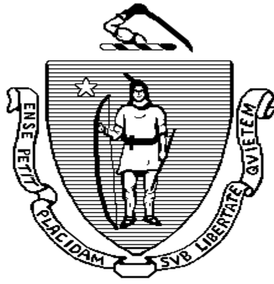

The Commonwealth of Massachusetts

DEPARTMENT OF PUBLIC UTILITIES

D.P.U. 20-145-D June 4, 2024

Joint Petition of Fitchburg Gas and Electric Light Company d/b/a Unitil, Massachusetts Electric Company and Nantucket Electric Company d/b/a National Grid, and NSTAR Electric Company d/b/a Eversource Energy for Approval of Revised Model Solar Massachusetts Renewable Target Program Provision.

ORDER ON PHASE II REVISIONS TO THE MODEL SMART PROVISION

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SUMMARY

In this Order, the Department of Public Utilities ("Department") approves changes to the current model Solar Massachusetts Renewable Target ("SMART") tariff ("SMART Provision"). The SMART Provision is the primary vehicle for the funding and operation of the incentive program designed to establish and support the development of solar energy in Massachusetts ("SMART Program"). The Department of Energy Resources ("DOER") designs and oversees the SMART Program pursuant to Chapter 75 of the Acts of 2016, An Act Relative to Solar Energy ("Solar Act"). DOER has promulgated regulations at 225 CMR 20.00 that set the regulatory framework for the program: an electric distribution company ("Distribution Company") makes incentive payments directly to the owner of a solar tariff generation unit ("STGU"). Owners also may receive alternative on-bill credits ("AOBCs") for the net excess electricity generated and fed back to the Distribution Company.

DOER revised the SMART Regulations and SMART Guidelines to make changes to the SMART Program. In a prior Order (referred to as "Phase I" of this proceeding), the Department approved numerous changes to the SMART Provision. In this "Phase II" Order, we address (1) additional revisions intended to align the SMART Provision with DOER's SMART Regulations; (2) changes to the SMART Provision prescribed by Chapter 8 of the Acts of 2021, an Act Creating a Next-Generation Roadmap for Massachusetts Climate Policy ("2021 Climate Act"); and (3) new community solar programs designed to increase low-income customer participation in (and benefit from) the SMART Program.

First, the Department approves several technical changes to the SMART Provision, including new definitions for "Community Shared Solar STGU," "Low-Income Community Shared Solar STGU," and "Low-Income Property STGU," which reflect new program designs and opportunities for the expansion of community solar and low-income customer participation in the SMART Program. The Department also incorporates revisions related to the "AOBC Payment/Credit Form" that facility owners must provide to an EDC, relating to when the form must be submitted, when it is considered to be complete, and directs that Distribution Companies allow a facility owner to request an update four times per calendar year.

Second, the 2021 Climate Act allows STGUs that achieve commercial operation on or after January 1, 2021, to receive a cash out, which is a payment for unused AOBCs. In this Order, the Department also determines that the cashout rate should be the rate at which the credits are generated to be consistent with the 2021 Climate Act's prohibition of any "discount, fee, or penalty" applying to the cash out.

Third, the Department considers revisions to the SMART Provision related to metering and energy storage systems ("ESS"). The Department affirms that meters must be

revenue-grade and owned, installed, and maintained by a Distribution Company. Rather than specifying the types of meters that may be installed to measure the input and output for STGUs and any paired ESS in the SMART Provision, the Department directs the Distribution Companies to develop a compilation of meter requirements through a stakeholder process. The Distribution Companies then will submit that requirements document to the Department for its review. As to ESS, the Department declines to include reference to potential delivery charges for STGUs paired with ESS, observing that ESS tariffs are under consideration in a separate Department proceeding. In addition, the Department declines to allow the SMART Provision to include restrictions on the charging periods for DC-coupled STGUs paired with ESS.

Fourth, the Department reviews and approves in this Order several vehicles intended to improve upon the historic failure of the SMART Program to reach and benefit low-income customers. The Department approves an alternative mechanism for low-income community shared solar ("LICSS") and Community Shared Solar ("CSS") that will allow the allocation of credits through municipal load aggregation programs, so long as the programs meet the requirements established pursuant to M.G.L. c. 164, § 134. Allowing this alternative mechanism should allow low-income customers to receive a discounted rate or credit on their bills. The Department directs that remaining implementation issues regarding our role in reviewing and approving municipal aggregation LICSS program designs to be addressed in the process established in D.P.U. 23-67, Establishing Guidelines for Municipal Aggregation Proceedings.

Fifth, the Department reviews two alternative LICSS Programs submitted by NSTAR Electric Company d/b/a Eversource Energy ("NSTAR Electric") and Massachusetts Electric Company and Nantucket Electric Company, each d/b/a National Grid ("National Grid"). The Department approves, subject to certain revisions, the NSTAR Electric Eversource Community Solar Access Program ("ECSAP"). The ECSAP provides a simplified billing structure and other design elements to increase low-income customer participation and includes a meaningful target of bill savings for each low-income customer. The Department directs National Grid to refile its Solar Access Initiative to incorporate the directives contained in this Order.

Finally, the Department requires updates to the tariff language that allows for the transfer of credits between NSTAR Electric's eastern and western Massachusetts load zones. The Department allows rebate payments for reimbursement of reasonable costs for certification as pollinator-friendly facilities and to provide for the Distribution Companies' recovery of their rebate payments from ratepayers through the SMART Factor. The Distribution Companies have 15 business days to revise the model SMART Provision for Department review, after which they will be required to submit company-specific tariffs for Department review.

I. INTRODUCTION[1]

On December 3, 2020, Fitchburg Gas and Electric Light Company d/b/a Unitil ("Unitil"), Massachusetts Electric Company and Nantucket Electric Company, each d/b/a National Grid ("National Grid"), and NSTAR Electric Company d/b/a Eversource Energy ("NSTAR Electric") (collectively "Distribution Companies") submitted to the Department of Public Utilities ("Department") for review and approval of a joint filing ("Filing") revising the current model Solar Massachusetts Renewable Target ("SMART") tariff ("SMART Provision"), implementing revisions to 225 CMR 20.00, and proposing other changes.[2] The regulations at 225 CMR 20.00 ("SMART Regulations") set forth a voluntary statewide solar incentive program ("SMART Program") established by the Massachusetts Department of Energy Resources ("DOER") to implement an Act Relative to Solar Energy, St. 2016, c. 75 ("Solar Act"). The Department docketed this matter as D.P.U. 20-145.

In the Filing, the Distribution Companies proposed that the Department undertake a phased review of the proposed changes to the model SMART Provision (Petition, ¶ 18). After an initial investigation into the issues presented and opportunity for public comment, the Department issued an Interlocutory Order on Scope of Proceeding, in which it adopted the phased approach to its review of the Filing, and designated certain topics to be considered

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[1] For a complete background and procedural history, refer to Revised Model SMART Provision, D.P.U. 20-145-B, at 1-11 (2021).

[2] The Filing includes the following: joint petition ("Petition"); joint Distribution Companies' testimony, Exhibit EDC-1; and revised model SMART Provision, Exhibit EDC-2.

in Phase I of the proceeding and certain topics to be considered in Phase II. Revised Model SMART Provision, D.P.U. 20-145-A (2021) ("Scoping Order"). On December 30, 2021, the Department issued an Order on Phase I Revisions to the Model SMART Provision. Revised Model SMART Provision, D.P.U. 20-145-B (2021) ("Phase I Order"). In this Order, the Department addresses those outstanding issues not resolved in our Phase I Order.

II. PROCEDURAL HISTORY

A. Scoping Order

On May 21, 2021, the Department issued the Scoping Order in which it formally established and refined the two-phased approach for this proceeding and afforded additional interested parties the opportunity to intervene. D.P.U. 20-145-A at 13-18. The Department directed that the two phases of the proceeding would occur on concurrent tracks, such that Phase II discovery and other process may begin prior to the issuance of an Order on Phase I issues (Hearing Officer Memorandum at 2 (June 3, 2021)).

In its Scoping Order, the Department determined that Phase II would include, but not necessarily be limited to, an examination of the following issues:

- The addition or revision of definitions in Section 2.0 of the SMART Provision, including:
    - The addition of the definitions for (1) "Community Shared Solar Tariff Generation Unit," (2) "Low Income Community Shared Solar Tariff Generation Unit," and (3) "Low Income Property Solar Tariff Generation Unit" (Exhs. EDC-1, at 14-16; DPU 1-1).

  - Revisions to the definition of "AOBC[3] Payment/Credit Form" (Exh. EDC-1, at 25-26).
  - The addition of definitions for (1) "Energy Storage System Meter ("ESS Meter")," (2) "Generation or Production Meter," (3) "Retail, Service, or Revenue Meter," and (4) "Unused AOBCs" (Exh. EDC-1, at 15, 26-27).

- Revisions to metering requirements in Sections 3.0 and 5.0 of the SMART Provision (Exh. EDC-1, at 27-30);

- Revisions to requirements relating to the rights to RPS[4] Class I Renewable Energy Certificates and/or Environmental Attributes for all solar tariff generation units ("STGU") in Sections 6.3.1 and 6.3.2 of the SMART Provision (Exh. EDC-1, at 30);

- Revisions to requirements relating to the rights and title to energy and market products associated with AOBC STGUs in Section 6.3.3 and the addition of a "Load Reducer Option" for behind the meter ("BTM") AOBC STGUs in Section 6.3.3.1 of the SMART Provision (Exh. EDC-1, at 30);

- Revisions to Section 10.0 pertaining to AOBCs that are not part of the Phase I review of the SMART Provision (Exh. EDC-1, at 22-24);[5]

- Revisions to Section 12.0 of the SMART Provision related to how the SMART Factor[6] will be applied to customers' bills (Exh. EDC-1, at 30-31);

- A revision to Section 7.1(3) and the addition of Section 10.4 to the SMART Provision, which provide for the establishment of Community Solar Access Programs (Exh. EDC-1, at 31-32);

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3 Alternative On-Bill Credit.

4 Renewable Energy Portfolio Standards.

5 Including all revisions to Sections 10.2 and 10.3 proposed in Exhibits EDC-2 and EDC-3 as well as all the revisions to Section 10.1 proposed in Exhibit EDC-2 that were not included as part of Exhibit EDC-3.

6 The SMART Factor, which is provided for in the SMART Provision, is an annual reconciling charge applied to all bills issued by the Distribution Company. D.P.U. 20-145-B at 4.

- Revision to the Appendix A, § III, righthand column title (Exhs. EDC-1, at 24; DPU-1-4); and
- National Grid's Solar Access Initiative Filing made in this docket on February 3, 2021 (Exhs. NG-1 through NG-12).

D.P.U. 20-145-A at 15-17.

The Scoping Order also expressed the Department's intent to examine how specific provisions contained in An Act Creating a Next-Generation Roadmap for Massachusetts Climate Policy ("2021 Climate Act")[7] will impact the SMART Program and the SMART Provision during Phase II.[8] D.P.U. 20-145-A at 17-18. Moreover, the Scoping Order identified the new specialized municipal load aggregation community shared solar ("CSS") and low-income community shared solar ("LICSS") programs as a topic subject to investigation. D.P.U. 20-145-A at 14 n.12. Finally, we stated that additional topics that were not explicitly listed in the Scoping Order as being part of Phase I or Phase II could also be considered in Phase II. D.P.U. 20-145-A at 18.

B. Phase I Procedural History

The Department conducted its phased review of the proposed revised SMART Provision on concurrent tracks (Hearing Officer Memorandum at 2 (June 3, 2021)). During its Phase I investigation, the Department determined that, given the responses to discovery

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[7] St. 2021, c. 8. The material provisions of the 2021 Climate Act affecting the SMART Program and the SMART Provision took effect June 24, 2021. St. 2021, c. 8, § 114.

[8] More specifically, Section 96 of the 2021 Climate Act contains provisions relating to bill credits for solar facilities qualified under Section 11 of the Solar Act (i.e., the SMART Program).

issued by the Department and parties, additional investigation would be necessary into the topic of municipal aggregation and the CSS and LICSS programs (Hearing Officer Memorandum at 2 (July 30, 2021)). The Department stated that investigation would occur in Phase II of this proceeding.

On December 30, 2021, the Department issued the Phase I Order. D.P.U. 20-145-B. In that Order, the Department addressed those issues that it previously had determined would be addressed in the initial phase of this proceeding in the Scoping Order, except for the municipal aggregation and new alternative programs for CSS and LICSS. D.P.U. 20-145-B at 10-11 (Department to address CSS and LICSS in Phase II).

On January 24, 2022, the Distribution Companies submitted a compliance filing pursuant to the Phase I Order with clean and redlined versions of the model SMART Provision revised to be consistent with the Department's Phase I Order ("Compliance Filing"). On February 7, 2022, the Distribution Companies submitted a revised Compliance Filing ("Revised Compliance Filing") as directed by the Department (Hearing Officer Memorandum at 2 (February 2, 2022)). The Department conducted a conference call to review additional changes and clarifications to the Revised Compliance Filing on February 10, 2022 (Hearing Officer Memorandum at 2 (February 22, 2022)). The Distribution Companies submitted additional revisions to the Revised Compliance Filing on February 8, 2022, and February 14, 2022 ("Third Revised Compliance Filing"). On February 22, 2022, the Department stamp approved the Third Revised Compliance filing of the model SMART Provision that included changes approved in the Phase I Order. On

March 1, 2022, the Distribution Companies each submitted company-specific compliance filings, revising their individual SMART tariffs to be consistent with the approved model SMART Provision (NSTAR Electric M.D.P.U. No. 74F; National Grid M.D.P.U. No. 1478; Unitil M.D.P.U. No. 378). On March 25, 2022, the Distribution Companies submitted revised company-specific compliance filings. On March 28, 2022, the Department issued stamp approvals of the company-specific SMART tariffs: NSTAR Electric M.D.P.U. No. 74F, National Grid M.D.P.U. No. 1478, and Unitil M.D.P.U. No. 378.

On January 19, 2022, the Solar Energy Industries Association ("SEIA") filed a Motion for Reconsideration and, in the Alternative, for Clarification Regarding the Pollinator Adder ("Motion for Reconsideration"). On December 23, 2022, the Department issued an Order denying the Motion for Reconsideration. Revised Model SMART Provision, D.P.U. 20-145-C, Order on Motion for Reconsideration and, in the Alternative, for Clarification Regarding the Pollinator Adder (2022).

C. Phase II Procedural History

On July 16, 2021, and while its Phase I investigation was ongoing, the Department began the second phase of its investigation into the Distribution Companies' Filing (Hearing Officer Memorandum (July 7, 2021)). In addition to matters identified for investigation in Phase II in the Scoping Order, as modified by D.P.U. 20-145-B, the Department noted that it

would review the Eversource Community Solar Access Program ("ECSAP")[9] that NSTAR Electric filed with the Department on July 16, 2021, in Phase II.[10]

On August 20, 2021, SEIA filed the direct testimony of Nathan Phelps, the regulatory director of Vote Solar. On September 3, 2021, National Grid filed the rebuttal testimony of Jayson Uppal, manager, solar and storage product growth, National Grid Service Company, Inc. Also on September 3, 2021, NSTAR Electric filed the rebuttal testimony of Andrew C. Belden, vice president, customer solar programs at Eversource Energy Service Company, and Isabelle Hazlewood, program manager, low-income solar programs at Eversource Energy Service Company. On that same date, the Distribution Companies jointly filed rebuttal testimony.[11] On September 17, 2021, SEIA filed surrebuttal testimony of Nathan Phelps.

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[9] Exhs. ES-ACB-IH-1 through ES-ACB-IH-3.

[10] As provided in the Scoping Order, in Phase II the Department would review the National Grid Solar Access Initiative ("SAI") alternative LICSS/CSS plan submitted to the Department on February 3, 2021. D.P.U. 20-145-A at 12, 17.

[11] The NSTAR Electric panel consisted of Andrew C. Belden; Christopher W. Chan, operations manager, renewable programs at Eversource Energy Service Company; and Richard D. Chin, manager of rates for the Eversource Energy operating companies in Massachusetts. The National Grid panel consisted of Tara Reisner, on the product implementation team within the customer sales and solutions department of National Grid Service Company, Inc. and senior program manager for the implementation and operation of the National Grid SMART Program; Mindy Rosen, lead analyst for electric pricing, New England in the strategy and regulation at National Grid Service Company, Inc.; and Ian M. Springsteel, director of U.S. retail regulatory strategy at National Grid Service Company, Inc. Unitil presented Jessica L. Emerson, SMART Program manager for Unitil Service Corp.

On August 19, 2021, the Department issued a Memorandum noting that it had received public comments addressing issues designated for review in Phase II, including but not limited to National Grid's SAI proposal (Hearing Officer Memorandum (August 19, 2021)). The Department directed that the following comments would be entered into the record as if they had been filed in a public comment period: Arcadia and ProjectEconomics d/b/a PowerMarket ("PowerMarket") (August 9, 2021); City of Worcester (August 10, 2021); City of North Adams (August 17, 2021); Town of Charlemont (August 17, 2021); Town of Stockbridge (August 17, 2021); Town of Sheffield (August 18, 2021); and Town of Williamstown (August 18, 2021) (Hearing Officer Memorandum at 1-2 (August 19, 2021)).

In accordance with the period for public comment provided in the Department's August 23, 2021 Notice, as extended, on October 7, 2021 and October 8, 2021, PowerOptions, Inc., Vote Solar,[12] BlueHub Capital, and Bluewave Solar filed comments. On October 20 and 25, 2021, the Department conducted evidentiary hearings.

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[12] The Vote Solar comments include 65 individual signatories: C. Chang (Greenfield); R. Beal (Haverhill); K. Rogers (Jamaica Plain); C. Roane (Springfield); E. Houseman (Chelmsford); A. Franks (Florence); L. Grossman (Medford); J. Howard (South Hadley); J. Moonsbruker (Acton); A. Papscun (Stockbridge); M. Traina (Charlton); K. Kippen (Ashfied); K. Hemmingsen (Attleboro); J. Macht (Pittsfield); E. Huang (Worcester); J. Leone (Jamaica Plain); W. Kadish (Worcester); S. Legasy (Auburn); M. Reardon (Medway); J. Zimmerman (Easthampton); B. Persons (Auburndale); B. Griffith (Dedham); M. Sirium (Greenfield); P. Hoffman (Lee); N. Busler (Townsend); I. Lederhendler (Falmouth); L. Strubb (Ashby); R. Donnelly (Framingham); J. Van Hamm (Hull); S. Querze (Lawrence); T. Dutta Roy (Stoneham); D. Carmack (Arlington); J. Gau (Worcester); T. Atkins (Plainville); D. Miller (Jamaica Plain); R. Hassinger (Newton); J. Roy (Burlington); D. Thompson (Cambridge); K. Shutkin (Bedford); J. Sindone (East Boston); S. Michel (Roxbury); S. Robertson (Shrewsbury); A. Hermann-Wu (Waltham); K. Hermann-Wu

The record includes 270 exhibits and 14 responses to record requests. After the close of the evidentiary hearings, the Department issued the following three briefing questions:

1) Where the competitive electric suppliers and municipal load aggregators operate in the same electric supply market, is it in the public interest for a ratepayer-funded program to provide for the allocation of credits only through a municipal load aggregation program and not also through competitive electric suppliers?

2) Are there requirements of the [2021] Climate Act related to unused AOBCs and to the SMART Program that should be incorporated into the SMART Regulations and, subsequently, included in the model SMART Provision for the Department's approval of a fully integrated model SMART Provision?

3) Are there any requirements within existing law mandating uniformity of elements of an LICSS program to be administered by a Distribution Company?

(Hearing Officer Memorandum (October 25, 2021)).

On November 9, 2021, the following parties filed initial Phase II briefs: Low-Income Weatherization and Fuel Assistance Program ("LEAN"); NRG Home f/k/a Reliant Energy Services Northeast, LLC, Direct Energy Services, LLC, Direct Energy Business, LLC, Green Mountain Energy Company, Energy Plus Holdings LLC, and XOOM Energy Massachusetts, LLC (together "NRG Retail Companies"); Colonial Power Group ("Colonial Power"); SEIA; DOER; the City of Chelsea and City of Newton, jointly; the City of Boston

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(Waltham); M. Lehman (Chiopee); J. Schaechter (Canton); S. Adler (Charlton); R. Sulkovitz (Roslindale); A. Nunes (Dartmouth); K. McHendry (Belchertown); E. Rose (Sharon); G. Thaler (Revere); M. Rydant (Northborough); K. Canty (Dudley); M. McCool (Millbury); B. Tippens (Colrain); B. Hart (Arlington); J. Desoto Vega (Worcester); J. Richardson (Concord); D. Barolsky (Arlington); S. Clark (Brookfield); A. Henry (Northampton); M. Stone (Falmouth); P. Cutting (Charlton); S. Lemont (Arlington).

and the Cape Light Compact JPE ("Compact"), jointly; the Attorney General of the Commonwealth of Massachusetts ("Attorney General"). As limited participants, on that same date, Zero-Point Development, Inc. ("Zero-Point Development") and Ampion, Inc ("Ampion") filed comments. On November 23, 2021, the Distribution Companies jointly filed a Phase II Initial Brief. On December 8, 2021, the Compact, Colonial Power, SEIA, NRG Retail Companies, DOER, LEAN, and the Attorney General filed Phase II reply briefs. On that same date, Zero-Point Development and Ampion filed reply comments. On December 22, 2021, the Distribution Companies jointly filed a Phase II Reply Brief.

D. Motion to Strike

1. Introduction

On August 16, 2021, Colonial Power filed as part of its Phase I Reply Brief a Motion to Strike ("Motion to Strike")[13] comments submitted by PowerMarket on August 9, 2021 ("PowerMarket Comments").[14] As noted above, the Department via Memorandum directed that the PowerMarket Comments (and others) would be entered into the record as if they had been filed in a public comment period for Phase II of this proceeding (Hearing Officer Memorandum at 1-2 (August 19, 2021)). Colonial Power requested that the Department

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[13] In Colonial Power's "Phase I Reply Brief and Motion to Strike" the key elements of its Motion to Strike are contained on pages 1 and 2. In the remainder of this filing, Colonial Power contested the substance of the PowerMarket Comments.

[14] The PowerMarket Comments addressed issues involving the new alternative programs under the revised SMART Regulations for LSS and LICSS and the involvement of municipal load aggregation programs in allocating bill credits, which are within the scope of review in Phase II (Hearing Officer Memorandum at 2 (July 30, 2021)).

dismiss or disregard the arguments contained in the PowerMarket Comments (Motion to Strike at 4).

2. Positions of the Parties

Colonial Power makes the following two arguments in support of its request to exclude the PowerMarket Comments: (1) the PowerMarket Comments are, in fact, a legal brief regarding topics at issue in this matter and should be struck as only parties may file a brief; and (2) a number of concerns identified in the PowerMarket Comments relate to the design of the SMART Program, which is the responsibility of DOER (Motion to Strike at 1-2). Regarding its argument regarding briefs, Colonial Power cites to the Department's Procedural Rules at 220 CMR 1.11(3), which provide that "Briefs may be filed by a party" (Motion to Strike at 2). Further, Colonial Power contends that the PowerMarket Comments provide argument, not comments, on topics under consideration in this proceeding (Motion to Strike at 1).

Colonial Power asserts that the design of the SMART Program is within the authority of DOER and, thus, PowerMarket should have raised its concerns during DOER's rulemaking process culminating in the promulgation of the revised SMART Regulations (Motion to Strike at 2). Colonial Power concludes that since the PowerMarket Comments are not permitted by the Department's Procedural Rules and are not consistent with the established procedural schedule, the Department should exclude them from the record in this proceeding (Motion to Strike at 2).

Neither PowerMarket nor any party addressed the Motion to Strike.

3. Analysis and Findings

PowerMarket is not a party in this proceeding.[15] The Department invited persons interested in participating in the evidentiary phase of this proceeding to file a petition to intervene by (1) its January 22, 2021 Notice, (2) D.P.U. 20-145-A at 18, and (3) the Hearing Officer Memorandum, May 21, 2021. PowerMarket did not file a petition to intervene.

PowerMarket has the status of commenter in this proceeding. As stated above, PowerMarket filed the PowerMarket Comments on August 5, 2021, which the Department expressly accepted as part of the documentary record for Phase II of this proceeding (Hearing Officer Memorandum at 1-2 (August 19, 2021)).

In an adjudicatory proceeding, such as D.P.U. 20-145, the solicitation of comments is at the discretion of the Department.[16] Typically in an adjudicatory proceeding, the Department seeks comments to allow interested persons to present views regarding the subject matter, with the possibility of using information contained in comments to issue discovery to develop the evidentiary record.[17]

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15 Colonial Power is an intervenor. See D.P.U. 20-145-B at n.16.

16 Neither the Department's Procedural Rules nor the Massachusetts Administrative Procedure Act provides a right to file comments in an adjudicatory proceeding. Also, none of the statutory provisions governing the SMART Program provides for submitting comments in an adjudicatory proceeding.

17 As a party, Colonial Power had the right to file an initial brief and a reply brief under the established procedural schedule; Colonial Power filed both. See also, 220 CMR 1.11(3) ("Briefs may be filed by a party either before or during the course of a hearing, or within such time thereafter as the presiding officer shall designate");

Upon review of the PowerMarket Comments, we find that they were timely filed and are not inconsistent with the Department's intent in soliciting comments in this proceeding. To the extent that the PowerMarket Comments address issues that are beyond the scope of this proceeding or the Department's authority, the Department would not consider that content relevant. With these findings, there can be no claim of prejudice in accepting the PowerMarket Comments into the record.[18] Therefore, the Department affirms acceptance of the PowerMarket Comments into the documentary record in this proceeding. Accordingly, the Department denies Colonial Power's Motion to Strike.

The Department treats the PowerMarket Comments as comments and not as a brief.[19] The PowerMarket Comments are part of the documentary record but are not part of the

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G.L. c. 30A, § 11(1) (parties to an adjudicatory proceeding are afforded a "reasonable opportunity to prepare and present evidence and argument").

[18] At the time that PowerMarkets submitted the PowerMarket Comments (which primarily address issues identified for Phase II), the procedural schedule for Phase II provided for: discovery, filing direct testimony, filing rebuttal testimony, evidentiary hearings, and briefing (staggered initial and reply briefs). The Department received six other comments addressing Phase II issues before the Department issued a Notice of Phase II Proceedings and Request for Comment on August 31, 2021, and a subsequent Notice of Phase II Proceedings and Extended Request for Public Comment on September 13, 2021 (see Hearing Officer Memorandum at 1-2 (August 19, 2021)). Given the specific timing here, all parties had the opportunity to review the PowerMarket Comments in the same manner as all other comments received during the Phase II public comment period.

[19] A brief is the vehicle for a party to present its arguments to the reviewing authority based on facts in the record, a statement of the law involved, the law that the party would apply, and the application that the party desires by application of the law to the facts. Bell v. Germain, 12 Cal.App. 375, 378 (1910); Douglas v. Martin, 228 P.2d 1021, 1022-1023 (Okla. 1951); see also, Mass. R. App. P. 16 (written

evidentiary record in this case. The PowerMarket Comments do not constitute substantial evidence,[20] and cannot be relied on to support a finding or determination of the Department. City of Newton v. Commonwealth Employment Relations Board, 100 Mass. App. Ct. 574, 579 (2021); Town of North Attleboro v. Labor Relations Commission, 56 Mass. App. Ct. 635, 638-639 (2022) (administrative agency decision must be based on substantial evidence).

III. TARIFF REVISIONS

A. Introduction

In this section, the Department considers the following revisions to the SMART Provision[21] proposed by the Distribution Companies and other parties not resolved in the Phase I Order:

- Definitions for Community Shared Solar STGU, Low-Income Community Shared Solar STGU, and Low-Income Property STGU.
    - AOBC Payment/Credit Form:
    - Timing of submission;
    - Completeness of form;

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briefs provide the parties with the opportunity to set out their positions and arguments in a logical and thoughtful manner, together with supporting primary and secondary authorities).

[20] Substantial evidence "means such evidence as a reasonable mind might find as adequate to support a conclusion." G.L. c. 30A, § 1(6).

[21] When referencing the proposed revised model SMART Provision herein, the Department cites to the attachment submitted in a supplemental response to information request DOER-EDC-2-1 (October 20, 2021). Although the supplemental exhibit is captioned "DOER-2-1 (Supp.)," we refer to it here using the full information request reference, "DOER-EDC-2-1 (Supp.), Att."

  - Frequency of updates; and
  - Automation.
- Metering definitions, other requirements, and ownership.
- STGUs paired with Energy Storage Systems.

B. Community Shared Solar STGU, Low-Income Community Shared Solar STGU, and Low-Income Property STGU Definitions

1. Introduction

The Distribution Companies propose to add three definitions to the SMART Provision in Section 2.0 ("Definitions"): (1) Community Shared Solar Tariff Generation Unit ("CSS STGU") (Section 2.8), (2) Low-Income CSS STGU ("LICSS STGU") (Section 2.25), and (3) Low-Income Property STGU (Section 2.28) (Exhs. EDC-1, at 14; DOER-EDC-2-1 (Supp.), Att., §§ 2.8, 2.25, 2.28). These same three terms are defined in the SMART Regulations. 225 CMR 20.02 ("Definitions"). The Distribution Companies propose to adopt the same definitions in the SMART Provision as set forth in the SMART Regulations, except that they would exclude the words "electricity or" in the following phrase in each definition:

1. CSS STGU: "[a] Solar Tariff Generation Unit that provides electricity or bill credits..." (see Exhs. EDC-1, at 16; DOER-EDC-2-1 (Supp.), Att., § 2.8);
2. LICSS STGU: "[a] Community Shared Solar Tariff Generation Unit with at least 50 percent of its energy output allocated to Low Income Customers in the form of electricity or bill credits." (see Exh. DOER-EDC-2-1 (Supp.), Att., § 2.25);
3. Low-Income Property STGU: "[a] Solar Tariff Generation Unit with a rated capacity greater than 25 kW that provides all of its generation output in the

form of electricity or bill credits…" (see Exh. DOER-EDC-2-1 (Supp.), Att., § 2.28).

The Distribution Companies did not include "electricity" because the Distribution Companies allocate only bill credits in the form of net metering credits or AOBCs to customers that participate in CSS programs (Exh. EDC-1, at 16; Tr. at 166-167). The Distribution Companies state that they will not allocate electricity to accounts (Exh. EDC-1, at 16; Tr. at 166-167).

2. Positions of the Parties

a. Intervenors

DOER and SEIA request that the Department approve the definitions of CSS STGU, LICSS STGU, and Low-Income Property STGU as provided in the SMART Regulations, which include the word "electricity" in those definitions (DOER Brief at 13-14; SEIA Brief at 12-13). DOER and SEIA argue that the use of uniform definitions of terms between the SMART Regulations and the SMART Provision is necessary to avoid customer confusion and implementation conflict (DOER Brief at 13; SEIA Brief at 12). DOER further explains that the use of the term "electricity" is intended to allow flexibility for conveying the value from the STGU to an end-use customer that is not a traditional bill credit (DOER Brief at 13). DOER and SEIA acknowledge the Distribution Companies' concern that the use of the term "electricity" could be interpreted such that the Distribution Companies would be expected to physically allocate "electricity" or electrons themselves, but both argue that there is nothing in the SMART Provision requiring the allocation of electricity or electrons (DOER Brief

at 13; DOER Reply Brief at 13-14; SEIA Brief at 12, citing Exh. SEIA-NP-Sur-Rebuttal-1, at 9). DOER asserts that it will consider whether further revisions to the SMART Regulations are necessary in the future, including whether different terminology should be used for "electricity" (DOER Brief at 14).

b. Distribution Companies

The Distribution Companies restate that they made this change to the definitions as they appear in the SMART Regulations because the Distribution Companies do not and cannot allocate electricity (Distribution Companies Brief at 9, citing Exhs. EDC-1, at 16; EDC-Rebuttal-1, at 11; Tr. at 166-167). The Distribution Companies argue that it would be misleading to include such language (Distribution Companies Brief at 9). The Distribution Companies contend that the definitions in the SMART Provision deviate from the SMART Regulations in a limited and necessary way and should therefore be approved (Distribution Companies Brief at 9).

3. Analysis and Findings

DOER adopted the definitions of these three terms based on its informed judgment through a formal rulemaking for the purpose of best accomplishing the purposes of the Solar Act. See, e.g., Chevron, U.S.A., Inc. v. Natural Resources Defense Council, Inc., 467 U.S. 837 at 857 n.29 (1984) (United States Environmental Protection Agency had broad discretion to define specific terms so as to best accomplish the purposes of the Clean Air Act Amendments of 1977). There is no evidence that these definitions of CSS STGU, LICSS STGU, and Low-Income Property STGU in 225 CMR 20.02 are inaccurate.

We agree with the Distribution Companies that they do not allocate electricity as part of their involvement in programs that support the development of renewable energy, such as net metering and the SMART Program; the Distribution Companies allocate credits. These three definitions pertain to STGUs, however, and not to the Distribution Companies. Further, we find no evidence that the use of the words "electricity or" in these definitions would cause confusion regarding the fact that the Distribution Companies do not allocate electricity. Therefore, we find it appropriate, especially in the interests of the maintaining consistent use of defined terms, that the SMART Provision contain the definitions of CSS STGU, LICSS STGU, and Low-Income Property STGU as these terms are defined in 225 CMR 20.02. In their compliance filing, the Distribution Companies shall revise their proposed SMART Provision to conform accordingly.

Also, we appreciate DOER's intent for future consideration of terminology used in the SMART Regulations, including the matter addressed here. As is DOER's typical practice, we encourage DOER to confer with interested stakeholders in developing any further revised SMART Regulations.

C. AOBC Payment/Credit Form

1. Introduction

The AOBC Payment/Credit Form is a form or online application that an owner of an STGU (or authorized agent) completes and the Distribution Company then utilizes to process monthly incentive payments to the STGU and allocation of AOBCs to designated customer accounts (Exh. DOER-EDC-2-1 (Supp.), Att., § 2.3). The Distribution Companies propose

two revisions to the definition of AOBC Payment/Credit Form: first, regarding the timing of the submission of the form to the Distribution Company; and second, regarding the frequency with which a STGU owner may update the form (Exh. EDC-1, at 25).

2. Timing of AOBC Payment/Credit Form Submission

a. Introduction

In Section 2.3 of the SMART Provision, the Distribution Companies propose to change language in the definition of "AOBC Payment/Credit Form" from the current requirement that the AOBC Payment/Credit Form must be provided by a STGU to the Distribution Company "prior to the Commercial Operation Date of the STGU" to instead require that the form be provided "prior to final approval of a Statement of Qualification for the STGU" (Exhs. EDC-1, at 25; DOER-EDC-2-1 (Supp.), Att., § 2.3). The Distribution Companies state that this change reflects current practice as agreed upon by DOER and the Distribution Companies for the administration of AOBCs (Exh. EDC-1, at 25). The Distribution Companies further state that this timing is necessary for them to verify that AOBC forms are 100 percent allocated to eligible customers, before a STGU receives a final Statement of Qualification ("SOQ") from DOER[22] (Exh. EDC-1, at 25).

[22] After successful completion of an application process by a STGU, DOER issues a SOQ making the STGU eligible for participation in the SMART Program. 225 CMR 20.02, 20.06(1).

b. Positions of the Parties

i. Intervenors

(A) Attorney General

The Attorney General recommends that the Department reject the Distribution Companies' proposed change to the timing requirement of the AOBC Payment/Credit Form (Attorney General Brief at 8). The Attorney General argues that, although DOER has sole authority over issuance of a SOQ and could opt to establish its own requirements related to the timing of a completed AOBC Payment/Credit Form, it would be inappropriate for the Department to limit DOER's ability to exercise its regulatory authority via a tariff change, especially when such a change is not required by the SMART Program (Attorney General Brief at 9).

(B) DOER

DOER asserts that the Distribution Companies' proposed revision does not affect DOER's authority to issue a SOQ, but rather sets a point in time for STGUs to submit the AOBC Payment/Credit Form to be submitted (DOER Brief at 12). DOER concurs with the Distribution Companies that the revision reflects an administrative process that is currently in place (DOER Brief at 12-13). As such, DOER recommends that the Department approve the Distribution Companies' proposed revisions (DOER Brief at 13).

(C) SEIA

SEIA opposes the Distribution Companies' proposed language regarding the AOBC Payment/Credit Form, arguing that the revision is inappropriate because the SMART Provision should not govern when DOER can issue a SOQ or place preconditions on that

process (SEIA Brief at 9). In addition, SEIA maintains that it would be poor policy to implement this revision because DOER's changing that process in the future could result in a conflict between DOER's regulatory scheme and the approved SMART Provision (SEIA Brief at 9).

ii. Distribution Companies

The Distribution Companies restate that the proposed change reflects current practice as agreed upon by DOER and the Distribution Companies for the administration of AOBCs (Distribution Companies Brief at 7). The Distribution Companies maintain that the proposed change is logical from a timing standpoint, because a verified AOBC Payment/Credit Form must be submitted to the Distribution Companies as a condition of a STGU's obtaining a final SOQ from DOER (Distribution Companies Brief at 7).

The Distribution Companies contend that SEIA's argument claiming that the revision inappropriately infringes upon DOER's authority to issue a final SOQ is unfounded and contradicts existing policies (Distribution Companies Brief at 7). The Distribution Companies observe that DOER has indicated support for this revision, effectively eliminating any concern about overreach of DOER's authority (Distribution Companies Brief at 7, citing DOER Brief at 12-13).

c. Analysis and Findings

The Attorney General and SEIA request that the Department reject the Distribution Companies' proposal regarding the timing requirement of the AOBC Payment/Credit Form, arguing that such a change could limit DOER's ability to exercise its regulatory authority in

the future (Attorney General Brief at 8-9; SEIA Brief at 9). DOER asserts that the Distribution Companies' proposed revision does not affect its authority to issue a final SOQ and recommends that the Department approve the Distribution Companies' proposed revision (DOER Brief at 12-13).

The Department accepts DOER's recommendation and approves the Distribution Companies' proposed revision specifying that the AOBC Payment/Credit Form must be provided prior to final approval of a SOQ for the STGU. As the Distribution Companies explain, the proposed change is logical from a timing standpoint because a verified AOBC Payment/Credit Form must be submitted for the STGU to receive certain SMART Program adders that would be memorialized in the final SOQ (Exh. EDC-Rebuttal-1, at 7). DOER confirms that the change reflects the administrative process that is already in place (DOER Brief at 12-13). As such, the Department agrees that accepting the Distribution Companies' proposed revision will provide additional clarity. Further, the Department accepts DOER's statement of its own authority on this point. Therefore, the Department approves the Distribution Companies' revision to the SMART Provision for their proposed definition of AOBC Payment/Credit Form.

3. AOBC Payment/Credit Form Completeness

a. Introduction

Section 10.2 of the proposed SMART Provision ("AOBC Payment/Credit Form") provides that a Distribution Company shall not transfer AOBCs without a completed AOBC Payment/Credit Form, indicating how AOBCs are to be transferred to customer accounts

(Exhs. EDC-1, at 22; DOER-EDC-2-1 (Supp.), Att., § 10.2). The Distribution Companies propose clarifying that "…the AOBC Payment/Credit Form and any subsequent updates to the Form will not be considered complete unless allocations currently total 100 percent to active and valid Customer accounts and there are no billing account number or customer name errors" [proposed revisions in underline] (Exh. DOER-EDC-2-1 (Supp.), Att., § 10.2).

