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November 19, 2024

Katie Zilgme, Esq.
Clean Energy and DG Ombudsperson
Department of Public Utilities
One South Station
Boston, MA 02110

Re: D.P.U. 20-75, Updating of System of Assurance

Dear Ombudsperson Zilgme:

As you are aware, the Department of Public Utilities (the "Department") has a number of ongoing dockets that involve distributed generation, interconnection, and related programs of the Commonwealth.

Agilitas Energy, Inc. ("Agilitas") based in Wakefield, MA, is a developer, owner, and operator of projects enrolled in the SMART Program[1] and Net Metering Program[2]. Agilitas has a portfolio of proposed solar and energy storage ("ESS") projects in the interconnection queue including some in approved CIPs. Agilitas is writing to request that the Department amend the system of assurance under its Net Metering program to better align reservation periods with interconnection time frames for those projects interconnecting through a CIP. Of the dozens and dozens of projects included in approved CIPs (defined below), Agilitas expects that a significant portion are planning to participate in Net Metering. Therefore, our request has broad implications.

The above referenced docket in particular along with D.P.U. 19-55 has resulted in a thorough investigation of interconnection and resulted in numerous subsequent dockets. In D.P.U. 20-75-B the Department stated, "[t]he development of properly sited renewable energy facilities is vital to achieving the Commonwealth's greenhouse gas emissions targets and clean energy goals, and the Distribution Companies play a critical role in the interconnection of DG facilities in the advancement of these policies." D.P.U. 20-75-B at 27.

In recognition of the unique needs of the interconnection queue and distribution system and the anticipated time needed for long term system planning, the Department in this docket created the

[1] The Solar Massachusetts Renewable Energy Target (SMART) Program, 225 CMR 20.00. (the "SMART Program").
[2] M.G.L. c. 164 §§ 138-140; 220 CMR 18.00, and related orders and tariffs ("Net Metering").

so-called provisional program authorizing the electric distribution companies ("EDCs") to propose capital investment projects ("CIPs) for Department review. Some of the relevant parameters of the CIPs are that the cost must be under $500/kilowatt and the construction of the identified system modifications must be completed within four years (of final Department plan approval). D.P.U. 20-75-B at 39.

The Department also found "that there are numerous overlapping DG programs and Commonwealth clean energy and climate policies that may be affected by a Provisional Program, such as the SMART Program, Net Metering, participation in wholesale markets, and greenhouse gas emission limits. We also recognize that Interconnecting Customers desire regulatory certainty to secure financing and viability for their DG project." *Id.* at 34.

NSTAR Electric d/b/a Eversource Energy ("Eversource") filed its first CIP, docketed at D.P.U. 22-47, on April 15, 2022, and the Department issued its approval on December 30, 2022. During the proceedings and noted in the final order, project developer stakeholders raised a concern regarding the misalignment of the CIP construction time frame and the project-based time frames required under the Solar Massachusetts Renewable Energy Target (SMART) Program (the "SMART Program").

Under the pre-CIP regulatory framework, projects qualified in the SMART Program have a one-year initial reservation period to complete construction of the project, and the option for additional extension. While this has functionally worked for construction schedules under the governing interconnection tariff, with the four-year construction window allowed for a CIP, the current framework did not provide enough options for projects seeking to coordinate with the CIP schedule. This is especially critical for projects with ESS. In order to procure and take delivery of ESS, project developers require a high degree of certainty that the ESS containers will not sit "idle" and de-energized for an extended period of time. For a project that includes ESS, the interval between mechanical completion and commercial operation must be minimized to prevent battery degradation and invalidation of equipment warranties.

When the issue of construction schedules and reservation period timing was raised in the D.P.U 22-47 docket, the Department of Energy Resources ("DOER") said it would address it through adoption of updated guidance under the SMART Program. On June 23, 2023, DOER updated its *Statement of Qualification Guideline* ("SQA Guideline") to include the following provision in response to the issues raised solar intervenors as a potential critical impact in D.P.U. 22-47 including the following provision:[3]

> If a Solar Tariff Generation Unit can demonstrate to the Department's satisfaction that it is participating in a Capital Investment Project approved by the Department of Public Utilities, its initial Reservation Period shall be extended twelve months. If, after such initial twelve-month period and after receiving an Extended Reservation Period for a Fee under Section 6(a) of this Guideline, the Solar Tariff Generation Unit can demonstrate to

[3] "In response to the DG Intervenors request for DOER to make certain changes to the SMART incentive block reservation process, DOER indicates that it is developing solutions for SMART projects impacted by the CIP planning and construction timelines and recommends that the Department does not need to order action on the issue (DOER Letter in Lieu of Reply Brief at 1-2)." D.P.U. 22-47 at 112-113.

