consumed.

Cap Allocation. An assurance from the Administrator that a Host Customer will receive Net Metering services upon a Host Customer's receipt from a Distribution Company of notice of authorization to interconnect.

Cap Exempt Facility. Either:

- (a) a Class I Net Metering Facility that is a Renewable Energy generating facility and has a nameplate capacity rating equal to or less than ten kilowatts on a single-phase circuit or 25 kilowatts on a three-phase circuit; or
- (b) a Class II Net Metering Facility or Class III Net Metering Facility with an executed interconnection service agreement with a Distribution Company dated on or after January 1, 2021, provided that it is a Renewable Energy generating facility and serves On-site Load, other than parasitic or station load, and provided further that it is not a Net Metering Facility of a Municipality or Other Governmental Entity.

Class I Net Metering Facility. A plant or equipment that is used to produce, manufacture, or otherwise generate electricity, that has a design capacity of 60 kilowatts or less, and that is not a Small Hydroelectric Net Metering Facility participating in the Small Hydroelectric Net Metering Program; provided, however, that a Class I Net Metering Facility of a Municipality or Other Governmental Entity may have a generating capacity of less than or equal to 60 kilowatts per unit. Each Municipality or Other Governmental Entity may have an aggregate generating capacity of not more than ten megawatts.

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Class II Net Metering Facility. An Agricultural Net Metering Facility, Anaerobic Digestion Net Metering Facility, Solar Net Metering Facility, or Wind Net Metering Facility with a generating capacity of more than 60 kilowatts but less than or equal to one megawatt; provided, however, that a Class II Net Metering Facility of a Municipality or Other Governmental Entity may have a generating capacity of more than 60 kilowatts but less than or equal to one megawatt per unit. Each Municipality or Other Governmental Entity may have an aggregate generating capacity of not more than ten megawatts.

Class III Net Metering Facility. An Agricultural Net Metering Facility, Anaerobic Digestion Net Metering Facility, Solar Net Metering Facility, or Wind Net Metering Facility with a generating capacity of more than one megawatt but less than or equal to two megawatts; provided, however, that a Class III Net Metering Facility of a Municipality or Other Governmental Entity may have a generating capacity of more than one megawatt but less than or equal to two megawatts per unit. Each Municipality or Other Governmental Entity may have an aggregate generating capacity of not more than ten megawatts.

Customer. Any person, partnership, corporation, or any other entity, whether public or private, who obtains distribution service at a customer delivery point and who is a customer of record of the Distribution Company for its own electricity consumption.

Department. Department of Public Utilities.

Distribution Company. A company engaging in the distribution of electricity or owning, operating or controlling distribution facilities; provided, however, that a Distribution Company shall not include any entity which owns or operates plant or equipment used to produce electricity, except for facilities provided in M.G.L. c. 164, § 1A(f), steam and chilled water, or an affiliate engaged solely in the provision of such electricity, steam and chilled water, where the electricity produced by such entity or its affiliate is primarily for the benefit of hospitals and non-profit educational institutions, and where such plant or equipment was in operation before January 1, 1986.

Governmental Cooperative. A cooperative, organized pursuant to M.G.L. c. 164, § 136, whose members or shareholders are all Municipalities or Other Governmental Entities.

Host Customer. A Customer with a Class I Net Metering Facility, Class II Net Metering Facility, Class III Net Metering Facility, or Small Hydroelectric Net Metering Facility participating in the Small Hydroelectric Net Metering Program that generates electricity on the Customer's side of the meter.

ISO-NE. ISO New England Inc., the independent system operator for New England,

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or its successor, authorized by the Federal Energy Regulatory Commission to operate the New England bulk power system and administer New England's organized wholesale electricity market pursuant to the ISO-NE Tariff and operation agreements with transmission owners.

Locational Marginal Price (LMP). The price of electric energy set by ISO-NE at each load zone, external interface with neighboring regions, and the hub that reflects:

- (a) the operating characteristics of, and the major constraints on, the New England transmission system at each area; and
- (b) the losses resulting from physical limits of the transmission system.