Based on SEIA's input and other comments that the Distribution Companies have received during the implementation of the SMART Program, the Distribution Companies are not opposed to aligning the SMART Provision with DOER's guidelines and requiring only a 90-percent allocation for an AOBC Payment/Credit Form to be considered complete (Exh. EDC-Rebuttal-1, at 6). The Distribution Companies state that with an allocation reduction to 90 percent from 100 percent, they will assign any unallocated credits from a complete AOBC Payment/Credit Form to the host customer (Exh. EDC-Rebuttal-1, at 6).

b. Positions of the Parties

i. Intervenors

The intervenors do not address the Distribution Companies' proposed edits regarding what constitutes a "complete" AOBC Payment/Credit Form. The Attorney General, DOER, and SEIA argue that the percentage for allocations should be 90 percent to constitute a complete AOBC Payment/Credit Form (Attorney General Brief at 9-10; DOER Brief at 11; and SEIA Brief at 8). They argue that this percentage allocation is consistent with the

SMART Regulations and DOER's SOQ Reservation Period Guideline,[23] which place the allocation requirement at 90 percent (Attorney General Brief at 9-10; DOER Brief at 11; SEIA Brief at 8, citing 225 CMR 20.06(1)(h)(3) and SOQ Reservation Period Guideline, § 9(b)(v) (September 22, 2021)).

ii. Distribution Companies

The Distribution Companies do not oppose revising the requirement in proposed Section 10.2 from 100 percent to 90 percent, provided that developers are aware that any unallocated credits will be allocated to the host customer's account by default and be subject to any cash-out provisions approved in this proceeding (Distribution Companies Brief at 11, citing Exh. EDC-Rebuttal-1, at 6). The Distribution Companies request that all program participants strive for 100-percent allocation to reduce the risk of a cash out with a reduced value if the credits are not consumed by a station service or other host account charges (Distribution Companies Brief at 11, citing Exh. EDC-Rebuttal-1, at 6).

c. Analysis and Findings

As an initial matter, the Department finds that the Distribution Companies' proposed revisions pertaining to a complete AOBC Payment/Credit Form, as identified above in

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[23] DOER's SOQ Reservation Period Guideline provides STGUs with information relating to the processes and procedures that they must follow to both obtain and retain a SOQ pursuant to 225 CMR 20.06. Statement of Qualification Reservation Period Guideline, § (1) (available at: https://www.mass.gov/doc/statement-of-qualification-guideline-clean-draft-092221/download (last visited May 24, 2024)).

underline form, are appropriate. Therefore, the Department approves these revisions to the SMART Provision.

The Distribution Companies do not oppose a 90-percent allocation level as constituting a complete AOBC Payment/Credit Form (Exh. EDC-Rebuttal-1, at 6). Under the revised SMART Regulations, a STGU seeking a CSS adder must allocate at least 90 percent of bill credits or electricity. 225 CMR 20.06(1)(h)3; see also SOQ Reservation Period Guideline, § 9(b)(v). As a general principle, the Department finds that the use of consistent terminology for substantially comparable purposes between the SMART Regulations and the SMART Provision can avoid ambiguities and assist in more effective implementation of the SMART Program. This principle appropriately applies to determining a complete AOBC Payment/Credit Form under the SMART Provision and for determining incentive adder eligibility under the SMART Regulations. Therefore, and in consideration of the Distribution Companies' acceptance of the 90-percent allocation level for the SMART Provision, the Department directs the Distribution Companies to revise the SMART Provision so that a complete AOBC Payment/Credit Form requires that a STGU allocate at least 90 percent of the AOBC Credits.

Also, the Department finds appropriate the Distribution Companies' stated treatment of unallocated AOBCs under a complete AOBC Payment/Credit Form. Further, the Department finds that including this method for the assignment of unallocated AOBCs in the SMART Provision will provide clarity in the requirements and responsibilities under the SMART Provision. In addition, the Department agrees with the Distribution Companies that

SMART Program participants should strive for 100 percent allocation to avoid large numbers of unallocated credits unintentionally accruing to the host customer's account.

Accordingly, in their compliance filing, the Distribution Companies shall submit a SMART Provision revised in accordance with the Department's findings and directives set forth above.

4. Frequency of Updates and Automation

a. Introduction

In Section 2.3 (definition of "AOBC Payment/Credit Form") of the proposed SMART Provision, the Distribution Companies propose that the AOBC Payment/Credit Form may be updated twice during a calendar year, which represents a change from the current definition allowing updates twice within a rolling 12-month period (Exhs. EDC-1, at 25; DOER-EDC-2-1 (Supp.), Att., § 2.3). The Distribution Companies state that moving to a calendar year would set a single, defined period that will be easier to administer for the Distribution Companies and developers (Exh. EDC-1, at 25). NSTAR Electric and National Grid, under current planning assumptions, expect to be able to allow more frequent updates of AOBC Payment/Credit Forms after they complete certain system upgrades that permit greater automation of the process (Exh. EDC-1, at 2).

SEIA proposes increasing the number of updates from two per year to allowing monthly updates to the AOBC Payment/Credit Form (Exh. SEIA-NP-1, at 22). SEIA states that restricting the ability to update the Payment/Credit Form to twice per year makes it inevitable that off-taker turnover (e.g., due to closed accounts, off-takers moving, or other

events outside the control of the host customer) will occur that cannot be immediately addressed by updating the form, unnecessarily resulting in Unused AOBCs (Exh. SEIA-NP-1, at 20).

b. Positions of the Parties

i. Intervenors

The Attorney General and DOER support SEIA's request for monthly updates to the AOBC Payment/Credit Form (Attorney General Brief at 11-12; DOER Brief at 11; SEIA Brief at 13, 18; SEIA Reply Brief at 6). Intervenors further request monthly updates be made available within a specified time frame, though intervenors differ on what time frame is acceptable (Attorney General Brief at 11-12; DOER Brief at 11-12; SEIA Brief at 13, 18; SEIA Reply Brief at 6).[24] The Attorney General, DOER, and SEIA maintain that restrictions on the frequency of updates result in unallocated credits due to customer turnover, which they assert is counter to the intent of assigning AOBCs to customers (Attorney General Brief at 10-11; DOER Brief at 11-12; SEIA Brief at 13). The Attorney General and SEIA claim that the inability to update credit allocations has become an impediment to the development of community solar projects under the SMART Program, which they contend are an important type of project incentivized by the SMART Regulations (Attorney General Brief at 11; SEIA

[24] The Attorney General requests that the Distribution Companies allow monthly updates as soon as practicable (Attorney General Brief at 11-12). In its brief, SEIA requests that the updates be within one year of the date of this Order, and in its reply brief, SEIA requests that the updates be within six months of this Order (SEIA Brief at 18; SEIA Reply Brief at 6).

Brief at 14). SEIA maintains that the continued development of community solar STGUs in the Commonwealth is an indication that there is a problem with the Distribution Companies' credit allocation process (SEIA Reply Brief at 4). DOER argues that more frequent updates also would improve customer experience (DOER Brief at 11).

SEIA contends that the Department previously tried to encourage the Distribution Companies to increase the frequency of updates with no meaningful improvement (SEIA Brief at 14). SEIA maintains that the Distribution Companies are not using an objective standard to determine the number of updates that they would allow in a year (SEIA Brief at 16). SEIA asserts that the cutoff that the Distribution Companies selected was not based on an assessment of the limits of their capabilities (SEIA Brief at 16). Further, SEIA alleges that none of the Distribution Companies could say whether they could accommodate five updates in a year (SEIA Brief at 16). The Attorney General argues that the Distribution Companies have not demonstrated a significant cost associated with enabling more frequent updates (Attorney General Brief at 11). SEIA contends that the Distribution Companies should have performed a cost analysis of more frequent updates to determine what frequency would best balance costs and benefits (SEIA Reply Brief at 4).

SEIA argues that meeting the level of services that distribution companies provide in other states, such as the monthly updates allowed in New York, would address the problem

(SEIA Brief at 16-17). SEIA further argues that National Grid's New York[25] experience is relevant because it shows that National Grid has the ability to process monthly updates for its customers with the same team and system that is used in Massachusetts, and that Niagara Mohawk Power Corporation was quick to implement these updates once the New York Public Service Commission issued a directive (SEIA Reply Brief at 5).

The Attorney General and SEIA request that, if monthly updates are not permissible, each Distribution Company make a filing within three months of this Order that (1) justifies the use of an alternative frequency based in relevant costs and benefits, and (2) provides a detailed account of the steps that it will take to allow for more frequent updates, including a timeline (Attorney General Brief at 12; SEIA Reply Brief at 6). DOER asks that the Department take appropriate action to support the Distribution Companies' efforts to automate the processing of AOBC Payment/Credit Forms (DOER Brief at 12).

The Attorney General and SEIA request that the Department direct the Distribution Companies to revise Section 2.3 of the SMART Provision to indicate that the AOBC Payment/Credit Form can be updated up to four times per year for NSTAR Electric and National Grid and up to three times per year for Unitil, unless a Distribution Company allows more frequent updates (Attorney General Brief at 12; SEIA Brief at 13). The

[25] Within the National Grid USA public utility holding company system, Massachusetts Electric Company and Nantucket Electric Company are affiliates of Niagara Mohawk Power Corporation, which provides electric service in New York State.

Attorney General and SEIA argue that this revision accurately would reflect the Distribution Companies' current capabilities (Attorney General Brief at 12; SEIA Brief at 15).

SEIA also requests that, to the extent that the Department does not require monthly updates, the Distribution Companies adopt uniform policies regarding exceptions for updates that do not count toward a host customer's annual limit on the number of AOBC Payment/Credit Form updates (SEIA Brief at 18). SEIA notes that National Grid has adopted three such exceptions[26] (SEIA Brief at 18, citing Exh. SEIA-EDC 2-7). SEIA requests that NSTAR Electric and Unitil offer similar exceptions (SEIA Brief at 18). SEIA claims that NSTAR Electric has a policy of allowing an exception when NSTAR Electric commits an error in the processing of the AOBC Payment/Credit Form (SEIA Brief at 18, citing Exh. SEIA-EDC 2-7).[27] SEIA requests that the Department direct the Distribution

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[26] National Grid allows for three exceptions, each requiring a specific form (Exh. SEIA-EDC 2-7, at 2):

(1) The "account removal" form allows a host customer to remove a customer from receiving credits. National Grid explains that there is no limit on the number of times that this form can be submitted each year, and that a customer can be removed at any time, for any reason. National Grid notes that the host customer cannot use this form to replace the customer with a new customer.

(2) The "account swap" form allows the host customer to replace an account that has recently closed with a new customer. This transaction is allowed only when a listed off-taker's account has become inactive (i.e., closed).

(3) The "one-time transfer" form allows the host customer to transfer a specific number of unallocated credits to one other account in one lump sum. A host customer can request a one-time transfer, for any reason, up to four times per calendar year.

[27] NSTAR Electric allows an exception to the limited number of updates per year if NSTAR Electric commits a clerical error by inadvertently processing an unvalidated,

Companies to allow this exception, or require the SMART Provision to include this exception, given that National Grid and Unitil testified that they also would allow such an exception (SEIA Brief at 18, citing Tr. at 97-98).

ii. Distribution Companies

The Distribution Companies maintain that SEIA does not cite any evidence in support of its statement that the current number of allowed updates is an impediment to the growth of solar development in Massachusetts (Distribution Companies Brief at 11-12, 16). The Distribution Companies argue that, to the contrary, 233 megawatts ("MW") of additional community shared solar STGUs have been approved since the inception of the SMART Program (Distribution Companies Brief at 12 & nn 3-5).[28]

The Distribution Companies contend that they already have made significant strides in improving the processing of AOBC Payment/Credit Forms through costly information technology automation investments and other improvements to the manual and time-intensive process (Distribution Companies Brief at 14). The Distribution Companies expect a material

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incorrect, or out-of-date AOBC Payment/Credit Form into its billing system (Exh. SEIA-EDC 2-7, at 1-2).

[28] In support, the Distribution Companies cite the following:

(a) D.P.U. 17-140, NSTAR Electric SMART Low-Income Quarterly Report (November 4, 2021) (62,953 kilowatts ("kW") through September 30, 2021);

(b) D.P.U. 17-140, National Grid SMART Low-Income Quarterly Report (July 26, 2021) (161,376.60 kW through June 30, 2021); and

(c) D.P.U. 17-140, Unitil SMART Low-Income Quarterly Report (August 4, 2021) (9,000 kW through June 30,2021).

increase in the volume of AOBC Payment/Credit Form submissions resulting from the expansion of AOBCs to BTM systems and from facilities on the waitlist for additional capacity blocks (Distribution Companies Brief at 14). The Distribution Companies request that, given the increase in frequency to three or four updates per year, the Department allow them time to adapt and explore additional improvements (Distribution Companies Brief at 14).

The Distribution Companies maintain that monthly updates likely would result in a loss of accuracy and an increase in and perpetuation of credit transfer errors (Distribution Companies Brief at 15). The Distribution Companies explain that an AOBC Payment/Credit Form can take several weeks or more to review and validate, especially for compliance with regulatory criteria established for subscribers accepting credits from SMART CSS and LICSS projects, and when errors made by host customers need to be corrected (Distribution Companies Brief at 15, citing Exh. EDC-Rebuttal-1, at 10; Tr. at 90-91). The Distribution Companies argue that introducing more than one update during the same or consecutive billing periods could result in errors, such as inadvertently misplacing or applying the credits in the incorrect order (Distribution Companies Brief at 15). NSTAR Electric further adds that full automation is not feasible as its employees always will be involved in validating and correcting discrepancies, and that NSTAR Electric is unable to permit direct customer upload access due to security restrictions (Distribution Companies Brief at 15, citing Exh. DPU 3-1, at 4).

The Distribution Companies maintain that SEIA appears to argue that monthly updates should be pursued at any cost, despite the Department's directive that the Distribution Companies "prove that any automation costs are reasonable and prudently incurred" (Distribution Companies Brief at 13, citing Model SMART Provision, D.P.U. 17-140-A at 42-43 (2018)). The Distribution Companies contend that they have a duty to balance the interests of the main beneficiaries with the interests of all distribution company customers (Distribution Companies Brief at 13). The Distribution Companies assert that they did not estimate the cost of processing monthly AOBC Payment/Credit Forms because it was not part of any proposal, no party requested it, and the Distribution Companies do not believe it to be an enhancement (Distribution Companies Brief at 13-14).

In response to SEIA's argument about monthly updates in New York, the Distribution Companies argue that SEIA fails to account for some important distinctions between the applicable Massachusetts and New York service territories that affect both the cost and feasibility of monthly updates (Distribution Companies Brief at 13). The Distribution Companies maintain that the New York team supports more manual billing than Massachusetts for a variety of customer types and, therefore, has a higher number of trained employees who can regularly perform manual billing (Distribution Companies Brief at 13, citing RR-SEIA-NG-1, at 2).

The Distribution Companies argue that because SEIA introduced the proposal for monthly updates to the AOBC Payment/Credit Form, SEIA should assume the burden of producing sufficient evidence to avoid an adverse finding (Distribution Companies Reply

Brief at 7, citing Fitchburg Gas and Electric Light Company, D.T.E. 99-118, at 7-9 (2001), citing Metropolitan District Commission v. Department of Public Utilities, 352 Mass. 18, 25 (1987); A. Cella, Administrative Law and Practice, Massachusetts Practice Series, Vol. 38, § 276)). The Distribution Companies maintain that the Department must consider the weight of evidence, or lack thereof, offered by SEIA to justify its proposal to require monthly updates to AOBC Payment/Credit Forms (Distribution Companies Reply Brief at 7). The Distribution Companies contend that the Department should reject SEIA's request to require monthly updates beginning six months from the issuance of this Order because there is no evidence that it is feasible or could be done at a reasonable cost to ratepayers (Distribution Companies Reply Brief at 8).

The Distribution Companies also request that the Department reject SEIA's recommendation to make a filing within three months of a Department Order in this matter justifying the continued use of the existing update frequency (Distribution Companies Reply Brief at 8-9). The Distribution Companies maintain that the annual SMART Factor cost recovery proceedings would be the right avenue if the Department needs to continue monitoring or investigating the Distribution Companies' AOBC administration of Payment/Credit Form and administration thereof (Distribution Companies Reply Brief at 9).

c. Analysis and Findings

i. Use of Calendar Year

The intervenors do not address the Distribution Companies' proposal to change the current AOBC Payment/Credit Form definition from updates within a rolling 12-month

period to a calendar year. The Department considers this change to be reasonable because it can simplify implementation and does not make any fundamental changes to the SMART Program. Accordingly, the Department approves this proposed revision to Section 2.3 of the SMART Provision.

ii. Frequency of Updates

The parties disagree on the frequency of updates that should be allowed for the AOBC Payment/Credit Form within the calendar year. An increase in frequency of updates may reduce the number of unallocated credits to the extent switching credits from one customer to another in a more timely manner could reduce the number of credits sent to invalid or inactive accounts, and may help improve a customer's experience in the SMART Program (Exh. SEIA-NP-1, at 20-21; see also Tr. 2, at 223). To require an increase in the frequency of updates in a relatively short timeframe, however, may cause an unintended decline in the quality and accuracy of processing the AOBC Payment/Credit Forms (Tr. at 89-90). In addition, no party has provided evidence for the cost of enabling monthly processing for AOBC Payment/Credit Forms, particularly in a manner that would avoid a decline in accuracy. Further, the Distribution Companies are likely to experience a material increase in the volume of AOBC Payment/Credit Form submissions as a result of the expansion of AOBCs to BTM systems, and from reaching facilities on the waitlist for additional capacity blocks (Exh. EDC-Rebuttal-1, at 9). Finally, there is no evidence that the current processes have served as impediments to the growth of solar energy development in the

Commonwealth.[29] D.P.U. 17-140-A at 41-42 & n.19 ("The Department expects that the twice-per-year limit for updates to the Payment/Credit Form should not inhibit the growth of solar in the Commonwealth," citing net metering data reported as of September 26, 2018). For these reasons, the Department declines to require the Distribution Companies to process AOBC Payment/Credit Forms on a monthly basis at this time. The Department instead requires the Distribution Companies to process AOBC Payment/Credit Forms up to four times per calendar year as further discussed in Section III.C.4.c.iv. The Department expects that the Distribution Companies will continue to monitor current practices related to processing these AOBC Payment/Credit Forms as the volume of submissions increases.

iii. Automation of Processing

In D.P.U. 17-140-A, the Department stated that it expected National Grid and NSTAR Electric to "take reasonable steps to prioritize automation of the Payment/Credit Form." D.P.U. 17-140-A, at 42. In this proceeding, National Grid stated that it has completed a first phase of its automation project, and that it is working on gathering requirements for a second phase in addition to deploying an internet-based platform (Exh. DPU 3-1, at 2). NSTAR Electric reports that in February 2021, it launched a software tool that automatically converts and uploads validated information to its billing systems and, in April 2021, NSTAR Electric released key upgrades to its Western Massachusetts billing system that automated the administration, billing, and transfer of credits from host customer

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[29] The Department finds credible support for this conclusion in the SMART Low-Income Quarterly Reports cited by the Distribution Companies (see footnote 28 above).

accounts (Exh. DPU 3-1, at 3-4). The Department appreciates the efforts that the Distribution Companies have made to date regarding automation of the AOBC Payment/Credit Form. The Department reiterates that National Grid and NSTAR Electric should continue to prioritize automation of the Payment/Credit Form. To keep the Department and stakeholders apprised of the Distribution Companies' progress, National Grid and NSTAR Electric shall file an update by July 1 of each year[30] in the distributed generation docket[31] addressing each Distribution Company's: (1) further progress on automation achieved since the last filing, and (2) proposed continued implementation plan for achieving automation and associated timeline.

In D.P.U. 17-140-A, the Department found that for Unitil, at the time, the disadvantages of automation of the AOBC Payment/Credit Form outweighed the advantages. D.P.U. 17-140-A at 42. In this proceeding, Unitil argues that it continues to be the case that the disadvantages of automation outweigh the advantages in its situation given that, since the inception of the SMART Program, Unitil has received only six SMART AOBC applications, which currently are in various stages of development (Exh. DPU 3-1, at 1-2). Based on the record, the Department does not find a reason to deviate from its finding in D.P.U. 17-140-A

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30 The Department directed that similar filings be due on July 1 of each year in D.P.U. 21-100-A at 95. Rulemaking Pursuant to the Acts of 2021, c. 8, §§ 82-85, D.P.U. 21-100-A (February 15, 2024). The Department adopts the same date for administrative efficiency.

31 The distributed generation 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 distributed generation docket is D.P.U. 24-DG.

regarding Unitil and automation of processing the AOBC Payment/Credit Form. The Department directs Unitil to file an update by July 1 of each year in the distributed generation docket regarding whether any level of automation to process the AOBC Payment/Credit Form should be considered.

iv. Frequency of Updates - Consistency Among Distribution Companies

The Attorney General and SEIA request that the Department direct the Distribution Companies to amend Section 2.3 of the SMART Provision to indicate that the AOBC Payment/Credit Form can be updated up to four times per year for NSTAR Electric and National Grid and up to three times per year for Unitil, unless that Distribution Company allows more frequent updates (Attorney General Brief at 12; SEIA Brief at 13). NSTAR Electric and National Grid each testified that it allows updates to the form up to four times per year (Tr. at 87-88). Unitil testified that it allows updates to the form up to three times per year (Tr. at 87).

The Department agrees that updating the tariff to reflect current processes is appropriate. Considering the usefulness of allowing several updates annually to the AOBC Payment/Credit Form in avoiding unallocated credits and considering limitations in processing updates because of the labor-intensive manual effort, we find that it is appropriate to allow up to four updates to the form per calendar year, which is the current practice for NSTAR Electric and National Grid.

In numerous contexts the Department has found a benefit in uniformity across companies in tariff language, policies, and charges. See Standard Offer Service Fuel

Adjustments, D.T.E. 00-66, 00-67, 00-70, Letter Order at 12, 13 (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). See also Commonwealth Electric Company, D.P.U. 91-3C at 3-4 (1991) (finding a benefit in having the term "fuel charge" be referred to uniformly by all electric companies); Investigation by the Department of Public Utilities Pursuant to Chapter 209, Section 51 of the Acts of 2012, An Act Relative to Competitively Priced Electricity in the Commonwealth, Vote and Order Opening Investigation, 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). We find that there can be benefits for participants and the solar community and improvements in the overall effectiveness in the operation of the SMART Program having uniform rules across the Distribution Companies.

Since the inception of the SMART Program, Unitil has received a total of six SMART AOBC applications (Exh. DPU 3-1, at 1-2). Given this small number, we find that it would not be unduly burdensome for Unitil to allow up to four annual updates to the AOBC Payment/Credit Form. As such, the Department finds it appropriate that all of the Distribution Companies allow up to four annual updates to the ABOC Payment/Credit Form

and shall make this update to the definition of "AOBC Payment/Credit Form" in Section 2.3 of the revised SMART Provision.[32]

The Distribution Companies have different policies regarding exceptions that do not count toward a customer's annual limit on the number of updates to the AOBC Payment/Credit Form. NSTAR Electric allows an exception to the number of updates per year if NSTAR Electric commits a clerical error by inadvertently processing an unvalidated, incorrect, or out-of-date AOBC Payment/Credit Form into its billing system (Exh. SEIA-EDC 2-7, at 1-2). National Grid and Unitil affirm that in the context of company error they likewise would allow such an exception (Tr. at 97-98). The Department finds that this exception represents appropriate business practice. Thus, if the Distribution Company makes an error when processing an AOBC Payment/Credit Form, rectifying the error will not count as an additional update toward a customer's annual limit on AOBC Payment/Credit Form.

National Grid has adopted three exceptions (Exh. SEIA-EDC 2-7). Based on our initial review of these exceptions,[33] they appear to be founded in good business practices. Therefore, we approve National Grid's application of these exceptions. NSTAR Electric and Unitil do not currently allow such exceptions (Tr. at 98-100). NSTAR Electric expressed some concern with one or more of these exceptions given the need to achieve 100-percent

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[32] In its discretion, a Distribution Company can allow for updates to the form more than four times per calendar year.

[33] Refer to footnote 26.

validation, noting that it has "put in a great deal of time and effort automating [its] AOBC processes" (Tr. at 98-100). As discussed above, the Department sees value in having uniform rules regarding the SMART Program across all three Distribution Companies. Accordingly, the Department directs NSTAR Electric and Unitil to provide, in a compliance filing, an update addressing (1) whether each Distribution Company can accommodate the same three exceptions as National Grid, and (2) when such exceptions can be implemented.

D. Unused AOBCs

1. Conformity with the 2021 Climate Act

a. Introduction

On March 26, 2021, Governor Baker signed the 2021 Climate Act into law. The 2021 Climate Act makes several changes to the SMART Program. Section 96 of the 2021 Climate Act ("Section 96") directs the Department to "amend any rules, regulations, and tariffs" relating to qualifying solar energy generating sources to implement these changes. St. 2021, c. 8, § 96.[34] Given that Section 96 took effect after the Distribution Companies filed the revised SMART Provision for approval,[35] the Department in this proceeding considers whether provisions of the 2021 Climate Act require modification of the SMART Provision. To assist in its review of this issue, the Department directed that the parties brief the question of whether there are 2021 Climate Act requirements related to

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34 In Section 96, the Legislature issued the same directive to DOER.

35 Section 96 took effect June 24, 2021. Mass. Const. Amend. Art. 48, Ref. Pt. (laws involving general legislation become effective 90 days after the Governor's signature).

Unused AOBCs that should be incorporated into the SMART Regulations and, subsequently, included in the model SMART Provision for the Department's approval of a fully integrated model SMART Provision (Hearing Officer Memorandum at 2 (October 25, 2021)).

Section 96 provides:

> Notwithstanding any general or special law to the contrary, the department of energy resources and department of public utilities shall amend any rules, regulations, and tariffs to permit the owner of any new solar facility, including any solar energy generating source, that qualifies for programs pursuant to section 11 of chapter 75 of the acts of 2016 and application regulations that achieves commercial operation on or after January 1, 2021 to: (i) receive credits for any electricity generated by a solar facility that exceeds the owner's usage during a billing period, with such credits to be credited to a solar facility owner's customer account with the relevant distribution company, and carried forward from month to month; (ii) designate customers of the same distribution company, regardless of which ISO-NE load zone the customers are located in, to receive such credits in amounts attributed by the solar facility, with such credits applicable to any portion or all of a designated customer's electric bill; and (iii) direct the distribution company to purchase all or a portion of any credits produced by a solar facility at the rates provided for in the applicable statute, regulation, or tariff without discount, fee, or penalty. This section shall not apply to solar net metering facilities.[36]

b. Positions of the Parties

i. Intervenors

(A) Attorney General

The Attorney General maintains that the Department has no current rules or regulations of its own to update related to Unused AOBCs and the SMART Program

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36 ISO-NE refers to ISO New England Inc., the independent, not-for-profit corporation responsible for keeping electricity flowing across the six New England states and ensuring that the region has reliable, competitively priced wholesale electricity.

(Attorney General Brief at 14-15). The Attorney General therefore recommends that the Department interpret the statute and update the SMART Provision in this proceeding (Attorney General Brief at 15).

(B) DOER

DOER has reviewed Section 96 and has determined that no additional changes to the SMART Regulations are necessary at this time to address the requirements of Section 96 (DOER Brief at 20). DOER maintains that it is, therefore, within the Department's discretion to determine whether additional changes to the SMART Provision are required to address the requirements of Section 96 as they pertain to Unused AOBCs (DOER Brief at 20).

(C) SEIA

SEIA argues that it is not premature for the Department to apply Section 96 (SEIA Brief at 31). SEIA contends that the Distribution Companies cannot refuse to provide tariff language that complies with applicable law and then claim that the Department must approve non-compliant language (SEIA Brief at 32). SEIA argues against opening a separate investigatory docket to address Section 96 after the SMART Provision as proposed has been approved, maintaining that to do so would (1) implement policy directly contrary to the Legislature's unambiguous directive, (2) be contrary to a law that has been in effect since March 2021, and (3) be administratively inefficient (SEIA Brief at 32-33).

ii. Distribution Companies

The Distribution Companies claim that the provisions of Section 96 and their applicability to AOBC facilities have not yet been interpreted by the Department (Distribution Companies Brief at 32). The Distribution Companies maintain that, before proposing revisions to the SMART Provision, they request guidance from the Department and/or DOER regarding the appropriate interpretation and implementation of Section 96 (Distribution Companies Brief at 32, 34, citing Exhs. DPU 3-2; SEIA-EDC-1-15; SEIA-EDC-1-16). The Distribution Companies claim that the Department has applied this approach to address prior legislative initiatives to revise incentive programs such as net metering (Distribution Companies Brief at 32, citing Net Metering Rulemaking, D.P.U. 08-75 (2009); Model Net Metering Tariff, D.P.U. 09-03 (2009)).

In response to SEIA, the Distribution Companies argue that their position is similar to SEIA's request that "the Department should interpret and apply the law" (Distribution Companies Reply Brief at 12). The Distribution Companies maintain that the Department should provide guidance regarding the appropriate interpretation and implementation of Section 96 before requiring revisions to the SMART Provision to conform to such interpretations (Distribution Companies Reply Brief at 12).

The Distribution Companies maintain that Section 96 subsection (iii) requires clarification of the clause "at the rates provided for in the applicable statute, regulation, or tariff without discount, fee, or penalty" (Distribution Companies Brief at 32-33).

c. Analysis and Findings

Based on our review of the 2021 Climate Act, Section 96 pertains to the SMART Program.[37] Also, the Department does not have any rules or regulations relating to the SMART Program. Further, DOER states that no changes to the SMART Regulations are necessary to address the requirements of Section 96. As provided by the language recited above, Section 96 contains a requirement regarding the receipt of credits by certain owners of solar facilities under the SMART Program. St. 2021, c. 8, § 96(i). As the SMART Provision is the means for allocating credits (and making incentive payments) under the SMART Program, we examine the SMART Provision and whether this requirement from Section 96 requires any changes to the Distribution Companies' proposed SMART Provision.

The Department has reviewed tariffs to determine whether they are consistent with applicable law, Department precedent, and the public interest. Model Distributed Generation Interconnection Standards and Procedures Tariff, D.T.E. 02-38-B at 5-6 (2004), citing Street Restoration Standards, D.T.E. 98-22, at 4 (1999); The Berkshire Gas Company, D.P.U. 96-92, at 8 (1996); Boston Gas Company, D.P.U 96-50 (Phase I) at 7 (1996); Massachusetts Electric Company, D.P.U. 96-59, at 7 (1996). As stated above, the Department applies this review standard to the Distribution Companies' proposed SMART Provision. We find it appropriate, without any intermediary process, to perform this review

[37] Although Section 96 does not expressly reference the SMART Program, Section 96 cites to the Solar Act, which is the basis for the SMART Program (see footnote 8 above).

in this proceeding and to require any necessary changes to the SMART Provision. The 2021 Climate Act was enacted on March 26, 2021; Phase II of this proceeding commenced on July 16, 2021, a period of approximately four months. In addition, the Scoping Order, issued on May 21, 2021, specified that the Department would address the implementation of the 2021 Climate Act in this second phase. D.P.U. 20-145-A at 17-18. Thus, the Department was clear in its intent to undertake this review, and the parties had ample opportunity to consider the requirements of Section 96 for the SMART Provision.

Finally, where Distribution Companies contend that certain language within Section 96 may be ambiguous,[38] it is the Department's role to interpret any such ambiguities to the extent they exist as applied to the SMART Provision. See Alliance to Protect Nantucket Sound, Inc. v. Department of Public Utilities, 461 Mass 166, 178 (2011), quoting Cambridge v. Department of Telecommunications and Energy, 449 Mass. 868, 875 (2007) ("Where, as here, the case involves interpretation of a complex statutory and regulatory framework, '[w]e give great deference to the Department's expertise in areas where the Legislature has delegated its decision making authority.'"); Goldberg v. Board of Health of Granby, 444 Mass. 627, 633 (2005); Biogen IDEC Massachusetts, Inc. v. Treasurer and Receiver General, 454 Mass. 174, 187 (2009).

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[38] The Distribution Companies cite certain terms found in subsection (iii) of Section 96. Specifically, they seek clarification regarding what kind of "rates" are being referenced, and what should be considered a "discount, fee or penalty." The Distribution Companies also seek clarification regarding who can request a "cash-out" (Distribution Companies Brief at 33).

2. Definition of Unused AOBC

a. Introduction

i. Distribution Companies

The Distribution Companies propose to add a definition of "Unused AOBCs" as being a "balance of AOBCs on an AOBC Generation Unit's billing account. Unused AOBCs result when AOBCs cannot be applied, allocated, or transferred to recipient accounts" (Exhs. EDC-1, at 15; DOER-EDC-2-1 (Supp.), Att., § 2.42). The Distribution Companies set this definition to introduce the concept of AOBC BTM STGUs (Exh. EDC-1, at 15). This definition is applied in Section 10.3 regarding the allocation of AOBCs (Exh. EDC-1, at 15). The Distribution Companies intend that Section 10.3 would establish clear rules for the treatment of Unused AOBCs for both standalone AOBC Generation Units and BTM AOBC Generation Units (Exh. EDC-1, at 22).

For BTM AOBC Generation Units, the Distribution Companies propose that unused credits will continue to carry forward from billing period to billing period and may be applied by the Distribution Company toward any service charge on the AOBC Generation Unit account (Exhs. EDC-1, at 23; DOER-EDC-2-1 (Supp.), Att., § 10.3). The Distribution Companies do not propose to offer any buyout option for Unused AOBCs for BTM AOBC Generation Units (Exh. EDC-1, at 23). The buyout option for Unused AOBCs remains in place for standalone AOBC Generation Unit accounts (Exhs. EDC-1, at 23; DOER-EDC-2-1 (Supp.), Att., § 10.3). The Distribution Companies propose this different treatment because

BTM AOBC Generation Units should have sufficient on-site load to utilize Unused AOBCs in a later billing period, making any buyout unnecessary (Exh. EDC-1, at 23).

> Currently under the SMART Provision, the Distribution Companies have the option: to pay a designated recipient, in a lump sum amount, any AOBC remaining on the AOBC Generation Unit billing account at the end of a 12-month period ending March 31, adjusted by the ratio of the average ISO-NE Locational Marginal Pricing rate that was realized by the settlement of the output of STGUs with ISO-NE over the course of the year divided by the average Basic Service rate for the 12-month period.

(Exh. EDC-1, at 23; see, e.g., M.D.P.U. No. 74I NSTAR Electric), § 10.0).

The Distribution Companies propose additional text in this section with the intent to better define current practices for AOBC credits in two scenarios (Exh. EDC-1, at 23). First, AOBCs will be carried forward from billing period to billing period on the AOBC Generation Unit's billing account where AOBCs cannot be applied, allocated, or transferred to recipient accounts because of inaccurate information or the recipient account's becoming invalid or inactive (Exhs. EDC-1, at 23-24; DOER-EDC-2-1 (Supp.), Att., § 10.3). Second, AOBCs transferred to recipient customer accounts that are not used by a recipient customer will carry forward on the customer's billing account from billing period to billing period (Exhs. EDC-1, at 24; DOER-EDC-2-1 (Supp.), Att., § 10.3). The Distribution Companies intend to avoid confusion and to set appropriate expectations, by setting out these practices in the SMART Provision (Exh. EDC-1, at 24).

ii. SEIA

SEIA states that is necessary to specify in the SMART Provision the treatment of AOBCs that are not allocated (Exh. SEIA-NP-1, at 20). According to SEIA, this

specification is especially necessary with the introduction of BTM AOBC Generating Units in the SMART Program (Exh. SEIA-NP-1, at 20).

b. Positions of the Parties

i. Intervenors

None of the intervenors addressed the Distribution Companies' proposed definition of Unused AOBC on brief.

ii. Distribution Companies

The Distribution Companies assert that their definition of Unused AOBCs is relevant to the treatment of Unused AOBCs in Section 10 of the SMART Provision (Distribution Companies Brief at 10). They contend that, regardless of the outcome of the issues related to Section 10, it will be helpful to have a clear definition of Unused AOBCs in the SMART Provision for clarity and ease of reference (Distribution Companies Brief at 10). The Distribution Companies conclude that the Department should approve their definition (Distribution Companies Brief at 10).

c. Analysis and Findings

Section 96 does not refer to Unused AOBCs. The Department finds that in applying Section 96 in this proceeding, however, it is necessary and appropriate to incorporate in the SMART Provision at Section 2.42 a definition of Unused AOBCs. The Department finds that the Distribution Companies' proposed definition where an Unused AOBC results when AOBCs "cannot be applied, allocated, or transferred to recipient accounts" is overly restrictive in a manner that is inconsistent with the language of Section 96, which broadly

refers to "all" credits. While the term AOBC is established in the SMART Regulations[39] and has been approved by the Department in the SMART Provision,[40] "Unused AOBC" is not similarly defined outside the proposed Section 2.42. As a result, rather than seeking to bring the model SMART Provision into alignment with the governing regulations and seeking to ensure consistency and clarity among regulatory documents, the Department is establishing a unique definition for the first time. Given the breadth of the language of Section 96 that Distribution Companies are directed to purchase "all" credits produced by a solar facility, the Department sees that the use of "cannot" may imply a test of impossibility, where the use of the term "are not" better indicates the status of the credits. While the distinction may be minimal, it is not one without difference. The Department, therefore, determines that the Distribution Companies shall include the following definition in the revised SMART Provision: "Unused AOBCs shall mean a balance of AOBCs on an AOBC Generation Unit's billing account. Unused AOBCs result when AOBCs are not applied, allocated, or transferred to recipient accounts." Below, the Department addresses further specific aspects of Unused AOBCs and compliance with Section 96.

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39 225 CMR 20.02.

40 See, e.g., M.D.P.U. No. 74I (NSTAR Electric), § 2.1.

3. Entity That Can Require Cash Out

a. Introduction

The currently effective SMART Provision provides the following text regarding lump sum or cash-out payments for AOBCs:

> At its option, the Company may pay a designated recipient, in a lump sum amount, any AOBC remaining on the AOBC Generation Unit billing account at the end of a 12-month period ending March 31, adjusted by the ratio of the average ISO-NE Locational Marginal Pricing rate that was realized by the settlement of the output of STGUs with ISO-NE over the course of the year divided by the average Basic Service rate for the 12-month period.

See, e.g., M.D.P.U. No. 1510, § 10.0 (National Grid).

The Distribution Companies' proposed SMART Provision provides the following in the new Section 10.3, with changes shown in strikeout and/or underline:

> At its option, the Company may pay a designated recipient, in a lump sum amount, any ~~AOBC~~ Unused AOBCs remaining on the billing account of a standalone AOBC Generation Unit ~~billing account~~ at the end of a 12-month period ending March 31, adjusted by the ratio of the average ISO-NE Locational Marginal Pricing rate that was realized by the settlement of the output of STGUs with ISO-NE over the course of the year divided by the average Basic Service rate for the 12-month period. For Behind-the-Meter AOBC Generation Units, the Company shall continue to carry forward any Unused AOBCs from billing period to billing period, which may be applied towards any service charges on the AOBC Generation Unit account.

(Exh. DOER-EDC-2-1 (Supp.), Att., § 10.3).

b. Position of the Parties

i. Intervenors

The Attorney General and SEIA argue that the SMART Provision should include a mechanism by which the owner of any SMART facility can elect to receive a cash payment for credits appearing on its account as is stated in Section 96 (Attorney General Brief at 13; SEIA Brief at 29). SEIA claims that there is no ambiguity in Section 96 as to who (i.e., the owner) can request this payment (SEIA Brief at 29).

ii. Distribution Companies

The Distribution Companies contend that Section 96 is ambiguous as to whether a cash out can be requested only by the owner of the STGU or whether a cash out also can be requested and received by a customer who has received AOBCs on a bill (Distribution Companies Brief at 33). The Distribution Companies maintain that during hearings, SEIA's witness testified that either the owner or the customer who had AOBCs allocated to a bill could request the cash out, but later reversed this position (stating that only the owner could request a cash out) in response to a record request (Distribution Companies Brief at 33). The Distribution Companies request that the Department clarify which entity can request the cash out given that the Solar Act requires that the SMART Program "ensure that the utility customer realizes the direct benefits of the solar incentive program," and that the interpretation of these intervenors would benefit only the owner (Distribution Companies Brief at 33, citing St. 2016, c. 75, § 11(b)(viii)). The Distribution Companies request guidance on this ambiguity before proposing any SMART Provision changes (Distribution Companies Brief at 34).

c. Analysis and Findings

The relevant provision of Section 96 states that an owner of a solar facility[41] shall be able to "direct the distribution company to purchase all or a portion of any credits produced by a solar facility." St. 2021, c. 8, § 96(iii). The canons of statutory construction provide that "[o]rdinarily, if the language of a statute is plain and unambiguous it is conclusive as to legislative intent." Sterilite Corporation v. Continental Casualty Company, 397 Mass. 837, 839 (1986). The Department finds the statutory requirements to be explicit and clear: the Legislature provides that an owner of a solar facility (as specified in Section 96) may require a cash out from the Distribution Company. St. 2021, c. 8, § 96(iii). Therefore, consistent with the provisions of the currently effective SMART Provision and the requirements of Section 96, the Department finds that the Distribution Company can require a cash out of Unused AOBCs and the owner of an STGU may require a cash out of Unused AOBCs from the Distribution Company. A customer that receives AOBCs on its bill may not require the Distribution Company to cash out Unused AOBCs. In their compliance filing, the Distribution Companies shall revise Section 10.3 of their proposed SMART Provision consistent with these findings.

