The Commonwealth of Massachusetts

DEPARTMENT OF PUBLIC UTILITIES

D.P.U. 23-140-A November 29, 2024

Investigation by the Department of Public Utilities, On Its Own Motion, Instituting a Rulemaking Pursuant to the Acts of 2022, c. 179, § 54, G.L. c. 30A, § 2, and 220 CMR 2.00 to Amend the Net Metering Regulations at 220 CMR 18.00.

ORDER PROMULGATING FINAL REGULATIONS

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SUMMARY

The Department of Public Utilities promulgates these regulatory revisions to implement changes to the Commonwealth's Net Metering Regulations that the Legislature required in its 2022 clean energy legislation (Chapter 179 of the Acts of 2022, "An Act Driving Clean Energy and Offshore Wind"). Net Metering is an important tool in the advancement of renewable energy. Net metering allows customers to offset their energy use and transfer energy back to their electric companies in exchange for a credit. These regulatory revisions include clarifying edits to the Net Metering Regulations in their application to distributed generation resources like solar.

The 2022 legislation makes significant changes to the Commonwealth's policy regarding the eligibility requirements for Net Metering. In particular, the legislation directs revisions to the definition of a Cap Exempt Facility and the calculation and allocation of Net Metering Credits, among other things. Specifically, the 2022 legislation increases the nameplate capacity threshold for a Net Metering facility to generate Net Metering Credits without a Cap Allocation from ten kilowatts to 25 kilowatts, regardless of circuit type. To implement this revision, the Department amends the definition of "Cap Exempt Facility" in the Net Metering Regulations. Additionally, the 2022 legislation expands the definition of a Cap Exempt Facility to include Class I Net Metering Facilities greater than 25 kilowatts so long as such facilities generate renewable energy, serve On-site Load, and have an interconnection service agreement with a Distribution Company executed on or after January 1, 2021. Previously, only Class II Net Metering Facilities and Class III Net Metering Facilities serving On-site Load could be classified as cap exempt. To amend the Net Metering Regulations to allow these certain Class I Net Metering Facilities to be cap exempt, the Department further updates the definition of Cap Exempt Facility. The 2022 Clean Energy Act also stipulates that Cap Exempt Facilities Serving On-site Load that are Class I Net Metering Facilities must receive an annual cash-out or credit of accrued Net Metering Credits at the Avoided Cost Rate; therefore, the Department revises the Net Metering Regulations to reflect this credit allocation process. The Department provides direction as to how the accumulated balances of existing eligible facilities shall be treated and how existing eligible facilities shall be reclassified. Further, to differentiate between the categories of Cap Exempt Facilities and to

provide administrative clarity, the Department creates two new definitions in the Net Metering Regulations: (1) Nameplate Cap Exempt Facilities, which are Net Metering facilities that are equal to or less than 25 kilowatts, and (2) Cap Exempt Facilities Serving On-site Load, in addition to revising the definition of Cap Exempt Facility.

In addition to implementing these statutory changes, the Department directs that if a pre-existing Net Metering facility seeks to expand, the Distribution Companies must provide amended interconnection service agreements to the interconnecting customers, rather than issuing new interconnection service agreements. Previously, the Distribution Companies were inconsistent in their treatment of interconnection service agreements for expanded facilities. The Department further directs that the Distribution Companies file proposed model Net Metering and Standards for the Interconnection of Distributed Generation tariffs to implement related regulatory changes.

I. INTRODUCTION AND PROCEDURAL BACKGROUND

On August 11, 2022, Governor Baker signed into law Chapter 179 of the Acts of 2022, An Act Driving Clean Energy and Offshore Wind, ("2022 Clean Energy Act"). Among other things, the Legislature's revisions to the Net Metering Program require the Department of Public Utilities ("Department") to promulgate rules and regulations implementing certain changes to the Net Metering provisions of G.L. c. 164, §139. St. 2022, c. 179, § 54.[1]

On July 30, 2024, pursuant to G.L. c. 30A, § 2 and 220 CMR 2.00, the Department commenced a rulemaking and proposed revisions to 220 CMR 18.00 ("Net Metering Regulations") for the purpose of implementing the changes to the net metering provisions prescribed by the 2022 Clean Energy Act ("Proposed Regulations"), as well as making additional changes for administrative clarification. Order Opening Rulemaking, D.P.U. 23-140 (2024).[2]

The Department issued a Notice of Public Hearing and Request for Comments that was published in the Massachusetts Register on August 16, 2024, and in The Boston Globe and Boston Herald on August 14, 2024, which sought comments on specific recommended language changes to the Proposed Regulations and on ten topics listed in the Order Opening Rulemaking. D.P.U. 23-140, at 14-16 ("Notice"). On September 4, 2024, the Department held a public

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[1] Section 54 of the 2022 Clean Energy Act deletes subsection (i) of G.L c. 164, § 139 and inserts a new subsection (i).