Market Net Metering Credit. A Net Metering Credit provided by a Distribution Company for the net excess electricity generated and fed back to the Distribution Company by a New Solar Net Metering Facility and other Solar Net Metering Facilities that are not Cap Exempt Facilities after 25 years from the date that each Solar Net Metering Facility was first authorized to interconnect to the electric distribution system as provided by M.G.L. c. 164, § 139(k).

Municipality. A city or town.

Neighborhood. A geographic area within a Municipality, subject to the right of the Department to grant exceptions pursuant to 220 CMR 18.09(7), that:

- (a) is recognized by the residents as including a unique community of interests;
- (b) falls within the service territory of a single Distribution Company and within a single ISO-NE load zone; and
- (c) may encompass residential, commercial, and undeveloped properties.

Neighborhood Net Metering Facility. A Class I Net Metering Facility, Class II Net Metering Facility, or Class III Net Metering Facility that:

- (a) is owned by, or serves the energy needs of, a group of ten or more residential Customers that reside in a single Neighborhood and are served by a single Distribution Company;
- (b) may also be owned by, or serve the energy needs of, other Customers who reside in the same Neighborhood and are served by the same Distribution Company as the residential Customers that own or are served by the facility; and
- (c) is located within the same Neighborhood as the Customers that own or are served by the facility.

Net Metering. The process of measuring the difference between electricity delivered by a Distribution Company and electricity generated by a Class I Net Metering Facility, Class II Net Metering Facility, Class III Net Metering Facility, or Small Hydroelectric Net Metering Facility participating in the Small Hydroelectric Net Metering Program and fed back to the Distribution Company.

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Net Metering Credit. Any credit, including a Market Net Metering Credit and a Neighborhood Net Metering Credit as defined in M.G.L. c. 164, § 138, provided by a Distribution Company for the net excess electricity generated and fed back to the Distribution Company by a Class I Net Metering Facility, Class II Net Metering Facility, Class III Net Metering Facility, Neighborhood Net Metering Facility, or Small Hydroelectric Net Metering Facility participating in the Small Hydroelectric Net Metering Program.

Net Metering Facility of a Municipality or Other Governmental Entity. A Class I Net Metering Facility, Class II Net Metering Facility, or Class III Net Metering Facility:

- (a) that is owned or operated by a Municipality or Other Governmental Entity; or
- (b) of which the Municipality or Other Governmental Entity is the Host Customer and is assigned 100% of the output.

New Solar Net Metering Facility.

- (a) A Solar Net Metering Facility that submits an application for a Cap Allocation to the System of Assurance after September 26, 2016 for the entire capacity of the Solar Net Metering Facility; or
- (b) A Solar Net Metering Facility that submits an application for a Cap Allocation to the System of Assurance before September 26, 2016, but which is subsequently deemed complete by the Administrator and does not receive a Cap Allocation from the Administrator until after January 8, 2017; or
- (c) A Solar Net Metering Facility that submits an application for a Cap Allocation to the System of Assurance before September 26, 2016, is subsequently deemed complete by the Administrator and receives a Cap Allocation before or on January 8, 2017, but that seeks to expand the generating capacity at a later date after September 26, 2016, such that the entire facility, including the expanded generating capacity, is a Class II Net Metering Facility or Class III Net Metering Facility.

On-site Load. Any new or existing electric load located at the site of a Net Metering facility, other than parasitic load that may result from the installation and operation of the Net Metering facility, and that is wired to be served by a portion of the electrical energy output from the Net Metering facility before the balance of such output passes through the Net Metering facility's metered interconnection onto the electric grid. An energy storage system, as defined in M.G.L. c. 164, § 1, does not constitute On-site Load.

Other Governmental Entity. A department or agency of the Federal government or of the Commonwealth, and any other entity as approved by the Department.

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Renewable Energy. Energy generated from any source that qualifies as a Class I or Class II Renewable Energy generating source under M.G.L. c. 25A, § 11F; provided, however, that after conducting administrative proceedings, the Department of Energy Resources, in consultation with the Department of Agricultural Resources, may add technologies or technology categories.