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41 Specifically, "the owner of any new solar facility, including any solar energy generating source, that qualifies for programs pursuant to section 11 of chapter 75 of the acts 2016 [Solar Act] and application (sic – "applicable") regulations that achieves commercial operation on or after January 1, 2021."

4. Types of STGUs Permitted a Cash-Out Option

a. Introduction

The Distribution Companies propose that, unlike standalone AOBC generation units, BTM AOBC generation units should not be eligible for a cash out (Exhs. EDC-1, at 23; DOER-EDC-2-1 (Supp.), Att., § 10.3). Rather, for BTM AOBC generation units, the Distribution Companies propose that Unused AOBCs can and should be applied toward any service charges on the AOBC generation unit account (Exhs. EDC-1, at 23; DOER-EDC-2-1 (Supp.), Att., § 10.3). The Distribution Companies propose this different treatment because BTM AOBC generation units should have sufficient on-line load to utilize AOBCs in a later billing period, making any buyout unnecessary (Exh. EDC-1, at 23).

The Distribution Companies propose new tariff language in Section 10.3 to better define current practices for AOBC credits in two additional scenarios. First, the Distribution Companies propose that AOBCs that cannot be applied, allocated, or transferred to recipient accounts because of inaccurate information, or because the recipient account(s) become invalid or inactive, carry forward from billing period to billing period on the AOBC generation unit's billing account (Exhs. EDC-1, at 23-24; DOER-EDC-2-1 (Supp.), Att., § 10.3). The Distribution Companies propose that these AOBCs would no longer be transferrable and could be applied toward any service charges on the AOBC generation unit account (Exhs. EDC-1, at 24; DOER-EDC-2-1 (Supp.), Att., § 10.3). Second, the Distribution Companies propose that AOBCs transferred to recipient customer accounts that are not used by a customer shall carry forward on the recipient customer's billing account

from billing period to billing period (Exhs. EDC-1, at 24; DOER-EDC-2-1 (Supp.), Att., § 10.3).

b. Position of the Parties

i. Intervenors

The Attorney General and SEIA maintain that making credits that are not successfully transferred in an initial allocation no longer transferable and mandating that such Unused AOBCs carry over indefinitely would limit the ability of cash outs and would fail to meet the requirements of Section 96 (Attorney General Brief at 14; SEIA Brief at 27). SEIA argues that the Legislature's approach is preferable to the Distribution Companies' proposal because the transfer of credits allows customers to realize the benefits of subscribing to community solar projects as intended by the SMART Program (SEIA Brief at 28). SEIA requests that the Department reject the Distribution Companies' proposed language and instead insert into Section 10.0 language specifying that AOBCs that are not initially allocated remain eligible to be allocated (SEIA Brief at 28).

SEIA also maintains that, while Section 96 specifically applies only to STGUs that achieve commercial operation on or after January 1, 2021, it would be more efficient to apply a single set of rules to all STGUs (SEIA Brief at 30). As such, SEIA contends that Section 96 should apply to all SMART STGUs, regardless of commercial operation date (SEIA Brief at 30).

ii. Distribution Companies

The Distribution Companies repeat their assertion that a cash out should not be available to BTM AOBC generation units because these generation units, unlike standalone facilities, should have sufficient on-site load to utilize Unused AOBCs in a later billing period, therefore making a cash out unnecessary (Distribution Companies Brief at 30-31). The Distribution Companies claim that cash outs should be discouraged because they could have negative effects on the SMART Program (Distribution Companies Brief at 31). The Distribution Companies contend that the new CSS and LICSS adders under the SMART Program are intended to incentivize AOBC host customers to transfer credits to active recipient accounts and, therefore, allowing host customers to accumulate and cash out credits diminishes the host customer's motivation to sufficiently allocate credits (Distribution Companies Brief at 31). The Distribution Companies also argue that offering a cash out could encourage new host customers to oversize their STGU, which both would increase costs incurred by all Distribution Company customers and consume the available solar capacity within the SMART Program (Distribution Companies Brief at 31).

Regarding the reference in Section 96 to January 1, 2021, as the commercial operation date for eligibility, the Distribution Companies request clarification from the Department as to whether STGUs that achieve commercial operation prior to that date are eligible for a cash out for Unused AOBCs (Distribution Companies Brief at 32-33).

c. Analysis and Findings

The parties disagree as to whether BTM STGUs should be permitted to request a cash out (Attorney General Brief at 14; Distribution Companies at 30-31; SEIA Brief at 27-28). The Legislature has provided a cash-out option under the SMART Program, but it makes no direct statement regarding whether the STGUs permitted to exercise this option include both standalone and BTM generating units. St. 2021, c. 8, § 96. The Department agrees with the Attorney General and SEIA that the Legislature imposed no restrictions on the ability of certain STGUs to require a cash out, and therefore, a fair reading of the Section 96 language is that both standalone and BTM STGUs are eligible for a cash out. The Department finds that language limiting a solar generation unit owner's ability to require a cash out from a Distribution Company is inconsistent with Section 96. Therefore, the Department directs the Distribution Companies to remove the reference to standalone STGUs and to remove the added sentence beginning "For Behind-the-Meter AOBC Generation Units [...]" in Section 10.3 of the SMART Provision.

Consistent with this finding, the Department finds that the first sentence of the proposed new Section 10.3 that would carry over AOBCs indefinitely inappropriately restricts an owner's ability to require a cash out under the provisions of Section 96. Therefore, the Department directs the Distribution Companies to remove the first sentence of Section 10.3 from the proposed SMART Provision

In the last paragraph of Section 10.3 of the SMART Provision, the Distribution Companies propose that AOBCs transferred to recipient accounts that are not used by the

recipient shall carry forward on the recipient customer's billing account, from billing period to billing period. The Department finds this language to be appropriate given that in Section III.D.3, above, we clarified that only an owner of the STGU, not a recipient customer, may require a cash out from the Distribution Company.

In its brief, SEIA requested that the Department apply Section 96 to all SMART STGUs regardless of commercial operation date rather than to solely STGUs that achieve commercial operation on or after January 1, 2021 (SEIA Brief at 33). The Department finds the statutory requirements to be explicit and clear: the Legislature provides that only owners of an STGU that achieve commercial operation on or after January 1, 2021, may receive the cash out. St. 2021, c. 8, § 96(iii). Such "plain and unambiguous" language is conclusive as to legislative intent. 397 Mass. at 839. Therefore, the Department directs the Distribution Companies to add a reference to the January 1, 2021 commercial operation date in Section 10.3 of the SMART Provision.

5. Value of the Cash Out

a. Introduction

i. Distribution Companies' Proposed Tariff Language

The Distribution Companies propose to keep the cash-out terms as they currently exist in the SMART Provision that the Department approved in D.P.U. 17-140-A (Exh. EDC-1, at 23). These terms allow for a cash out, in a lump sum, for any Unused AOBCs remaining on the billing account of an AOBC generation unit at the end of a 12-month period ending March 31, adjusted by the ratio of the average ISO-NE locational marginal pricing ("LMP")

rate that was realized by the settlement of the output of the STGUs with ISO-NE over the course of the year, divided by the average basic service rate for the 12-month period (Exhs. EDC-1, at 23; DOER-EDC-2-1 (Supp.), Att., § 10.3; see, e.g., M.D.P.U. No. 1510, § 10.0). This approach results in the credits being paid out at the average ISO-NE LMP, which is a proxy for the wholesale price of energy (Tr. at 140-142).

ii. Simplified Cash Out

SEIA proposes a simplified cash-out provision ("SCOP") where the value of energy for all SMART facilities should be calculated at the average ISO-NE LMP rate that was realized by the settlement of the output of STGUs with ISO-NE over the course of the year (Exh. SEIA-NP-1, at 39). SEIA proposes that any difference between the value of energy calculation for cash outs and the value of energy calculation pursuant to Section 7.0 of the SMART Provision ("Calculation of Incentive Payments") should be considered an incentive and paid to the owner of the SMART facility (Exh. SEIA-NP-1, at 39). This approach results in the full value of the original credits being paid out in cash to the owner (Exh. SEIA-NP-1, at 7).

b. Positions of the Parties

i. Intervenors

The Attorney General and SEIA maintain that the Distribution Companies' proposal fails to meet the requirements of Section 96 because under this approach, the cash out would be a discounted AOBC credit value (Attorney General Brief at 14; SEIA Brief at 29). SEIA argues that adjusting the value of the AOBCs when they are cashed out constitutes a

"discount, fee, or penalty" because reducing something's price for the purpose of a sale is the core meaning of a "discount" (SEIA Reply Brief at 15). SEIA also contends that if the Distribution Companies could reduce the price of AOBCs prior to purchasing them, it would render meaningless the language of Section 96 that the owner of a solar facility can "direct the distribution company to purchase all or a portion of any credits produced by a solar facility at the rates provided for in the applicable statute, regulation or tariff without discount, fee, or penalty" (SEIA Reply Brief at 16). SEIA maintains that all language in the statute should be given meaning "wherever possible" and none "should be considered superfluous" (SEIA Reply Brief at 16, citing International Org. of Masters, Mates, & Pilots v. Woods Hole, Martha's Vineyard & Nantucket SS. Authority, 392 Mass. 811, 813 (1984)).

The Attorney General and SEIA support the SCOP to implement the requirements of Section 96 (Attorney General Brief at 14; SEIA Brief at 4). SEIA maintains that the Distribution Companies attempt to make the SCOP appear complex (SEIA Reply Brief at 16). SEIA also argues that the SCOP is an accounting mechanism that allows credits to be cashed out at full value and treated as an incentive to avoid a payment for the value of energy produced (SEIA Reply Brief at 16). The Attorney General maintains that the SCOP is consistent with the Public Utility Regulatory Policies Act ("PURPA")[42] (Attorney General Brief at 14).

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[42] Pub. L. 95-617, 92 Stat. 3117 (November 9, 1978).

Regarding the Distribution Companies' concern that a STGU may pursue a strategy of accumulating credits on its account with the intent of cashing them out, SEIA contends that the risk is limited due to the need to maintain a minimum allocation level (SEIA Brief at 32). SEIA further contends that it has addressed a means of reducing or eliminating the potential for such strategic accumulation of credits for the purposes of a cash out (SEIA Brief at 32, citing RR-AG-SEIA-1).[43]

ii. Distribution Companies

The Distribution Companies request that the Department clarify what would be considered a "discount, fee, or penalty," and that the Department provide interim guidance regarding the cash out of AOBCs until further investigation of new language can be completed (Distribution Companies Brief at 33-34).

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43 In a record request response, SEIA maintains that every owner of a CSS STGU and LICSS STGU has a very strong motivation to avoid dropping below a 90-percent allocation and to maintain a margin of safety above that amount to account for customer turnover, because if it does not allocate at least 90 percent of its credits to eligible off-takers, the applicable unit is at risk of having its CSS STGU qualification revoked by DOER (RR-AG-SEIA-1, at 2). SEIA contends that the Department could: (1) require the Distribution Companies to offer to allocate accrued credits to eligible off-taker accounts prior to purchasing the credits; (2) require that any customer who elects to exercise the right to require distribution company payment for accumulated credits simultaneously provide a revised AOBC Payment/Credit Form that allocated 100 percent of credits to eligible off-takers; (3) require that all AOBC Payment/Credit Form submissions allocate 100 percent of credits to eligible off-takers; and/or (4) require allocations below 100 percent to be rectified within two cycle updates (RR-AG-SEIA-1, at 2). SEIA also maintains that if there is still a concern that STGUs would be incentivized to under-allocate credits, the Department could restrict the frequency that an owner of an STGU may direct its Distribution Company to cash out accumulated credits to make the payment option less appealing due to the delayed ability to obtain payment (RR-AG-SEIA-1, at 5).

The Distribution Companies argue that SEIA did not provide enough information about the details of the SCOP for it to constitute a valid recommendation (Distribution Companies Brief at 34, citing Exh. EDC-Rebuttal-1, at 19-20). The Distribution Companies note that the proposal would split AOBC credits into a value of energy and an incentive payment—even though the AOBC already is a derivative of a calculated value of energy and incentive payment, each calculated pursuant to 225 CMR 20.08 (Distribution Companies Brief at 35, citing Tr. 2, at 207-208). The Distribution Companies maintain that the "incentive payment" calculated under the SCOP proposal would be a different incentive payment than the incentive payment defined in Section 2.21 of the SMART Provision and calculated pursuant to Section 7.0 of the SMART Provision (Distribution Companies Brief at 35). Similarly, the Distribution Companies note that the "value of energy" under the SCOP proposal is different than the value of energy established in 225 CMR 20.08 (Distribution Companies Brief at 35). The Distribution Companies argue that SEIA proposes to rely on an entirely different set of regulations under 220 CMR 8.05 as the basis for this value of energy, even though 220 CMR 8.05 applies only to facilities up to one MW taking service as a qualifying facility ("QF") (Distribution Companies Brief at 35, citing Exh. SEIA-Sur-Rebuttal-1, at 7; Tr. 2, at 210-211). The Distribution Companies maintain that the SCOP's proposal to create yet another iteration of a "value of energy" and "incentive payment" is confusing and not reasonably supported (Distribution Companies Brief at 35).

The Distribution Companies contend that, after hearings, SEIA admitted that the SCOP proposal could present a marginal financial benefit to cashing out credits as compared

to allocating them to other customers (Distribution Companies Brief at 35). The Distribution Companies maintain that there are gaming risks with the SCOP proposal that need to be addressed (Distribution Companies Brief at 35, citing RR-AG-SEIA-1, at 1-2). The Distribution Companies note that SEIA proposed several new options to limit gaming which were never considered or investigated in this proceeding (Distribution Companies Brief at 35, citing RR-AG-SEIA-1, at 1-2; Tr. 2, at 241-242). The Distribution Companies also maintain that the SCOP is designed to avoid potentially violating the PURPA prohibition on payments that exceed avoided costs, which also has not been investigated in this proceeding (Distribution Companies Brief at 36, citing Tr. 2, at 207-208). The Distribution Companies contend that no other state has employed such a proposal, and Massachusetts would be taking a significant risk if it were to adopt such an approach (Distribution Companies Brief at 36, citing Tr. 2, at 212). Lastly, the Distribution Companies argue that the costs of the SCOP proposal have not been investigated and there is insufficient evidence in the record to conclude that the SCOP proposal would result in just and reasonable rates (Distribution Companies Brief at 36).

c. Analysis and Findings

On September 26, 2018, the Department issued its Order approving the model SMART Provision. D.P.U. 17-140-A. In that Order, the Department approved the language that the Distribution Companies propose to incorporate into the SMART Provision under investigation in this proceeding. D.P.U. 17-140-A at 31, 43-44. The Department expressly approved this language in each Distribution Company's compliance SMART Provision on

December 21, 2018, in docket D.P.U. 17-140.[44] That same language is contained in each Distribution Company's currently effective SMART Provision at Section 10.0.[45]

As stated above, the material provisions of the 2021 Climate Act affecting the SMART Program and the SMART Provision took effect June 24, 2021. With these timeframes, we find it necessary to review Section 96 for any requirements regarding the value of energy affecting the SMART Provision. In pertinent part, Section 96 provides that the owner of a solar facility can "direct the distribution company to purchase all or a portion of any credits produced by a solar facility at the rates provided for in the applicable statute, regulation, or tariff without discount, fee, or penalty." St. 2021, c. 8, § 96(iii). 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. at 843-844; 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). In accordance with Massachusetts law, the Department seeks to interpret statutes as a whole where possible. District Attorney for the Northwestern District v. Eastern Hampshire Division of the District Court Department, 452 Mass. 199, 210 (2008) (finding

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[44] NSTAR Electric M.D.P.U. No. 74F (Section 9.0); National Grid M.D.P.U. No. 1368 (Section 9.0); Unitil M.D.P.U. No. 323 (Section 9.0).

[45] NSTAR Electric M.D.P.U. No. 74I; National Grid M.D.P.U. No. 1510; Unitil M.D.P.U. No. 390.

wherever possible, statutes should be interpreted as a whole to constitute a consistent and harmonious provision).

Parties disagree on the value of the cash out for Unused AOBCs. The Distribution Companies propose that the credits be paid out at the average ISO-NE LMP rate, which we expect often will be below the basic service rate and, therefore, would be less than the value at which the AOBCs were generated (Tr. at 141-142). The 2021 Climate Act states that new solar facilities should "receive credits for any electricity generated by a solar facility that exceeds the owner's usage during a billing period [...]." St. 2021, c. 8, § 96. Section 96 also states that the "distribution company [shall] purchase all or a portion of any credits produced by a solar facility [...]." St. 2021, c. 8, § 96. The Department interprets the Legislature's intent as meaning that solar facilities that have Unused AOBCs should be cashed out at the rate at which they were credited to the account without "discount, fee, or penalty." St. 2021, c. 8, § 96. Inasmuch as the Distribution Companies' proposal for the cash-out value is a lower value, the Distribution Companies' proposal runs counter to the plain language of Section 96.

The Distribution Companies also suggest that the SCOP proposal is designed to avoid potentially violating the PURPA prohibition on payments that exceed avoided costs (Tr. 2, at 207-208). The suggestion that the SCOP proposal would run afoul of PURPA is not supported by a detailed analysis of the federal statute or regulations, or citation to relevant case law. The Distribution Companies' bare suggestion is not a sufficient basis for the Department to find a conflict with federal law. As recited above, the SCOP provides for a

cash-out rate for any SMART facility (BTM and standalone) and SMART credit recipient, and it calculates separate value of energy and incentive payment portions (Exhs. SEIA-NP-1, at 39; SEIA-NP-Surrebuttal-1, at 8-9). Section 210(b) of PURPA establishes a cap under which electric companies may not be required to pay a rate that exceeds avoided costs. While the Federal Energy Regulatory Commission's ("FERC") regulations provide guidelines on the calculation of avoided costs, 18 C.F.R. 292.304(e), FERC also has granted the states considerable flexibility in implementing rates for purchase and, specifically, in determining avoided costs. Plymouth Rock Energy Associates v. Department of Public Utilities, 420 Mass. 168, 170 (1995), citing Southern California Edison Company, 70 F.E.R.C. ¶ 61,666, at 61,675 (1995) (Federal Commission gives states wide latitude in implementing PURPA in recognition of the role Congress intended to give to states). See also Small Power Production and Cogeneration Facilities; Regulations Implementing Section 210 of the Public Utility Regulatory Policies Act of 1978, 45 Fed. Reg. 12,214, 12,226 (1980) (codified at 18 C.F.R. Part 292). Massachusetts policy, as clearly expressed via the Solar Act and the 2021 Climate Act, is to incent the development of solar capacity. The SCOP utilizes additional incentive payments consistent with this policy. The Department does not find that this approach is explicitly prohibited by PURPA, nor is it in direct conflict with the federal regulatory regime. The SMART enabling statute required that DOER promulgate rules and regulations implementing a solar incentive program which "promotes the orderly transition to a stable and self-sustaining solar market [...]." St. 2016, c. 75, § 11(b). The Department

finds that setting the cash-out rate for Unused AOBCs at the rate that the credits are generated is consistent with achieving the Legislature's goal.

In Section III.C.3, the Department finds that a complete AOBC Payment/Credit Form requires that allocations total at least 90 percent to active and valid customer accounts, rather than 100 percent. The Department appreciates the Distribution Companies' concerns with the possibility of owners pursuing a strategy whereby they intentionally refrain from assigning AOBCs to accounts and elect to cash out the AOBCs (Distribution Companies Brief at 35, citing RR-AG-SEIA-1, at 1-2). In an effort to minimize this possibility, the Department adopts two of SEIA's recommendations. First, the Department requires that any owner who receives a cash out for accumulated Unused AOBCs and whose AOBC Payment/Credit Form is less than 100 percent, must provide a revised AOBC Payment/Credit Form that allocates 100 percent of credits to eligible off-takers (RR-AG-SEIA-1, at 3). This additional measure is appropriate given that, as discussed above, SMART Program participants should strive for a 100-percent allocation. Second, the Department deems appropriate SEIA's suggestion that the Distribution Companies offer to allocate Unused AOBCs to eligible off-taker accounts prior to cashing out the credits (RR-AG-SEIA-1, at 3). The Department appreciates SEIA's perspective that "this is a better solution for all involved" and that it believes that "many system owners would take that option" (RR-AG-SEIA-1, at 3). While the Department approves of this option, the Distribution Companies were not given an opportunity to investigate this option and the record does not reflect whether the Distribution Companies have concerns implementing this option. Therefore, for customers requesting a cash out, the

Distribution Companies may, but are not required to, offer to allocate the Unused AOBCs to other accounts. To better understand whether the issue of Unused AOBCs is or becomes a growing concern, the Department directs the Distribution Companies to report on the (1) the number of separate accounts that receive a cash out for Unused AOBCs, and (2) total value of AOBCs that were cashed out. The Distribution Companies shall file this information by July 1 of each year in the distributed generation docket.

6. Frequency of the Cash Out

a. Positions of the Parties

No party addressed on brief the frequency for allowing a cash out. In a record request response, SEIA suggested that allowing an owner of an STGU to direct its Distribution Company to cash out accumulated credits four times per year or once per quarter would be consistent with Section 96 (RR-AG-SEIA-1, at 5).

b. Analysis and Findings

The SMART Provision currently allows for a cash out at the end of a 12-month period ending March 31. No party addressed the frequency of the cash out in hearings or on brief. The annual frequency of a cash out currently in the SMART Provision is consistent with SEIA's position in RR-AG-SEIA-1. An annual cash out would further minimize the possibility of owners pursuing a strategy where they intentionally refrain from assigning AOBCs to accounts in an attempt to directly cash out the AOBCs for its own benefit. See Section III.D.5. The Department sees no reason to depart from the existing language in the SMART Provision. D.P.U. 20-145-B at 1.

IV. METERING AND METERING FOR ENERGY STORAGE SYSTEMS

A. Introduction

The Distribution Companies propose numerous changes and additions related to meters and metering in Sections 2.0 ("Definitions"), 5.0 ("Metering"), and 7.0 ("Calculation of Incentive Payments") of the model SMART Provision. We first address those proposed provisions more broadly related to metering, and then those specifically related to ESS in proposed Sections 5.3 ("Requirements for Standalone STGUs") and 7.3 ("True-Up Payments for DC-Coupled STGUs paired with ESS").

B. Metering Requirements

1. Metering Clarifications

a. Introduction

i. Distribution Companies

In Section 2.0, the Distribution Companies propose to add definitions of three types of meters that may be installed to measure the input and output for STGUs and any paired ESS: "Energy Storage System Meter" ("ESS Meter"), "Generation or Production Meter," and "Retail, Service or Revenue Meter" (Exhs. EDC-1, at 26; DOER-EDC-2-1 (Supp.), Att., §§ 2.15, 2.19, 2.37). In proposing these additions, the Distribution Companies point out that the Department in approving the model SMART Provision stated that the Distribution Companies could require a customer to have the following meters in connection with a STGU: a production meter, a revenue-grade meter, and a net meter (Exh. EDC-1, at 27). D.P.U. 17-140-A at 76 & n.29. In practice for the Distribution Companies, meter configurations have been a challenge as customers presented new designs or use cases for

paired ESS (Exh. EDC-1, at 27). The Distribution Companies propose these three definitions to standardize meter descriptions, and in coordination with their proposed guidance on meter configurations in Section 5.0 (Exh. EDC-1, at 27).

In Section 5.0 ("Metering"), the Distribution Companies propose to reorder Section 5.0 ("Metering") using Section 5.1 ("General Requirements") to cover the current clause, with revisions, and adding Sections 5.2 ("Requirements for Behind-the-Meter STUGs") and 5.3 ("Requirements for Standalone STGUs") (Exhs. EDC-1, at 27; DOER-EDC-2-1 (Supp.), Att., § 5.0).

In Section 5.1, the Distribution Companies propose several changes. In the first sentence, the Distribution Companies add language regarding meter ownership, specifically that "Production of STGUs will be measured by at least one revenue-grade meter that is owned, installed, and maintained by the Company…" (Exh. DOER-EDC-2-1 (Supp.), Att., § 5.1). We address this potential change regarding meter ownership separately in Section IV.B.2. The Distribution Companies then propose to move certain text from Section 3.0 ("Availability") to Section 5.1 so that all metering requirements are addressed in the same section of the model SMART Provision (Exhs. EDC-1, at 27; DOER-EDC-2-1 (Supp.), Att., §§ 3.0, 5.1).[46] The Distribution Companies also seek to add language establishing the ability of a Distribution Company to assess a charge for any new meters and

[46] The proposed change moves the sentence "All STGUs must be electrically separate, and separately metered from any other existing electricity generating unit, whether taking service under the SMART provision or not" from Section 3.0 to Section 5.1 (Exh. DOER-EDC-2-1 (Supp.), Att., §§ 3.0, 5.1).

metering equipment that it installs (Exh. DOER-EDC-2-1 (Supp.), Att., § 5.1). In the proposed fifth sentence of Section 5.1, the Distribution Companies explain that they will determine certain delivery service rate and delivery and supply charges using the "Retail, Service or Revenue Meter," referencing the specific provision of such charges as defined in new Sections 5.2 ("Requirements for Behind-the-Meter STGUs") and 5.3 ("Requirements for Standalone STGUs") (Exhs. EDC-1, at 27; DOER-EDC-2-1 (Supp.), Att., § 5.1). Finally, the Distribution Companies propose to add a final sentence in Section 5.1 to establish the ability to use wireless meters within the SMART Program and to assess the STGU a wireless service charge (Exhs. EDC-1, at 27; DOER-EDC-2-1 (Supp.), Att., § 5.1).

Proposed Section 5.2 ("Requirements for Behind-the-Meter STGUs") provides that, to measure the production of a BTM STGU pursuant to Section 7.2[47] ("Behind-the-Meter STGUs"), the Distribution Companies will require BTM STGUs to have a generation meter or a revenue meter that is appropriately located and connected pursuant to the standards of the Distribution Company (Exhs. EDC-1, at 28; DOER-EDC-2-1 (Supp.), Att., § 5.2). In addition, if the BTM STGU enrolls in any program that requires the Distribution Company to report energy or capacity data to ISO-NE, the Distribution Company may install an interval meter if needed to fulfill those reporting requirements (Exhs. EDC-1, at 28; DOER-EDC-2-1 (Supp.), Att., § 5.2).

[47] Section 7.2 is found within Section 7.0 ("Calculation of Incentive Payments").

In proposed Section 5.3 ("Requirements for Standalone STGUs"), the Distribution Companies propose different meter requirements depending on the size of the STGU and whether the STGU is alternating current ("AC") coupled with ESS (Exh. EDC-1, at 28). Standalone STGUs greater than 60 kW and less than one MW not coupled with an ESS or not coupled with any other generation may require an interval meter (Exhs. EDC-1, at 28; DOER-EDC-2-1 (Supp.), Att., § 5.3). A Standalone STGU one MW or greater must have an interval meter (Exhs. EDC-1, at 28; DOER-EDC-2-1 (Supp.), Att., § 5.3). If a Standalone STGU is AC-coupled with ESS, the Distribution Company may install three meters: (1) a generation or production meter, (2) an ESS Meter, and (3) a revenue meter (Exhs. EDC-1, at 28; DOER-EDC-2-1 (Supp.), Att., § 5.3). The Distribution Company will read the generation or production meter to determine incentive payments under Section 7.1 (term "kWhgen" in the formula for incentive payments to Standalone STGUs) (Exhs. EDC-1, at 28; DOER-EDC-2-1 (Supp.), Att., §§ 5.3, 7.1). The Distribution Company will read the retail, service, or revenue meter of net metering facilities and AOBC facilities for net energy exports each month to calculate the value of energy ("VOE"), that is, any net metering credits or AOBCs (Exhs. EDC-1, at 28; DOER-EDC-2-1 (Supp.), Att., §§ 5.3, 7.1). The Distribution Company will be the default meter reader and verifier for ESS Meters, but a customer can choose a third-party meter reader and verifier for ESS Meters (Exhs. EDC-1, at 28; DOER-EDC-2-1 (Supp.), Att., § 5.3).

In Section 7.1, which establishes the formula and relevant definitions for the calculation of incentive payments for Standalone STGUs, the Distribution Companies seek to

incorporate the defined terms "Retail, Service, or Revenue Meter" and "Generation or Production Meter" (proposed in Section 2) (Exhs. EDC-1, at 20; DOER-EDC-2-1 (Supp.), Att., § 7.1). First, the Distribution Companies propose revisions to the definition of "kWhgen"[48] to include references to the defined terms Retail, Service, or Revenue Meter and Generation or Production Meter to clarify the meter used to record that output variable (Exhs. EDC-1, at 20; DOER-EDC-2-1 (Supp.), Att., § 7.1). In addition, the Distribution Companies propose revisions to the definition of VOE. For Standalone STGUs, the Distribution Companies propose to clarify that the VOE for net metered Standalone STGU will be "equal to the applicable net metering credit as determined on the Company's Retail, Service or Revenue Meter" (Exh. DOER-EDC-2-1 (Supp.), Att., § 7.1 (proposed language in underline)). For Standalone STGUs that are QFs or On-site Generating Facilities pursuant to 220 CMR 8.00 and are not net metered, the Distribution Companies also propose revising the definition of VOE, subpart (2), to state that "the VOE credit will be calculated based on the Company's Power Purchase tariff at the Company's Retail, Service, or Revenue Meter" (Exh. DOER-EDC-2-1 (Supp.), Att., § 7.1 (proposed language in underline)[49]). Finally, the

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48 In the formula for calculating incentive payments to Standalone STGUs, the term "kWhgen" represents the kWh generated by the STGU (Exh. DOER-EDC-2-1 (Supp.), Att., § 7.1).

49 The redlined exhibit reflects language that was removed from the Model SMART Provision approved after Phase I of this proceeding (see Distribution Companies' Third Supplemental Compliance Model SMART Provision, Stamp Approval (February 22, 2022)). The currently approved definition of VOE, subpart (2), is as follows: "For Standalone STGUs that are QFs or On-site Generating Facilities pursuant to 220 CMR 8.00 and are not net metered pursuant to the Company's Net

Distribution Companies propose additional language in the definition of VOE, subpart (3), which would apply if the Department approves a Community Solar Access Program offered by a Distribution Company[50] (Exh. DOER-EDC-2-1 (Supp.), Att., § 7.1).

In addition, the Distribution Companies propose that, for all standalone STGUs, the Distribution Company will determine the delivery charges based on the retail, service, or revenue meter, and the Distribution Company will determine the appropriate meter for the ESS's delivery charge (Exhs. EDC-1, at 29; DOER-EDC-2-1 (Supp.), Att., § 5.3). In addition, the Distribution Companies propose in the final paragraph of Section 5.3 to include restrictions on the charging of ESS. We address both proposals related to ESS—potential delivery charges and charging restrictions—separately in Section IV.C, below.

In response to the recommendation that detail regarding metering should be provided as guidance by the Department rather than included in the SMART Provision, the Distribution Companies see significant value in setting out clear metering requirements in the SMART Provision to ensure that all requirements are clear to SMART Program participants (Exh. EDC-Rebuttal-1, at 12). The Distribution Companies' intent with the added language is to clarify for customers the source of various metered values as they relate to the SMART Provision and, accordingly, they assert that the details belong in the SMART Provision

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Metering tariff, the VOE credit will be calculated based on the Company's Power Purchase tariff." See, e.g., NSTAR Electric Company, SMART Provision, M.D.P.U. No. 74I, § 7.1 (definition of VOE).

50 The Department addresses the Community Solar Access Programs proposed by National Grid and NSTAR Electric below in Section VI.

(Exh. EDC-Rebuttal-1, at 12-13). The Distribution Companies provide guidance on technical aspects of metering in their respective Electric Service Bulletins[51], but they state that this resource does not provide usable and clear guidance on meter values under the SMART Provision (Exh. EDC-Rebuttal-1, at 13). The Distribution Companies welcome guidance or directives from the Department on metering as it relates to the SMART Program, and also would intend for the language effectuating the sources of metered data for SMART incentives, SMART participant delivery charges, and SMART participant supply charges to remain in the SMART Provision (Exh. EDC-Rebuttal-1, at 13).

ii. SEIA

SEIA supports the Distribution Companies' proposal to move metering references in Section 3.0 to Section 5.0 (Exh. SEIA-NP-1, at 27). SEIA opposes the Distribution Companies' additions of Sections 5.2 and 5.3 and their proposed revisions to new Section 5.1 (Exh. SEIA-NP-1, at 27-28). SEIA states that the level of specificity regarding metering proposed by the Distribution Companies has the potential to limit swift revisions to metering processes (Exh. SEIA-NP-1, at 27). SEIA claims that codifying the metering configurations in the SMART Provision will limit the ability for customers, the Distribution Companies, and the Department to make metering revisions without opening the SMART Provision for review (Exh. SEIA-NP-1, at 27). SEIA expects that, given the rapid evolution of technologies and

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51 See, e.g., National Grid Specifications for Electrical Installations 2022, Electric System Bulletin 750 (available at https://www.nationalgridus.com/media/pronet/constr_esb750.pdf (last visited May 29, 2024).

practices in the solar generation area, challenges in meter configurations will present themselves (Exh. SEIA-NP-1, at 27). SEIA says that codifying the metering configurations in the SMART Provision could complicate all parties' abilities to address the challenges (Exh. SEIA-NP-1, at 27). SEIA explains that the type of detail regarding metering intended by the Distribution Companies for the SMART Provision is best left as guidance from the Department (Exh. SEIA-NP-1, at 28).

b. Positions of the Parties

i. Intervenors

The Attorney General, DOER, and SEIA maintain that the Department should reject the Distribution Companies' proposal to broadly set metering requirements in the SMART Provision, arguing that an overly prescriptive tariff does not match the evolving nature of solar and storage technology (Attorney General Brief at 16-17; DOER Brief at 2-3; SEIA Brief at 18-19). The Attorney General and SEIA contend that setting these metering requirements in the SMART Provision will lead to disputes because what previously could have been resolved between the Distribution Companies and an interconnecting customer would require a resolution involving the Department (Attorney General Brief at 16-17; SEIA Reply Brief at 7). DOER and SEIA contend that the metering requirements are inconsistent with current technology and public policy goals; for example, SEIA notes that DOER's Guideline Regarding Metering of Solar and Energy Storage Systems (May 18, 2020) ("Solar

and ESS Metering Guideline")[52] allows for more flexible metering of STGUs including through the use of inverters[53] (DOER Brief at 3-4; SEIA Reply Brief at 7).

DOER also notes that the Distribution Companies have not suggested that this additional language is necessary to ensure that production data for incentive and energy payments can be accurately measured, to allow customers to receive incentive payments in a more timely manner, or to be able to address and correct metering or payment errors (DOER Brief at 3). The Attorney General, DOER, and SEIA recommend that, if additional guidance or clarification on certain metering requirements is necessary, such guidance should be provided outside the SMART Provision through a DOER guideline, a Department Order, the

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[52] The Solar and ESS Metering Guideline provides technical guidance regarding acceptable metering specifications used for the purpose of recording and reporting energy generation production information for facilities that participate in the SMART Program, which will serve as a basis for calculating SMART incentive payments pursuant to DOER's SMART Regulations. Solar and ESS Metering Guideline, § 1. This Guideline applies to all STGUs that are co-located with an ESS and are eligible to receive an energy storage adder under 225 CMR 20.07(4)(c). Solar and ESS Metering Guideline, § 1.

[53] Solar and ESS Metering Guideline, § 2.

Technical Standard Review Group ("TSRG"),[54] or a new working group[55] (Attorney General Brief at 17-18; DOER Brief at 4, SEIA Reply Brief at 7).

ii. Distribution Companies

The Distribution Companies maintain that, in the first several years of implementing the SMART Program, meter configuration has been a challenge, particularly as customers present new designs or use cases for paired ESS (Distribution Companies Brief at 17). The Distribution Companies argue that the proposed changes in Section 5.0 are intended to

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[54] On January 23, 2012, the Department convened a working group and tasked it with (1) determining what issues should be resolved regarding the current distributed generation ("DG") interconnection standards and application procedure to ensure an efficient and effective interconnection process and (2) deliberating with the goal, to the extent possible, of reaching consensus on a resolution of those issues for Department review and approval ("DG Working Group"). Distributed Generation Interconnection, D.P.U. 11-75-A at 4, 7 (2012). Later, the Department approved the DG Working Group's formation of the TSRG. D.P.U. 11-75-E at 2, 29-30 (2013). The TSRG is composed of seven members: (i) one representative from each of the four Distribution Companies and (ii) three non-utility representatives who are engineers with electric supply systems experience with DG interconnection experience. DG Working Group Final Report, "Proposed Changes to Standards For Interconnecting Distributed Generation in Massachusetts", at 30 (D.P.U. 11-75, September 14, 2012). The key function of the TSRG is to develop and propose updates and modifications to the Technical Standards Manual, which sets out common standards for DG interconnection. DG Working Group Final Report, "Proposed Changes to Standards For Interconnecting Distributed Generation in Massachusetts", at 30 (D.P.U. 11-75, September 14, 2012).

[55] On June 6, 2023, the Department initiated the Interconnection Implementation Review Group ("IIRG") directing the Department's Ombudsperson to facilitate a stakeholder collaboration to establish the IIRG to work in parallel and in coordination with the TSRG and function as a forum and process outside of a Department investigation to address issues related to implementation of the DG interconnection process. Order Establishing Interconnection Implementation Review Group, D.P.U. 19-55-F at 5 (2023).

capture best practices in a clear way so that all customers are aware of the requirements and so that the requirements can be fairly and uniformly enforced for all customers (Distribution Companies Brief at 17).

In response to the concerns of the Attorney General, DOER, and SEIA, the Distribution Companies maintain that Sections 5.2 and 5.3 are not overly restrictive or overly detailed (Distribution Companies Brief at 19). The Distribution Companies argue that the requirements clearly and simply identify the number and type of retail, service, or revenue meter; production or generation meter; and/or ESS Meter that may be installed under various configurations of STGUs and STGUs paired with ESS (Distribution Companies Brief at 19). The Distribution Companies assert that the language also specifies which meters will be used to calculate the VOE, and, as applicable, the net energy exports each month (Distribution Companies Brief at 19). The Distribution Companies contend that there is significant value in setting out clear metering requirements in the SMART Provision to ensure that all requirements are clear and available in a single source to SMART Program participants (Distribution Companies Brief at 19).

The Distribution Companies maintain that removing Sections 5.2 and 5.3 from the SMART Provision in favor of more general guidance from the Department does not make sense, particularly because SEIA has not raised any substantive objection to the proposed language (Distribution Companies Brief at 20). The Distribution Companies contend that when asked to provide any specific objections to or additional clarifications recommended for the language proposed in Sections 5.2 and 5.3, SEIA had nothing to offer (Distribution

Companies Brief at 20, citing Exh. DPU-SEIA-1-1; Tr. at 181-184). The Distribution Companies further contend that SEIA has admitted that, even if the Department were to address metering through an Order or other guidance, additional process would be required if the Department later revised its guidance (Distribution Companies Brief at 20, citing Tr. at 184). The Distribution Companies argue that it is, therefore, unclear what, if any, efficiencies would be gained by SEIA's alternative recommendation (Distribution Companies Brief at 20). The Distribution Companies argue that providing less specific "guidance," as SEIA proposes, only serves to perpetuate the risk of disputes between the Distribution Companies and customers around metering requirements (Distribution Companies Brief at 20).

c. Analysis and Findings

The Distribution Companies have proposed numerous changes to Sections 2.0 and 5.0 related to metering requirements, and the proposed new definitions are utilized in proposed revisions to Section 7.0. We first address the Distribution Companies' proposal to move one sentence from Section 3.0 to Section 5.0 so that all metering requirements are addressed in the same section of the SMART Provision (Exhs. EDC-1, at 27; DOER-EDC-2-1 (Supp.), Att., §§ 3.0, 5.0). The Department agrees that it is sensible to have all metering requirements in a single section and approves this change. We next consider certain of the Distribution Companies' more substantive revisions: a proposal to include additional metering requirements in Sections 5.1, 5.2, 5.3, and 7.1, and the three additional definitions proposed to be included in Section 2.0 related to these metering requirements.

Metering is an important function for the Distribution Companies in fulfilling their obligations to their general service customers. Meters register a general service customer's electricity consumption for the Distribution Companies to bill these customers under the applicable tariffs on file with and approved by the Department. Metering also is important for the Distribution Companies to provide service to customers participating in the net metering program and in the SMART Program. Here, meters register a customer's electricity production for the Distribution Companies to allocate credits and to make incentive payments to participating customers. With this importance, we agree with the Distribution Companies that there is significant value in setting out clear metering requirements to ensure that all requirements are clear to SMART Program participants. Also, we accept the Distribution Companies' recognition of the challenges presented in practice with meter configurations associated with customers' new designs or use cases for paired ESS.