> the Department's satisfaction that it remains subject to further delays due to the CIPs, its Reservation Period may be extended further, for an amount of time to be determined by the Department. For the purposes of satisfying the requirements of an extension under Section 6(h) of this Guideline, a Solar Tariff Generation Unit may provide written notice from the Distribution Company, documentation from the filing with the Department of Public Utilities, or some other evidence to the Department's satisfaction.

Statement of Qualification Reservation Period Guideline, at 7 (Revised June 23, 2023)

Prior to this 2023 update, all projects were eligible for a 12-month initial reservation period and could purchase a 6-month extension for a fee. Other extensions such as legal challenge or good cause also remain available to eligible projects. The Department in updating the SQA Guideline also noted that due to various market conditions resulting in systemic changes to project development, procurement, and construction timelines it was necessary for DOER to update its SQA Guideline to align accordingly.

Under the 2023 revised SQA Guideline, a qualified project has (1) an initial reservation period of 12 months for projects less than one megawatt and 24 months for projects one megawatt or greater, (2) an extension for a fee may be purchased to add another 12 months to the reservation period, and (3) a 12 month extension for projects in a CIP with the option for addition time if deemed necessary. So, the end result is that a one megawatt or greater sized project located in a CIP will have at least a 48-month reservation period (opting to pay the fee). This amount of time aligns project timelines with the proposed CIP construction window.

Currently under the system of assurance for Net Metering as adopted as part of D.P.U. 11-11 and as most recently updated in D.P.U. 15-32, the initial reservation period is 274 days, and the extension for a fee is 6 months. That means absent a legal challenge, a project located in a CIP has to be mechanically complete (and apply for the indefinite extension) within 15 months. This is significantly different than 48 months in the updated SQA Guideline for SMART projects, and it does not accurately reflect changing market conditions since the initial adoption of these time frames.

As noted in D.P.U. 20-75-B, CIPs impact other programs including the SMART Program and Net Metering. While the Department acknowledged that DOER would address the noted impact on the SMART Program through amending its SQA Guideline, the Department has not yet sought to update its system of assurance in a similar fashion, and Agilitas is now requesting that the Department indeed do so.

While the SMART Program provides incentives for many solar projects across the Commonwealth that are critical to meeting the 2050 clean energy and emission reduction mandates, so does Net Metering. The legislature has recognized this in recent years with updates to the program such as exempting behind the meter projects of all sizes from the caps. It is also possible that a SMART project will wish to enroll in Net Metering as well and the current 48 vs.15-month discrepancy on reservation period deadlines is far greater than the original 18 vs.15-month one.

For all the same reasons that led the Department to acknowledge and appreciate DOER updating its SQA Guidelines to align the SMART Program's reservation periods with the impacts of the

CIP structure and time frames, Agilitas is requesting that the Department do the same for Net Metering. Agilitas believes that the combination of persistent changes in market conditions and the continued use of CIPs are sufficient for the Department to update the Net Metering reservation periods that aligns with the approach taken by DOER. As such, Agilitas requests that the Department update D.P.U. 15-32 Appendix A in the following three ways:

(1) In Section 7(A)(i) to change the Initial Reservation Period from 274 to 365 days for "Solar" and "All Other" net metering facilities;
(2) In Section 7(B)(iii), in the Extension for a Fee provision, change 6 months to 12 months; and
(3) Adding a new extension as Section 7(B)(v):

> Extension for Inclusion in a Capital Investment Program.
>
> When a Facility provides documentation to the Administrator that the Facility is participating in a capital investment program ("CIP") as proposed by a Distribution Company and approved by the Department, it shall have its Initial Reservation Period extended by 24 months.
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> If after subsequently receiving an Extension for a Fee under Section 7(B)(iii), the Facility is subject to additional delays as a result of Distribution Company delays, the Facility may submit documentation to the Administrator that confirms any Distribution Company delay including any extension of time granted to the Company's CIP time line by the Department and receive an extension for the amount of time equal to the documented delay.

These changes would both reflect the market impacts of longer procurement and construction timelines in general for all projects and create a 48-month reservation period option for net metering facilities located in CIPs, aligning this with both the CIP and SMART Program time frames.

Agilitas acknowledges the fast pace of change in both markets and law and provides these comments to the Department to ensure the Net Metering program reflects these changes and current conditions appropriately and appreciates the Department taking these under advisement for possible action.

Sincerely,

Barrett C. Bilotta
President & CEO
Agilitas Energy, Inc.