Small Hydroelectric Net Metering Facility. A facility for the production of electrical energy that uses water to generate electricity, with a nameplate capacity of two megawatts or less, and is interconnected to a Distribution Company.

Small Hydroelectric Net Metering Program. A distinct technology-specific Net Metering program wherein each Small Hydroelectric Net Metering Facility that seeks to net meter while the program is open participates in a separate cap and generates a Net Metering Credit pursuant to M.G.L. c. 164, § 139A.

Solar Net Metering Facility. A facility for the production of electrical energy that uses sunlight to generate electricity and is interconnected to a Distribution Company.

System of Assurance. The Massachusetts System of Assurance of Net Metering Eligibility, as established by the Department pursuant to M.G.L. c. 164, § 139(g).

Wind Net Metering Facility. A facility for the production of electrical energy that uses wind to generate electricity and is interconnected to a Distribution Company.

18.03: Net Metering Services

(1) Each Distribution Company shall provide services to Customers and Host Customers necessary to permit Net Metering, including those related to interconnection, metering, calculation, and billing of Net Metering Credits, as provided by 220 CMR 18.04 and as specified in a Distribution Company's Net Metering tariff pursuant to 220 CMR 18.09(2) and (3).

(2) No Distribution Company may impose a special fee on a Host Customer with a Class I Net Metering Facility, including a New Solar Net Metering Facility, such as backup charges and demand charges, or additional controls or liability insurance, except for a monthly minimum reliability contribution or other fee approved by the Department in a ratemaking proceeding, provided that the facility meets the other requirements of the interconnection tariff, and all relevant safety and power quality standards.

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(3) Each Distribution Company shall calculate a Net Metering Credit as set forth in 220 CMR 18.04, and not bill a Host Customer for kilowatt-hour usage, for any Billing Period in which the kilowatt-hours generated by a Class I Net Metering Facility, Class II Net Metering Facility, Class III Net Metering Facility, New Solar Net Metering Facility, or Small Hydroelectric Net Metering Facility participating in the Small Hydroelectric Net Metering Program exceed the kilowatt-hour usage of the Host Customer.

(4) Each Distribution Company shall bill a Host Customer for net excess consumption for any Billing Period in which the kilowatt-hours consumed by a Host Customer exceed the kilowatt-hours generated by a Class I Net Metering Facility, Class II Net Metering Facility, Class III Net Metering Facility, New Solar Net Metering Facility, or Small Hydroelectric Net Metering Facility participating in the Small Hydroelectric Net Metering Program.

18.04: Calculation of Net Metering Credits

(1) For a Class I Net Metering Facility that is a Wind Net Metering Facility, Class I Net Metering Facility that is a Solar Net Metering Facility, Class I Net Metering Facility that is an Agricultural Net Metering Facility, Class I Net Metering Facility that is an Anaerobic Digestion Net Metering Facility, Class II Net Metering Facility, a Net Metering Facility of a Municipality or Other Governmental Entity, or a Solar Net Metering Facility that receives approval by Department order, except those Solar Net Metering Facilities governed by 220 CMR 18.04(3) and (4), each Distribution Company shall calculate for each Billing Period a Net Metering Credit equal to:

- (a) 100% of the net excess kilowatt-hours, by time-of-use, if applicable, multiplied by the sum of the following Distribution Company charges applicable to the rate class under which the Host Customer takes service:
 1. basic service kilowatt-hour charge in the ISO-NE load zone where the Host Customer is located;
 2. distribution kilowatt-hour charge;
 3. transmission kilowatt-hour charge; and
 4. transition kilowatt-hour charge;