In consideration of the need for clarity and of the current challenges in practice with metering, at this time, we do not include in the SMART Provision the metering requirements proposed by the Distribution Companies in Section 5.0 nor the definitions and references to "ESS Meter", "Generation or Production Meter", and "Retail, Service or Revenue Meter" in Sections 2.0 and 7.1.[56] Therefore, the Distribution Companies shall exclude from

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[56] Above, the Department has approved the Distribution Companies' proposal to move one sentence from Section 3.0 to Section 5.0. In addition, below we separately address (1) the proposed first sentence of Section 5.1 related to meter ownership, (2) proposed language in Section 5.3 ("Requirements for Standalone STGUs") identifying the meter for measurement of a delivery charge to Standalone STGUs and

Section 2.0 the following definitions: "ESS Meter", "Generation or Production Meter", and "Retail, Service or Revenue Meter." Further, the Distribution Companies shall make the following changes to Section 7.1 consistent with this directive:

- In the definition of kWghen, delete the proposed additional second sentence;
- In the definition of VOE subsection (1), delete the proposed phrase "as determined on the Company's Retail, Service or Revenue Meter"; and
- In the definition of VOE subsection (2), delete the proposed phrase "at the Company's Retail, Service, or Revenue Meter."[57]

The Department will address the proposed changes to the definition of VOE subsection (3) in Section VI.B.3 below where we address the Distribution Companies' proposed Community Solar Access Programs.

To explore these issues, we direct the Distribution Companies to develop a requirements document for metering under the SMART Program for submission to the Department for consideration. In developing these metering requirements, the Distribution Companies shall collaborate with stakeholders. This collaboration could take place within the

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Standalone STGUs paired with ESS, and (3) proposed restrictions on the periods during which a customer may charge a DC-coupled STGU paired with ESS.

57 These changes are consistent with the currently approved definition of VOE, subpart (2). Distribution Companies' Third Supplemental Compliance Model SMART Provision, Stamp Approval (February 22, 2022)). See, e.g., NSTAR Electric Company, SMART Provision, M.D.P.U. No. 74I, § 7.1 (definition of VOE).

TSRG, IIRG, or through a separate working group.[58] Within 45 calendar days of the date of this Order, the Distribution Companies shall report to the Department on their steps taken to convene a stakeholder collaboration process. The Department may require periodic reports from the Distribution Companies on this process. When the Distribution Companies submit the SMART Program metering requirements document to the Department, the Department will determine whether the requirements would be incorporated into the SMART Provision or would be issued as a separate technical or guidance document.

2. Meter Ownership

a. Introduction

In Section 5.1 ("General Requirements for Metering") of the SMART Provision, the Distribution Companies propose that the production of STGUs be measured by at least one revenue-grade meter that is owned, installed, and maintained by the Distribution Company (Exh. DOER-EDC-2-1 (Supp.), Att., § 5.1). Given the distinct arguments regarding meter ownership and specifically those raised by DOER, we address this proposed addition to Section 5.1 separately from the metering language not accepted above.

b. Positions of the Parties

i. Intervenors

DOER requests that the Department consider whether it is reasonable and appropriate to provide flexibility for revenue-grade alternatives to Distribution Company-owned meters,

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[58] The Department expects that a collaborative process outside of adjudication may be more productive in producing details on metering plans and full consideration of alternatives.

such as allowing inverters and inverter gateways (DOER Brief at 9). DOER is not asking the Department to require the Distribution Companies to use third-party-owned, revenue-grade alternatives but rather to consider flexibility in the language (DOER Reply Brief at 11-12). DOER contends that there may be circumstances during installation where alternative configurations of meters, including using non-utility-owned, revenue-grade solutions, would reduce costs and complexity (DOER Reply Brief at 11). DOER maintains that this flexibility could be accomplished through adding to Section 5.0 "inverters, inverter gateways, or other revenue-grade meter solutions that are not owned by the Distribution Company" (DOER Brief at 9).

In response to the Distribution Companies' argument that this proposal is at odds with a previous Department determination in D.P.U. 17-140-A, DOER claims that it is within the Department's discretion to determine whether Distribution Company ownership is reasonable and appropriate (DOER Reply Brief at 11).

ii. Distribution Companies

The Distribution Companies oppose DOER's suggestion to allow customer inverter-based metering to be used for the purposes of determining revenue or SMART incentive payments (Distribution Companies Brief at 20). The Distribution Companies maintain that this recommendation is at odds with the Department's finding that "the Distribution Companies will need to own the production meters so that they can accurately track production for incentive and energy payments of the SMART STGUs and [ESS]" (Distribution Companies Brief at 20-21, citing D.P.U. 17-140-A at 79). The Distribution

Companies also assert that the Department previously found that allowing the Distribution Companies to own the production meters will best ensure that SMART Program customers receive their incentive payments in the timeliest manner, and that the Department does not have jurisdiction over third-party-owned meters (Distribution Companies Brief at 21, citing D.P.U. 17-140-A at 79). The Distribution Companies argue that DOER has not provided any evidence or rationale to support deviating from the Department's prior decision on this issue (Distribution Companies Brief at 21).

The Distribution Companies argue that it is essential for them to own the production meters for STGUs because such meters will be used to calculate incentive payments and the Distribution Companies must ensure the accuracy of those calculations (Distribution Companies Reply Brief at 5). The Distribution Companies also contend that they have significant concerns regarding the use of third-party meters for production meters, including issues related to data chain of custody, integrating meter data with existing systems and processes, the timeline for reporting billing and/or payment data, dispute resolution and meter testing procedures, and identifying responsibility for replacement or upgrade of meters at the end of their useful life or as standards change (Distribution Companies Reply Brief at 6).

c. Analysis and Findings

Notwithstanding the fact that DOER has raised this "metering flexibility" issue for the first time on brief,[59] in the exercise of administrative discretion, the Department addresses this matter to provide clarity.

In D.P.U. 17-140-A, the Department found that the Distribution Companies will need to own the production meters so that they can accurately track production for incentive and energy payments of the SMART STGUs and ESS. D.P.U. 17-140-A at 79. The Department further found that "allowing the Distribution Companies to own the production meters will best ensure that SMART Program customers receive their incentive payments in the timeliest manner." D.P.U. 17-140-A at 79. We also found that the Department does not have jurisdiction over third-party-owned meters. D.P.U. 17-140-A at 79. No evidence has been presented to refute any of these findings.[60] Accordingly, we decline to revisit our previous finding that production meters must be owned by the Distribution Companies. The

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[59] We caution parties that, under standard practice, the Department declines to accept proposals made for the first time on brief. Boston Gas Company, D.P.U. 10-151, at 35 (2011); Boston Gas Company, D.P.U. 10-55, at 140 (2010); Massachusetts-American Water Company, D.P.U. 95-118, at 143 (1996); New England Telephone and Telegraph Company, D.P.U. 94-50, at 63 (1995); Commonwealth Gas Company, D.P.U. 87-122-B at 54 (1989). This circumstance can raise due process concerns as parties would not have the opportunity to examine the matter on the record. D.P.U. 10-55, at 140.

[60] The Distribution Companies identify that DOER presents its proposal for the first time on brief and they propose incorporating by reference certain documents from D.P.U. 17-140 to address the proposal (Distribution Companies Reply Brief at 6). Considering our decision regarding meter ownership, we make no ruling regarding the Distribution Companies' request for incorporation by reference.

Department finds that the Distribution Companies' proposed language in the first sentence of Section 5.1 that the meter must be revenue grade and owned, installed, and maintained by the Distribution Company is clarifying in nature, and, therefore, is approved.

C. Provisions Related to ESS

1. ESS Delivery Charges

a. Introduction

While we have addressed the majority of the proposed revisions to Section 5.0 above, we turn in detail to the issue of ESS charges here. The Distribution Companies initially proposed in Section 5.3 ("Requirements for Standalone STGUs") to include language referencing meters to assess a delivery charge to Standalone STGUs and to Standalone STGUs paired with ESS:

> For all Standalone STGUs and Standalone STGUs paired with ESS, the Company will read the Retail, Service or Revenue Meter to determine the STGU's delivery charges, and it will determine the appropriate meter for the ESS's delivery charges.

(Exh. DOER-EDC-2-1 (Supp.), Att., § 5.3).[61]

SEIA opposes inclusion of the last clause of this provision: "and it will determine the appropriate meter for the ESS's delivery charges" (Exh. SEIA-NP-1, at 31). SEIA contends

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61 Any facility that draws power from the distribution system is subject to the applicable general service delivery rates based on the availability clause of each rate class. See M.D.P.U. No. 3C (NSTAR Electric), §§ II.A.4, 5, II.D; M.D.P.U. No. 1412 (National Grid), §§ II.1D, 4A; M.D.P.U. No. 266 (Unitil), §§ II.1.D, 4.A. In this context, unless an ESS is registered with ISO-NE as a wholesale participant, the Distribution Companies state that they will assign the appropriate supply rate for the Standalone STGU or Standalone STGU paired with ESS (Exh. EDC-1, at 29).

that this language indicates that the Distribution Companies plan to treat the ESS separate from the STGU in the billing system, which would be problematic for DC-coupled ESS paired with an STGU (Exh. SEIA-NP-1, at 31).

After further consideration, the Distribution Companies propose to modify Section 5.3 by striking the language "it will determine the appropriate meter for the ESS's delivery charges" (Exhs. AG-EDC 3-2; EDC-Rebuttal-1, at 14; RR-SEIA-EDC-5; Distribution Companies Brief at 21). The Distribution Companies state that this revised language ensures that delivery charges are assessed from the retail or service meter so that, for an AC-coupled ESS, delivery charges are not assessed for energy that goes directly from the STGU into the ESS without leaving the customer's site (Exh. EDC-Rebuttal-1, at 14). For direct current ("DC") coupled with ESS, the energy flows between the STGU and the ESS are not metered by the Distribution Companies (Exh. EDC-Rebuttal-1, at 14).

b. Positions of the Parties

i. Intervenors

Several intervenors oppose the Distribution Companies' proposed language referencing ESS delivery charges (DOER Reply Brief at 15; Attorney General Brief at 18-21; SEIA Brief at 25-26; SEIA Reply Brief at 7-9). DOER contends that requiring ESS to pay delivery charges under a general service tariff could unfairly charge an ESS and does not reflect the unique circumstances of ESS as an enabling technology that can save consumers money, improve reliability and resilience, integrate generation sources, and help reduce environmental impact (DOER Reply Brief at 15).

The Attorney General claims that Standalone STGUs paired with ESS use the distribution system differently than other customers and, therefore, they cause different costs, and thus it is inappropriate, under a traditional retail tariff, to apply to this group of customers a demand charge designed for typical customers (Attorney General Brief at 18). The Attorney General argues further that ESS should not have to pay a demand charge that is based on a system peak that it does not contribute to creating and may even help reduce (Attorney General Brief at 19). The Attorney General notes that, while grid-connected ESS should have to pay for the delivery of energy imported from the grid for charging the ESS, requiring ESS to pay delivery charges under a general service tariff ignores the inherent flexibility and cost causation of ESS load compared to traditional load and instead assumes that two very different loads cause the same system costs (Attorney General Brief at 19-20).

SEIA does not support the Distribution Companies' addition to the SMART Provision of either Section 5.3 or references to delivery charges in Section 5.3; however, SEIA states that if the Department does accept and incorporate the Distribution Companies' proposed revisions, SEIA supports striking the language "and it will determine the appropriate meter for the ESS's delivery charges" (SEIA Brief at 25-26; SEIA Reply Brief at 7-8). SEIA rejects the Distribution Companies' claim that, in the absence of explicit arguments from SEIA against delivery charges for ESS, SEIA supports such charges because SEIA has not explicitly addressed delivery charges for ESS in this proceeding (SEIA Reply Brief at 9). SEIA clarifies that it does not address delivery charges for ESS in this proceeding because

the issue is potentially complex and does not need to be resolved to approve the SMART Provision (SEIA Reply Brief at 9).

The Attorney General recommends that rather than applying a demand charge under a traditional retail tariff to standalone STGUs paired with ESS, the Department should open a comprehensive rate design proceeding geared toward electricity exports (i.e., generation) and imports (i.e., load) to ensure that ESS and other technologies are charged the appropriate rate for their load usages and costs to the system (Attorney General Brief at 18, 20). The Attorney General contends that there are multiple proceedings before the Department that indicate a need for a comprehensive rate design examination to develop rates based on imports and exports (Attorney General Brief at 21).[62] SEIA and DOER support the Attorney General's recommendation to open a separate proceeding, with DOER agreeing that, in the long term, the Department and stakeholders will have to consider how best to reflect the costs, performance, and operation of ESS, and whether a separate tariff is appropriate (SEIA Reply Brief at 8; DOER Reply Brief at 15). Further, SEIA maintains that ESS is on a trajectory to play a significant role in the Commonwealth's energy future, and that an important step to realizing the Commonwealth's goals for beneficial deployment of ESS

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[62] According to the Attorney General, these proceedings include Electric Distribution Companies' Distributed Energy Resource Planning and Assignment and Recovery of Costs for the Interconnection of Distributed Generation, D.P.U. 20-75; Electric Vehicle Infrastructure and Electric Vehicle Demand Charge Alternative Proposals, D.P.U. 21-90 through D.P.U. 21-92; Three Year Energy Efficiency Plan for 2022 through 2024, D.P.U. 21-120 through D.P.U. 21-129; and Grid Modernization Plans for Calendar Years 2022 to 2025, D.P.U. 21-80 through D.P.U. 21-82 (Attorney General Brief at 21).

would be aligning rate designs for ESS so that Distribution Companies more fairly allocate system costs and better incentivize the operation of ESS assets to the benefit of all customers (SEIA Reply Brief at 8).

ii. Distribution Companies

The Distribution Companies contend that Department approval of the revised, proposed clause in Section 5.3 regarding delivery charges for Standalone STGUs and Standalone STGUs paired with ESS is appropriate as it reflects current practice and does not conflict with any future efforts to investigate or establish an ESS-specific delivery charge and should be approved (Distribution Companies Brief at 21; Distribution Companies Reply Brief at 11). The Distribution Companies maintain that the revised, proposed delivery charge language only specifies the meters that will be used to assess delivery charges under existing rates as they are not proposing any new delivery rates or alternative rate design for ESS in this proceeding (Distribution Companies Brief at 22). The Distribution Companies argue that the revised, proposed SMART Provision language ensures that delivery charges are assessed from the retail or service meter so that, for an AC-coupled ESS, delivery charges are not assessed for energy that goes directly from the STGU into the ESS without leaving the customer's site (Distribution Companies Brief at 21-22; Distribution Companies Reply Brief at 10). In addition, the Distribution Companies assert that including the revised language puts customers on notice regarding the assessment of delivery charges and that rejecting the revised language may incorrectly imply that customers are not assessed delivery charges for ESS paired with a STGU (Distribution Companies Reply Brief at 10).

The Distribution Companies argue that the Attorney General has not provided any evidence to support her assertion that standalone STGUs paired with ESS use the distribution system differently than other customers, which could result in different costs than other customers, and that applying demand charges to ESS would unfairly recover costs associated with peak periods which, she asserts, are unlikely to be caused by the ESS (Distribution Companies Brief at 22-23). With respect to the request for a rate design proceeding regarding ESS, the Distribution Companies opine that, while they defer to the Department's policy judgment as to the appropriate time to open such a proceeding, a new rate class for ESS is not merited because (1) current information does not suggest that ESS facilities are adversely affected or that their costs are shifted to other customers; (2) there is an insufficient number of ESS to merit a distinct ESS delivery and supply charge; and (3) positive ESS growth under existing delivery rate structures shows that the current approach is working well (Distribution Companies Brief at 23; Distribution Companies Reply Brief at 9).

c. Analysis and Findings

As an initial matter, the issue of assessing a delivery charge on a STGU paired with an ESS is beyond the scope of this proceeding and the Department does not address that issue here. The issue of metering rules for STGUs paired with ESS is within the scope of this proceeding. D.P.U. 20-145-A at 16. The language proposed by the Distribution Companies in Section 5.3 is intended to identify the metering to be used (retail, service, or revenue meter) for later determining a delivery charge to be assessed to Standalone STGUs and

Standalone STGUs paired with ESS. (Exhs. EDC-1, at 29; DOER-EDC-2-1 (Supp.), Att., § 5.3).

The Department addresses first whether the SMART Provision should refer to delivery charges for STGUs paired with ESS, and second, whether the Department should commence a comprehensive rate design proceeding to develop rates based on imports and exports. The Attorney General, DOER, and SEIA generally do not support including references to delivery charges for ESS in the SMART Provision Section 5.3 (Attorney General Brief at 18-21; DOER Reply Brief at 15; SEIA Brief at 25-26; SEIA Reply Brief at 7-9). SEIA offers that if the Department allows any language on delivery charges for STGUs paired with ESS to remain in the SMART Provision, it supports the Distribution Companies' proposed modification that would strike "and it will determine the appropriate meter for the ESS's delivery charges" (SEIA Brief at 25-26, citing RR-SEIA-EDC-5, Exh. AG-EDC-3-2; SEIA Reply Brief at 7-8). The Distribution Companies maintain that the delivery charge language, as modified, is important to include in the SMART Provision as it only specifies the meters that will be used to assess delivery charges, puts customers on notice that such charges are assessed, and further notes that they are not proposing any new delivery rates for ESS (Distribution Companies Brief at 22).

While, as we have noted, the appropriateness of assessing a delivery charge on an STGU paired with an ESS and what that charge should be are outside the scope of the current proceeding, the Department does appreciate the concern expressed by the Distribution Companies regarding putting customers on notice of delivery charges. We do not find that at

this time that inclusion of language in the SMART Provision is the appropriate vehicle for accomplishing this goal, however, particularly given our finding above that the other proposed language in Section 5.3 related to meters and metering should not be included in the SMART Provision at this time, but instead be addressed via a separate collaborative process within the TSRG, IIRG, or separate working group. Therefore, the Department direct the Distribution Companies to exclude the sentence in Section 5.3 that references delivery charges.

The Department agrees with intervenors that the unique characteristics of energy storage, including its ability to decrease peak demand, improve reliability, and enable the Commonwealth to meet its energy policy goals, may necessitate an investigation into the appropriate rate design for ESS. On October 31, 2023, pursuant to Section 72 of An Act Driving Clean Energy and Offshore Wind, St. 2022, c. 179 ("2022 Clean Energy Act"), each Distribution Company filed with the Department for review and approval of an "Operational Parameters for Energy Storage Systems Tariff" ("ESS Tariff").[63] These ESS Tariffs are intended to govern operational parameters applicable to ESS interconnected to each Distribution Company's electric power system ("EPS"). The proposed ESS Tariffs include the operational and technical restrictions on an ESS facility, such as the charging and discharging schedule, limitations on the facility's capacity based on EPS infrastructure

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63 Massachusetts Electric Company and Nantucket Electric Company, D.P.U. 23-115; Fitchburg Gas and Electric Light Company, D.P.U. 23-117; NSTAR Electric Company, D.P.U. 23-126.

limitations, and the ability of the facility to incorporate future distributed energy resource management technology. On May 10, 2024, at the direction of the Department, Unitil, National Grid, and NSTAR Electric jointly filed a Model Operational Parameters for ESS Tariff. The Department has initiated its review of these ESS Tariffs and interested persons may follow these proceedings through the Department's File Room: http://eeaonline.eea.state.ma.us/DPU/Fileroom/dockets/bynumber (enter "23-115," "23-117," or "23-126"). Also, the Energy Storage Interconnection Review Group ("ESIRG") may provide an opportunity for stakeholders to address ESS rate design issues.[64] As such, the Department finds that two forums exist that may accommodate substantive discussions related to the comprehensive investigation requested by the intervenors. For this reason, the Department declines to open such a proceeding at this time but may reconsider opening an investigation following its adjudication of the ESS Tariff Filings.

2. Restrictions on Charging a DC-Coupled STGU Paired with ESS

a. Introduction

In the fourth paragraph of Section 5.3, the Distribution Companies propose that, for DC-coupled Standalone STGUs paired with ESS, the customer may not charge the ESS from the STGU during any period that interferes with the Distribution Company's ability to participate in markets or incentive programs (Exhs. EDC-1, at 29; DOER-EDC-2-1 (Supp.),

64 The Department established the ESIRG, through its DG and Clean Energy Ombudsperson, to undertake a coordinated examination of ESS interconnection issues to inform the Department in the development of policies. Order Establishing Energy Storage Interconnection Review Group, D.P.U. 19-55-E at 5 (February 9, 2022).

Att., § 5.3). Again, given the issues and arguments specific to ESS, we address this proposed language separately from those meter and metering provisions previously discussed. The Distribution Companies' initial proposal is as follows:

> For DC-Coupled STGUs paired with ESS, the customer may not charge the ESS from the STGU during any period that interferes with the Company's ability to participate in markets or incentive programs for which the Company is entitled to participate

(Exh. DOER-EDC-2-1 (Supp.), Att., at § 5.3).

The Distribution Companies also propose a possible modification to the language (additional language provided in underline):

> For DC-Coupled STGUs paired with ESS, the customer may not charge the ESS from the STGU during any period that interferes with the Company's ability to participate <u>in time-specific performance obligations or performance opportunities under the ISO-NE Forward Capacity market, or Seasonal Peak Periods of the Clean Peak Energy Standard, or any other time-specific</u> markets or incentive programs for which the Company is entitled to participate <u>in the future with the STGU, with the exception of the ISO-NE energy markets.</u>

(Exh. EDC-Rebuttal-1, at 15-16).

In support of this restriction, the Distribution Companies note that they are provided rights to some STGU capacity and to all environmental attributes from STGUs (Exh. EDC-1, at 29). The Distribution Companies explain that the Forward Capacity Market ("FCM") administered by ISO-NE provides for compensation during pay-for-performance events (Exh. EDC-1, at 29).[65] In addition, according to the Distribution Companies, the Clean Peak

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[65] Pay-for-performance is a design feature of ISO-NE's FCM that provides incentives for resources that perform during capacity-scarcity conditions. ISO-NE Market Rule 1, § 13.7.2.1.

Energy Standard ("CPS") established by DOER provides the ability for STGUs to create Clean Peak Energy Certificates ("CPECs")[66] if they generate energy during specific times (Exh. EDC-1, at 29). Because a Distribution Company does not have operational control of a customer's ESS, the Distribution Companies consider a prohibition on charging the ESS during time periods where performance can be rewarded as a simple and practical way to protect a Distribution Company's rights (Exh. EDC-1, at 29-30). The Distribution Companies propose retaining an option to require reporting of energy requirements on a periodic basis to validate compliance with this prohibition (Exhs. EDC-1, at 29; DOER-EDC-2-1 (Supp.), Att., § 5.3).

SEIA states that this proposed limitation is overly broad and has the potential to limit customers from charging the ESS and the STGU during all daylight hours (Exhs. SEIA-NP-1, at 29; DPU-SEIA 1-1; SEIA-NP-Sur-Rebuttal-1, at 11). SEIA identifies two specific implications of the Distribution Companies' proposed limitation. First, it would negate the primary benefit of DC-coupled ESS by reducing the energy losses associated with going from DC to AC, or vice versa (Exh. SEIA-NP-1, at 29). SEIA points out that a STGU generates electricity in DC and an ESS stores energy in DC (Exh. SEIA-NP-1, at 29). With the Distribution Companies' proposal, much (if not all) of the STGU's energy will need

66 225 CMR 21.01, 21.07. DOER's CPS program is designed to provide incentives to clean energy technologies that can supply electricity or reduce demand during seasonal peak demand periods. When qualifying clean peak resources generate or discharge during peak demand periods, they earn CPECs. These CPECs can be sold to retail electricity suppliers who must meet minimum purchase requirements based on their total retail sales.

to be converted into AC to be fed back to the electric grid while the ESS separately will need to convert AC to DC to discharge (Exh. SEIA-NP-1, at 29). SEIA states that this framework creates needless inefficiencies and, ultimately, the loss of electricity and a reduction in the climate benefits associated with ESS-STGU-coupled resources (Exh. SEIA-NP-1, at 29).

Second, SEIA claims that ESS is eligible for the Federal Investment Tax Credit,[67] but only if the ESS is charged from a renewable energy facility (Exh. SEIA-NP-1, at 29). If the ESS must charge from the electric grid and not the STGU, the customer would be foreclosed from taking advantage of the Federal Investment Tax Credit, thereby increasing net system costs and thwarting the intent of the SMART Program (Exh. SEIA-NP-1, at 29-30).

Further, SEIA states that the Distribution Companies have identified only the ISO-NE FCM and the CPS as relevant potential sources of value and have not provided evidence that they would monetize those values or evidence of the value that they would realize (Exh. SEIA-NP-Sur-Rebuttal-1, at 11). SEIA states that the Distribution Companies have presented no evidence that any value realized would be significant or even commensurate with the costs imposed on the owner of a restricted ESS facility (Exh. SEIA-NP-Sur-Rebuttal-1, at 11). SEIA questions the Distribution Companies' reliance on these revenue sources because (1) many developers are likely to buy out the capacity rights of the STGUs that are ESS-DC-coupled pursuant to the SMART Tariff (Section 6.3.5) and (2) the value of credits under the CPS program are discounted by a factor of 0.01, i.e., they

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67 26 U.S.C. §§ 48, 48E.

have a value of only one percent of standard credits (Exh. SEIA-NP-Sur-Rebuttal-1, at 11-12). See 225 CMR 21.02, 05(6)(e). SEIA contends the restrictions are significant and are likely to chill investment in ESS and may preclude operation of ESS in ways that would provide greater benefit to facility owners and ratepayers (Exh. SEIA-NP-Sur-Rebuttal-1, at 12).

b. Positions of the Parties

i. Intervenors

Several intervenors recommend that the Department reject the Distribution Companies' proposed restrictions on charging for DC-coupled STGUs paired with ESS, arguing that the Distribution Companies have failed to establish the need for such a restriction and failed to demonstrate the benefit to ratepayers of such a restriction (Attorney General Brief at 21-24; DOER Brief at 5-6; DOER Reply Brief at 12; SEIA Brief at 19-21; SEIA Reply Brief at 9-12; Zero-Point Development Brief at 8-9). In addition, intervenors maintain that the restrictions are vague and overly broad, introduce a risk to ESS developers' ability to realize revenue from state incentive programs, are contrary to the Commonwealth's clean energy objectives because they negatively impact the development of ESS, and are not responsive to or required by any changes made to the SMART Regulations (Attorney General Brief at 21; DOER Brief at 5-6; DOER Reply Brief at 12; SEIA Brief at 19-21; Zero-Point Development Brief at 6, 8-9). While DOER and Zero-Point Development acknowledge the Distribution Companies' offer to modify the originally proposed language, both intervenors contend that the refinements are insufficient and continue to unfavorably affect ESS projects

by restricting access to revenue streams available to ESS projects and otherwise adversely impact the economic viability of ESS projects (DOER Reply Brief at 13; Zero-Point Development Brief at 4-5).

Intervenors also contend that the restrictions offer little value to ratepayers in the form of preserving the Distribution Companies' ability to generate market revenues to offset SMART Program costs; and that any benefit from doing so comes with the risk of lost solar and storage development in the Commonwealth (Attorney General Brief at 21-24; DOER Brief at 5-6; DOER Reply Brief at 12-13; SEIA Brief at 22-24; SEIA Reply Brief at 9-12). Specifically, intervenors assert that the Distribution Companies (1) have not quantified sufficient revenue benefit from the FCM, and, if the owner buys out the capacity rights, a Distribution Company would not have capacity rights to STGUs paired with ESS to bid into the FCM; (2) are entitled only to what likely are to be limited market revenues[68] from CPEC as financial compensation for SMART projects under the CPS[69] program, and that DC-coupled STGUs paired with storage constitute only a fraction of the total estimated market revenues; (3) have not quantified the precise amount of potential value these restrictions may earn in the FCM or CPS from behavioral changes based on the proposed

[68] The Distribution Companies estimate that the market revenues from CPECs is potentially $8.8 million, while projections for Whole Energy Revenue and Class I RECs are $1.79 billion and $2.56 billion, respectively (Exh. DPU 2-1, Att. (final)).

[69] Pursuant to St. 2018, c. 277, § 13, DOER established the Clean Peak Energy Standards thorough its Clean Peak Energy Standards Regulations at 225 CMR 21.00, with its associated Clean Peak Resource Eligibility Guideline (October 26, 2020).

restrictions; and (4) have not provided any analysis that takes into account administrative costs to pursue market revenue or that considers the costs to ratepayers of restricting ESS (Attorney General Brief at 21-23; DOER Brief at 5-6; DOER Reply Brief at 12-13; SEIA Brief at 22-25; SEIA Reply Brief at 9, 11-12). SEIA disagrees with the Distribution Companies' argument that Department precedent puts an obligation on them to capture any monetizable revenue associated with the operation of SMART facilities, asserting that the Department emphasized that its objective was not only to ensure that ratepayers receive the maximum potential direct and indirect benefits available from ISO-NE market revenue streams, but also to promote the Commonwealth's alternative and renewable energy policies, including the use of ESS (SEIA Reply Brief at 9-11, citing Net Metering, SMART Provision, and the Forward Capacity Market, D.P.U. 17-146-B at 15-16, 23 (2019)). The Attorney General and DOER concur that there is no need for the Distribution Companies to "future proof" the SMART Provision by requiring such restrictions on the operation of DC-coupled STGUs paired with ESS (Attorney General Brief at 23 n.5, citing Tr. at 164-165; DOER Brief at 6 n.18, citing Tr. at 164-165). DOER adds that the SMART Provision should contain specific, predictable limitations, pursuant to specific benefits, especially when incorporating broad controlling language (DOER Brief at 6 n.18). Relatedly, Zero-Point Development argues that there are administrative mechanisms in place to allow for future modifications of a tariff (Zero-Point Development Brief at 8).

The Attorney General and SEIA contend that imposing the restrictions (1) would lead to inefficiencies and, as a result, a loss of clean energy from converting AC to DC for

charging and then converting back from DC to AC for discharge; (2) may prevent the owner of the DC-coupled STGU paired with ESS from earning the federal investment tax credit; (3) would interfere with the operational requirements that are applicable to ESS paired with STGUs under the SMART Regulations; and (4) would have a "chilling effect" on the development of ESS in the Commonwealth (Attorney General Brief at 21-24; SEIA Brief at 20).

DOER maintains that, while some ESS operational restrictions that relate to grid reliability or safety are within the Distribution Companies' purview, the proposed restrictions do not relate to such concerns and are neither appropriate nor necessary (DOER Brief at 5). DOER asserts that as the state agency charged by statute with responsibility for both the SMART Program and CPS, it (1) already has included in the SMART Regulations considerations of the relative values and market circumstances as noted by the Distribution Companies for DC-coupled STGUs paired with ESS; and (2) will monitor whether additional changes are necessary to the SMART Regulations on ESS performance, which could result in revisions to the SMART Provision to address such circumstances (DOER Brief at 5-6). SEIA and Zero-Point Development also point out that a vague restriction on the ability to use an ESS asset is a substantial risk for ESS owners that may adversely impact revenue streams available to an ESS project, jeopardizing a project's eligibility for the SMART storage adder and discourage investment (SEIA Brief at 21; Zero-Point Development Brief at 5-8).

Finally, the Attorney General equates the proposed restrictions on charging in Section 5.3 to an interruption of firm service and recommends that the Department should

direct the Distribution Companies to develop firm and non-firm tariffs for storage charging in a separate proceeding, where a non-firm tariff could allow for operational restrictions (Attorney General Brief at 22-24).

ii. Distribution Companies

The Distribution Companies argue that the intent of the charging restrictions is to protect the Distribution Companies' ability to offset SMART Program costs for all distribution customers by capturing market revenue from STGUs that are benefiting from ratepayer-subsidized programs (Distribution Companies Brief at 23-27). In addition, the Distribution Companies opine that the restrictions are consistent with Department precedent and guiding principles, including those cited in Net Metering and Energy Storage Systems, D.P.U. 17-146-A (2019) and D.P.U. 17-146-B (2019),[70] which pose an obligation on the Distribution Companies to preserve and maximize STGU market revenue for the benefit of all distribution customers (Distribution Companies Brief at 24).

Regarding estimates of potential market revenues, the Distribution Companies maintain that (1) for STGUs that have not exercised their option to purchase capacity rights, the Distribution Companies largely have not pursued obtaining a Capacity Supply Obligation

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70 The Department confirmed the Distribution Companies' obligation to (1) register Class II and III net metering facilities with ISO-NE as settlement-only generators and (2) apply any market payments obtained to reduce the cost of the net metering program. D.P.U. 17-146-A at 17. With this registration, the Department determined that all Class II and III net metering facilities paired with ESS must meet the ISO-NE rules and requirements to ensure that the net metering facility can participate in the ISO-NE energy and capacity markets. D.P.U. 17-146-A at 17, 18.

in the FCM but instead engaged in the passive "Pay for Performance" option; and (2) they are unable to estimate the value of the "Pay for Performance" participation in the FCM due to variations in the program (Distribution Companies Brief at 25-26, citing Exhs. EDC-4; SEIA-EDC 1-6; Tr. at 160-161; 188-189). The Distribution Companies contend that they will earn an estimated $8,895,468 from participating in the CPS program, which, while small in comparison to the revenues they estimate they will earn from the ISO-NE energy market, is not insignificant, and is part of their obligation to monetize SMART assets for the benefit of ratepayers (Distribution Companies Brief at 25-26, citing Exhs. EDC-4; Tr. at 161-162, 188-189).

Regarding SEIA's claim that the restriction will have a chilling effect on the development of ESS in the Commonwealth, the Distribution Companies contend that SEIA has not provided any of the following: (1) financial analysis to support its claim that the restrictions will make ESS uneconomical; (2) data to show that applications for co-located ESS have slowed since December 2020 when the Distribution Companies offered their restrictions;[71] and (3) sufficient record evidence to suggest that the proposed language will have detrimental impacts or present significant barriers to the development of ESS in the Commonwealth (Distribution Companies Brief at 26).

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[71] NSTAR Electric and National Grid note there are several hundred megawatts of ESS in their interconnection queues (Distribution Companies Brief at 26 citing Tr. at 40).

Lastly, the Distribution Companies suggest that the Department can monitor the effect of the restrictions and the revenues captured in future SMART Factor cost recovery filings and revisit this matter in the future, if needed (Distribution Companies Brief at 27).

c. Analysis and Findings

In considering the proposed language in Section 5.3 of the SMART Provision which would restrict charging periods for DC-coupled STGUs paired with ESS and may impact market revenues the Distribution Companies would earn to offset SMART Program costs, we revisit the objectives and guiding principles the Department set forth in D.P.U. 17-146-A and in D.P.U. 17-146-B. In D.P.U. 17-146-B, the Department sought to establish a fair and efficient process for the Distribution Companies to enroll net metering and SMART facilities and participate in ISO-NE's FCM to earn market revenues to offset ratepayer-subsidized program costs. D.P.U. 17-146-B at 16. In that context, the Department identified four objectives in its investigation: (1) provide ratepayers with the greatest possible benefits from net metering and SMART facilities participating in the FCM because ratepayers provide significant subsidies to make those facilities commercially viable;[72] (2) maximize the benefits to all ratepayers of ratepayer-subsidized programs while also carrying out the Commonwealth's energy and environmental policy goals that are within our purview;[73] (3) favor (i) programs that provide direct bulk power system benefits and (ii) policies that can

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[72] Citing D.P.U. 17-140-A at 103.

[73] Citing Net Metering Rulemaking, D.P.U. 16-64-C at 4 (2016); Three-Year Energy Efficiency Plans, D.P.U. 12-100 through D.P.U. 12-111, at 136-137 (2013).

minimize ratepayer costs and charges on the bulk power system;[74] and (4) consider whether our acceptance of policies or rules will allow or encourage artificial and unfair manipulations of a regulatory system.[75] D.P.U. 17-146-B at 15-16.

In prior decisions, the Department emphasized the need to further the Commonwealth's policies to provide renewable and alternative energy for the immediate preservation of the public convenience and to promote the use of ESS throughout the Commonwealth. D.P.U. 17-146-B at 16, citing St. 2008, c. 169; St. 2016, c. 188, § 15. The Department also acknowledged the importance of maximizing direct and indirect benefits to ratepayers with furtherance of the Commonwealth's energy policy goals. D.P.U. 17-146-B at 16. These same factors are at issue in considering the proposed restriction on charging periods for DC-coupled STGUs paired with ESS in the SMART Provision.

In analyzing the Distribution Companies' proposed limitation on ESS, we balance the effect on ESS and the potential benefit of market revenue identified by the Distribution Companies. The record demonstrates that the adverse effects on ESS of the proposed limitation outweigh the identified potential benefits.

The record shows that this proposed charging limitation will require conversions by STGUs from DC to AC and by ESS from AC to DC and back to AC (Exh. SEIA-NP-1,

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[74] Citing D.P.U. 17-140-A at 99; Long-Term Contracts to Purchase Wind Power, D.P.U. 10-54, at 171-173 (2010); Electric Vehicles, D.P.U. 13-182-A at 14 (2014).

[75] Citing D.P.U. 17-146-A at 29; Net Metering and Interconnection of Distributed Generation, D.P.U. 11-11-C at 19, 22 (2012); Pricing and Procurement of Default Service, D.T.E. 99-60-B at 5-6, 10 (2000).

at 29). The resulting framework creates inefficiencies, loss of electricity, and a reduction in the climate benefits associated with STGU-ESS coupled resources.

Further, the data provided by the Distribution Companies regarding potential market revenue does not demonstrate a clear benefit to ratepayers from the proposed charging restriction. The Distribution Companies intend to seek STGU's participation in the following two markets: (1) DOER's CPS program and (2) ISO-NE's FCM (Exh. EDC-Rebuttal-1, at 14-16; Tr. at 161-166). The Distribution Companies estimate that they may earn total market revenues of approximately $8.9 million over 20 years from DOER's CPS program (Exh. EDC-4 Final, worksheet "3. SMART Net Costs", cell k15; Tr. at 161-163). This total $8.9 million applies to all STGUs, not to the subset of STGUs paired with ESS (Tr. at 80-83, 160-161). Also, the Distribution Companies did not calculate the proportion of CPECs that would be attributed to STGUs paired with ESS and the proportion that would arise as a direct result from a behavioral change attributed to the proposed charging restrictions (Tr. at 80-83, 160-161). The Distribution Companies have not quantified any market revenues associated with ISO-NE's FCM (Exh. EDC-4 Final, worksheet "3. SMART Net Costs", cells k14 and k15; Tr. at 161-163). The record demonstrates that the evidence of market revenues is too attenuated, and the amounts are relatively minimal over the 20-year program horizon[76] to constitute substantial evidence.

[76] STGUs with capacities larger than 25 kW AC are eligible to receive compensation under the SMART Program for 20 years. 225 CMR 20.07(1).

Therefore, the Department finds that the adverse effects of the proposed charging restriction on ESS outweigh the benefits presented by the Distribution Companies. Furthermore, this imbalance is inconsistent with our objective of furthering the Commonwealth's energy and environmental policy goals, and specifically the goal of promoting ESS throughout the Commonwealth. D.P.U. 17-146-B at 16, citing St. 2008, c. 169; St. 2016, c. 188, § 15.[77] Accordingly, the Department rejects proposed Section 5.3 ("Requirements for Standalone STGUs") and we find that neither version of the language restricting charging of DC-coupled ESS should be included in the SMART Provision. The Distribution Companies shall make a compliance filing consistent with these findings.

The Department recognizes that certain restrictions or requirements to safeguard grid reliability and safety may be appropriate for ESS interconnected to a Distribution Company's EPS.[78] On October 31, 2023, pursuant to Section 72 of the 2022 Clean Energy Act, each Distribution Company filed with the Department for review and approval an "Operational Parameters for Energy Storage Systems Tariff."[79] These tariffs are intended to govern

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[77] See also SMART "Guideline on Energy Storage," revised Sept. 22, 2021 (available at https://www.mass.gov/doc/ess-guideline-cleanfinal-092221/download) ("Energy storage can provide a variety of benefits across the electricity supply chain from generation to transmission and distribution").

[78] In this proceeding, the Distribution Companies' proposed charging restriction is intended to support the accrual of market revenue not to safeguard grid integrity, safety, and reliability.

[79] Massachusetts Electric Company and Nantucket Electric Company, D.P.U. 23-115; Fitchburg Gas and Electric Light Company, D.P.U, 23-117; NSTAR Electric Company, D.P.U. 23-126.

operational parameters applicable to ESS interconnected to each Distribution Company's EPS. These parameters include the operational and technical restrictions on an ESS facility, such as the charging and discharging schedule, limitations on the facility's capacity based on EPS infrastructure limitations, and the ability of the facility to incorporate future distributed energy resource management technology. The Department is in the process of initiating its review of these tariffs. Interested persons can follow these proceedings through the Department's File Room: http://eeaonline.eea.state.ma.us/DPU/Fileroom/dockets/bynumber (enter "23-115," "23-117," or "23-126").[80]

3. Annual True-Up Compensation Mechanism

a. Introduction

On May 12, 2021, DOER submitted a report in this proceeding[81] providing a resolution agreed to by the Distribution Companies, ISO-NE, the solar program administrator,[82] and members of the solar industry regarding a method to compensate a

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80 Another means for considering operational issues associated with ESS is the ESIRG. As noted above, the Department established the ESIRG, through its DG and Clean Energy Ombudsperson, to undertake a coordinated examination of ESS interconnection issues to inform the Department in the development of policies. D.P.U. 19-55-E at 5.

81 Also on May 12, 2021, DOER filed this report in Distributed Generation Interconnection, D.P.U. 19-55.

82 CLEAResult Consulting, Inc. ("CLEAResult") is the solar program administrator as selected by the Distribution Companies under DOER's SMART Program. CLEAResult is responsible for developing a SMART Program website and an application portal, for administering the initial request for proposals ("RFP") for solar projects, and for performing the review of the applications under the RFP.

DC-coupled solar facility paired with an ESS in the SMART Program for round-trip efficiency losses of renewable energy from charging and discharging the ESS[83] (Exhs. DOER-1, at 1; DOER-EDC-2-1 (Supp.), Att.; DPU 2-6).[84] The agreed-upon method provides for annual true-up payments based on:

- Actual metered losses of the ESS;
- Downward adjustment of those losses for otherwise expected one-way inverter and transformer losses, which would occur if AC-coupled; and
- To reduce the administrative burden of true-up calculation, a fixed value (%) for inverter losses to be established based on the specifics of the project and transformer losses.

(Exh. DOER-1).

Using this method and several generalizing assumptions, NSTAR Electric and National Grid estimate that over the 20-year life of the facilities in the SMART I and

[83] The May 12, 2021 DOER letter was designated in this proceeding as Exhibit DOER-1.

[84] The method to calculate the annual true-up compensation payment relies on a three-step process (Exh. DPU 2-6 & Att.). First, a full calendar year of 15-minute interval ESS DC net-metered energy output data from the Production Tracking System ("PTS") is summed to calculate an "ESS DC Round Trip Efficiency ("RTE") Loss" for the year. Second, the ESS DC RTE Loss is multiplied by a fixed inverter efficiency factor and a transformer efficiency factor to calculate an ESS AC Point of Interconnection ("POI") RTE Loss for the year. Third, the year's ESS AC POI RTE Loss is multiplied by the project-specific total SMART rate to calculate the true-up payment for the year (Exh. DPU 2-6, Att. at 1).

The PTS is a web-based application administered by the Massachusetts Clean Energy Center that tracks capacity and production of renewable energy systems that are installed across Massachusetts. The PTS is accessible here: https://www.masscec-pts.com/#/home.

SMART II programs,[85] DC-coupled STGUs paired with an ESS will experience losses, in sum, of approximately $25.5 million (Exh. DPU 2-6).[86] To incorporate this resolution into the SMART Provision, the Distribution Companies modified the SMART Provision to add Section 7.3, "True-Up Payments for DC-Coupled STGUs paired with ESS":

> For DC-Coupled STGUs paired with ESS, the Owner or Authorized Agent of the STGU may seek an annual "true-up" payment from the Company for any losses that may have reduced the STGU's Incentive Payments during the year. To qualify for such true-up payments, the Owner or Authorized Agent of the STGU must provide the DOER with energy flow measurements and meet all other requirements identified in the DOER's Guideline on Energy Storage

(Exhs. DOER-1, at 1; DOER-EDC-2-1 (Supp), Att., § 7.3). On brief, DOER proposed to modify the last sentence in proposed Section 7.3 as follows: "To qualify for such true-up payments, the Owner or Authorized Agent of the STGU must meet all requirements identified in DOER's Guideline on Energy Storage" (DOER Brief at 7).[87]

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85 "SMART I" refers to the initial 1,600 MW under the program structure as approved in D.P.U. 17-140, and "SMART II" refers to the 1,600 MW expansion approved in D.P.U. 20-145-A.

86 Unitil did not provide an estimate of program true-up costs stating that, at the time it responded to the Department's information request, Unitil did not have any DC-coupled STGUs paired with ESS on its distribution system (Exh. DPU 2-6).

87 DOER has updated its Guideline on Energy Storage at Section 5(c) to reflect that DOER will be responsible for verifying but not calculating the true-up payment (DOER Brief at 7-8).

b. Positions of the Parties

i. Intervenors

DOER supports the inclusion of Section 7.3 in the SMART Provision, as amended, arguing that the SMART Program was structured to compensate projects based on AC generation and that the identified stakeholders agreed to a methodology to estimate round-trip efficiency losses associated with DC-coupled ESS (DOER Brief at 7). DOER contends that its revision to proposed Section 7.3 of the SMART Provision is administrative in nature and is necessary to address how third parties, DOER, and the Distribution Companies will implement the true-up compensation process (DOER Brief at 7-8; DOER Reply Brief at 14). DOER maintains that its proposed revision will provide necessary clarity to the Distribution Companies and industry participants, will allow flexibility within the SMART Provision for potential minor changes to implementation, and are consistent with the SMART Regulations (DOER Brief at 8).[88]

In addition, DOER requests that the Department clarify whether the true-up compensation will apply from the date of the inclusion of Section 7.3 in the SMART Provision or whether the true-up compensation would be available on a retroactive basis for generation produced by STGUs prior to the inclusion of Section 7.3 in the SMART Provision (DOER Reply Brief at 14-15). DOER suggests that it is unclear, based on record evidence,

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[88] DOER maintains that this administrative change proposed to the SMART Provision is necessary to note that an STGU's performance data must be reported to the PTS, not DOER, and that DOER is responsible for verifying and not calculating the true-up payment (DOER Brief at 7-8).

whether the true-up compensation costs, as calculated by the Distribution Companies, include retroactive compensation to DC-coupled STGUs that are currently generating energy under the SMART Program (DOER Reply Brief at 14, n.66, citing Exh. DPU 2-6). DOER remarks that no other party commented on Section 7.3 in its initial brief and that the Distribution Companies support its proposed modifications in their brief (DOER Reply Brief at 14).

SEIA supports the Department's approval of the proposed Section 7.3 as revised by DOER (SEIA Brief at 26; SEIA Reply Brief at 13).

ii. Distribution Companies

The Distribution Companies submit that the Department should approve Section 7.3, subject to the changes proposed by DOER, as, by and large, all parties support approval, and they contend that DOER's revisions do not materially alter the intent or function of the provision (Distribution Companies Brief at 28).

c. Analysis and Findings

The Department finds that the agreed-upon true-up compensation method for DC-coupled STGUs paired with an ESS calculated as provided in Exhibit DPU-1 is reasonable. Further, we find that the proposed Section 7.3, as revised by DOER, is appropriate and, therefore, we approve that version of Section 7.3.

Although DOER requests clarification on brief[89] regarding prospective or retroactive calculation of the true-up compensation payments, the Department finds that it can apply a general regulatory principle in this matter without further consideration. Therefore, under a standard ratemaking principle, the Department finds that the approved true-up compensation payment provision shall apply with our approval of the revised SMART Provision and will not be available retroactively.

V. MUNICIPAL LOAD AGGREGATION ALTERNATIVE CSS/LICSS PROGRAMS

A. Introduction

The revised SMART Regulations provide for new alternative programs for (a) low-income community shared solar and (b) community shared solar. 225 CMR 20.06(1)(f) (LICSS); 225 CMR 20.06(1)(h) (CSS); see also St. 2016, c. 75, § 11(b)(vii). The revised SMART Regulations provide that electricity or bill credits attributable to generating units under these programs may be allocated through a municipal load aggregation program or through an LICSS or CSS program established and administered by a Distribution Company.[90] 225 CMR 20.06(1)(f)4; 225 CMR 20.06(1)(h)5. The criteria for these alternative programs are detailed in DOER's Guideline Regarding Alternative

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[89] We affirm our caution stated above in the Meter Ownership Section that the Department's standard practice is to decline to accept proposals made for the first time on brief. See footnote 59.

[90] The company-specific alternative CSS/LICSS plans submitted by NSTAR Electric and National Grid, generically referred to by the Distribution Companies as Community Solar Access Programs ("CSAPs"), are addressed in Section VI.

Programs for Community Shared Solar Tariff Generation Units and Low Income Community Shared Solar Tariff Generation Units (revised September 22, 2021) ("CSS/LICSS Guidelines").[91]

The CSS/LICSS Guidelines provide the eligibility criteria, processes, and procedures for STGUs to participate in the alternative CSS/LICSS programs. CSS/LICSS Guidelines, § (1). These Guidelines expressly provide that they are not intended to replace or supersede any statutory or regulatory requirements established for the creation and operation of any municipal load aggregation program. CSS/LICSS Guidelines, § (2). Further, the enrollment process for the alternative CSS/LICSS programs must be consistent with G.L. c. 164, § 134, and any requirements established by the Department. CSS/LICSS Guidelines, § (2)(b). Among off-taker[92] requirements, an applicant must: (1) list customers and the amount of electricity or bill credits being allocated to each customer; (2) demonstrate that electricity or bill credits are allocated monthly to each customer based on STGU production; (3) identify which customers are eligible Low Income Customers; and (4) demonstrate that no individual Low Income Customer is receiving a benefit from more than one of an applicant's alternative CSS/LICSS STGU at one time. CSS/LICSS Guidelines, § (2)(c). These Guidelines also provide that applicants must demonstrate how the STGU will remain eligible for the 20-year

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91 The CSS/LICSS Guidelines are available at https://www.mass.gov/doc/low-income-guideline-final-clean-092221/download (last visited May 24, 2024).

92 For purposes of these alternative CSS/LICSS programs, off-takers are those customer accounts to which eligible STGUs allocate electricity or bill credits. CSS/LICSS Guidelines, § 2(c)(i).

tariff term,[93] whether via (i) a contract between the municipality or municipal load aggregator and the owner of an STGU, including a commitment to provide the CSS/LICSS rate, or (ii) a contract between the municipality or load aggregator and the owner of an STGU outlining how a portion of the incentive payments made to the STGU will be passed on to participating municipal load aggregation customers. CSS/LICSS Guidelines, § (2)(e).

In its Scoping Order, the Department stated that its Phase I review of the SMART Program expansion and proposed SMART Provision would include the total estimated cost impacts of the SMART Program expansion, as well as modifications to programmatic rules and procedures that are funded by ratepayers. D.P.U. 20-145-A at 14. The Department specified that it would examine the new specialized CSS and LICSS programs and whether they are consistent with the rules and policies related to competitive electric supply. D.P.U. 20-145-A at 14 n.12, citing An Act Relative to Restructuring the Electric Utility Industry in the Commonwealth, Regulating the Provision of Electricity and Other Services, and Promoting Enhanced Consumer Protection Therein, St. 1997, c. 164 ("Restructuring Act"), and G.L. c. 164, § 134.

In framing this issue for examination, it is instructive to present information regarding participation of low-income customers in the SMART Program leading to DOER's

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93 Under the SMART Provision, all STGUs with capacities larger than 25 kW AC are eligible to receive compensation under this tariff for 20 years. See, e.g., National Grid SMART Provision, M.D.P.U. No. 1475, § 11.0.

promulgation of its revised SMART Regulations.[94] In investigating the initial SMART Provision and in approving the first Model SMART Provision, the Department considered barriers affecting participation by low-income customers in the SMART Program. See, e.g., D.P.U. 17-140-A at 58-59. As an example, the Department cited that residents of environmental justice ("EJ") populations bear a disproportionate environmental burden, have limited access to resources, and lack access to renewable energy. D.P.U. 17-140-A at 58. As evidence of a lack of this relevant participation, the Department cited that 33 percent of the Commonwealth's total affordable housing stock is located in NSTAR Electric's Northeast Massachusetts ISO-NE load zone, but only 7.5 percent of the solar facilities under the Commonwealth's predecessor solar programs SREC I and SREC II[95] serve affordable housing in this area. D.P.U. 17-140-A at 58 citing Exhibits BCC-KRR/SLM-1, at 31; BCC-KRR/SLM-10. In recognizing not only a regulatory need but also a public policy benefit to prioritizing direct benefits for low-income customers, the Department referenced an

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[94] The Department notes that the Attorney General's brief presented pertinent information on the issue including some Department pronouncements (Attorney General Brief at 28-29). Further, the Attorney General compiled data from the Distribution Companies' "SMART low-income customer quarterly reports" (Attorney General Brief at 29-30). The Department also notes that DOER identified applicable documentation regarding low-income customer participation on which it relied in developing its revised SMART Regulations (DOER Brief at 18-19).

[95] "SREC" refers to the Solar Renewable Energy Certificate Program. DOER established incentive programs to implement the legislated Solar Carve-out Program and as part of administering the Commonwealth's RPS. 225 CMR 14.00 (RPS Class I); 225 CMR 15.00 (RPS Class II); 225 CMR 16.00 (Alternative Portfolio Standards). The SREC Programs are predecessors to DOER's SMART Program.

Executive Order setting EJ as a governmental priority. Exec. Order No. 552, § 5(ii) (consider needs of EJ populations[96] in the structure of discretionary funding programs).

In examining the use of the SMART Provision as a means to advance these public policy directives regarding low-income customer access in the SMART Program, the Department made two determinations. First, the Department acknowledged that DOER has authority under the Solar Act to examine, consider, and resolve barriers to low-income customers' participation in the SMART Program. D.P.U. 17-140-A at 59-60, citing St. 2016, c. 75, § 11(b)(v), (vii). The Department recommended that DOER review the low-income incentives under the SMART Program because the Solar Act and state policy would support inclusion of low-income customers as an appropriate target population to benefit under the SMART Program. D.P.U. 17-140-A at 65. Several parties to D.P.U. 17-140 identified the so-called "400-MW milestone review"[97] as a tool for DOER to

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[96] In Massachusetts, an environmental justice population is a neighborhood where one or more of the following criteria are true: (1) the annual median household income is 65 percent or less of the statewide annual median household income; (2) people of color comprise 40 percent or more of the population; (3) 25 percent or more of households identify as speaking English less than "very well"; (4) people of color comprise 25 percent or more of the population and the annual median household income of the municipality in which the neighborhood is located does not exceed 150 percent of the statewide annual median household income. Executive Office of Energy and Environmental Affairs Environmental Justice Policy at 4 (2021). See https://www.mass.gov/info-details/environmental-justice-populations-in-massachusetts (last visited May 30, 2024).

[97] Pursuant to 220 CMR 20.07(5), upon DOER's issuing "Statements of Qualification" for 400 MW of STGUs, DOER conducted a review of the SMART Program (specifically base compensation rates, compensation rate adders, and overall ratepayer costs impacts) to determine if revisions to the SMART Program are necessary.

address the issue of the lack of participation of low-income customers in the SMART Program. D.P.U. 17-140-A at 57 (noting that the Distribution Companies, DOER, and Attorney General agree review of low-income incentives be best addressed in DOER's 400-MW review).

Second, the Department acknowledged that it had insufficient information to conclude that specific barriers are responsible for the lack of participation by low-income customers in the SMART Program. D.P.U. 17-140-A at 58-59. The Department stated that it did not have sufficient evidence that:

> (1) low-income customers and EJ population residents and advocates have or have not sufficiently participated in SMART Program implementation details to ensure fair distribution of benefits; and
>
> (2) sufficient numbers of low-income customers and residents of EJ populations will or will not directly benefit from the SMART Provision as designed.

D.P.U. 17-140-A at 68.

Accordingly, the Department directed the Distribution Companies to submit quarterly informational filings containing:

> (1) the number and capacity of LICSS STGUs in each capacity block in each service territory;
>
> (2) the number and capacity of CSS STGUs in each capacity block in each service territory;
>
> (3) the number and capacity of low-income property STGUs in each capacity block in each service territory; and

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DOER issues a Statement of Qualification to a STGU evidencing its eligibility to participate in the SMART Program. 220 CMR 20.02 (Definitions).

(4) the total number and capacity of STGUs in each capacity block in each service territory.

D.P.U. 17-140-A at 72-73.

B. Alternative LICSS Models

1. Introduction

In a Hearing Officer Memorandum issued July 30, 2021, the Department determined that additional investigation was necessary into the topic of municipal load aggregation, and that the examination of the new alternative CSS and LICSS programs would occur in Phase II of this proceeding. Hearing Officer Memorandum at 2 (July 30, 2021). In a Hearing Officer Memorandum issued after the conclusion of the Phase II evidentiary hearings, the Department requested that the parties address the topic of the role of municipal load aggregators, specifically:

> Where the competitive electric suppliers and municipal load aggregators operate in the same electric supply market, is it in the public interest for a ratepayer-funded program to provide for the allocation of credits only through a municipal load aggregation program and not also through competitive electric suppliers?

Hearing Officer Memorandum at 1 (October 25, 2021).

Numerous parties addressed the Department's query, through which we sought to inform our determination as to whether a program utilizing ratepayer funds and authorizing only municipal load aggregators and Distribution Companies to provide for the allocation of credits to their low-income customers is consistent with the Legislature's goal of ensuring a full and fair electricity market to all participants. St. 1997, c. 164, § 1(l).

2. Municipal Load Aggregators' LICSS Plans

a. Introduction

Based on information provided in this proceeding by parties that are municipal load aggregators,[98] those parties were planning LICSS programs through their municipal aggregation programs under the SMART Regulations and the CSS/LICSS Guidelines. The following are common elements for these alternative LICSS programs:[99]

- The electric supplier under the municipal load aggregation program would be qualified as a STGU eligible for the incentive compensation LICSS adder under the SMART Regulations (Exh. DOER-Colonial-1-1 & Att.). CSS/LICSS Guidelines, § 2; 225 CMR 20.02 (definition Low Income Community Shared Solar Tariff Generation Unit), 225 CMR 20.07(4)(b).
- The incentive compensation LICSS adder would be paid to the STGU by a Distribution Company under the Distribution Company's SMART Provision. D.P.U. 20-145-B at 3-4.
- Incentive compensation paid by a Distribution Company to a STGU is recovered by the Distribution Company from its ratepayers through its SMART Factor set forth in its SMART Provision. D.P.U. 20-145-B at 4.

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98 These parties/municipal load aggregators are: Boston (Petition to Intervene, ¶¶ 2, 3); Chelsea (Petition to Intervene, ¶ 3); the Compact (Petition to Intervene, ¶ II.5); and Newton (Petition to Intervene, ¶ 2).

99 None of the parties that are municipal load aggregators detailed plans for a distinct CSS program (Exhs. NG-1-2-Boston; NG-Compact-1-3; NG-1-3-Chelsea; NG-1-3-Newton).

- Pursuant to its ratemaking authority under G.L. c. 164, § 94, the Department has authority to approve both a Distribution Company's SMART Provision and its SMART Factor. D.P.U. 20-145-B at 13-14.
- Under its arrangement with its electric supplier, the municipal load aggregator would require that the supplier allocate a portion of the STGU's compensation rate to low-income customers that participate in the municipal load aggregation program (see, e.g., Exhs. DOER-Colonial-1-1; NG-Compact-1-2; NG-Boston-1-2).
- Municipal load aggregators contemplate implementing the allocation to low-income customers as a discounted rate (Exhs. DOER-Chelsea-1-1; DOER-Compact-1-1; DOER-Colonial-1-1; DOER-Newton-1-1; NG-1-2-Boston) or through bill credits (Exhs. DOER-Chelsea-1-1; DOER-Newton-1-1).

As stated above, the portion of a STGU's SMART incentive payments to be directed to municipal aggregation low-income customers as a rate discount or a bill credit is funded by all Distribution Company ratepayers, like all other SMART payments, via the Distribution Company's annually reconciled SMART Factor. This payment structure contrasts with the typical municipal load aggregation rate setting, where the municipal load aggregator sets supply rates only for those customers who choose to participate in the municipal aggregation. Those customers may opt out of the municipal aggregation in favor of either another competitive supply service or basic service. G.L. c. 164, § 134(a). In that context,

municipal load aggregators act with relative autonomy in entering a supply contract with an electricity supplier on behalf of their customers. See City of Lowell, D.P.U. 12-124, at 26-28 (2013) (acknowledging public officials' roles in running load aggregations, which the Department does not regulate in the same manner as electric competitive suppliers).

The municipal load aggregators detailed additional elements of their planned LICSS programs, which are in varying levels of finality, as described below.

b. City of Boston

In describing its proposed alternative LICSS program, the City of Boston ("Boston") explains that to implement its program, it thus far has negotiated and signed one contract for a term of 20 years with a solar developer which, in concert with the developer's participation in the DOER's SMART program (and meeting all compliance requirements therein), has committed to provide a stream of funds to Boston's program based on its solar production (Exhs. DPU-BOS-1-1; NG-1-2-Boston). Boston then would periodically establish a reduced charge for all of its plan's low-income customers, with the reduced charge funded by payments or a grant from solar developers to Boston's then-current load aggregation electricity suppliers (Exhs. DPU-BOS-1-1; NG-1-2-Boston). Under this approach, Boston explains that the city would incur no payment or other financial obligation, and it would not rely upon or employ bill credits (Exhs. DPU-BOS-1-1; NG-1-3-Boston). Instead, it would set a reduced price for low-income customers based upon the "grant" received from solar developers (Exhs. DPU-BOS-1-1; NG-1-3-Boston). Boston states an additional benefit of this

structure is the ease with which it may be administered and implemented by the utility (Exh. NG-1-3-Boston).

Noting that the ability of solar providers to meet the city's terms and conditions will be dependent, in part, on the economics of project development under the SMART Program (including the nature of the descending block compensation schedules, interconnection costs, and complicating factors created by regulatory delay and uncertainties), Boston states that it hopes to provide participating low-income consumers with a rate discount of approximately $0.02 per-kWh, although the city may elect to seek to exceed that target (Exh. DPU-BOS-1-1).

c. City of Chelsea and City of Newton

The City of Chelsea ("Chelsea") and the City of Newton ("Newton") anticipate the use of a discounted rate similar to Boston's, funded by payments from the STGU owner to a dedicated account; alternatively, credits could be allocated through a third-party payment provider recognized by the Distribution Company and would appear as credits on customers' bills (Exhs. DOER-Chelsea-1-1; DOER-Newton-1-1). Chelsea and Newton anticipate that their role in establishing a LICSS program would include selecting an STGU owner, entering into a contract with that entity, managing the opt-out process for customers eligible for low-income community solar, establishing the mechanism for delivery of credits to participating customers either through the program's electricity supplier or through a separate mechanism, and monitoring the delivery of credits to customers (Exhs. DPU-CHL-1-2; DPU-NWT-1-2).

d. The Compact

While noting that its work on an LICSS design is preliminary, the Compact details a potential structure for its alternative LICSS model. Under the Compact's approach, the developer of an LICSS STGU would arrange for the Distribution Company to direct all SMART incentive payments due under the SMART Provision to the developer (Exh. DOER-Compact-1-1). The developer would work with the Compact to supply an agreed-upon portion of the SMART incentive payment to the Compact (or directly to the Compact's selected supplier at the Compact's discretion) for the purpose of providing a rate discount to participating low-income customers (Exh. DOER-Compact-1-1). The supplier would create a separate power supply rate for LICSS program customers, to be determined by subtracting the discount from the Compact's regular residential power supply rate; the rate for LICSS program customers would adjust as part of the Compact's normal supply rate change schedule (generally every six months) (Exh. DOER-Compact-1-1). The discount amount would be trued up every six months to account for any differences in payments and customer load over the previous period (Exh. DOER-Compact-1-1).

C. Positions of the Parties

1. Distribution Companies

The Distribution Companies defer to DOER's judgment in establishing its design of the alternative LICSS program, including allocating electricity of bill credits to low-income customers through either municipal load aggregation programs established under G.L. c. 164, § 134 or through programs administered by a Distribution Company, without including

programs offered by competitive electric suppliers (Distribution Companies Brief at 38). The CSAPs proposed by NSTAR Electric and National Grid contemplate including their reduced-rate customers[100] that are on basic service[101] as well as those customers that receive generation service from a competitive electric supplier to participate in their alternative LICSS programs authorized by 225 CMR 20.06(f)(6) (Distribution Companies Brief at 38-39).

2. Attorney General

The Attorney General asserts that it is consistent with the municipal load aggregation statute, G.L. c. 164, § 134, for a municipality or municipalities to facilitate a CSS program[102] through its load aggregation (Attorney General Brief at 25). The Attorney General further argues that it is wholly consistent with the substantive requirements of a

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[100] NSTAR Electric will enroll customers in its reduced rates Rate R-2 and Rate R-4 in its proposed ECSAP regardless of customers' electric generation supplier (Distribution Companies Brief at 38, citing Exh. DPU-ES 1-10). Likewise, National Grid intends to allow both Rate R-2 customers receiving basic service and R-2 customers receiving generation service from a competitive supplier participating in National Grid's Purchase of Receivables Program to become subscribers in its SAI offering (Distribution Companies Brief at 38, citing Exh. DPU-NG-1-14).

[101] Basic service is the electricity service to a retail customer upon: (i) the inability of a customer to receive electricity supply from a competitive electric supplier; (ii) the failure of a retail customer to elect electricity supply from a competitive electric supplier; or (iii) upon the expiration of and a retail customer's failure to renew a competitive electricity supply contract. G.L. c. 164, § 1 (Definitions).

[102] In much of the discussion in the Attorney General's brief regarding these new, specialized solar programs established by DOER, she refers only to the CSS program. Based on the context of the discussion in the Attorney General's brief, we read this discussion as including both the CSS program and the LICSS program.

municipal load aggregation plan for a municipal load aggregator to facilitate a CSS program (Attorney General Brief at 25). Indeed, the Attorney General posits that the new SMART municipal load aggregation CSS and LICSS programs not only comport with the substantive requirements of G.L. c. 164, § 134, but would, in fact, further the goals of universal access, reliability, and equitable treatment of all classes of customers by ensuring that low-income customers are better able to participate in and benefit from the SMART Program (Attorney General Brief at 26). The Attorney General notes that the CSS/LICSS Guidelines stress consistency with G.L. c. 164, § 134, requiring any alternative CSS/LICSS program to use an enrollment process consistent with that statute, and requiring that applicants must demonstrate to DOER that a proposed CSS/LICSS program is consistent with a municipal load aggregation plan approved by the Department (Attorney General Brief at 26).

As to the rules and policies related to competitive electric supply, the Attorney General asserts that the SMART municipal load aggregation CSS and LICSS programs are consistent with those rules and policies governing competitive electric supply pursuant to the Restructuring Act (Attorney General Brief at 26). The Attorney General claims that the new programs further the clear goals and policies behind the Restructuring Act, including the goals of making affordable electric service available to all customers and keeping bills for low-income residents as affordable as possible (Attorney General Brief at 26-27). The Attorney General concludes that the new SMART municipal load aggregation programs will increase low-income customer access to and participation in the SMART Program, and also

will be consistent with the Restructuring Act's aim to use market forces to drive down costs (Attorney General Brief at 27).

Specifically addressing the Department's briefing question,[103] the Attorney General notes that there is nothing in the SMART Regulations or SMART Provision that would prevent competitive electric suppliers from participating in the SMART Program given that competitive electric suppliers can own STGUs, qualify for a wide variety of adders, include solar generation as part of their electricity supply offerings to their customers, own an LICSS STGU, qualify for the low-income adder, and transfer AOBCs to eligible off-takers like other solar developers (Attorney General Brief at 27-28). The Attorney General further observes there is nothing to prevent a competitive electric supplier from becoming an LICSS STGU owner that bids into a municipal load aggregation solicitation for LICSS (Attorney General Brief at 28). The Attorney General concludes that there is no doubt that the new SMART

[103] In addressing the Department's briefing question regarding the treatment of municipal aggregator compared to competitive supplier participation in the SMART Program, the Attorney General, DOER, and Chelsea and Newton raised concerns with certain business practices of competitive electric suppliers. In part, these parties reference or cite to "Are Consumers Benefiting from Competition, An Analysis of the Individual Residential Supply Market in Massachusetts," A Report by the Massachusetts Attorney General's Office, prepared by Susan Baldwin, March 2021 Update. NRG Retail Companies take exception to such comments, stating that those statements are not relevant to the matters at issue in this case and, specifically, that the Attorney General Report is not a part of the record in this case. The Department acknowledges the issuance of the Attorney General Report. As argued by NRG Retail Companies, however, those issues are not within the scope of this proceeding and the Attorney General Report is not part of the record in this case. Accordingly, the Department will decide the issues in this case without consideration of those issues regarding competitive electric suppliers raised on brief by those parties and the Department will not take into account the Attorney General Report.

municipal load aggregation CSS program will benefit ratepayers that have been underserved by the SMART Program (Attorney General Brief at 28).

The Attorney General argues that the SMART Program has failed to provide significant benefits for low-income customers, noting that the Department sought data to learn about SMART Program participation among target populations of low-income customers, EJ populations, residents of affordable housing, and renters (Attorney General Brief at 28-29, citing D.P.U. 17-140-A at 72). The Attorney General maintains that the collected data from the SMART Program demonstrates that low-income customers are missing out on direct credit benefits likely to lower individual bills and are not being offered the opportunity to participate in the Commonwealth's clean energy programs (Attorney General Brief at 29-30). The Attorney General argues that, while low-income customers have not been well served by the SMART Program to date, the ability of municipal load aggregations to participate in the SMART Program under the new alternative CSS program would offer real, appreciable benefits to the customers most in need (Attorney General Brief at 31).

The Attorney General requests that the Department establish a transparent process for approving amendments to existing municipal load aggregation plans (Attorney General Brief at 33-34). Specifically, the Attorney General recommends that the Department quickly confirm that municipal load aggregation projects seeking to participate in the SMART Program under the new municipal load aggregation CSS/LICSS Guidelines can move forward, and further that the Department provide clear guidance and a transparent, predictable, and expedited process by which approved municipal load aggregations could

amend or revise their existing plans so that they can participate in the SMART Program (Attorney General Brief at 34). The Attorney General recommends that, given the urgency in providing tangible benefits and savings to low-income customers, the narrowness of the question presented, and the potential preexisting authorization to make a similar offering as part of the Department's initial plan approval, the process be narrowly tailored and within a certain timeline, and that the Department provide guidance for municipal load aggregation programs that have open dockets and any future municipal load aggregation plans being filed for Department approval (Attorney General Brief at 34).

3. DOER

DOER states that, as specified through the SMART Regulations and CSS/LICSS Guidelines, successful implementation of an alternative LICSS program through a municipal load aggregation program requires that the applicant demonstrate that a proposal is consistent with the applicable provisions of G.L. c. 164, § 134 (DOER Brief at 17-18). DOER urges the Department to establish parameters for compliance with any requirements of the competitive electric supply rules and policies, as necessary, to allow for the successful implementation of this model in the near future to allow the benefits of solar generation to be realized by more low-income customers (DOER Brief at 18). DOER further requests that the Department consider establishing a procedure for expedited review of amended load aggregation plans designed to participate in the alternative CSS/LICSS programs that are permitted through the SMART Program (DOER Brief at 18).

As to the Department's briefing question, DOER contends that its SMART Program is in the public interest and consistent with the requirements of the Solar Act in supporting diverse installation types and sizes that provide unique benefits and in creating avenues for additional participation by low-income customers in the SMART Program (DOER Brief at 18-19). DOER states that it amended the SMART Regulations to create alternative CSS and LICSS programs and allow for allocation of applicable credits through municipal load aggregation programs, so long as the programs meet the requirements established pursuant to G.L. c. 164, § 134, or through programs established by Distribution Companies (DOER Brief at 19). DOER took this action following documentation in its 400-MW milestone review that revealed that LICSS and Low Income Property Solar Tariff Generation Units[104] represented only 2.5 percent of submitted and qualified SMART Program capacity (DOER Brief at 19; DOER Reply Brief at 9). DOER contends that by expanding eligibility of the SMART Program to municipal load aggregation programs, it created a pathway to overcome market barriers to low-income customers' participation in the SMART Program (DOER Brief at 19; DOER Reply Brief at 9).

DOER agrees with the Attorney General in asking for clear guidance from the Department and for a transparent, predictable, and expedited process for any specific regulatory treatment of LICSS programs for approved municipal load aggregation plans, for

[104] A STGU with a rated capacity greater than 25 kW that provides all of its generation output in the form of electricity or bill credits to low- or moderate-income housing, as defined under G.L. c. 40B. 225 CMR 20.02 (Definitions).

those with open dockets before the Department, and for any future municipal load aggregation plans (DOER Reply Brief at 9-10). DOER reiterates its request that the Department establish parameters for compliance with any requirements of the competitive electric supply rules and policies, as necessary, to allow for the successful implementation of this model in the near future, allowing more low-income customers to realize the benefits of solar generation (DOER Reply Brief at 10).

4. Ampion

Ampion requests that the Department make clear that allowing low-income customers to participate in the SMART Program through municipal load aggregation programs does not preclude such participants from also participating in another CSS, LICSS, or alternative CSS/LICSS program (Ampion Brief at 2; Ampion Reply Brief at 3-4). While Ampion observes that numerous parties have asserted this position, it argues that a clarification by the Department to this effect is critical for the municipal load aggregators and the solar industry (Ampion Brief at 2). Ampion notes that Boston and the Compact have explained that their programs would provide an electricity supply discount to all low-income customers in their municipal load aggregation programs without impacting the opportunity for their customers also to participate in another CSS (Ampion Reply Brief at 3). Comparatively, the potential Newton and Chelsea programs may provide credits program to low-income customers through an opt-out enrollment; Ampion observes that it is not clear whether such participants could also benefit from another CSS program (Ampion Reply Brief at 3). Where municipal load aggregation programs provide benefits to low-income customers without assigning

individual customers to a discrete site and without allocating a specific amount of SMART credits[105] to those customers, Ampion asserts that those customers should be able to enroll in a traditional CSS program through a third-party provider to allow those customers to maximize the benefits of participation in the SMART Program (Ampion Reply Brief at 3-4).

5. Boston and the Compact

Boston and the Compact state that they both have municipal aggregation plans approved by the Department (Boston and Compact Brief at 4, citing City of Boston, D.P.U. 19-65 (2020); Cape Light Compact, D.P.U. 14-69 (2015); Cape Light Compact, D.P.U. 17-95 (2017)). As detailed above, Boston and the Compact have pursued the establishment of LICSS programs utilizing a model wherein their participating low-income customers would receive a discounted rate. Boston contends that it was prepared to deliver savings in early 2021 with a targeted savings level amount of $0.02 per kWh, before the Department's Chair sent a letter asserting that (i) Boston could not implement the low-income discount given that the review of the applicable tariffs was pending in this proceeding, (ii) the discount had not been approved in the Boston municipal load aggregation plan, and (iii) the

105 Numerous parties refer to allocation of undefined "SMART credits." It appears that these parties are referring to the total compensation rate due to a STGU, and the contracted-for share or amount of that rate due to the municipal load aggregator and its low-income customers through the alternative CSS/LISCC framework (see Exh. NG-1-2-Boston, describing a contract for a stream of funds with a STGU that will be converted into a rate discount for its low-income customers participating in the LICSS program).

discount may not be consistent with G.L. c. 164, § 134 (Boston and Compact Brief at 5, citing Exh. DPU-BOS-1-1)).

Boston and the Compact argue that what began as a proceeding to address certain rate matters with respect to the revised SMART Regulations and guidelines has been expanded in scope to address concerns related to alternative LICSS programs offered through municipal load aggregators (Boston and Compact Brief at 1). Boston and the Compact argue that DOER's use of municipal load aggregations to deliver SMART Program benefits to low-income customers is commendable, and nothing in these programs prevents competitive electric suppliers from likewise participating in the SMART Program (Boston and Compact Brief at 2, 9). Indeed, Boston and the Compact claim that the alternative LICSS programs contemplated by Boston and the Compact would actively involve their competitive electric suppliers and would not bar competitive electric suppliers and solar developers from pursuing other, creative forms of LICSS (Boston and Compact Brief at 2, 8). They further emphasize that the proposed alternative LICSS programs rely upon contractual coordination with competitive electric suppliers to deliver benefits to low-income customers, which is distinct from the use of "on bill" credits (Boston and Compact Brief at 8). Boston and the Compact assert that the SMART Program does not preclude competitive electric suppliers from pursuing such structures (Boston and Compact Brief at 8).

Boston and the Compact express several procedural concerns, noting that while the Department seemingly elected to add alternative LICSS programs to its investigation via the Scoping Order, the Department has not specifically identified what alternative LICSS

program issues are under examination and has not conducted any focused investigation on the topic beyond the briefing question and certain information requests (Boston and Compact Brief at 2, 9, 11). Boston and the Compact assert that the Department has limited authority over the SMART Program, which is under DOER's exclusive jurisdiction, and over municipal load aggregation programs with established aggregation plans pursuant to G.L. c. 164, § 134 (Boston and Compact Brief at 2-3; 6-7; 9-10). Specifically, Boston and the Compact argue that the Department has the authority pursuant to G.L. c. 164, § 94 to investigate revisions to the Distribution Companies' SMART Provisions related to the amended SMART Regulations but, because the alternative LICSS programs did and do not require any tariff revisions, the Department should not disregard DOER's authority to determine the eligibility of alternative LICSS programs in the context of a tariff review (Boston and Compact Brief at 10-11).

Boston and the Compact argue that the Department's authority over municipal load aggregator programs in a competitive electric supply market is substantially limited by statute and that their load aggregation plans already permit alternative LICSS programs to be implemented (Boston and Compact Brief at 7, 9, 11-12; Boston and Compact Reply Brief at 1-2). Given that Boston and the Compact have approved municipal load aggregation plans, they assert that the Department lacks a statutory supervisory authority over the ongoing functions of municipal load aggregator programs operating in continuing compliance with criteria required by statute (Boston and Compact Brief at 12-13). Boston and the Compact emphasize that under the relevant statutory authority, the Department does not have the

express ability to regulate alternative LICSS programs and does not have the authority to regulate municipal load aggregator programs in the same manner as regulating competitive electric suppliers (Boston and Compact Brief at 12-13). They also assert that their alternative LICSS programs would not affect their municipal load aggregation programs' compliance with core statutory criteria of universal access, reliability, and equitable treatment required by G.L. c. 164, § 134 (Boston and Compact Brief at 13-14; Boston and Compact Reply at 1-2).

As to their approved municipal load aggregation plans, Boston and the Compact argue that their implementation of alternative LICSS programs is consistent with their plans' language on renewable energy and program fees, making it unnecessary for the Department to act on those programs (Boston and Compact Brief at 14-18). To the extent that the Department directs all current municipal load aggregators to expressly reference alternative LICSS in their load aggregation plans, the Department should, at most, direct municipal load aggregators to make expedited, administrative compliance filings not subject to adjudication or approval by the Department (Boston and Compact Brief at 14-15; Boston and Compact Reply Brief at 2).

Based on their view of the Department's authority and jurisdiction, Boston and the Compact request that the Department refrain from issuing any directives or rulings relative to established municipal load aggregation programs that would limit their implementation of alternative LICSS programs (Boston and Compact Brief at 3, 12). Boston and the Compact claim that they have the authority under their municipal load aggregation plans to implement alternative LICSS programs without any Department directives, and further that the

Department does not have the authority to overrule DOER's program design (Boston and Compact Brief at 3, 9-11).