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- (b) Except that a Class I Net Metering Facility that is a Solar Net Metering Facility, Class II Net Metering Facility that is a Solar Net Metering Facility, or a Class III Net Metering Facility that is a Solar Net Metering Facility shall receive Market Net Metering Credits as provided in 220 CMR 18.04(3) or (4) after 25 years from the date on which the Solar Net Metering Facility was first authorized to interconnect to the distribution system.
- (2) For a Class I Net Metering Facility other than a Class I Net Metering Facility that is a Wind Net Metering Facility, Class I Net Metering Facility that is an Agricultural Net Metering Facility, Class I Net Metering Facility that is an Anaerobic Digestion Net Metering Facility, or a Class I Net Metering Facility that is a Solar Net Metering Facility, each Distribution Company shall calculate a Net Metering Credit for each Billing Period as the product of the:
- (a) 100% of the net excess kilowatt-hours, by time-of-use, if applicable; and
 - (b) average monthly clearing price at the ISO-NE.
- (3) For a Class I Net Metering Facility that is a New Solar Net Metering Facility, Class II Net Metering Facility that is a New Solar Net Metering Facility, or Class III Net Metering Facility that is a New Solar Net Metering Facility, except for those Solar Net Metering Facilities governed by 220 CMR 18.04(4), each Distribution Company shall calculate for each Billing Period a Market Net Metering Credit equal to 60% of the net excess kilowatt-hours, by time-of-use, if applicable, multiplied by the sum of the Distribution Company's:
- (a) basic service kilowatt-hour charge in the ISO-NE load zone where the Host Customer is located;
 - (b) distribution kilowatt-hour charge;
 - (c) transmission kilowatt-hour charge; and
 - (d) transition kilowatt-hour charge.
- (4) For a New Solar Class I Net Metering Facility that is a Cap Exempt Facility, or a New Solar Net Metering Facility, of which the Municipality or Other Governmental Entity is the Host Customer and only allocates Net Metering Credits to the accounts of other customers that could also qualify as a Municipality or Other Governmental Entity, each Distribution Company shall calculate for each Billing Period a Market Net Metering Credit equal to 100% of the net excess kilowatt-hours, by time-of-use, if applicable, multiplied by the sum of the Distribution Company's:

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- (a) basic service kilowatt-hour charge in the ISO-NE load zone where the Host Customer is located;
 - (b) distribution kilowatt-hour charge;
 - (c) transmission kilowatt-hour charge; and
 - (d) transition kilowatt-hour charge.
- (5) For a Neighborhood Net Metering Facility or a Class III Net Metering Facility other than a Net Metering Facility of a Municipality or Other Governmental Entity, and those Solar Net Metering Facilities governed by 220 CMR 18.04(3) or (6), each Distribution Company shall calculate for each Billing Period a Net Metering Credit equal to:
- (a) 100% of the net excess kilowatt-hours, by time-of-use, if applicable, multiplied by the sum of the Distribution Company charges applicable to the rate class under which the Host Customer takes service:
 - 1. basic service kilowatt-hour charge in the ISO-NE load zone where the Host Customer is located;
 - 2. transmission kilowatt-hour charge; and
 - 3. transition kilowatt-hour charge;
 - (b) Except that a Solar Net Metering Facility that is a Neighborhood Net Metering Facility shall receive Market Net Metering Credits, as provided in 220 CMR 18.04(6), after 25 years from the date on which it was first authorized to interconnect to the distribution system; and
 - (c) Except those Class III Net Metering Facilities governed by 220 CMR 18.04(1)(b).
- (6) For a New Solar Net Metering Facility that is a Neighborhood Net Metering Facility, each Distribution Company shall calculate for each Billing Period a Market Net Metering Credit equal to 60% of the net excess kilowatt-hours, by time-of-use, if applicable, multiplied by the sum of the Distribution Company's:
- (a) basic service kilowatt-hour charge in the ISO-NE load zone where the Host Customer is located;
 - (b) transmission kilowatt-hour charge; and
 - (c) transition kilowatt-hour charge.
- (6A) For a Small Hydroelectric Net Metering Facility that is participating in the Small Hydroelectric Net Metering Program, each Distribution Company shall calculate for each Billing Period a Net Metering Credit equal to 100% of the net excess kilowatt-hours, by time-of-use, if applicable, multiplied by the Distribution Company's basic service kilowatt-hour charge in the ISO-NE load zone where the Host Customer is located.

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(7) The calculation of Net Metering Credits under 220 CMR 18.04 shall not include the demand side management and renewable energy kilowatt-hour charges set forth in M.G.L. c. 25, §§ 19 through 20, nor shall it include the per kilowatt-hour surcharge or surcharges provided for by 220 CMR 18.09(4).

(8) For any Billing Period for which a Distribution Company calculates a Net Metering Credit for a Host Customer, the Distribution Company shall apply the Net Metering Credit to the Host Customer's account for the subsequent Billing Period, unless the Host Customer provides otherwise pursuant to 220 CMR 18.05.

18.05: Allocation of Net Metering Credits

(1) Net Metering Credits shall be allocated to Customer accounts by each Distribution Company as follows:

(a) For a Class I Net Metering Facility, Class II Net Metering Facility, or Class III Net Metering Facility that is not a New Solar Net Metering Facility or not a Cap Exempt Facility that is also a Class II Solar Net Metering Facility or Class III Solar Net Metering Facility, or a Small Hydroelectric Net Metering Facility participating in the Small Hydroelectric Net Metering Program, each Distribution Company shall allocate Net Metering Credits, as designated in writing by the Host Customer, to other Customers who are in the Distribution Company's service territory and are located in the same ISO-NE load zone. The manner and form of credit designation shall be as specified in the Distribution Company's Net Metering Tariff pursuant to 220 CMR 18.09(2). Notwithstanding the foregoing, if the Host Customer of a Class I Net Metering Facility, Class II Net Metering Facility, or Class III Net Metering Facility is a Municipality or Other Governmental Entity, including a Governmental Cooperative, it may direct its Distribution Company to allocate Net Metering Credits only to other Customers that are Municipalities or Other Governmental Entities.

(b) For a New Solar Net Metering Facility or a Cap Exempt Facility that is also a Class II Solar Net Metering Facility or a Class III Solar Net Metering Facility, each Distribution Company shall allocate Net Metering Credits, as designated in writing by the Host Customer, to other Customers who are Customers of a Distribution Company located in the Commonwealth and may allocate credits to customers in more than one Distribution Company service territory. The manner and form of credit designation shall be as specified in the Distribution Company's Net Metering Tariff pursuant to 220 CMR 18.09(2). Notwithstanding the foregoing, the Host Customer of a Class I Net Metering Facility, Class II Net Metering Facility, or Class III Net Metering Facility that is a Municipality or Other Governmental Entity, including a Governmental Cooperative, may direct its Distribution Company to allocate Net Metering Credits only to other Customers that are Municipalities or Other Governmental Entities.

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- (c) For a Neighborhood Net Metering Facility, the Distribution Company may only allocate Net Metering Credits to residential or other Customers who reside in the same Neighborhood in which the Neighborhood Net Metering Facility is located and have an ownership interest in, or are served by, the Neighborhood Net Metering Facility.
- (2) The Distribution Company shall carry forward, from Billing Period to Billing Period, any remaining Net Metering Credit balance.
- (3) For a Class III Net Metering Facility, including a Class III Net Metering Facility that is a New Solar Net Metering Facility, and a Small Hydroelectric Net Metering Facility participating in the Small Hydroelectric Net Metering Program, a Distribution Company may elect to pay to the Host Customer Net Metering Credits rather than allocating such credits pursuant to 220 CMR 18.05(1).
- (4) For a Class II Net Metering Facility or Class III Net Metering Facility that is also a Cap Exempt Facility, a Distribution Company shall credit or pay the Host Customer for any Net Metering Credits that are accrued in excess of its annual electricity consumption for the period running from April through the following March. The value of such excess Net Metering Credits shall be equal to the Distribution Company's Avoided Cost Rate as determined pursuant to 220 CMR 18.05(5).
- (5) The Avoided Cost Rate is based on data used by ISO-NE to set prices for energy purchases and sales. A Distribution Company's annual payout amount for Net Metering Credits shall be derived by applying an adjustment factor to the value of the Net Metering Credits that accrued during the preceding 12-month period beginning from April of the preceding year and are remaining on the Host Customer's billing account as of March 31 of the current year. The adjustment factor ratio shall be the average monthly LMP rate that was realized by the settlement of the output of Net Metering facilities with ISO-NE, divided by the average monthly Net Metering Credit rate that the Net Metering facility received from the Distribution Company, weighted by the monthly net excess electricity generated by the Net Metering Facility.