Regarding the Department's identified issue of the delivery of SMART Program benefits to low-income customers, Boston and the Compact contend that the Commonwealth's EJ goals are well served by employing municipal load aggregators in this context (Boston and Compact Brief at 8). They argue that the Department should not frustrate the intent of the Commonwealth's laws and policies related to low-income customers by issuing directives in this proceeding that act as a barrier to the delivery of those benefits called for by legislation (Boston and Compact Brief at 19). Specifically, Boston and the Compact note that the Solar Act requires differentiation of incentive levels to support installation types and sizes that provide unique benefits, such as CSS and LICSS facilities (Boston and Compact Brief at 19 citing Solar Act, § 11(b)(vii)). In addition, Boston and the Compact observe that the 2021 Climate Act requires that, when the Department initiates a regulatory process for any new solar incentive program developed by DOER pursuant to Section 11 of the Solar Act or any other general or special law or other authority, the Department shall, to the greatest extent feasible, among other things, (i) provide equitable access to all Massachusetts ratepayers, including low-income ratepayers; and (ii) address solar energy access and affordability for low-income communities (Boston and Compact Brief at 19 citing 2021 Climate Act, § 94). They contend that the 2021 Climate Act set an ambitious greenhouse gas ("GHG") reduction goal with a specific focus on electrifying the building sector in an equitable manner; they maintain that alternative LICSS programs could and should play an

integral role in offsetting any potential increase in overall energy burden that may result when low-income customers electrify their homes (Boston and Compact Brief at 19, citing 2021 Climate Act, § 99). Boston and the Compact request that the Department account for these laws and policies supporting low-income customers in solar development in its consideration of alternative LICSS program issues (Boston and Compact Brief at 19-20).

6. Chelsea and Newton

Chelsea and Newton argue that municipal load aggregation programs should be allowed to allocate bill credits through LICSS and CSS programs because such a practice benefits low-income customers, reflects a reasonable distinction between municipal load aggregation programs and competitive electric suppliers, and does not impair the ability of competitive electric supply customers to obtain SMART Program credits (Chelsea and Newton Brief at 2). If the Department determines that it is not appropriate to distinguish between municipal load aggregation programs and competitive electric suppliers regarding their ability to allocate SMART Program credits, Chelsea and Newton argue that the Department should extend that ability to competitive electric suppliers rather than deny it to municipal load aggregation programs (Chelsea and Newton Brief at 2).

Chelsea and Newton argue that, while the Department requested that the parties brief the question of potential impacts to the competitive electric supply market, the primary test of whether a policy is in the public interest is whether that policy helps the public (Chelsea and Newton Brief at 4). Specifically, Chelsea and Newton claim that allocating SMART Program credits through municipal load aggregation programs will serve the public interest

by increasing the share of those credits going to low-income customers, which have been underserved by the current mechanisms for allocating SMART Program credits, and that such allocation would be more efficient and at a lower cost than the current mechanism (Chelsea and Newton Brief at 4). These municipalities explain that municipal load aggregation programs will deliver net credits (the full SMART Program credit minus the solar developer's share of the credit) to the low-income customer, eliminating the need for a bill payment by the customer to the developer (Chelsea and Newton Brief at 4). By utilizing opt-out customer enrollment, Chelsea and Newton contend that municipal load aggregation programs can all but eliminate customer acquisition costs for load aggregators (Chelsea and Newton Brief at 4).

Chelsea and Newton assert that it is in the public interest to distinguish between municipal load aggregation programs and competitive electric suppliers with respect to programs for low-income customers, noting that municipal load aggregation programs are run by public entities for public purposes and governed by Department-approved plans, and competitive electric suppliers are private firms operated for profit (Chelsea and Newton Brief at 5).

Chelsea and Newton additionally argue that allowing SMART credits to be allocated through municipal load aggregation programs does not harm the competitive electric supply market because competitive electric supply customers will continue to have access to those credits through other mechanisms (Chelsea and Newton Brief at 6). These municipalities maintain that the SMART Regulations provide for a new mechanism for providing an LICSS

program to participants in municipal load aggregation programs, but that the SMART Regulations do not impact those community solar firms that currently offer service without regard to the customer's electric supply choice (Chelsea and Newton Brief at 6). Because LICSS programs will remain available to all customers without regard to their supply choice, Chelsea and Newton conclude that allowing bill credits to be allocated through municipal load aggregation programs is consistent with the Department's policies regarding competitive electric supply (Chelsea and Newton Brief at 6).

7. Colonial Power Group[106]

Colonial Power contends that it has worked to develop and implement a contractual structure that would enable a municipal load aggregation plan to enter long-term agreements to enable certain solar generation facilities to qualify for LICSS incentive payments that would, in turn, provide the funding (like a grant) for reduced energy pricing for all low-income customers served by that plan (Colonial Power Brief at 1). Colonial Power states it serves the Boston municipal load aggregation program with such an agreement in place or planned (Colonial Power Brief at 1). Colonial Power states that in the Boston example, the city estimates that this structure would deliver up to $50 million over 20 years with plans targeting savings of approximately $8 to $12 per low-income customer, per month (Colonial Power Brief at 1). Colonial Power supports the arguments of Boston and the

[106] Colonial Power Group provides energy advisory and management services, including administrative services for municipal load aggregation plans (Colonial Power Brief at 1).

Compact of this structure (Colonial Power Brief at 1; Colonial Power Reply Brief at 1). Colonial Power concludes that this alternative contractual structure for LICSS is consistent with applicable law and materially advances a range of energy, environmental, and EJ policies (Colonial Power Brief at 1; Colonial Power Reply Brief at 1).

8. SEIA[107]

SEIA argues that the Department should not delay action on municipal load aggregation programs under the SMART Program to evaluate possibilities for serving customers through competitive electric suppliers, but also that the Department should consider additional options for serving low-income customers outside of this proceeding (SEIA Brief at 36-37; SEIA Reply Brief at 17). SEIA states that the SMART Regulations and associated guidance currently allow municipal load aggregators to allocate bill credits, and SEIA supports policies that allow for more customers to conveniently access the benefits provided by solar resources (SEIA Brief at 35-36, citing 225 CMR 20.06(1)(f)(4) and (h)(5); CSS/LICSS Guidelines). SEIA strongly supports policies that expand opportunities for low-income customers to participate in the SMART Program and asserts that allowing competitive electric suppliers to allocate credits generated by STGUs could also benefit customers (SEIA Brief at 36). SEIA maintains that pursuing a program for allocating credits through competitive electric suppliers is not a basis for delaying implementation of a program

107 SEIA states that it is the national trade association of the U.S. solar energy industry, representing organizations that promote, manufacture, install, and support the development of solar energy (SEIA Petition for Leave to Intervene at 1).

for allocating bill credits to low-income customers through municipal load aggregation programs (SEIA Brief at 36). SEIA asserts that new mechanisms for serving low-income customers are needed to overcome the barriers to participation that have so far prevented the SMART Program from equitably serving all residents of the Commonwealth (SEIA Brief at 36-37). If the Department determines that additional process is appropriate to investigate whether a program for allocating credits through competitive electric suppliers is in the public interest and should be established, SEIA argues that such a process should occur in a separate docket, or as a separate phase of this docket, and should not delay implementation of a program for allocating credits through municipal load aggregation programs (SEIA Brief at 37).

9. NRG Retail Companies[108]

NRG Retail Companies agree with those parties expressing support for alternative LICSS programs established through municipal load aggregation programs, and they recognize these alternative programs provide a means to expand opportunities for low-income customers to participate in the SMART Program (NRG Reply Brief at 2). Consistent with the Attorney General's arguments, NRG Retail Companies assert that the SMART Program has failed to provide significant benefits to low-income customers and support the Department's statement that "there is a public policy benefit to prioritizing direct incentives for low-income customers consistent with state law and policy" (NRG Reply Brief at 2, citing

[108] NRG Retail Companies are a licensed competitive electric supplier and a supplier for Department-approved municipal load aggregation plan (NRG Reply Brief at 1).

Attorney General Brief at 28-30; Boston and Compact Brief at 19; D.P.U. 17-140-A at 62). NRG Retail Companies concur with Boston and the Compact that G.L. c. 164, § 134 should not be interpreted as requiring municipal load aggregators to submit amended load aggregation plans to the Department for review and approval in order to proceed with a SMART-based LICSS program (NRG Reply Brief at 2). NRG Retail Companies assert that if the Department requires filing amended municipal load aggregation plans for approval of a LICSS program, the process should be expedited (NRG Reply Brief at 2-3).

As to the alternative LICSS proposals detailed by Boston and the Compact (discounted electricity supply rate to low-income customers) and Chelsea and Newton (net credits to low-income customers), NRG Retail Companies urge that municipal load aggregators establish LICSS plans that meet each municipality's unique energy needs and policy objectives (NRG Reply Brief at 3, citing Boston and Compact Brief at 5, 6; Chelsea and Newton Brief at 4). NRG Retail Companies state that, if further approval is required, they will work with load aggregators and municipal officials to help facilitate the implementation of these new programs in an efficient and effective manner consistent with each municipality's master electric supply agreement (NRG Reply Brief at 3).

As to the Department's briefing question regarding the competitive electric supply market, NRG Retail Companies agree with other parties that customers of competitive electric suppliers currently are not precluded from participating in CSS and LICSS programs (NRG Reply Brief at 4). In the specific alternative LICSS programs contemplated by Boston and the Compact, NRG Retail Companies maintain that competitive electric suppliers would

provide the discounted rate to participating consumers without the suppliers having to take undue commercial risk (NRG Reply Brief at 4, citing Boston and Compact Brief at 8). Further, competitive electric suppliers can participate in the SMART Program through ownership of STGUs and Low-Income STGUs, by qualifying for adders including low-income adders, and by including solar generation as part of electric supply offerings to customers (NRG Reply Brief at 4). NRG Retail Companies add, however, that low-income customers could benefit more widely if the SMART Program were revised to allow competitive electric suppliers to offer SMART-based CSS and LICSS programs in a manner similar to the offering of such programs by municipal load aggregators (NRG Reply Brief at 4). NRG Retail Companies assert that such a possibility need not delay action on municipal load aggregation programs under the SMART Program, but they recommend that the Department consider SEIA's suggestion for a separate process to investigate whether it would be in the public interest to establish a program for allocation of SMART credits through competitive electric suppliers (NRG Reply Brief at 4-5).

D. Analysis and Findings

1. Low-Income Customers' Participation in the SMART Program

The data presented in the informational reports filed by the Distribution Companies as directed by the Department confirm the contentions of parties to the proceeding where the Department approved the initial Model SMART Provision that low-income customers (1) had limited access to the SMART Program and (2) fail to receive equitable benefits from the

SMART Program.[109] The following table demonstrates that only a small percentage of SMART STGUs are reaching low-income customers.[110]

NSTAR Electric Service Territory (Program Launch Through March 31, 2021)**		
	Number	**Capacity (kW)**
LICSS STGUs	6	7,824.4
Low Income Property STGUs	3	646.9
Total SMART Program STGUs	10,376	171,294.5
National Grid Service Territory (Program Launch Through June 30, 2021)***		
LICSS STGUs	4	4,110.10
Low Income Property STGUs	1	58
Total SMART Program STGUs	14,841	340,313.27

** D.P.U. 17-140, NSTAR Electric Low-Income Quarterly Report at 2 (April 20, 2021); Exh. ES-ACB-IH-1, at 9.

*** D.P.U. 17-140, National Grid Low-Income Quarterly Report at 4 (July 26, 2021).

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109 See, e.g., D.P.U. 17-140-A at 58: parties testified to barriers to participation in renewable energy incentive programs for populations including low-income residents, citing exhibits from BCC Solar Advantage, Inc. and SEIA.

110 In presenting this table, the Department has replicated the table included by the Attorney General in her brief at page 30. In replicating the Attorney General's table, the Department has confirmed the data and the source citations.

With this type of information, and following its legislative mandate,[111] DOER as part of its 400-MW review of the SMART Program expressly examined "accessibility of program to low income communities." DOER, "SMART Program 400 MW Review" at 3 (September 5, 2019).[112] In pursuing this undertaking, DOER also seemed to heed the informed recommendations of the Department and parties. See, e.g., D.P.U. 17-140-A at 59-60 (a complete determination of barriers to low-income customer participation in the SMART Program is best left for DOER); at 65 (Department recommends DOER review the low-income incentives in the SMART Program); at 57 (Distribution Companies agree with DOER that a review of low-income incentives is best addressed during DOER's 400-MW review). Consistent with the data reported by the Distribution Companies, DOER found that qualified applications for low-income eligible rates represented only 2.5 percent of all qualified SMART capacity. DOER, "SMART Program 400 MW Review" at 19.

Thus, DOER proposed to stakeholders to include low-income participation in the SMART Program through a Distribution Company-established program and through municipal load aggregation programs. DOER, "SMART Program 400 MW Review" at 20.

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[111] DOER established the SMART Program consistent with the Legislature's directive for it to establish a statewide solar incentive program to encourage continued use and development of solar generation throughout the Commonwealth. St. 2016, c. 75, §§ 11(a) and (b). Another key directive of the Legislature for the statewide program under the Solar Act was to differentiate incentive levels to support diverse installation types and sizes that provide unique benefits to, among others, community-shared solar facilities and low-income solar facilities. St. 2016, c. 75, § 11(b)(vii).

[112] Available at https://www.mass.gov/doc/smart-400-mw-review-straw-proposal-090519/download (last visited May 30, 2024).

As is apparent, DOER converted these proposals in its amended SMART Regulations into its alternative LICSS programs at 225 CMR 20.06(f).

In consideration of the Legislature's directives to DOER under the Solar Act, our recommendations to DOER in D.P.U. 17-140-A, and basic administrative practice, the Department defers to DOER in the design of the SMART Program through its regulations. In further consideration of the evidence demonstrating the failings of the SMART Program in accessibility for low-income customers, the Department finds that DOER's establishment of alternative LICSS programs under the SMART Program with allocation of SMART credits through a municipal load aggregation program or through a program administered by a Distribution Company is appropriate. Further, we find that funding these alternative LICSS programs through the SMART Provision is permissible. Also, we find that the use of bill credits or rate discounts to provide benefits to low-income customers through an LICSS program administered under a municipal load aggregation program is acceptable.

The Department's full acceptance of DOER's alternative LICSS program funded through the SMART Provision is subject to our consideration of the competitive electric supplier issues addressed in the next section.

2. Competitive Electric Suppliers

As explained above, the basis of the Department's briefing question is founded on a declaration of the Restructuring Act to ensure a full and fair electricity market to all participants. St. 1997, c. 164, § 1(l). Reinforcing this principle, the Legislature also declared that broad consumer choice in generation service will advance its goals. St. 1997,

c. 164, § 1(k). Generation service is provided by three means: Distribution Companies (basic service)[113] pursuant to G.L. c. 164, § 1B; competitive electric suppliers pursuant to G.L. c. 164, § 1F; and municipal load aggregation pursuant to G.L. c. 164, § 134. The root of the Department's briefing question is that DOER's alternative LICSS programs are provided through Distribution Companies and municipal load aggregators, but not through competitive electric suppliers.

In light of this fact and in consideration of our findings and determinations provided in the prior section, the Department examines whether competitive electric suppliers are unduly disadvantaged under the SMART Program.

As several parties identify, there is nothing in the SMART Regulations that would prevent competitive electric suppliers from participating in the SMART Program. Competitive electric suppliers can own STGUs, can qualify for a variety of incentive adders, and can include solar energy resources as part of their menu of electricity supply offerings to customers (Attorney General Brief at 27; NRG Retail Companies Reply Brief at 4). Competitive electric suppliers can own an LICSS STGU, can receive the low-income incentive adder, and can transfer AOBCs to eligible off-takers just as any other solar developer (Attorney General Brief at 27-28; NRG Retail Companies Reply Brief at 4). Similarly, nothing in the SMART Regulations prevents a competitive electric supplier from

[113] Initially, the term default service referred to generation service provided by a Distribution Company; that term has been replaced by basic service. Procurement of Default Service Power Supply for Residential and Small and Industrial Customers, D.T.E. 04-115-A (2005).

becoming an LICSS STGU owner who bids into a municipal load aggregation solicitation for an LICSS program (Attorney General Brief at 28). The Department affirms these contentions.

Further, DOER's informed efforts in its 400 MW review advances an important public policy in prioritizing participation of low-income customers in the SMART Program with resultant direct benefits for those-income customers. D.P.U. 17-140-A at 62; Executive Order No. 552, §5(ii); Environmental Justice Policy of the Executive Office of Energy and Environmental Affairs, at 5 (June 21, 2021) ("2021 EEA EJ Policy"). The design of DOER's alternative LICSS program to increase low-income participation in the SMART Program is consistent with the Restructuring Act's declarations that "affordable electric service should be available to all consumers" (Restructuring Act, §1(b)) and "the restructuring of the existing electricity system should not undermine the policy of the commonwealth that electricity bills for low-income residents should remain as affordable as possible." Restructuring Act, §1(n). Also, at a base level, DOER's alternative LICSS program is consistent with the Legislature's directive in establishing a statewide solar incentive program that:

> [D]ifferentiates incentive levels to support diverse installation types and sizes that provide unique benefits, including, but not limited to, community-shared solar facilities, low-income solar facilities and municipal or other governmental entity-owned solar facilities, and which may include differentiation by utility service territory, location or size of the solar renewable energy generating source.

St. 2016, c. 75, § 11(b)(vii).

Based on a consideration of the entire SMART Program and DOER's advancement of important energy policies of the Commonwealth with its SMART Regulations, the Department finds that competitive electric suppliers are not unduly disadvantaged by the current structure of the alternative LICSS program set out in the SMART Regulations. In conclusion, the Department finds that the content in the proposed SMART Provision regarding the alternative LICSS program is acceptable and we approve it.

Some parties have recommended that the Department initiate a process to consider the inclusion of competitive electric suppliers in the administration of an alternative LICSS program under the SMART Program. As we have stated above, the Legislature has provided DOER with the authority to establish a statewide solar incentive program (the SMART Program). St. 2016, c. 75, §§ 11(a) and (b). Consistent with DOER's authority and with our stated deference to DOER, the Department recommends that, in any future review of the SMART Program and the associated SMART Regulations, DOER examine whether competitive electric suppliers could administer an alternative LICSS program in a manner similar to current role of Distribution Companies and municipal load aggregators.

3. Conclusion

Above, the Department finds that: (1) DOER's establishment of alternative LICSS programs under the SMART Program with allocation of SMART credits through a municipal load aggregation program or through a program administered by a Distribution Company is appropriate; (2) funding these alternative LICSS programs through the SMART Provision is permissible; (3) the use of bill credits or rate discounts to provide benefits to low-income

customers through an LICSS program administered under a municipal load aggregation program is acceptable; and (4) competitive electric suppliers are not unduly disadvantaged by the current structure of the alternative LICSS program set out in the SMART Regulations. The remaining issue for the Department to decide is its appropriate role in reviewing and approving municipal aggregation LICSS program designs.

On August 15, 2023, the Department opened an investigation into Establishing Guidelines for Municipal Aggregation Proceedings, D.P.U. 23-67. Accompanying this Order were (1) Appendix A, Draft Municipal Aggregation Guidelines and (2) Appendix B, Draft Template Plan. D.P.U. 23-67, App. A and App. B. The Department invited interested stakeholders to submit written comments on each Appendix, with initial comments due by September 18, 2023, and reply comments due October 19, 2023. D.P.U. 23-67, at 8.[114] In response to the Department's solicitation of comments, the Department received 40 sets of initial comments and 12 sets of reply comments. After review of the comments and in response to specific requests for a technical session, the Department convened a technical session on December 20, 2023. D.P.U. 23-67, Hearing Officer Memorandum (November 15, 2023). Consistent with the comprehensive agenda issued by the Department,[115] stakeholders and Department staff discussed the Draft Municipal Aggregation

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[114] In ruling on the Motion to Amend Procedural Schedule filed by Colonial Power, the Hearing Officer set the following deadlines: written initial comments due by October 6, 2023, and written reply comments due by November 6, 2023. D.P.U. 23-67, Hearing Officer Ruling (September 6, 2023).

[115] D.P.U. 23-67, Hearing Officer Memorandum (December 13, 2023).

Guidelines and the Draft Template Plan at the technical session. Subsequent to the technical session, the Department announced the establishment of a stakeholder working group ("Municipal Aggregation Working Group"), open to all interested stakeholders, to further address the issues discussed at the technical session. D.P.U. 23-67, Hearing Officer Memorandum (December 22, 2023). After the Municipal Aggregation Working Group's first meeting on January 24, 2024, Department staff and members of the Working Group held telephone conferences with: (a) municipal aggregation consultants regarding their ability and willingness to propose revisions to the Draft Municipal Aggregation Guidelines; (b) DOER to discuss best practices and proposed revisions to the Annual Report Template; and (c) the Distribution Companies regarding the mechanics of "onboarding" municipal aggregation suppliers. D.P.U. 23-67, Hearing Officer Memorandum (January 26, 2024). Also, on April 17, 2024, and May 6, 2024, four different stakeholders submitted proposed revisions to the Draft Municipal Aggregation Guidelines to the Department. On May 8, 2024, Department staff met with the Municipal Aggregation Working Group to discuss the April 17 and the May 6 proposed revisions. On May 15, 2024, the Department issued the current versions of the Draft Municipal Aggregation Guidelines and accompanying Attachments. D.P.U. 23-67, Hearing Officer Memorandum (May 15, 2024). The Department scheduled a virtual meeting for May 23, 2024, to (1) review the current versions of the Draft Municipal Aggregation Guidelines and accompanying Attachments, and (2) establish a date for submission of consensus Draft Municipal Aggregation Guidelines and Attachments.

The Department finds that the Municipal Aggregation Working Group, with guidance from Department staff, has engaged in a collaborative manner, has allowed for consideration of varying opinions and concepts, has provided a productive foundation for discussion of relevant issues, has offered effective solutions for consideration, and has proven to be a valuable endeavor. Further, we find that our interest stated above regarding the Department's role regarding municipal aggregation LICSS programs is consistent with the purpose of the investigation in D.P.U. 23-67. Accordingly, the Department finds that the D.P.U. 23-67 proceeding is the appropriate vehicle for determining the Department's role in reviewing and approving municipal aggregation LICSS program designs. The Department will continue to convene the Municipal Aggregation Working Group in D.P.U. 23-67 to determine next steps and respond to specific proposals raised by Boston, the Compact, Chelsea, and Newton, as well as other stakeholders.

VI. DISTRIBUTION COMPANY COMMUNITY SHARED SOLAR

A. Introduction

It is not disputed that the SMART Program to date has failed to deliver significant benefits to low-income customers (Attorney General Brief at 28-30; 35-36). In quarterly filings with the Department, Distribution Companies report that only a small percentage of SMART STGUs are reaching low-income customers and that the SMART Program to date overall has not led to significant benefits for low-income customers (see Exh. ES-ACB-IH-1, at 8-9). In D.P.U. 17-140-A, the Department identified several factors that may prevent low-income customers from participating in renewable energy incentive programs, including

that: (1) customers may lack capital or the ability to qualify for financing to directly invest in a renewable energy a project; (2) solar developers seeking to serve low-income customers may face financing challenges due to a perception that the projects are a financial credit risk; (3) developers may face challenges identifying households to participate as credit recipients; and (4) there may be costs associated with signing customers up as low-income subscribers. D.P.U. 17-140-A at 59. Regarding solar programs reaching low-income customers, the Department found that a "no-cost credit allocation would be an appropriate mechanism to reduce low-income barriers," and that "there is a public policy benefit to prioritizing direct incentives for low-income customers consistent with state law and policy." D.P.U. 17-140-A at 71, 62.

As part of its 400-MW regulatory review, DOER made several programmatic changes in its SMART Regulations intended to address the ongoing challenges of bringing meaningful benefits of the SMART Program to low-income customers and their communities (DOER Letter at 2-3 (December 15, 2020)). One such measure is the creation of alternative CSS/LICSS programs which may be designed and implemented by Distribution Companies upon Department approval. 225 CMR 20.06(1)(f)(4); CSS/LICSS Guidelines, § 1. To implement these alternative CSS/LICSS programs, also referred to as CSAPs, the Distribution Companies propose to include Section 10.4 ("Community Solar Access Programs") in the SMART Provision (Exh. DOER-EDC-2-1 (Supp.), Att. at 20). Pursuant to this provision, Distribution Companies may propose and the Department may approve one or more CSAPs (Exh. DOER-EDC-2-1 (Supp), Att. at 20). The Distribution Companies

state that a CSAP would allow a company "to offer billing, enrollment, default management and credit netting services to AOBC Generation Units also operating as Community Shared Solar or Low-Income Community Shared Solar facilities" (Exh. EDC-1, at 32). In addition to the broadly applicable tariff language, National Grid and NSTAR Electric each filed a CSAP proposal pursuant to proposed Section 10.4.[116]

B. Distribution Company Community Solar Access Program Plans

National Grid and NSTAR Electric testify that they designed their respective CSAPs to reduce barriers for income-eligible households to participate in community shared solar projects and encourage more development of LICSS in the Commonwealth (Exhs. ES-ACB-IH-1, at 3-4, 9-13; NG-1, at 10-12). National Grid and NSTAR Electric claim that the CSAPs will contribute to greater solar equity in Massachusetts among low-income customers (Exhs. ES-ACB-IH-1, at 3-4, 9-13; NG-1, at 10-12). National Grid and NSTAR Electric further explain that there is a market need to expand the benefits of the Commonwealth's solar programs to low-income customers that has not been addressed by the SMART Program's LICSS compensation adder and may not be achieved through the expansion of the definition of "low-income customer" in the SMART Regulations (Exhs. ES-ACB-IH-1, at 10-11; NG-1, at 10-12).[117] NSTAR Electric testifies that as of

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[116] Under the proposed Section 10.4 of the SMART Provision, each CSAP would have its own rules, to be attached to the company-specific tariff as an Appendix B (Exhs. EDC-1, at 32; DOER-EDC-2-1 (Supp.), Att. at 20).

[117] The two companies explain that while the amended definition of a "low-income customer," which includes residents in low-income eligible areas, may help to enroll

March 31, 2021, only six of the total 10,376 SMART STGUs in its service territory were LICSS STGUs (Exh. ES-ACB-IH-1, at 8).[118] National Grid notes that while SMART facilities that serve low-income customers make up only 4.9 percent of the capacity of operating SMART facilities that serve residential customers, customers on the low-income discount rate comprise approximately 11.6 percent of the Company's residential customers (Exh. NG-1, at 10-11 & n.3). National Grid and NSTAR Electric designed their respective CSAPs to address (1) billing and credit complexity; (2) challenges low-income customers have in qualifying for a CSS subscription; and (3) higher low-income customer acquisition costs (Exhs. ES-ACB-IH-1, at 10-11; NG-1, at 12).

1. NSTAR Electric ECSAP

a. Introduction

NSTAR Electric's ECSAP consists of two primary components: (1) a simplified billing structure; and (2) a customer enrollment process administered by NSTAR Electric (Exh. ES-ACB-IH-1, at 3-4). The ECSAP simplified billing structure proposes to eliminate the need for third-party bills between owners of the LICSS or CSS STGUs and participating customers (or "subscribers") by distributing the AOBCs directly at a pre-determined rate,

more customers and lead to the development of more LICSS facilities, the change does not guarantee that customers enrolling in LICSS facilities will be low-income customers; it also does not address billing and crediting challenges (Exhs. ES-ACB-IH-1, at 11-12; NG-1, at 10-13).

[118] Further, the six LICSS STGUs represented only 7,824.8 kW out of a total 171,294.5 kW of SMART STGU capacity (Exh. ES-ACB-IH-1, at 8).

with a portion distributed as a credit on participating customer accounts and a portion paid to owners as a direct cash payment (Exh. ES-ACB-IH-1, at 4-5, 13). NSTAR Electric proposes that eligible customers would include those on a residential assistance rate (Rates R-2 and R-4) (Exh. ES-ACB-IH-1, at 23). NSTAR Electric will establish the proportional split of the AOBCs between the owners and subscribers through a competitive procurement, eliminating the need for contractual arrangements between subscribers and owners (Exh. ES-ACB-IH-1, at 13). NSTAR Electric proposes to enroll up to 234 MW[119, 120] of generating facilities in its ECSAP over three years through bi-annual procurements in each of its two service areas, Eastern Massachusetts ("EMA") and Western Massachusetts ("WMA") (Exh. ES-ACB-IH-1, at 16-17).[121]

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119 NSTAR Electric states that the 234 MW target was established such that the ECSAP portion of total SMART Program capacity will be equivalent to the proportion of NSTAR Electric customers served on a low-income discount rate (i.e., 13.6 percent of NSTAR Electric customers are served on a low-income discount rate, so the 234 MW is 13.6 percent of NSTAR Electric's total SMART Program capacity of 1,716 MW (Exh. ES-ACB-IH-1, at 17).

120 NSTAR Electric explains that it would count the full project capacity toward the 234 MW cap so long as the project owner meets the minimum requirement to qualify as an LICSS STGU by committing at least 50 percent of the output to low-income subscribers (Tr. 2, at 298-300).

121 NSTAR Electric testifies that until AOBC credits are permitted to be transferred between utility service territories, NSTAR Electric will conduct two procurements in WMA and two procurements in EMA per year (Exh. ES-ACB-IH-1, at 16). Accordingly, a subscriber would be required to be located in the same NSTAR Electric service territory as the qualifying ECSAP generation facility (Exh. ES-ACB-IH-1, at 23). NSTAR Electric also notes that revisions to Section 10.2 of the SMART Provision strike the reference to the prohibition on the transfer of AOBCs between NSTAR Electric's service territories, and further, that the billing system

NSTAR Electric explains that its ECSAP will be open to both new and existing LICSS[122] or CSS STGUs that (1) qualify as a Standalone AOBC generation unit or are eligible to become a Standalone AOBC generation unit under the SMART Provision; (2) intend to qualify for the CSS or LICSS adder by participating in the ECSAP; (3) have a minimum nameplate capacity of 100 kW-AC; and (4) are willing to allocate a minimum of 50 percent of the STGU's energy output in the form of AOBCs to the ECSAP (Exh. ES-ACB-IH-1, at 18). Further, once selected, an ECSAP facility would be required to participate in the ECSAP for the duration of the project's SMART Program eligibility (Exh. ES-ACB-IH-1, at 19).

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proposed in D.P.U. 21-80 would enable NSTAR Electric to allow the transfer of bill credits between all of its Massachusetts customers, regardless of whether they were previously in the EMA or WMA billing systems (Distribution Companies Brief at 29, citing Exhs. DOER-EDC-2-1 (Supp.), Att. at 19; DPU 3-8). Cost recovery for that billing system was approved in Second Grid Modernization Plans, D.P.U. 21-80-B/D.P.U. 21-81-B/ D.P.U. 21-82-B, Order on New Technologies and Advanced Metering Infrastructure Proposals, (November 30, 2022).

[122] NSTAR Electric explains that owners of new STGUs participating in the ECSAP cannot allocate any AOBCs committed to the ECSAP to other customers (Exh. ES-ACB-IH-1, at 18). NSTAR Electric explains that, to participate in the ECSAP, owners of existing STGUs that are not LICSS facilities must terminate their existing subscriptions for the percent of energy output committed to the ECSAP within six months of selection (Exh. ES-ACB-IH-1, at 18). The owners of such existing STGUs then would be required to allocate any energy output not allocated to the ECSAP to valid, active non-low-income customer accounts to meet the 100 percent allocation requirement for SMART AOBC Generation Units (Exh. ES-ACB-IH-1, at 18). Owners of existing LICSS facilities participating in the ECSAP would also have the option to enroll existing customers into the ECSAP's simplified billing process (Exh. ES-ACB-IH-1, at 19).

When procuring capacity to participate in the ECSAP, NSTAR Electric describes that it would rank and select bids from STGU owners from highest to lowest based on the product of (1) percent of energy output, as AOBCs, allocated to the ECSAP; and (2) percent of AOBC value ($/megawatt-hour) allocated to low-income subscribers (Exh. ES-ACB-IH-1, at 20). NSTAR Electric would confer preferences for bids where (1) the facility is already in operation as a SMART-qualified AOBC generation unit with the LICSS adder; (2) the facility is already in operation as a SMART-qualified AOBC generation unit with the CSS adder and can assign a percentage of its energy output, as AOBCs, to the ECSAP within six months of selection; and (3) the facility is located within a neighborhood or census block identified as an EJ population (Exh. ES-ACB-IH-1, at 21).

NSTAR Electric plans to enroll subscribers in the ECSAP on a per-project basis, matching ECSAP subscribers to projects until the energy output committed to the ECSAP is fully allocated (Exh. ES-ACB-IH-1, at 23).[123] During this proceeding, NSTAR Electric had not yet fully developed its ECSAP customer enrollment process, and it convened a stakeholder group to help develop a proposal (Exh. ES-ACB-IH-1, at 24; Tr. 2, at 301). The areas that require additional development include (1) whether NSTAR Electric will use an opt-in or opt-out model for enrollment; (2) what constitutes a meaningful level of bill

[123] Enrollment would not be necessary for existing LICSS facilities that choose to maintain existing low-income customer lists (Exh. ES-ACB-IH-1, at 23).

savings for ECSAP subscribers,[124] which would inform both a targeted level of savings and how many customers NSTAR Electric would be able to subscribe in the ECSAP; and (3) whether or not to prioritize certain customers for enrollment (Exh. ES-ACB-IH-1, at 24; Tr. 2, at 301).[125]

NSTAR Electric expects that the administrative costs of the ECSAP will total approximately $7.4 million[126] over the 20-year program life and will provide upwards of $300 million in direct benefits to low-income customers (Exh. ES-ACB-IH-1, at 30; RR-DPU-ES-1, Att., tab "Lifecycle Program Costs," row 10).

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[124] On November 5, 2021, NSTAR Electric provided a supplemental discovery response to information request DPU-ES 1-7, indicating that in September 2021, it completed a survey of low-income customers and found that $36 per month represented a meaningful level of electric bill savings (Exh. DPU-ES 1-7 (Supp.)).

[125] NSTAR Electric indicated that it would report to the Department on its proposed process for customer enrollment in the fourth quarter of 2021 (Exh. ES-ACB-IH-1, at 25). The Department notes that in a separate a proceeding on its request for an increase in base distribution rates, NSTAR Electric provided for informational purposes a proposed customer enrollment proposal, addressing the areas indicated as needing additional development. See D.P.U. 22-22, NSTAR Electric Company, response to information request DPU 68-17, Att. (June 24, 2022).

[126] NSTAR Electric acknowledges that the administrative costs of the ECSAP may exceed the $7.4 million estimate if it modifies the ECSAP as requested by the Attorney General (Distribution Companies Brief at 56-57). Specifically, NSTAR Electric contends that if it modifies the method of calculating the total program cap based on the portion of a project that is allocated to low-income subscribers, this change may increase the number of projects participating in the ECSAP, which in turn may increase administration costs and potentially require information technology ("IT") system modifications (Distribution Companies Brief at 57).

b. Positions of the Parties

i. Intervenors

Intervenors largely endorse the NSTAR Electric ECSAP proposal, conveying that they support the following aspects of the program: (1) NSTAR Electric's simplified program offering; (2) limiting participation to income-eligible (i.e., R-2 and R-4) customers; (3) providing a net on-bill credit to subscribers with remaining incentive payments to facility owners; (4) the competitive procurement process; (5) cost recovery through the SMART Factor; (6) stakeholder engagement throughout its program design; (7) low administrative program costs; and (8) the survey distributed to low-income customers to identify a meaningful amount of electric bill savings (Attorney General Brief at 51-52; DOER Brief at 16; LEAN Reply Brief at 1-2; SEIA Brief at 35). Some of these intervenors also recommend approving the NSTAR Electric ECSAP proposal subject to modifications (Attorney General Brief at 52-53; DOER Brief at 15-16; SEIA Brief at 35).

The Attorney General recommends that NSTAR Electric change (1) how it calculates the 234 MW program cap, allowing only the portion of a project that is allocated to low-income customers to count toward the cap; (2) the bid-ranking methodology, ranking bids based only on the percentage of AOBC value allocated to low-income customers; and (3) the bid preference for facilities located in a neighborhood or census block identified as an EJ Population, offering a preference for facilities where developers have support from the community, input from stakeholders and/or have incorporated feedback from the community in which a developer proposes to locate a facility (Attorney General Brief at 52-53). With

respect to the ECSAP cap, the Attorney General argues that if NSTAR Electric counts a facility's entire project size toward the cap rather than the percentage of the facility allocated to low-income customers, NSTAR Electric will not meet its stated equity goal (i.e., low-income customer participation in the SMART Program proportional to the 13.6 percent of its customers on a low-income discount rate) (Attorney General Brief at 52-53). With respect to bid ranking, the Attorney General maintains that if the capacity committed to low-income customers is the only production that counts toward the cap, then bids should be ranked based solely on the percentage of AOBC value actually allocated to low-income customers (Attorney General Brief at 53).

SEIA recommends that the Department direct NSTAR Electric to work with stakeholders to refine its RFP process[127] to address concerns that it might incentivize CSS projects to become LICSS projects, resulting in unintended consequences (SEIA Brief at 35, citing Exh. SEIA-NP-1, at 55-57). Specifically, SEIA suggests that this outcome may (1) erode customer confidence if customers on an existing CSS that chooses to participate in the ECSAP are unenrolled, thereby impacting the adoption rate of community solar for both low-income and non-low-income customers; and (2) result in double-counting "tranches" that are used to determine how quickly the value of certain adders in the SMART Program

[127] SEIA also recommends that as part of the ECSAP RFP review process, NSTAR Electric should implement an expedited review process in selecting bids that aims to balance (1) the desire to facilitate moving existing LICSS projects into the ECSAP; (2) the desire to provide low-income customers the benefits of solar quickly; and (3) the negative ramifications of incentivizing CSS projects to join the ECSAP (Exh. SEIA-NP-1, at 56-57, 63-64).

decline (SEIA Brief at 35, citing Exh. SEIA-NP-1, at 55-57). In addition, SEIA recommends that the Department direct NSTAR Electric to continue to work with stakeholders to refine its customer acquisition and engagement plans to ensure strong consumer protections and conferring a minimum benefit to all participating low-income customers (SEIA Brief at 35, citing Exh. SEIA-NP-1, at 59-60). Lastly, SEIA recommends that NSTAR Electric use its proposed SCOP[128] when AOBCs are cashed out (SEIA Brief at 35, citing Exh. SEIA-NP-1, at 54).

Regarding SEIA's concern that a preference in the ECSAP's procurement process for existing CSS projects may degrade consumer confidence and result in the double-counting of capacity for adder tranches in the SMART Program, DOER states that it looks forward to working with NSTAR Electric and other stakeholders on these concerns, and that it plans to closely monitor the development of the ECSAP and make adjustments necessary to mitigate any effects caused by the movement of facilities to the ECSAP (DOER Brief at 16).

While Ampion supports some elements of the ECSAP proposal, it recommends that the Department deny the proposal and open a new investigation (Ampion Brief at 1-2, 7-8; Ampion Reply Brief at 2-3). In support of this approach, Ampion argues that the ECSAP lacks critical details regarding the program design, size, customer enrollment,[129] minimum

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[128] The SCOP is discussed in Section III.D.5.

[129] Ampion contends that there are potential drawbacks to an opt-out design, such as (1) a potential lack of opportunity for low-income customers to participate in additional community solar projects; and (2) solar developer concerns that they may not be able to enroll low-income customers in NSTAR Electric's service territory to qualify for

targeted savings, and how the company will decide who will participate (Ampion Brief at 1-2, 7-8; Ampion Reply Brief at 2-3). Ampion maintains that it has due process concerns with the ECSAP, claiming that the Department did not provide any additional opportunity for low-income NSTAR Electric customers or others substantially and specifically affected by the ECSAP proposal to intervene or raise questions in the adjudicatory portion of the proceeding (Ampion Brief at 3). Ampion also urges the Department to reject NSTAR Electric's proposed post-adjudicatory comment period that would allow it to provide new details of its ECSAP customer enrollment process, as it is the petitioner's obligation to provide a complete proposal for the parties' comprehensive review and Department's approval prior to the hearing (Ampion Brief at 8; Ampion Reply Brief at 3). Finally, Ampion requests that the Department clarify that allowing low-income customers to participate in SMART projects through municipal aggregation programs does not preclude such customers from also participating in another CSS or LICSS program (Ampion Brief at 2, 8; Ampion Reply Brief at 3).[130]

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the LICSS SMART adder because a subset of eligible subscribers would become unavailable (Ampion Brief at 7, citing Exh. DPU-SEIA-1-5; Tr. 2, at 218-219; Ampion Reply Brief at 3).

[130] DOER asserts that it is within DOER's jurisdiction and not the Department's to determine SMART Program eligibility considerations, and further that under current SMART Regulations and guidelines, a customer can participate in multiple CSS and LICSS projects with one exception (no individual low-income customer may receive a benefit from more than one applicant's alternative CSS or LICSS STGU at one time) (DOER Reply Brief at 16).