18.06: Eligibility for Net Metering

- (1) Distribution Companies shall not provide Net Metering services to a Host Customer who is an electric company, generation company, aggregator, supplier, energy marketer, or energy broker, as those terms are used in M.G.L. c. 164, §§ 1 and 1F and 220 CMR 11.00: *Rules Governing the Restructuring of the Electric Industry*.

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(2) A Governmental Cooperative shall not be considered an electric company, generation company, aggregator, supplier, energy marketer or energy broker, as those terms are used in M.G.L. c. 164, §§ 1 and 1F and 220 CMR 11.00: *Rules Governing the Restructuring of the Electric Industry*.

18.07: Net Metering Capacity

(1) Each Distribution Company shall make Net Metering services available to Host Customers, except for Host Customers of a Small Hydroelectric Net Metering Facility participating in the Small Hydroelectric Net Metering Program, such that the aggregate capacity of:

- (a) Net Metering facilities that are not Net Metering Facilities of a Municipality or Other Governmental Entity does not exceed 7% of the Distribution Company's highest historical peak load; and
- (b) Net Metering Facilities of a Municipality or Other Governmental Entity does not exceed 8% of the Distribution Company's highest historical peak load.

(1A) Distribution Companies shall make an aggregate capacity of 60 megawatts statewide of Net Metering services available to Host Customers of Small Hydroelectric Net Metering Facilities. This aggregate capacity shall be in addition to that applicable to the Net Metering services available under 220 CMR 18.07(1).

(2) The maximum amount of generating capacity eligible for Net Metering by a Municipality or Other Governmental Entity shall be ten megawatts, as determined by the sum of the nameplate ratings of Class I Net Metering Facilities, Class II Net Metering Facilities, and Class III Net Metering Facilities, including a Class I Net Metering Facility that is a New Solar Net Metering Facility, a Class II Net Metering Facility that is a New Solar Net Metering Facility, and a Class III Net Metering Facility that is a New Solar Net Metering Facility for which the Municipality or Other Governmental Entity is the Host Customer, except as provided in 220 CMR 18.07(6).

(3) Each Distribution Company shall identify on an annual basis its highest historical peak load and post that data on its website by February 1st of the following year.

(4) For the purpose of calculating the aggregate capacity of Class I Net Metering Facilities, Class II Net Metering Facilities, Class III Net Metering Facilities, including a New Solar Net Metering Facility, and Small Hydroelectric Net Metering Facilities participating in the Small Hydroelectric Net Metering Program, the capacity of:

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- (a) A Solar Net Metering Facility shall be 80% of the facility's direct current rating at standard test conditions; and
 - (b) All other non-solar Net Metering facilities shall be the facility's nameplate rating in alternating current.
- (5) A Cap Exempt Facility shall be exempt from the calculation of the aggregate capacity of Net Metering facilities.
- (6) A Municipality or Other Governmental Entity that is a member of a Governmental Cooperative may transfer any or all of the Net Metering generating capacity associated with one or more Class II or III Net Metering Facilities, including a Class II Net Metering Facility that is a New Solar Net Metering Facility or a Class III Net Metering Facility that is a New Solar Net Metering Facility, to said Governmental Cooperative by providing written assent to the Governmental Cooperative and obtaining approval from the Department.
- (7) A Governmental Cooperative may serve as a Host Customer for a Net Metering Facility of a Municipality or Other Governmental Entity for all capacity allocated pursuant to 220 CMR 18.07(6) and its own capacity as an Other Governmental Entity, provided that the Net Metering Credits for which such Governmental Cooperative serves as Host Customer shall only be allocated to that same Governmental Cooperative or its members.
- (8) Notwithstanding the capacity limits set forth herein 220 CMR 18.07, a Class I Net Metering Facility shall be eligible for Net Metering if it qualifies under the Department of Energy Resources' regulations as a Class I Renewable Energy generating source under 225 CMR 14:00: *Renewable Energy Portfolio Standard – Class I* and M.G.L. c. 25A, § 11F and is a Cap Exempt Facility.