Finally, DOER, Ampion, and SEIA urge the Department to open a generic investigation into the potential benefits of net crediting options in connection with both the SMART Program and net metering (DOER Reply Brief at 7-8; Ampion Brief at 2, 8; Ampion Reply Brief at 2, 4; SEIA Brief at 34-35).[131]

ii. NSTAR Electric

NSTAR Electric claims that the ECSAP addresses barriers to low-income customer participation in CSS projects consistent with Department guidance in D.P.U. 17-140-A (Distribution Companies Brief at 51-54; Distribution Companies Reply Brief at 12-13, citing Exh. ES-ACB-IH-1, at 3-4). NSTAR Electric maintains that the ECSAP will reduce barriers to low-income customer participation by transferring AOBCs at no cost to subscribing low-income customers, thereby removing the contractual arrangement between low-income customers and the CSS or LICSS STGU owner, which will address issues of customer access to capital and developer challenges to financing (Distribution Companies Brief at 51-52, citing Exh. ES-ACB-IH-1, at 4-5, 12-13). Further, NSTAR Electric argues that the ECSAP will simplify the CSS and LICSS billing models by eliminating third-party bills for subscribers and providing instead a net on-bill credit, with the remaining value of the credits paid directly to the owner of the project in addition to any SMART incentive payments (Distribution Companies Brief at 51-52, citing Exh. ES-ACB-IH-1, at 4-5, 12-13).

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131 Note that SEIA essentially uses the terms "simplified billing" and "net crediting" interchangeably (Exh. SEIA-NP-1, at 47 n.13).

NSTAR Electric also asserts that the ECSAP is largely supported by intervenors (Distribution Companies Brief at 54-58). NSTAR Electric states that it has worked with a broad group of stakeholders[132] to design the ECSAP, consisting of low-income advocates, solar project developers, and government entities, and it will continue to work with the stakeholder group to finalize remaining customer enrollment design decisions (Distribution Companies Brief at 55-56, citing Exhs. ES-ACB-IH-1, at 24-25; DPU-ES 1-3; DPU-ES 1-5).

NSTAR Electric rejects Ampion's claim that the ECSAP proposal contains too many unknowns and requires further investigation (Distribution Companies Brief at 54-55). NSTAR Electric opines that its ECSAP proposal is adequately detailed and supported by the record (Distribution Companies Brief at 54-56). Specifically, NSTAR Electric argues that it has (1) established eligibility requirements for projects to participate in the competitive procurement process; (2) outlined requirements for bidder responses to the procurements, including bid ranking and selection criteria; (3) delineated requirements for winning bidders; and (4) provided a detailed breakdown of expected operating costs for the life of the ECSAP (Distribution Companies Brief at 55, citing Exhs. ES-ACB-IH-1, at 18-23; DPU-ES 1-3; ES-ACB-IH-3 (Rev.)). NSTAR Electric maintains that the only details of the ECSAP that it has not finalized relate to the customer enrollment process, including whether the ECSAP will use an opt-in or opt-out model and the level of bill savings customers will receive

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[132] NSTAR Electric lists several stakeholders from which the company has received feedback, including Democracy and Regulation, Vote Solar, the National Consumer Law Center, Action Inc., Citizen's Energy, and Nexamp (Exh. ES-ACB-IH-1, at 15).

(Distribution Companies Brief at 55-56, citing Exhs. ES-ACB-IH-1, at 24-25; DPU-ES 1-3; DPU-ES 1-5; Tr. 2, at 301). While NSTAR Electric indicates that some additional comment period may be required when it submits the final details of its customer enrollment plan as part of the stakeholder process, it maintains that the Department has sufficient information on the record to find that approval of the ECSAP will result in just and reasonable rates (Distribution Companies Brief at 56).

NSTAR Electric acknowledges that while the Attorney General, SEIA, and DOER support the ECSAP, these parties also suggest some minor modification to its proposal (Distribution Companies Brief at 56-57). NSTAR Electric maintains that it is not necessarily opposed to the Attorney General's recommendations to count only that portion of the capacity of an STGU allocated to low-income customers toward the 234 MW cap; however, it notes that making this change may increase the number of projects participating in the ECSAP and thereby increase program costs by requiring IT system modifications (Distribution Companies Brief at 57).[133] NSTAR Electric contends that if the Department accepts the Attorney General's recommendation regarding calculation of the ECSAP capacity cap, it agrees with the Attorney General's second recommendation of ranking prospective bids based only on the percent of AOBC value allocated to low-income customers during the bid evaluation process (Distribution Companies Brief at 57). Regarding the Attorney General's third

[133] NSTAR Electric indicates that to limit ECSAP administrative costs under its original proposal, it would use manual processes to calculate and disburse quarterly cash payments to STGU owners participating in the ECSAP (Distribution Companies Brief at 57).

recommendation as to working with communities with EJ populations, NSTAR Electric proposes to consider ways to adjust its bid preference through its ongoing stakeholder process (Distribution Companies Brief at 57).

With respect to concerns raised by SEIA and DOER, including the potential displacement of existing CSS subscribers due to the conversion of CSS projects to LICSS projects, and a need to refine the customer enrollment plan to ensure both consumer protections and a minimum subscriber benefit, NSTAR Electric maintains that it will continue to work with a diverse stakeholder group to finalize the ECSAP (Distribution Companies Brief at 58). NSTAR Electric also notes it has proposed to perform an annual program evaluation for each year of procurement to identify any necessary program adjustments (Distribution Companies Brief at 8, citing Exhs. ES-ACB-IH-2 (Rev.) at 9; AG-ES 1-4).

2. National Grid SAI

a. Introduction

National Grid's proposed SAI contains two components: (1) a Solar Simplified Billing ("SSB") platform, to be made available to both CSS and LICSS projects, designed to streamline the allocation of AOBCs to subscribers and the provision of SMART compensation to STGU owners; and (2) a Solar Enrollment Plan ("SEP") software platform designed to engage customers on low-income rates and enroll them as subscribers to LICSS facilities (Exh. NG-1, at 5). National Grid plans to implement the SAI in two phases, launching the SSB platform a few months prior to the SEP platform (Exh. NG-1, at 28).

National Grid's SSB would be available, for a fee ("SSB Facility Fee"), to all CSS and LICSS facilities that allocate AOBCs to subscribers (Exh. NG-1, at 18). National Grid explains that the SSB Facility Fee, proposed to be set at $0.00820/kWh, would cover costs associated with implementing the SSB (Exh. NG-1, at 18). The fees collected would be credited back to ratepayers through the SMART Program reconciling mechanism (Exh. NG-1, at 18).

National Grid explains that its SEP will be used to (1) acquire and manage subscribers on behalf of STGU owners; (2) create a standardized offer that provides low-income rate subscribers approximately $240 in annual electric bill credits;[134] and (3) qualify participating facilities as LICSS facilities (Exh. NG-1, at 18). The National Grid SEP will be available to certain eligible facilities,[135] and would be dedicated to enrolling only customers eligible for the National Grid's low-income rate class, R-2 (Exh. NG-1, at 17). Once an owner enrolls in the SEP, the responsibility of managing subscriber relationships would transfer to National Grid, and the owner would not enter into any individual contracts with subscribers (Exh. NG-1, at 19). National Grid would match subscribers to facilities, and the facility owner would begin to receive monthly compensation, net a fee ("SEP Facility Fee") to pay for a

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[134] National Grid explains that while it will target an annual benefit of $240 per subscriber, the actual value may vary based on variations in CSS or LICSS STGU output and value (Exh. NG-1, at 20 n.15).

[135] The SEP will be available to new Standalone AOBC Generation Units and qualifying facilities, and some existing AOBC Generation Units and qualifying facilities that did not previously elect treatment as a CSS or LICSS facility; SEP will not be available to CSS and LICSS facilities that already have enrolled customers (Exh. NG-1, at 7).

subscriber benefit and administrative costs (Exh. NG-1, at 19). Eligible low-income rate customers would sign up for the SEP through an online portal, agree to a standard set of terms and conditions,[136] and be matched to a facility (Exhs. NG-1, at 20-21; NG-11 at 7).[137] The subscriber would then receive bill credits applied directly to the subscriber's electric bill (Exh. NG-1, at 20).

National Grid proposes to set the SEP Facility Fee for each owner based on a competitive solicitation process (Exh. NG-1, at 25).[138] Owners enrolled in Block 1 would pay a SEP Facility Fee equal to the clearing price of all facilities accepted into the competitive solicitation, and owners accepted into Block 2 would pay a SEP Facility Fee set at 110 percent of the Block 1 clearing price (Exh. NG-1, at 25). National Grid proposes to

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[136] National Grid describes that the terms and conditions are designed such that subscribers are not required to commit to a contract term and may cancel at any time without penalty (Exh. NG-1, at 20).

[137] Once a customer signs up for the SEP, the subscribers would receive a description of the SEP facility to which they are matched, including the name of the owner, and the estimated date when SAI bill credits will begin to appear on the electric bill (Exh. NG-1, at 21). If no participating facility is available, the subscriber would be placed on a wait list until a participating facility becomes available (Exh. NG-1, at 21).

[138] National Grid proposes to set the value of energy at $0 for all AOBC generating units participating in the SEP (Exhs. NG-12, at 2; DOER-EDC-2-1 (Supp.), Att. at 20). National Grid states that it proposes to eliminate the variable value of energy, or "VOE," component of the current SMART compensation structure to increase revenue certainty for facilities enrolled in the SEP (Exh. NG-1, at 23 n.17).

set the SEP capacity cap at 165 MW,[139] targeting enrollment of 40 MW-AC nameplate capacity for Block 1 and 125 MW-AC of nameplate capacity for Block 2 (Exh. NG-1, at 24-25).[140]

National Grid estimates that the administrative and implementation costs of SAI will be approximately $24.7 million ($5.7 million for the development and implementation of IT systems, and $19 million of ongoing expenses over an assumed program life of 23 years) (Exhs. NG-1, at 32; NG-8).[141] National Grid's SAI proposal requires the following IT system upgrades: (1) an owner enrollment portal; (2) a customer enrollment portal; (3) an algorithm to match subscribers to facilities ("SAI Software"); and (4) upgrades to the company's billing system (Exh. NG-1, at 29).

National Grid proposes to earn an incentive for the successful implementation of the SEP (Exh. NG-1, at 39-40). The SEP Performance Incentive Mechanism ("PIM") would

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139 National Grid states that it determined the 165 MW cap by multiplying the company's total SMART cap of 1,440 MW by 11.5 percent, which is the approximate percentage of residential electric customers on the low-income rate (Exh. NG-1, at 24).

140 National Grid states that the eligibility requirements for a facility to enroll in the SEP include (1) an executed Interconnection Service Agreement with the company with 25 percent of the estimated interconnection costs paid; (2) a preliminary SOQ and ability to qualify as a LICSS Facility in the SMART Program; (3) the facility must not have enrolled any subscribers to date; and (4) a minimum nameplate capacity of 250 kW-AC (Exh. NG-1, at 26).

141 National Grid provided an updated total cost estimate for the SAI of $30.86 million, which includes the return on rate base for capital investments and assumes that National Grid achieves the maximum proposed performance incentive mechanism incentive each year for three years (Exh. DPU-NG 1-3 & Att.).

credit the Company with up to ten percent of the lifetime net benefits created through the implementation of the SEP (National Grid calculates the lifetime net benefits to be approximately $63 million) (Exh. NG-1, at 39-40).[142] National Grid proposes to earn an annual SEP PIM by achieving annual low-income customer enrollment targets each year for three years (Exh. NG-1, at 40). For example, if National Grid successfully enrolls more than the threshold number of customers in a year, it would earn an incentive payment in that year, set equal to the product of the SEP PIM established per customer enrolled and the number of customers enrolled in the respective year (Exh. NG-1, at 40). National Grid proposes to recover the SEP PIM through the SMART Factor and will report and document customer enrollments and costs of the SEP PIM in the SMART Program Cost Recovery Filing (Exh. NG-1, at 40).

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[142] National Grid estimated that potential net benefits to distribution customers from the SSB will amount to approximately $29.5 million and benefits of the SEP to its participants will amount to approximately $36.5 million (Exh. NG-1, at 36). The $29.5 million in SSB benefit is estimated based on the net present value ("NPV") of an assumed cumulative revenue generation of $69.5 million less an assumed cumulative implementation cost of $4 million (Exh. DPU-NG 1-16 & Att.). National Grid declined to disclose additional information regarding the calculation of net benefits for the SEP, stating that disclosure of the assumed bid clearing price may impact the actual future bid prices (Exh. DPU-NG 1-16).

b. Position of the Parties

i. Intervenors

One intervenor recommends the Department approve the SAI, without proposing any specific amendments (LEAN Reply Brief at 1-2).[143] Multiple intervenors object to components of the SAI, ultimately recommending that the Department deny it in part or in whole in favor of various alternatives (Attorney General Brief at 39-48; DOER Brief at 15; DOER Reply Brief at 4-9; SEIA Brief at 4, 33-34; Ampion Brief at 1, 8; Ampion Reply Brief at 1, 4).

The Attorney General argues that while she does not object to most aspects of the proposed SAI, she does object to two components: the PIM for enrolling customers in the SEP, and the SSB Facility Fee (Attorney General Brief at 39). The Attorney General contends that National Grid's proposed PIM, which would collect $209 per enrolled customer, funded by ratepayers, is unreasonably costly, unprecedented, has serious flaws, is not consistent with the Department's design guidelines, and therefore should be rejected (Attorney General Brief at 39-40, 42, 46). The Attorney General asserts that National Grid has not demonstrated that its proposed PIM would be a cost-effective or valuable way to assist low-income customers, nor is it an appropriate amount to incentivize behavior or encourage performance (Attorney General Brief at 41-42). Second, the Attorney General

143 LEAN recommends the Department approve the proposed SAI and states that through stakeholder engagement it looks forward to working with National Grid as its program evolves (LEAN Reply Brief at 1-2).

opines that the structure of the proposed PIM, which requires ratepayers to pay to the utility ten percent of the projected lifetime net benefits of each subscriber, is unprecedented and untested as the company is not aware of another performance metric that uses the full payment from a retail program to a customer as the basis for a net-benefit calculation and performance incentive (Attorney General Brief at 42). The Attorney General contends that energy efficiency performance incentives do not provide a reasonable basis for the Department to approve an unreasonably high and unprecedented PIM, as energy efficiency incentives are benefits-based incentives and established through robust stakeholder participation (Attorney General Brief at 43). Third, the Attorney General notes that the total magnitude of the PIM is driven by two factors, the SEP Facility Fee clearing price and the annual total LICSS kWh production (Attorney General Brief at 43-44). Therefore, she argues, National Grid will receive a benefit from a competitively procured clearing price over which it does not have direct control, which conflicts with the purpose of a performance incentive (Attorney General Brief at 43-44). Fourth, the Attorney General claims that the PIM does not provide the incentive for National Grid to (1) manage other aspects of the SEP efficiently or cost effectively, as the incentive is paid upfront at the time the customer is first enrolled rather than after tracking and rewarding good performance over a longer term; (2) enroll new customers in a timely fashion; or (3) find a replacement subscriber if a subscriber unenrolls in the SEP, as National Grid would have already collected the full PIM (Attorney General Brief at 44-45). Fifth, the Attorney General remarks that the asymmetric nature of the PIM requires ratepayers to pay administrative and production costs but does not

require National Grid to pay any penalties for poor performance or for failing to fully subscribe a facility or enroll the minimum target number of customers (Attorney General Brief at 45). Last, the Attorney General asserts that National Grid's PIM is not necessary as NSTAR Electric is prepared to create a similar benefit program for low-income ratepayers without a PIM (Attorney General Brief at 45).

The Attorney General argues that the Department should also deny National Grid's SSB Facility Fee as it is (1) a benefits-based fee rather than a cost-based fee; (2) a significant deviation from how the utility would typically recover its costs; (3) complicated and would set a dangerous precedent; (4) not consistent with the current regulatory framework; and (5) unsupported (Attorney General Brief at 46-47).

The Attorney General also expresses concerns about the complexity of the proposed SAI and the lack of stakeholder input (Attorney General Brief at 47). With respect to the complexity, the Attorney General remarks that as compared to the NSTAR Electric ECSAP, National Grid's SAI includes separate billing and enrollment programs with separate project selection processes, credit allocation methods, and facility fees that each have different funding mechanisms (Attorney General Brief at 48). The Attorney General recommends that National Grid should solicit and integrate stakeholder input in any future program design (Attorney General Brief at 48).

DOER recommends the Department deny National Grid's proposed SAI as it is concerned with various elements including (1) the SSB Facility Fee; (2) the SEP Facility Fee; (3) the PIM proposal; (4) the value of energy being set at $0 per kWh for a single

distribution company program; and (5) the recovery of administrative costs outside of the SMART Factor (DOER Brief at 15; DOER Reply Brief at 4). If the Department does approve the National Grid SAI, DOER recommends that the Department should require the following changes: (1) deny the PIM and SEP Facility Fee; (2) require National Grid to further develop its SEP monthly savings; and (3) deny the SSB Facility Fee, as it is unclear whether this fee is established at a reasonable and appropriate level (DOER Reply Brief at 4-8). Regarding the PIM, DOER maintains that the SEP PIM does not meet Department requirements for a PIM (DOER Reply Brief at 6). As to the SEP Facility Fee, DOER claims that National Grid did not provide sufficient evidence to support the necessity of charging the fee to facility owners, which will potentially limit the savings a project could provide to low-income customers (DOER Reply Brief at 6). DOER further argues that administrative costs should be viewed as an operational cost to implement the program and reimbursed through the SMART Factor rather than through a separate fee (DOER Reply Brief at 6). With respect to SEP monthly savings for low-income customers, DOER recommends that National Grid continue to engage stakeholders, including DOER, to determine the target value for annual benefits that appropriately yields meaningful customer participation (DOER Reply Brief at 7). Finally, DOER contends that the Department should examine National Grid's costs for the SEP and align it more closely with the proposed ECSAP, which it contends is more cost effective, noting that the SEP has a cap of 165 MW and estimated administrative costs of $12.4 million compared to the ECSAP's 234 MW cap and estimated $7.4 million in administrative costs (DOER Reply Brief at 8).

SEIA recommends that the Department reject National Grid's proposed SAI and direct National Grid to instead adopt NSTAR Electric's proposed ECSAP structure (SEIA Brief at 34, citing Exh. SEIA-NP-1, at 41). SEIA objects to the following components of the proposed SAI: (1) the SSB component includes a fee in conflict with the requirements of Section 96 of the 2021 Climate Act, providing that customers be able to allocate credits without a discount, penalty, or fee; (2) setting the value of energy at $0 per kWh; (3) including charges that reduce the benefits available to participating low-income customers; and (4) potential intrusion into the market for non-low-income customers, which is already adequately served by competitive offerings (SEIA Brief at 34, citing Exh. SEIA-NP-1, at 47-50).

While Ampion supports many aspects of both the NSTAR Electric and National Grid proposals, including the consolidated billing approach of the SAI, Ampion requests that the Department deny approval of the proposed SAI, citing concerns regarding program design and the level of investigation by the Department and other participants (Ampion Brief at 1-2, 8; Ampion Reply Brief at 1-2, 4). Ampion recommends that the Department open a new investigation regarding distribution company CSAPs, with an investigation into consolidated billing for such programs and net metering, which would allow all interested and affected parties to participate in the proceeding (Ampion Brief at 8-9). Ampion contends that the approach to consolidated utility billing for community solar that National Grid proposed in New York and that was modified by the New York Public Service Commission is a model that would benefit as many low-income customers as possible in Massachusetts while also

lowering the overall barriers to further distributed solar development (Ampion Brief at 6-7). Finally, Ampion requests clarification from the Department as to whether low-income customers participating in SMART projects through municipal aggregation programs precludes such customers from also participating in another CSS or LICSS program (Ampion Brief at 2; Ampion Reply Brief at 3-4).[144]

Finally, DOER, Ampion, and SEIA urge the Department to open a generic investigation into the potential benefits of net crediting options in connection with both the SMART Program and net metering (DOER Reply Brief at 8; Ampion Brief at 2, 8; SEIA Brief at 34).

ii. National Grid

National Grid acknowledges that while one intervenor and five Massachusetts municipalities express support for the proposed SAI, four intervenors either express concerns or oppose the proposal (Distribution Companies Reply Brief at 14).[145] National Grid

[144] DOER responds to Ampion's request for clarification, stating that a customer can participate in multiple CSS and LICSS projects with one exception, namely that no individual low-income customer may receive a benefit from more than one of a STGU owner's alternative CSS/LICSS STGU at one time (DOER Reply Brief at 15-16).

[145] National Grid observes that the cities and towns of Charlemont, North Adams, Sheffield, Stockbridge, and Worcester, as well as LEAN, support the proposed SAI, while the Attorney General, Ampion, DOER, and SEIA either express concerns with the SAI or recommend that the Department deny the proposal (Distribution Companies Reply Brief at 14 & n.5). The town of Williamstown also submitted a comment in support of the SAI. Williamstown Comments at 1. The Department directed that the comments of the six municipalities were entered into the record as timely filed. Hearing Officer Memorandum at 2 (August 19, 2021).

contends that in the process of designing the SAI, it conducted a thorough stakeholder process over approximately two years that included more than three dozen stakeholders across its jurisdictions (Distribution Companies Brief at 45; Distribution Companies Reply Brief at 14).[146] National Grid further argues that reaching a full stakeholder consensus in support of the SAI may be impossible, as appropriate program design involves difficult choices about how to allocate benefits and cost burdens for participants and non-participants (Distribution Companies Reply Brief at 14).

Regarding the SEP and SSB administrative fees that project owners will be required to pay, National Grid argues that it is appropriate for project owners to bear the administrative costs of the SAI as it (1) is consistent with the principle that the primary recipient of a benefit should pay the associated cost; (2) is consistent with a foundational assumption for the SMART Program's CSS and LICSS adders that marketing and customer enrollment entail costs and owners should make a contribution toward these costs; (3) is comparable to the costs of other services currently available to AOBC projects; (4) is reasonable and scalable, where costs depend on the number of projects and the number of subscribers that enroll; and (5) may appeal to owners who would not otherwise consider developing LICSS projects because of the barriers posed by marketing and customer enrollment activities (Distribution

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[146] National Grid reports that it consulted numerous stakeholders including Clean Energy Collective, NSTAR Electric, Unitil, Vote Solar, BlueHub Capital, Citizens Energy, ICAST, DOER, the Attorney General's Office, LEAN, SEPA, Green Consumers Alliance, Zero-Point Development, Nexamp, Light Touch Solar, Syncarpha, General Counsel for Massachusetts Office of the Speaker, and Senator Michael Barrett (Distribution Companies Brief at 45 n. 15).

Companies Brief at 50; Distribution Companies Reply Brief at 15). As to why National Grid does not support charging administrative costs for the SAI to all distribution customers, the company claims that it would increase the overall cost of the SMART Program, even though these options are available only to CSS and LICSS projects that are distinct project types within the SMART Program and have two of the highest compensation rate adders (Distribution Companies Reply Brief at 15-16). Further, National Grid contends that DOER included five- and six-cent per kWh adders for CSS and LICSS projects in the SMART Program to account for additional general and administrative costs associated with communications, crediting, replacing project participants and accounting, and it would therefore be inappropriate to re-allocate these expected costs from adder recipients to all distribution customers without collecting any type of contribution toward the costs (Distribution Companies Reply Brief at 15-16).

Responding to SEIA's objections to the Company's SAI, National Grid opines that (1) the language in the 2021 Climate Act does not prohibit it from charging a fee to offset the cost of providing new functionality for allocating credits, but instead addresses a distribution company's purchase of credits, which will not occur through the SSB or SEP; (2) administrative costs associated with CSS and LICSS have not previously been viewed as reducing benefits available to low-income customers, but rather as soft costs that justify the off-taker-based adders; and (3) neither the SSB nor the SEP intrude on a functioning competitive market, as they are voluntary, and the proportion of LICSS projects remains a small share of the overall SMART Program and could be invaluable to the expansion and

simplification of CSS in Massachusetts (Distribution Companies Brief at 49-50; Distribution Companies Reply Brief at 16-17).

National Grid remarks that the SEP bill savings target of $20 per month strikes an appropriate balance as targeting a higher monthly bill savings would mean offering the SEP to fewer low-income customers and targeting a lower amount of bill savings may make the benefit less meaningful to participants (Distribution Companies Reply Brief at 17-18). In response to DOER's recommendation that National Grid, like NSTAR Electric, conduct an updated survey to determine a meaningful amount of bill savings, National Grid claims that it may conduct another survey and work with the appropriate stakeholders in the future to verify and update its assumption that $20 per month in savings is a meaningful amount to low-income customers (Distribution Companies Reply Brief at 17-18).

National Grid asserts that the Department should approve its SEP PIM for the following reasons: (1) it is not unreasonably costly, as it will cost approximately $206 per customer to enroll and provide bill credits for about 3,000 to 4,900 low-income customers in the first year; (2) it is consistent with Department PIM precedent that allows a distribution company to seek a portion of customer savings or revenue created through a distribution company's actions;[147] (3) it meets the Department's threshold criteria for PIMs; and (4) it

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[147] National Grid cites two examples of such precedent: the Department-approved PIMs for energy efficiency, which allow up to five percent of program costs; and the Forward Capacity Market, Option 1, allowing National Grid a 20-percent share of the revenue captured from participation (Distribution Companies Brief at 48; Distribution Companies Reply Brief at 18).

meets all of the same standards as other PIMs approved by the Department under its design guideline test (Distribution Companies Reply Brief at 18). National Grid maintains that the Attorney General's claims that the PIM is unreasonably costly, unprecedented, has serious flaws, and is not consistent with the Department's design guidelines are all unfounded (Distribution Companies Brief at 47). In defending the design of the PIM, National Grid argues that the proposed PIM would meet all six of the Department's guidelines, as it will (1) achieve the Commonwealth's energy policy goals; (2) facilitate the comparison of easily quantified, measurable goals to associated costs; (3) be available only for National Grid's clear role in the SEP, where the incentive is tied to the benefits created by the SEP and delivered to participating low-income customers; (4) reward National Grid only for its enrollment of low-income customers because it will be providing and managing an "opt-in" program; (5) avoid perverse incentives because it will align National Grid's interests with those of customers; and (6) avoid rewarding National Grid for the same action through another mechanism (Distribution Companies Brief at 46-47; Distribution Companies Reply Brief at 18-19). With respect to the proposed scale and cost of the PIM, National Grid contends that it selected a ten-percent share of the benefits that it intends to facilitate through the SEP because it represents a balance between a material amount to organize its internal resources without overburdening nonparticipating customers and is within reason (Distribution Companies Brief at 47-48). Regarding the Attorney General's claim that National Grid has no control over the savings that will accrue to low-income customers, National Grid asserts that the PIM is directly tied to the benefits created by the SEP and the

delivery of those benefits to participating low-income customers (Distribution Companies Brief at 49). Regarding the Attorney General's position that a PIM must be symmetrical and include a consequence for poor performance, National Grid maintains that this concept is not included in the Department's PIM design guidelines but, even if it were, the possibility of performing more work beyond the scope of its public service obligations and falling short of earning a PIM is sufficient consequence and motivation (Distribution Companies Brief at 48; Distribution Companies Reply Brief at 19).

National Grid claims that this proceeding on the proposed SAI and PIM has provided intervenors with ample opportunity to offer arguments and created a sufficient record of evidence on the proposal's goals and metrics for the Department to decide on its proposal (Distribution Companies Reply Brief at 19).

Responding to intervenor recommendations for further investigation of the SAI and the opening of a generic net crediting proceeding, National Grid maintains that while further stakeholder process on net crediting may be informative, it does not expect that further discussions would lead to a significantly different outcome in the design of net crediting, and that is not needed before National Grid offers the SAI (Distribution Companies Reply Brief at 20). National Grid contends that the Department should approve and allow the implementation of the SAI because (1) time is of the essence to close the low-income customer access gap; (2) if the SAI is allowed to move forward, actual experience will provide more accurate input into the design of the program instead of further discussions; and

(3) implementing the SAI will provide actual benefits to low-income customers (Distribution Companies Brief at 50-51; Distribution Companies Reply Brief at 20).

3. Analysis and Findings

a. CSAPs

The Solar Act directs DOER to design a solar incentive program that differentiates incentive levels to support diverse installation types and sizes that provide unique benefits, including, but not limited to, CSS and LICSS facilities. St. 2016, c. 75, § 11(b)(vii).[148] The 2021 Climate Act mandates that an additional objective of the SMART Program is to provide equitable access and affordability for low-income communities. St. 2021, c. 8, § 94. In pursuit of these goals, DOER amended the SMART Regulations to allow LICSS programs to

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[148] The Solar Act provides:

> (b) The department of energy resources shall develop a statewide solar incentive program to encourage the continued development of solar renewable energy generating sources by residential, commercial, governmental and industrial electricity customers throughout the commonwealth. The department shall, after notice and the opportunity for public comment, promulgate rules and regulations implementing a solar incentive program which: … (vii) differentiates incentive levels to support diverse installation types and sizes that provide unique benefits, including, but not limited to, community-shared solar facilities, low-income solar facilities and municipal or other governmental entity-owned solar facilities, and which may include differentiation by utility service territory, location or size of the solar renewable energy generating source….

St. 2016, c. 75, § 11(b)(vii).

be administered by the Distribution Companies,[149] which are intended to help deliver the range of benefits envisioned by the Legislature.

The Distribution Companies propose to add Section 10.4[150] to the SMART Provision that would allow a Distribution Company to propose one or more CSAPs for approval by the Department. A Distribution Company would have specific rules for each CSAP to be attached as an Appendix to its SMART Provision (Exhs. EDC-1, at 32; DOER-EDC-2-1 (Supp.), Att., § 10.4). NSTAR Electric and National Grid each has proposed a unique LICSS program, the ECSAP and SAI, respectively (Exh. DOER-EDC-2-1 (Supp.), Att., § 10.4).

Intervenors and commenters are broadly supportive of CSAPs, although numerous commenters criticize certain elements of the specific ECSAP and SAI proposals as discussed below. Of the five intervenors that addressed the proposed LICSS programs in briefs, only

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[149] 225 CMR 20.06(1)(f)4.

[150] Proposed Section 10.4 provides:

> At its option, the Company may propose and receive Department approval for one or more Community Solar Access Program ("CSAP"), that may offer billing, enrollment, default management, and credit netting services to AOBC facilities also operating as Community Shared Solar or Low-Income Community Shared Solar facilities. If accepted for enrollment in such a program, the AOBC value of energy for enrolled systems may be determined as specified in the CSAP Program Rules, attached as Appendix B, and all other rules, requirements and fees specified therein shall apply for the term of enrollment of that facility. In addition, STGUs enrolled in a CSAP Program may be counted by the Distribution Company for purposes of meeting set-asides for Low-Income CSS projects, as per 225 CMR 20.05(3)(d).

Ampion recommends rejecting both (Ampion Brief at 1-2, 7-8; Ampion Reply Brief at 2-3). The Attorney General, DOER, and SEIA recommend approving, with certain modifications, NSTAR Electric's ECSAP and rejecting some or all components of National Grid's SAI (Attorney General Brief at 39, 52-53; DOER Brief at 5-16; DOER Reply Brief at 4; SEIA Brief at 34-35). LEAN recommends approving both of the proposed LICSS programs (LEAN Reply Brief at 1-2). The towns of North Adams, Sheffield, Stockbridge, Williamstown, and Charlemont, as well as the City of Worcester, filed comments supporting National Grid's SAI (North Adams Comments at 1; Sheffield Comments at 1; Stockbridge Comments at 1; Williamstown Comments at 1; Charlemont Comments at 1; Worcester Comments at 1). BlueHub Capital provided comments supporting the NSTAR Electric ECSAP, but not endorsing the National Grid SAI as it opposes the SAI fees, stating that the fees would reduce potential low-income customer savings and also would not be permissible under the 2021 Climate Act (Blue Hub Capital Comments at 8-10, 13). Vote Solar provided comments in support of NSTAR Electric's ECSAP and recommending that the Department reject National Grid's SAI (Vote Solar Comments at 1).

As to proposed language in Section 10.4 that contemplates each Distribution Company CSAP could operate under unique rules, the Department requested that the parties address whether any existing law mandates uniformity of the elements of an LICSS program to be administered by a Distribution Company (Hearing Officer Memorandum (October 25, 2021)). No party identified any such uniformity requirement under applicable law, regulations, or

Department Orders, including the Solar Act and the 2021 Climate Act (see, e.g., Distribution Companies Brief at 40; Attorney General Brief at 37; SEIA Brief at 39; DOER Brief at 20).

As stated above, the Department agrees with DOER and numerous parties that, while the SMART Program has not succeeded in bringing significant benefits to low-income customers, there are potential approaches to addressing the specific but not intractable challenges of serving these customers consistent with the goals of the Solar Act and the 2021 Climate Act. The Distribution Companies testified that, in reviewing the data from their service territories, they have determined that there has been limited development of LICSS facilities, far from proportionate to the number of ratepayers on low-income rates (Exhs. ES-ACB-IH-1, at 8-9, 17; NG-1, at 10-11 & n.3). This evidence indicates that low-income customers have not received a proportionate share of the benefits of the Commonwealth's SMART Program. While DOER amended the SMART Regulations to expand low-income eligibility criteria, barriers to low-income participation are likely to persist given the factors that we detailed in D.P.U. 17-140-A, including (1) lack of capital and financing for low-income customers; (2) perceived credit risk of serving low-income customers; and (3) challenges faced by developers in identifying low-income households to participate as solar credit recipients, including higher customer acquisition costs. D.P.U. 17-140-A at 59.

The Department is convinced that DOER's approach of enlisting the Distribution Companies to directly reach low-income customers is a promising vehicle for pursuing greater participation of low-income customers, while recognizing the overall and increasing

cost burdens on all electric distribution customers in the Commonwealth. The Department, therefore, finds that it is appropriate for the Distribution Companies to offer LICSS programs to facilitate access to the benefits of the SMART Program for low-income customers, and we approve the addition of Section 10.4 to the SMART Provision subject to the modifications set forth below.

In considering the NSTAR Electric and National Grid CSAP proposals, the Department prioritizes the ability of a proposal to deliver benefits to low-income customers. Therefore, a primary consideration of the Department in assessing any CSAP proposal will be the ability of a CSAP to deliver the benefits of community-shared solar to low-income customers, namely, in the form of bill credits that lower a utility bill. A CSAP is more likely to result in just and reasonable rates for ratepayers if the highest possible portion of the CSS or LICSS adder being funded by ratepayers is shared with low-income subscribers. To maximize those benefits, the program administrative costs should be minimized. As the Department found in D.P.U. 17-140-A, providing certain residential customers with opportunities to participate in renewable energy projects not only may lower these customers' utility bills but also may reduce ratepayer costs for arrearage management programs. D.P.U. 17-140-A at 59.

The Department will evaluate each CSAP with a specific focus on: (1) targeted level of monthly bill credits; (2) an opt-in or opt-out enrollment model; (3) simplified billing; (4) program fees; and (5) the appropriateness of performance incentives. We evaluate the NSTAR Electric and National Grid proposals below.

b. NSTAR Electric ECSAP

i. Introduction

NSTAR Electric's ECSAP consists of two primary components: (1) a simplified billing structure; and (2) a customer enrollment process administered by NSTAR Electric (Exh. ES-ACB-IH-1, at 3-4). The ECSAP simplified billing structure proposes to eliminate the need for third-party bills between owners of the LICSS or CSS STGUs and participating customers (or "subscribers") by distributing the AOBCs directly at a pre-determined rate, with a portion distributed as a credit on participating customer accounts and a portion paid to owners as a direct cash payment (Exh. ES-ACB-IH-1, at 4-5, 13). The ECSAP is targeted toward those customers on a residential assistance rate (Rates R-2 and R-4) (Exh. ES-ACB-IH-1, at 23). NSTAR Electric plans to enroll subscribers in the ECSAP on a per-project basis, matching ECSAP subscribers to projects until the energy output committed to the ECSAP is fully allocated (Exh. ES-ACB-IH-1, at 23).

ii. Targeted Savings for Low-Income Customers

The Department in D.P.U. 17-140-A found that there is a public policy benefit to prioritizing direct incentives for low-income customers consistent with state law and policy. D.P.U. 17-140-A at 62, citing G.L. c. 164, § 141; Exec. Order No. 552, § 5(ii); 2021 EEA EJ Policy at 5. The 2021 Climate Act further mandates that an additional objective of the SMART Program is to provide equitable access and affordability for low-income communities. St. 2021, c. 8, § 94. Given the historic lack of solar equity in Massachusetts particularly among low-income customers and the limited success of the SMART Program's

LICSS compensation adder in expanding the benefits of the Commonwealth's solar programs to low-income customers, the Department finds that the primary measure of a well-designed LICSS plan is whether that plan generates a meaningful level of savings for low-income customers.

In considering what constitutes a meaningful level of savings, the Department observes that a proposal should take into consideration any implicit limits on the number of participants a CSAP can support, based on any established program cap. We also acknowledge comments suggesting that a CSAP should include a minimum bill savings threshold rather than a target (Blue Hub Capital Comments at 10). While the Department does not mandate such a change at this time, we urge both NSTAR Electric and National Grid to consider the feasibility of establishing a guaranteed minimum level of bill savings for low-income customers, as opposed to a target, in a CSAP.

At the close of the record, NSTAR Electric had not yet determined the targeted savings per customer but was engaged with a stakeholder working group to determine the target savings amount (Exh. ES-ACB-IH-1, at 24; Tr. 2, at 292). The Department acknowledges and encourages this type of engagement, noting that NSTAR Electric made specific changes to its program design based on working group input.[151] In a supplemental

[151] NSTAR Electric explains that it designed the ECSAP with input from low-income stakeholders, and that the design reflects stakeholder feedback. NSTAR Electric states that it "worked with a stakeholder group consisting of low-income customer advocates, solar project developers and government entities to design the program[,]" and received feedback from several stakeholders, including "Democracy and Regulation, Vote Solar, the National Consumer Law Center, Action Inc., Citizen's

discovery response filed with the Department on November 5, 2021, NSTAR Electric provided an informational update that in September 2021 it completed a survey of low-income customers and found that $36 per month represented a meaningful level of electric bill savings (Exh. DPU-ES 1-7 (Supp.)). Additionally, on June 24, 2022, NSTAR Electric submitted to the Department a response to an information request DPU-ES 68-17 filed in D.P.U. 22-22, NSTAR Electric Company, its base rate case ("June 24, 2022 Informational Filing"), NSTAR Electric identifies the goal of providing a targeted savings amount of $420 per year, subject to the caveat that actual savings depends on the actual kWh output of the system in any given year (June 24, 2022 Informational Filing, at 1 n.1).

NSTAR Electric has demonstrated that its proposal maximizes the proportion of ratepayer funds that will benefit low-income customers by minimizing administrative costs, which are recovered from ratepayers through the SMART Factor cost recovery mechanism. NSTAR Electric expects that the ECSAP's administrative costs will total approximately $7.4 million[152] over the 20-year program life and will provide upwards of $300 million in

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Energy and Nexamp" (Exh. ES-ACB-IH-1, at 15). NSTAR Electric points to three important modifications it made based on the stakeholder feedback: allowing owners to bid a minimum of 50 percent of a facility's energy output, rather than requiring 100 percent; allowing existing LICSS facilities to maintain and enroll existing low-income subscribers; and changing the bid preference to favor existing LICSS projects. NSTAR Electric utilized the same stakeholder engagement process to develop its customer enrollment methodology (Exh. ES-ACB-IH-1, at 15).

[152] NSTAR Electric acknowledges that the ECSAP's administrative costs may exceed the $7.4 million estimate if it modifies the ECSAP as requested by the Attorney General

direct benefits to low-income customers (Exh. ES-ACB-IH-1, at 30; RR-DPU-ES-1, Att., tab "Lifecycle Program Costs," row 10). NSTAR Electric calculates that the administrative expense is approximately 2.5 percent of total program benefits, and states that its proposal was designed with the intent to minimize administrative costs and the changes needed to existing programs (Exh. ES-ACB-IH-1, at 30; Tr. 2, at 286).

While the Department cautions that the annual target of $420 total savings has not been subject to comment, and in this Order the Department provides for such process, we make a preliminary finding that NSTAR Electric has demonstrated that the ECSAP as designed will provide a meaningful benefit to low-income customers and that the ECSAP maximizes the portion of LICSS funds benefiting low-income ratepayers.

iii. Enrollment Model

The CSS/LICSS Guidelines do not mandate a specific program structure, which includes whether customer enrollment should be on an "opt-out" or "opt-in" basis. In an opt-out model, an eligible customer would be automatically enrolled in a program, provided notice of that enrollment, and have a specific time period to request to be removed from that program (see, e.g., June 24, 2022 Informational Filing at 3). In an opt-in model, generally a

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(Distribution Companies Brief at 56-57). Specifically, NSTAR Electric contends that if it modifies the method of calculating the total program cap based on the portion of a project that is allocated to low-income subscribers, this change may increase the number of projects participating in the ECSAP, which in turn may increase administration costs and potentially require IT system modifications (Distribution Companies Brief at 57).

distribution company solicits its customers to join a program, and the customer must make the affirmative choice to do so (see, e.g., Exh. NG-1, at 18-19).

During this proceeding, NSTAR Electric had not yet fully developed its ECSAP customer enrollment process, including whether it would use an opt-in or an opt-out model for enrollment, and whether it should prioritize certain customers for enrollment (Exh. ES-ACB-IH-1, at 4, 24; Tr. 2, at 301). NSTAR Electric did, however, note that providing an opt-in customer engagement model would include higher costs for program marketing to solicit customer participation and for investments in a customer portal (Exh. DPU-ES 1-6). In the June 24, 2022 Informational Filing, NSTAR Electric indicated that it would incorporate an opt-out option (June 24, 2022 Informational Filing at 3). While intervenors were broadly supportive of a simplified, more administratively efficient program, Ampion cautions that there are potential drawbacks to an opt-out design, such as (1) a potential lack of opportunity for low-income customers to participate in additional community solar projects; and (2) solar developer concerns that they may not be able to enroll low-income customers in NSTAR Electric's service territory to qualify for the LICSS SMART adder because a subset of eligible subscribers would become unavailable (Ampion Brief at 7, citing Exh. DPU-SEIA-1-5; Tr. 2, at 218-219; Ampion Reply Brief at 3).

As NSTAR Electric notes, consistent with DOER's Guidelines, customers enrolled in the ECSAP would be able to enroll in multiple LICSS facilities[153] (Distribution Companies

[153] Under current SMART Regulations and guidelines, a customer can participate in multiple CSS and LICSS projects with one exception: no individual low-income

Reply Brief at 13, citing Exh. CLC-ES-1-1). NSTAR Electric also asserts that while it had not made a final determination as to the opt-in or opt-out mechanism in the ECSAP at the close of the record, it did submit substantial evidence in the record regarding the merits of each option (Distribution Companies Reply Brief at 13, citing Exhs. CLC-ES-1-10; DPU-ES 1-3; DPU-ES 1-5; DPU-ES 1-6).

The Department finds that the opt-out enrollment mechanism in a CSAP should be heavily favored, and we agree that NSTAR Electric has provided a sufficient basis in the record for us to make that determination as to the ECSAP. We agree that an opt-in program model likely would require higher costs and subscribe fewer customers as compared to an opt-out model, wherein customers are automatically enrolled in the program unless they decide to opt out. By requiring more investments in technologies and marketing to recruit low-income customers, an opt-in plan is also likely to be more complex to develop and implement. We also note that for a program where the only substantive impact to the low-income customer is a benefit—a monthly bill credit—the risk or cost of an opt-out model to a low-income customer is *de minimis*. The Department therefore finds that an opt-out enrollment model for a CSAP is more likely to achieve the objective of ensuring that the benefits of solar incentive programs accrue to low-income customers, while also controlling program costs borne by ratepayers. The Department directs NSTAR Electric to incorporate the opt-out enrollment model in its compliance filing.

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customer may receive a benefit from more than one applicant's alternative CSS or LICSS STGU at one time (DOER Reply Brief at 16).

iv. Simplified Billing

The Department next addresses the provision of simplified billing functions as part of a CSAP. NSTAR Electric proposes a simplified billing offering only to third-party owners of LICSS facilities, without a fee (Exh. ES-ACB-IH-1, at 4, 25). NSTAR Electric asserts the simplified structure of the ECSAP will reduce barriers to low-income customer participation, lower customer acquisition costs for developers, and eliminate consumer protection concerns because low-income customers will receive direct benefits—credits on their bills—without having to make payments to facility owners (Exh. ES-ACB-IH-1, at 5). The Department agrees that eliminating the need for contractual obligations and third-party bills through a simplified billing offering addresses potential barriers to participation and contributes to a straightforward program design (see Exh. ES-ACB-IH-1, at 13-14). This type of program structure is particularly important for an opt-out design, which the Department favors. The direct provision of bill credits to customers likewise is consistent with our emphasis on prioritizing direct incentives for low-income customers. D.P.U. 17-140-A at 62, citing G.L. c. 164, § 141; Exec. Order No. 552, § 5(ii). The Department approves the simplified billing offering found in the ECSAP and emphasizes that any CSAP should include a form of simplified billing offering.

Certain parties suggested the Department open a generic investigation into the potential benefits of simplified billing or net crediting options in connection with both the SMART Program and net metering (see DOER Reply Brief at 7-8; Ampion Brief at 2, 8; Ampion Reply Brief at 2, 4; SEIA Brief at 34-35). The Department supports the

introduction of solutions that may facilitate the allocation of credits between owners of STGUs and customers, such as the services NSTAR Electric and National Grid propose with their respective CSAP proposals. At this time, however, we are not convinced that it would be appropriate to commence a generic proceeding to further investigate expanding STGU owner access to net crediting solutions like those proposed here.

v. Additional Program Design Elements

The Attorney General makes several recommended changes to the ECSAP. First, the Attorney General recommends changing how NSTAR Electric calculates the 234 MW program cap (Attorney General Brief at 52, citing Tr. 2, at 300). Currently, a facility's entire project size would count toward the 234 MW cap, even if only a part of the facility's production is allocated to low-income customers (Attorney General Brief at 52, citing Tr. 2, at 298-300). The Attorney General observes that if anything less than 100 percent of the program capacity is allocated to low-income subscribers, NSTAR Electric would not meet its goal to enroll 13.6 percent of its low-income customers in community shared solar (Attorney General Brief at 53). The Attorney General therefore suggests that only the amount of production committed to low-income customers count toward the cap. NSTAR Electric does not object to this change, but cautions that should such a change significantly increase the number of projects participating in ECSAP, it may result in increased administrative costs, potentially including a re-evaluation of IT system modifications that the ECSAP had avoided (Distribution Companies Brief at 57). The Department appreciates this concern but agrees with the Attorney General that the ECSAP should be designed to maximize its chances of

meeting its 13.6 percent target. We therefore direct NSTAR Electric to make the change that only the amount of production committed to low-income customers counts toward the cap.

The Attorney General makes two additional suggestions regarding the proposed bid ranking process. First, and as a corollary to the change above where only the production dedicated to low-income customers be counted toward the cap, the Attorney General recommends NSTAR Electric should rank bids based only on the percentage of AOBC value actually allocated to low-income customers (Attorney General Brief at 53). The Department agrees that this is a logical change to prioritize those projects that dedicate the highest percentage of output to low-income customers.

The Attorney General also recommends changing the bid preference to facilities located within a neighborhood or census block identified as an EJ population (Attorney General Brief at 53). The Attorney General notes that locating a facility within a neighborhood or census block identified as an EJ population may have either negative or positive impacts on a particular community and its residents, depending on the circumstances. The Attorney General suggests a bid preference for facilities where developers have support from the community, have sought input from stakeholders, and/or have incorporated feedback from the particular community where a developer proposes to locate a facility (Attorney General Brief at 53). NSTAR Electric stated that it would make adjustments to its bid preference through its ongoing stakeholder process (Distribution Companies Brief at 57).

In its June 24, 2022 Informational Filing, NSTAR Electric proposed customer characteristic categories and a target percentage of subscriptions for each category (June 24,

2022 Informational Filing at 2). These categories include customers on the R-2 or R-4 rate; customers on the R-2 or R-4 rate who reside in a priority community and are not in arrears; customers on the R-2 or R-4 rate who are in arrears but are not in a priority community; and customers on the R-2 or R-4 rate who reside in a priority community and are in arrears (June 24, 2022 Informational Filing at 2). A "priority community" for the purposes of the ECSAP is defined as municipalities meeting the following criteria: (1) greater that 50 percent of the population resides in an EJ census block group; (2) the municipality (as a whole) meets the EJ municipality's income criterion and at least one additional criterion; and (3) the median income of the municipality as a whole does not exceed 100 percent of state median income (June 24, 2022 Informational Filing at 2 n.3).

The Department appreciates and is aligned with the Attorney General's emphasis on EJ populations in the bid preference design. Again, while the detail provided in the June 24, 2022 Informational Filing must be subject to review and comment, the Department finds that CSAP design generally and the ECSAP specifically should prioritize EJ populations, and their active participation in program design, facility siting, and the continued evolution of the programs is consistent with the 2021 EEA EJ Policy. 2021 EEA EJ Policy at 5.

Finally, DOER and SEIA express some concern that the ECSAP may encourage existing CSS projects to transition to LICSS projects, thereby causing some displacement of existing CSS subscribing customers (SEIA Brief at 35; DOER Brief at 16). SEIA requests that the Department direct NSTAR Electric to work with stakeholders to refine its RFP process and refine its customer enrollment plans to ensure strong consumer protection

components and ensure a minimum benefit to all participating customers (SEIA Brief at 35). DOER echoes this request, indicating that it can work with NSTAR Electric and stakeholders to address this issue, and monitor the ECSAP to make adjustments, if necessary (DOER Brief at 16). NSTAR Electric states that it agrees with these concerns to avoid unintended market consequences (Distribution Companies Brief at 58). NSTAR Electric notes that it proposes to perform an annual program evaluation for each year of procurement in the ECSAP (Exhs. ES-ACB-IH-2 (Rev.) at 9; AG-ES-1-4). The Department agrees an annual program evaluation and continued engagement with DOER and stakeholders should be incorporated into the launch and operation of the ECSAP.

vi. Conclusion

The Department herein has approved many aspects of the NSTAR Electric ECSAP, while observing that certain details and updated calculations were not included at the close of the record in this proceeding. Intervenors and commenters nonetheless broadly support approval and implementation of the ECSAP with limited exception. The Department therefore directs NSTAR Electric to submit a compliance filing within 30 days of the issuance of this Order updating its ECSAP proposal consistent with the findings and directives herein. We direct the Hearing Officer assigned to this matter to take the necessary steps to establish a procedural schedule to afford intervenors the opportunity to participate in the review of the ECSAP compliance filing.

c. National Grid SAI

National Grid's proposed SAI contains elements potentially available to and impacting both CISS and LICSS projects. The SAI specifically contains two components: (1) the SSB platform, to be made available to both CSS and LICSS projects, designed to streamline the allocation of AOBCs to subscribers and the provision of SMART compensation to STGU owners; and (2) the SEP, a software platform designed to engage customers on low-income rates and enroll them as subscribers to LICSS facilities (Exh. NG-1, at 5). National Grid plans to implement the SAI in two phases, launching the SSB platform a few months prior to the SEP platform (Exh. NG-1, at 28). National Grid's SSB would be available, for a fee, to all CSS and LICSS facilities that allocate AOBCs to subscribers (Exh. NG-1, at 18).

National Grid explains that the SSB offers three main benefits: (1) simplifying the process for billing subscribers of CSS and LICSS facilities for owners and subscribers; (2) eliminating owners' exposure to the risk of non-payment; and (3) protecting subscribers from having a contractual obligation to pay more than the face value of the AOBCs (Exh. NG-1, at 16). National Grid asserts the SEP offers two main benefits: (1) eliminating the need for participating owners to undergo expensive Rate R-2 customer acquisition activities and manage Rate R-2 customer turnover; and (2) creating a standardized LICSS offer that provides Rate R-2 subscribers up to $240 a year in electric bill savings (Exh. NG-1, at 16). National Grid based the targeted level of bill savings of $240 per year or $20 per month on

the results of a survey of low- to moderate-income customers (Exh. NG-1, at 20, n.15, 16).[154]

National Grid submitted its SAI to the Department on February 3, 2021 (Exhs. NG-1 through NG-12). Initially, National Grid intended to make similar offerings in the service territories of its New York and Rhode Island affiliates, and the company engaged in several years of discussion with dozens of stakeholders[155] about potential programs (Distribution Companies Brief at 45, n.15). This process evolved into separate programs, so that National Grid designed and submitted to the Department a Massachusetts-only offering (Distribution Companies Brief at 45, n.15). The Department again emphasizes the importance of and its appreciation for a stakeholder process, and acknowledges that National Grid engaged in a complicated, years-long undertaking and produced a comprehensive, complete plan. While intervenors generally do not support aspects of the SAI, the Department further acknowledges

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[154] National Grid explains that the actual value may vary based on the net annual energy production of the CSS or LICSS STGU (Exh. NG-1, at 20 n.15). Therefore, a target monthly bill credit amount is not necessarily guaranteed.

[155] Clean Energy Collective; NSTAR Electric; Unitil; Vote Solar; BlueHub Capital; Citizens Energy; ICAST; DOER; the Attorney General; LEAN; SEPA; Green Consumers Alliance; Zero Point; Nexamp; Light Touch Solar; Syncarpha; Chris Eicher, General Counsel, Massachusetts Office of the Speaker; as well as Sam Anderson, General Counsel, and his employer Senator Michael Barrett, Massachusetts Senate. National Grid consulted the following stakeholders about its New York program: Powermarket; Common Energy; NY Green Bank Solstice; CCSA; NYSEIA; Goldman Sachs; Nextera; OTDA; and NYSERDA. Finally, National Grid consulted the following stakeholders regarding a multi-state program: Borrego; SunPower; Cyprus Creek; 38 Degrees North; BlueWave; and a concept test with National Grid's customer "council," a group of 613 customers.

that it received comments from six municipalities in National Grid's service territory voicing support for the proposal (see Attorney General Brief at 39; Ampion Reply Brief at 1-2; DOER Reply Brief at 4; SEIA Brief at 34-35; North Adams Comments at 1; Sheffield Comments at 1; Stockbridge Comments at 1; Williamstown Comments at 1; Charlemont Comments at 1; Worcester Comments at 1).

National Grid avers to the comments of the municipalities as evidence of enthusiasm for a CSAP and LICSS in particular in its service territory, and the Department agrees. In addition, and while not a part of the record in this proceeding, the Department observes that the landscape of community solar has shifted and evolved significantly since National Grid proposed the SAI. In New York, for example, National Grid's affiliate[156] has undertaken community solar[157] and targeted low-income solar credit programs.[158] In Massachusetts, the Healey-Driscoll administration recently announced that the Commonwealth had been selected by the U.S. Environmental Protection Agency to receive $156 million under the Solar for All competition.[159] The Massachusetts Solar for All program expects to deploy 125 MW of solar

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156 Within the National Grid USA public utility holding company system, Massachusetts Electric Company and Nantucket Electric Company are affiliates of Niagara Mohawk Power Corporation, which provides electric service in New York State.

157 https://www.nyserda.ny.gov/All-Programs/NY-Sun/Solar-for-Your-Home/Community-Solar (last visited May 30, 2024).

158 https://www.nationalgridus.com/Upstate-NY-Home/Monthly-Bill-Credits/Energy-Affordability-Program-Solar (last visited May 30, 2024).

159 https://www.mass.gov/news/healey-driscoll-administration-celebrates-winning-156-million-in-epas-solar-for-all-competition (last visited May 30, 2024).

capacity, provide a 20 percent reduction in energy costs to more than 31,000 low-income and disadvantaged households, support 2,800 clean energy jobs, and decrease carbon emissions by 70,5000 tons. Particularly given the outreach and consultation already done, experience based on the New York programs, and the eagerness of municipalities to expand opportunities for low-income customers to participate in the SMART Program, the Department believes National Grid is well positioned to implement a successful CSAP in its service territory.

Based on our findings above favoring a meaningful benefit to low-income customers in the form of bill credits, a simplified billing offering, and an opt-in program structure, the Department finds that the SAI as submitted should be revised to incorporate these design preferences. The Department also acknowledges that additional aspects of the SAI, including the PIM and potential fees, faced significant opposition from intervenors. The Department therefore denies the SAI as submitted, dismisses the SAI without prejudice, and directs National Grid to submit its revised CSAP in a new proceeding.

4. Conclusion

The Department directs the Distribution Companies to revise the last sentence of Section 10.4 to allow only those STGUs enrolled in a distribution company's CSAP that serve low-income customers to be counted by the Distribution Company for purposes of meeting set-asides for LICSS projects. The Department also directs the Distribution Companies to revise Section 7.1 subpart 3, VOE definition, to delete "or a rate approved by the Department for AOBC facilities enrolled in any Company offered Community Solar

Access program, as allowed by Section 10, multiplied by the kilowatt-hours measured on the Company's Retail, Service or Revenue Meter."

VII. MISCELLANEOUS

A. Transfer of AOBCs between NSTAR Electric's EMA and WMA

1. Introduction

NSTAR Electric's convention of maintaining separate EMA and WMA for many of its business operations is a result of the merger in 2017 of Western Massachusetts Electric Company ("WMECo") into NSTAR Electric. NSTAR Electric Company and Western Massachusetts Electric Company, D.P.U. 17 05, at 44 (2017). Based on operational requirements, after this merger, NSTAR Electric maintained the separate EMA and WMA, which are the legacy service territories of NSTAR Electric and WMECo.

In the Phase I Order, the Department addressed several issues arising out of NSTAR Electric's operational use of EMA and WMA. D.P.U. 20-145-B at 50-52. One such issue is the ability to transfer AOBCs across EMA and WMA, which is barred under Section 10.0 ("Alternative On-Bill Credits") of the NSTAR Electric's currently effective SMART Provision. M.D.P.U. No. 74I, § 10.0.[160] The Department stated that Section 96 of the 2021 Climate Act plainly requires AOBC transfers to be processed throughout Distribution Company service territories without respect to ISO-NE load zone boundaries.

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[160] "AOBCs may be transferred across ISO-NE load zones within the Company's Eastern Massachusetts service territory. AOBCs may not be transferred from the Company's Eastern Massachusetts service territory to its Western Massachusetts service territory or vice versa."

D.P.U. 20-145-B at 52. The Department agreed with the Distribution Companies, however, that there are complex issues beyond this proceeding and the SMART Program overall related to AOBC transfers between NSTAR Electric's EMA and WMA. D.P.U. 20-145-B at 52. Specifically, the Department identified that the potential billing system upgrades necessary for such transfers had been raised in grid modernization and net metering proceedings. D.P.U. 20-145-B at 52. At the time, NSTAR Electric had proposed an entirely new billing system as part of its advanced metering infrastructure ("AMI") proposal in NSTAR Electric Company, D.P.U. 21-80 (AMI implementation plan for 2022 to 2028), which would include all Massachusetts NSTAR Electric customers and would allow the transfer of bill credits to any Massachusetts NSTAR Electric customers regardless of whether they previously were in ENA or WMA (Exh. DPU 3-8). Based on this information, the Department deferred until Phase II consideration of the appropriate means of addressing the billing systems upgrades necessary to implement the requirement that AOBCs be transferrable across ISO-NE load zones and company service territories. D.P.U. 20-145-B at 52.

2. Position of the Parties

The Distribution Companies, in effect, agree with SEIA that NSTAR Electric's company-specific SMART Provision should not prohibit transfers of AOBC credits within its service territory based on whether customers reside in EMA or WMA (SEIA Brief at 30; Distribution Companies Brief at 29). In their proposed SMART Provision, the Distribution Companies strike this NSTAR Electric-specific transfer prohibition (Distribution Companies Brief at 29, citing Exh. DOER-EDC-2-1 (Supp.) Att., § 10.2).

3. Analysis and Findings

The billing system upgrade issues relating to NSTAR Electric's EMA and WMA are not limited to the SMART Program; these issues have been raised in several contexts, including grid modernization and net metering proceedings. D.P.U. 20-145-B at 52. The Department addressed NSTAR Electric's proposal to implement an entirely new billing system ("customer information system" or "CIS") as part of its AMI proposal in NSTAR Electric Company, D.P.U. 21-80-B (2022) (AMI implementation plan for 2022 to 2028). In approving NSTAR Electric's AMI implementation plan, the Department pre-authorized certain associated investment to be made by NSTAR Electric including its CIS. D.P.U. 21-80-B at 27 & n.20, 31-33, 233-234, 238. With the capability for CIS across EMA and WMA and our continued oversight of the AMI and with NSTAR Electric's agreement to strike the identified language in the SMART Provision plan,[161] the Department finds that it not necessary to address here the billing system upgrades to ensure compliance with Section 96 of the 2021 Climate Act. Further, the Department agrees with intervenors that removing the restrictive tariff language will provide consistency among the Distribution Companies regarding the requirements of Section 96,[162] and we find that there is no basis to

161 The Department approved cost recovery for the AMI upgrades and NSTAR Electric's AMI tariff (Advanced Metering Infrastructure, currently M.D.P.U. No. 80B) in NSTAR Electric Company, D.P.U. 22-22, at 349-351, 353 (2022).

162 As stated above in Section III.C.4.c.iv, the Department has found a benefit in uniformity across companies in tariff language, policies, and charges (citations omitted).

retain the prohibition on the transfer of AOBCs between NSTAR Electric's EMA and WMA. Therefore, the Department directs NSTAR Electric to revise its SMART Provision to remove the restrictions on transferring AOBCs across EMA and WMA, as now shown at Exhibit DOER-EDC-2-1 (Supp.), Att., § 10.2.[163]

B. Section 6.0

1. Introduction

In Section 6.0 ("Conditions for Participation"), the Distribution Companies propose changes to Sections 6.3.1, 6.3.2 and 6.3.3 to incorporate newly defined terms such as "Standalone STGUs" and "BTM STGUs" and to simplify certain language regarding the Distribution Companies' rights to RPS Class I Renewable Generation Attributes and/or Environmental Attributes for all STGUs and the rights and title to energy and market products associated with Alternative On-Bill Credit Generation Units (Exhs. EDC-1, at 30; DOER 2-1 (Supp.), Att., §§ 6.3.1-6.3.3). In addition, the Distribution Companies propose to add a new Section 6.3.3.1 to provide an option for the Distribution Companies to treat any BTM STGU as a load reducer and not register it in ISO-NE's energy market (Exh. EDC-1, at 30; DOER-EDC-2-1 (Supp.), Att., § 6.3.3.1). The proposed Load Reducer Option Section provides:

> The Company may treat any Behind-the-Meter STGU as a load reducer and not register it in the energy market operated by the ISO-NE. However, should the Behind-the-Meter STGU's exported energy equal or exceed 35 percent of its annual energy output, the Company may treat the Behind-the-Meter STGU

163 The Distribution Companies shall remove this language from the model SMART Provision (Exh. DOER-EDC-2-1 (Supp.), Att., § 10.02).

> as an asset and register it in the ISO-NE energy market. The Company is not required to register as a market participant any STGU that demonstrates that it is designed as a non-exporter of energy.

(Exh. DOER-EDC-2-1 (Supp.), Att., § 6.3.3.1).

The Distribution Companies state that Section 6.3.3.1 provides an option to treat any BTM STGU as a reduction to on-site electricity usage (load) and not register it in ISO-NE's energy market (Exh. EDC-1, at 30). The Distribution Companies maintain that the addition of Section 6.3.3.1 allows for consistent treatment of BTM Alternative On-Bill Credit Generation Units and BTM net metered facilities as addressed in Net Metering/SMART Forward Capacity Market Process, Load Reducer Option, D.P.U. 17-146-E (2020), and also reflects the same rationale that DOER used to establish on-site electricity usage of a BTM AOBC Generation Unit, as provided in 225 CMR 20.08(2)(b) (Exh. EDC-1, at 30).

2. Position of the Parties

The Distribution Companies contend that no party has opposed the inclusion of Section 6.3.3.1 in the SMART Provision; and that including the language defining the load reducer option would implement past Department guidance in D.P.U. 17-146-E (Distribution Companies Brief at 27). No intervenor briefed the addition of language defining the load reducer option.

3. Analysis and Findings

As an initial matter, we find the proposed revisions to Sections 6.3 related to and incorporating newly defined terms "Standalone STGU" and "Behind-the-Meter STGU" to be clarifying and consistent with the Department's decisions on proposed changes to other

sections of the model SMART Provision. The Department, therefore, approved those changes to incorporate into the SMART Provision the defined terms stated above.

Regarding the proposed addition of the load reducer option language in Section 6.3.3.1, the Department found that establishing a load reducer option for BTM Class II and III net metering facilities likely will have a negligible impact on the Net Metering Recovery Surcharge[164] costs and likely will create the potential for greater benefits for ratepayers (i.e., reducing peak demand), while also providing a consistent policy across the Commonwealth. D.P.U. 17-146-E at 9. The Department agrees with the Distribution Companies that the addition of the Load Reducer Option to the SMART Provision will make the treatment of BTM STGUs functioning as reductions to load in the SMART Program functioning consistent with the treatment of similar facilities in the net metering program. Therefore, the Department approves the addition of Section 6.3.3.1 to the Model SMART Provision. In approving the inclusion of the Load Reducer Option to the SMART Provision, the Department directs the Distribution Companies to adhere to the following policy set forth in D.P.U. 17-146-E at 13-14:

- The Distribution Companies shall automatically treat BTM STGUs as load reducers as defined by ISO-NE;

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[164] The Net Metering Recovery Surcharge is an annual reconciling charge applied to all bills issued by the Distribution Company to recover (a) net metering credits applied to customers and (b) the non-reconciling distribution portion of revenue displaced by customers with on-site generation facilities. See Net Metering, M.D.P.U. No. 1446, § 1.08 (National Grid); Net Metering, M.D.P.U. No. 68K, § 1.08 (NSTAR Electric); M.D.P.U. No. 416, Schedule NM, § 1.08 (Unitil).

- A Distribution Company shall not register any BTM STGU with ISO-NE as a Settlement Only Generator or otherwise participate in any ISO-NE market;
- The Distribution Companies shall delist any existing BTM STGU as a Settlement Only Generator from the ISO-NE energy market withing 30 days of this Order;
- The Distribution Companies retain control of title to both the energy and capacity rights associated with a BTM STGU;
- A BTM STGU is not eligible to participate in any ISO-NE market including the Demand Response ("DR") program, unless the STGU facility owner makes a buyout payment to the Distribution Company;
- If a STGU facility owner would like to monetize the value of its facility's capacity, the facility owner is required to make a buyout payment to the Distribution Company that would flow through the Distribution Company's SMART factor and result in ratepayer benefits;
- A STGU facility owner that exercises the buyout option will obtain the capacity rights of that BTM STGU, while the Distribution Company will retain the energy rights associated with the BTM STGU; and
- A STGU facility owner does not need to make a buyout payment if it wishes to participate only with a dispatchable, co-located resource in the ISO-NE active DR program or other program for dispatchable BTM resources.

C. Section 12.0 and Appendix A

1. Introduction

The Distribution Companies propose to revise Section 12.0 ("Applicability of SMART Factor") to reflect a transition to a non-bypassable, volumetric SMART Factor design (Exh. EDC-1, at 30). Specifically, the Distribution Companies propose the following language: "the SMART Factor [...] shall be assessed to the kWh of all retail delivery service

customers based on the readings of usage from the Retail, Service or Revenue Meter and the readings of generation from the Production or Generation Meter [...]" (Exhs. EDC-1, at 31; DOER-EDC-2-1 (Supp.), Att., § 12.0). The Distribution Companies also propose to remove the language applying the SMART Factor prior to January 1, 2020 (Exh. DOER-EDC-2-1 (Supp.), Att., § 12.0). In Appendix A, III, the Distribution Companies propose to change a portion of the title in the table from "Applicable three-year average by" to "Rate in Effect during" (Exh. DOER-EDC-2-1 (Supp.), Att., App. A, III).

2. Positions of the Parties

The Distribution Companies maintain that the revisions proposed in Section 12.0 and Appendix A, III are minor and should be approved (Distribution Companies Brief at 37). The Distribution Companies explain that the revisions in Section 12.0 relate to how the SMART Factor will be applied to customers' bills (Distribution Companies Brief at 37). The Distribution Companies state that since they have transitioned to a non-bypassable, volumetric SMART Factor design in accordance with D.P.U. 17-140-A, they propose the language in Section 12.0 for consistency (Distribution Companies Brief at 37). Furthermore, the Distribution Companies maintain that the revision in the table of Appendix A, III is a clarifying revision and that no party commented on this revision, which should, therefore, be approved (Distribution Companies Brief at 37).

3. Analysis and Findings

The Department has required the Distribution Companies to transition to a non-bypassable volumetric SMART Factor to be billed to all customers after the Distribution

Companies' installation of meter data systems and billing system upgrades, initially by no later than January 1, 2020, and later by an extended deadline of October 1, 2020. D.P.U. 17-140-A at 184. Now that the Distribution Companies have transitioned to a non-bypassable, volumetric SMART Factor, the Department agrees that updating the SMART Provision to reflect current processes is appropriate. Under the revised language, customers with STGUs will be assessed a SMART Factor based on (1) the readings of usage from the retail, service or revenue meter; and (2) the readings of generation from the generation or production meter (Exhs. EDC-1, at 31; DOER-EDC-2-1 (Supp.), Att., § 12.0). Customers that do not have an STGU will continue to be billed a SMART Factor based on the customer's billing month consumption (Exh. EDC-1, at 31). The Department finds that the Distribution Companies' proposed Section 12.0 complies with the Department's directives regarding a non-bypassable, volumetric SMART Factor. Therefore, the Department directs the Distribution Companies to revise the model SMART Provision consistent with proposed language in Section 12.0

Regarding the change to the title to the table in Appendix A, III, the Department considers this change to be reasonable because it is a minor clarification and no party commented on this revision. Accordingly, the Department approves this proposed revision to Appendix A, III of the SMART Provision.

D. Pollinator Adder

In the Phase I Order, the Department denied recovery through the SMART Factor of costs associated with the pollinator adder ("Pollinator Adder") as compensation for eligible

STGUs. D.P.U. 20-145-B at 39-40. The Pollinator Adder would have allowed an eligible STGU to receive compensation from a Distribution Company for the STGU's costs for certification as a pollinator-friendly solar development and for a designed treatment plan that cultivates land with appropriate vegetation to preserve and create pollinator habitat. D.P.U. 20-145-B at 38-39. In denying recovery of the Pollinator Adder through the SMART Factor, the Department stated, "we cannot find that the associated Pollinator Adder is a reasonable utility cost affecting the Distribution Companies' obligation to provide electric service to customers." D.P.U. 20-145-B at 40. The Department further noted that it "cannot find a basis in the Solar Act, or otherwise, for the Pollinator Adder to be recovered in rates from ratepayers." D.P.U. 20-145-B at 40 n.59. Subsequently, on August 11, 2022, Governor Baker signed into law the 2022 Clean Energy Act. St. 2022, c. 179. Chapter 63 of the 2022 Clean Energy Act amended the Solar Act by adding a new Section 11A that:

- Authorizes a pollinator incentive within the SMART Program in the form of a rebate for reasonable program certification costs to comply with pollinator-friendly requirements;
- Directs DOER to promulgate regulations to establish requirements for pollinator-friendly solar installations, including certification;
- Directs DOER to establish the rebate as incentive compensation under the SMART Program; and
- Authorizes the Department to approve recovery of the rebate by Distribution Companies from ratepayers.

St. 2022, c. 179, § 63.

On May 15, 2024, DOER submitted a letter to the Department in satisfaction of its requirements in the 2022 Clean Energy Act regarding the pollinator adder ("DOER Pollinator Adder Letter"). DOER reviewed the 2022 Clean Energy Act pertaining to pollinator incentives, and it determines that its existing provisions under 225 CMR 20.07 meet all of the legislative requirements (DOER Pollinator Adder Letter at 2). Further, DOER considers that the term "rebate" shall be used by its plain meaning in the context of the 2022 Clean Energy Act, that is payment or compensation to the solar installation for funds expended for reasonable certification costs (DOER Pollinator Adder Letter at 2).

The Department finds that the SMART Provision and the SMART Factor are appropriate means to implement the requirements of the 2022 Clean Energy Act for the payment by Distribution Companies of rebates for certification as pollinator-friendly solar installations and for Distribution Companies' recovery from ratepayers of the costs of rebates. The Department accepts DOER's determinations that (1) its cited existing regulations meet all of the requirements of the 2022 Clean Energy Act, and (2) applicable rebates are compensation for funds expended on certification as a pollinator-friendly solar installation. Therefore, the Department directs the Distribution Companies to revise the SMART Provision, including the SMART Factor, to provide for rebate payments for reimbursement of reasonable costs for certification as pollinator-friendly and to provide for the Distribution Companies' recovery from ratepayers through the SMART Factor of their rebate payments.

VIII. SUMMARY OF TARIFF REVISIONS

The Department directs revisions to the definitions of "Community Shared Solar Tariff Generation Unit" (Section 2.8), "Low-Income Community Shared Solar Tariff Generation Unit" (Section 2.25), and "Low-Income Property Solar Tariff Generation Unit" (Section 2.28) to include the word "electricity" consistent with the definitions found in the SMART Regulations at 225 CMR 20.02 and our decision in Section III.B.3.

The Department directs revisions to Section 2.3 of the SMART Provision to (1) change the definition of "AOBC Payment/Credit Form" from the current requirement that the AOBC Payment/Credit Form must be provided by a STGU to the Distribution Company "prior to the Commercial Operation Date of the STGU" to instead require that the form be provided "prior to final approval of a Statement of Qualification for the STGU," and (2) indicate that the AOBC Payment/Credit Form can be updated up to four times per year. This change reflects our decisions in Section III.C.

The Department directs the Distribution Companies to delete the definitions of "ESS Meter," "Generation or Production Meter," and "Retail, Service or Revenue Meter" in Sections 2.15, 2.19, and 2.37, which reflects our decision in Section IV.B.1.

The Department directs a revision to Section 2.42 regarding the definition of "unused AOBCs." The definition should be "Unused AOBCs shall mean a balance of AOBCs on an AOBC Generation Unit's billing account. Unused AOBCs result when AOBCs are not applied, allocated, or transferred to recipient accounts." This change reflects our decision in Section III.D.2.

The Department directs revisions to Sections 5.0 to remove all of the proposed redline in the SMART Provision except for the sentence "all STGUs must be electrically separate, and separately metered from any other existing electricity generating unit, whether taking service under the SMART Provision or not," which reflects our decisions in Section IV.B.1.

The Department directs revisions to Section 5.3 of the SMART Provision to delete (1) the entire sentence that references that the Distribution Companies will read the Retail, Service or Revenue Meter to determine the STGU's delivery charges, and it will determine the appropriate meter for the ESSs delivery charges; and (2) the entire sentence that places charging restrictions on DC-Coupled STGUs paired with ESS. These changes reflect our decision in Section IV.C.

The Department directs revisions to Section 7.1 to: (1) delete the proposed additional second sentence in the definition of "kWghen;" (2) delete the proposed phrase "as determined on the Company's Retail, Service or Revenue Meter" in the definition of VOE subsection (1); and (3) delete the proposed phrase "at the Company's Retail, Service, or Revenue Meter" in the definition of VOE subsection (2). These changes reflect our decisions in Section IV.B.1.

The Department directs a revision to Section 7.1, subpart 3 to delete the phrase "or a rate approved by the Department for AOBC facilities enrolled in any Company offered Community Solar Access program, as allowed by Section 10, multiplied by the kilowatt-hours measured on the Company's Retail, Service or Revenue Meter." These changes reflect our decision in Section VI.B.3.

The Department directs revisions to Section 7.3 to reflect the changes to True-Up Compensation Mechanism proposed by DOER. These changes reflect our decision in Section IV.C.3.

The Department directs revisions to Section 10.2 so that "…the AOBC Payment/Credit Form and any subsequent updates to the Form will not be considered complete unless allocations currently total 90 percent to active and valid Customer accounts and there are no billing account number or customer name errors." This change reflects our decision in Section III.C.3.

The Department directs a revision to Section 10.2 to remove the special Eastern/Western Massachusetts provision, which reflects our decision in Section VII.A.

The Department directs revisions to Section 10.3 to reflect that an owner, in addition to the Distribution Company, can request a cash out, which reflects our decision in Section III.D.3.

The Department directs further revisions to Section 10.3 to reflect that the Distribution Companies shall remove the first sentence: "AOBCs that cannot be applied, allocated, or transferred to recipient accounts because of inaccurate information or the recipient account(s) becoming invalid or inactive will be carried forward from billing period to billing period on the AOBC Generation Unit's billing account, are no longer transferable, and may be applied towards any service charges on the AOBC Generation Unit account." Furthermore, the Distribution Companies also shall remove the reference to "standalone" in the first sentence of the second paragraph and the following language: "For Behind-the-Meter

AOBC Generation Units, the Company shall continue to carry forward any Unused AOBCs from billing period to billing period, which may be applied towards any service charges on the AOBC Generation Unit account." The Department directs a revision to Section 10.3 to add a reference to the January 1, 2021 commercial operation date to reflect that only owners of an STGU that achieve commercial operation on or after January 1, 2021 may receive a cash out. These changes reflect our decisions in Section III.D.4.

The Department directs revisions to Section 10.3 to reflect that (1) any owner who receives a cash out for accumulated unused AOBCs and whose AOBC Payment/Credit Form is less than 100 percent, must provide a revised AOBC Payment/Credit Form that allocates 100 percent of credits to eligible off-takers, and (2) the Distribution Companies may, but are not required to, offer to allocate the unused AOBCs to other accounts. The Department also directs a revision to Section 10.3 to reflect that unused AOBCs should be calculated at the rate that the credits are generated. These changes reflect our decisions in Section III.D.5.

The Department directs a revision to Section 10.4 to clarify that only those STGUs enrolled in a distribution company's CSAP that serve low-income customers may be counted by the Distribution Company for purposes of meeting set-asides for Low Income CSS projects. These changes reflect our decisions in Section VI.B.3.

The Department directs revisions to Section 12.0 of the SMART Provision to (1) remove the language regarding applying the SMART Factor prior to January 1, 2020, and (2) add the language about how the SMART Factor will be applied to customers' bills. These changes reflect our decisions in Section VII.C.

The Department directs revisions to the SMART Provision, including the SMART Factor, to provide for rebate payments for reimbursement of reasonable costs for certification as pollinator-friendly and to provide for the Distribution Companies' recovery from ratepayers through the SMART Factor of their rebate payments. These changes reflect our decisions in Section VII.D.

IX. ORDER

Accordingly, after notice, comment, hearing, and due consideration, it is

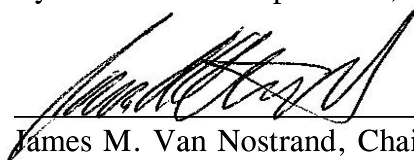
ORDERED: That the revised Model Solar Massachusetts Renewable Target Provision submitted for approval by Fitchburg Gas and Electric Light Company d/b/a Unitil, NSTAR Electric Company d/b/a Eversource Energy, and Massachusetts Electric Company and Nantucket Electric Company each d/b/a National Grid is DISALLOWED; and it is

FURTHER ORDERED: That Fitchburg Gas and Electric Light Company d/b/a Unitil, NSTAR Electric Company d/b/a Eversource Energy, and Massachusetts Electric Company and Nantucket Electric Company each d/b/a National Grid shall within 15 business days of the date of this Order submit a revised Model Solar Massachusetts Renewable Target Provision consistent with the directives contained herein; and it is

FURTHER ORDERED: That NSTAR Electric Company d/b/a Eversource Energy shall file within 30 days of the date of this Order a revised Eversource Community Solar Access Plan or other Community Solar Access Plan consistent with the directives contained herein; and it is

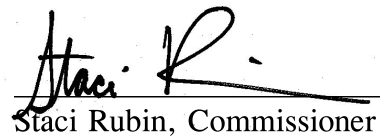
FURTHER ORDERED: That Fitchburg Gas and Electric Light Company d/b/a Unitil, NSTAR Electric Company d/b/a Eversource Energy, and Massachusetts Electric Company and Nantucket Electric Company each d/b/a National Grid shall comply with all directives contained in this Order.

By Order of the Department,



James M. Van Nostrand, Chair

Cecile M. Fraser, Commissioner



Staci Rubin, Commissioner

An appeal as to matters of law from any final decision, order or ruling of the Commission may be taken to the Supreme Judicial Court by an aggrieved party in interest by the filing of a written petition praying that the Order of the Commission be modified or set aside in whole or in part. Such petition for appeal shall be filed with the Secretary of the Commission within twenty days after the date of service of the decision, order or ruling of the Commission, or within such further time as the Commission may allow upon request filed prior to the expiration of the twenty days after the date of service of said decision, order or ruling. Within ten days after such petition has been filed, the appealing party shall enter the appeal in the Supreme Judicial Court sitting in Suffolk County by filing a copy thereof with the Clerk of said Court. G.L. c. 25, § 5.