18.08: Net Metering Reports

- (1) Each Distribution Company shall track at least the following:
 - (a) the size, generation type, Net Metering class, fuel type, and the Municipality within which each Net Metering facility receives Net Metering services;
 - (b) the size, generation type, fuel type, and the Municipality within which each Net Metering facility has requested interconnection with the Distribution Company; and
 - (c) the aggregate capacity of Net Metering facilities that have interconnected, and that have requested interconnection, to the Distribution Company.
- (2) Each Distribution Company shall file with the Department information regarding the provision of Net Metering services to its Customers, in a format and according to a schedule as determined by the Department.

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(3) Each Distribution Company shall post data to a publicly accessible website tracking the aggregate capacity of eligible Net Metering facilities that have connected, and that have requested interconnection, relative to the Net Metering capacity set forth in 220 CMR 18.07. The data shall be updated on a monthly basis.

18.09: Miscellaneous

(1) The provision of Net Metering services does not entitle Distribution Companies to ownership of, or title to, the Renewable Energy or environmental attributes, including Renewable Energy certificates, associated with any electricity produced by a Net Metering facility.

(2) Each Distribution Company shall implement its responsibilities and obligations regarding the provision of Net Metering services to Customers and Host Customers pursuant to a Department-approved tariff.

(3) Each Distribution Company shall implement its responsibilities and obligations regarding the provision of interconnection services to Customers and Host Customers pursuant to a Department-approved tariff.

(4) Each Distribution Company shall be allowed to recover the aggregate of the distribution portion of any Net Metering Credits and the Distribution Company delivery charges displaced by a Class I Net Metering Facility, Class II Net Metering Facility, Class III Net Metering Facility, including a New Solar Net Metering Facility, or a Small Hydroelectric Net Metering Facility participating in the Small Hydroelectric Net Metering Program through a uniform per kilowatt-hour surcharge or surcharges billed to all of its Customers on an annual basis.

(5) Nothing in 220 CMR 18.00 is intended in any way to limit eligibility for Net Metering services based upon a third-party ownership or financing agreement related to a Net Metering facility, where Net Metering services would otherwise be available.

(6) Unless otherwise indicated, all capacity and energy measurements referenced in 220 CMR 18.00 refer to alternating current.

(7) The Department may, where appropriate, grant an exception from any provision of 220 CMR 18.00.

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18.10: Monthly Minimum Reliability Contribution

Distribution Companies may submit to the Department proposals for a monthly minimum reliability contribution to be included on electric bills for distribution utility accounts that receive Net Metering Credits provided that the Department receives a proposal from such Distribution Company and subsequently approves the monthly minimum reliability contribution pursuant to M.G.L. c. 164, § 139(j).

18.11: Small Hydroelectric Net Metering Program

- (1) The Small Hydroelectric Net Metering Program shall remain open until the Department certifies that the aggregate capacity of Small Hydroelectric Net Metering Facilities participating in the program is equal to 60 megawatts.
- (2) While the Small Hydroelectric Net Metering Program is open, any Small Hydroelectric Net Metering Facility that seeks to net meter must participate in the Small Hydroelectric Net Metering Program and generate Net Metering Credits pursuant to 220 CMR 18.04(6A).
- (3) Once the Department certifies that the aggregate capacity of Small Hydroelectric Net Metering Facilities participating in the program is equal to 60 megawatts, a Small Hydroelectric Net Metering Facility shall:
 - (a) apply for Net Metering services as a Class I Net Metering Facility;
 - (b) generate Net Metering Credits pursuant to 220 CMR 18.04(2); and
 - (c) apply for a Cap Allocation pursuant to 220 CMR 18.07(1), if it is not a Cap Exempt Facility.

REGULATORY AUTHORITY

220 CMR 18.00: M.G.L. c. 164, §§ 138 through 140.