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

hearing to receive comments.[3] Consistent with the timelines set in the Notice, the Department received written comments[4] and reply comments.[5] The Department appreciates the comments, which have assisted us in better understanding the issues related to the changes to the net metering provisions prescribed by the 2022 Clean Energy Act.[6] With this Order, the Department

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3 Oral comments received during the Public Hearing are documented in the official transcript that was incorporated into the record on September 13, 2024 ("Transcript") and which is available in the public file room online. Oral comments were provided by: John Tehan, Great Sky Solar; Claire Chang, Greenfield Solar; Courtney Feely Karp, Klavens Law Group; Lindsay Bourgoine, ReVision Energy; Benjamin Underwood, Resonant Energy; and the following Residential Customers: Warren Brown; Jake Delaney; Taylor Goudreau; Scott Rodman; Benjamin Underwood.

4 Initial written comments were submitted by: The Attorney General's Office ("Attorney General"); The Cadmus Group ("Cadmus"); the Northeast Clean Energy Council ("NECEC"); PowerOptions; Resonant Energy, LLC ("Resonant"); ReVision Energy, LLC ("ReVision"); and the Solar Energy Business Association of New England ("SEBANE"); and the following Residential Customers: Jake and Autumn Delaney; Judson Brewer; Scott Rodman; Warren Brown; Barry Kromer; Aleksey Averin; Charles Hornig. Fitchburg Gas and Electric Light Company d/b/a Unitil ("Unitil"), Massachusetts Electric Company and Nantucket Electric Company each d/b/a National Grid ("National Grid"), and NSTAR Electric Company d/b/a Eversource Energy ("NSTAR Electric") (collectively "Distribution Companies") jointly filed initial comments.

5 Reply comments were submitted by: State Representative Lindsay N. Sabadosa; the Attorney General; Berkshire Photovoltaic Services ("BPVS"); Klavens Law Group, P.C. ("Klavens Law Group"); the Roman Catholic Diocese of Fall River ("Fall River Diocese"); Vote Solar; and the Distribution Companies.

6 The Department has considered all comments filed in this docket; however, consistent with the Notice, the comments included in the "Summary of Comments" sections below are only those filed in the initial and reply periods.

promulgates "Final Regulations" contained in 220 CMR 18.00[7] and promulgates tariff changes expanding the definition of a Cap Exempt Facility.

II. NET METERING PROVISIONS OF THE 2022 CLEAN ENERGY ACT; PROPOSED REGULATIONS; ADDITIONAL CLARIFICATIONS; AND DEPARTMENT QUESTIONS[8]

A. Net Metering Provisions of the 2022 Clean Energy Act

The 2022 Clean Energy Act changes two aspects of G.L. c. 164, § 139.[9] St. 2022, c. 179, § 54. Specifically, the 2022 Clean Energy Act: (1) increases the nameplate capacity threshold for cap exempt net metering facilities from ten kilowatts ("kW") to 25 kW regardless of circuit type; and (2) expands the definition of a Cap Exempt Facility to include Class I Net Metering Facilities greater than 25 kW so long as such facilities generate renewable energy, serve On-site Load, and have an Interconnection Service Agreement ("ISA") executed as of January 1, 2021 or later. St. 2022, c. 179, § 54; G.L. c. 164, § 139(i).

B. Proposed Regulations

The Proposed Regulations set forth the Department's initial plan to implement the provisions of the 2022 Clean Energy Act addressing the Net Metering Program. In addition to these statutorily required changes, the Department proposed revisions to 220 CMR 18.00 and

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

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

9 G.L. c. 164, § 139 sets forth essential requirements for the Distribution Companies to provide net metering services and for eligible customers to take net metering services.

processes that are unrelated to the implementation of the 2022 Clean Energy Act and are primarily administrative in nature.

The Proposed Regulations introduced and clarified the definitions of the following three terms based on the statutory requirement to expand the permissible configurations for Cap Exempt Facilities to Net Meter: (1) "Cap Exempt Facility," (2) "Nameplate Cap Exempt Facility," and (3) "Cap Exempt Facility Serving On-site Load." St. 2022, c. 179, § 54; G.L. c. 164, § 139(i). Consistent with the legislation, the Proposed Regulations redefined Cap Exempt Facility and proposed two additional definitions with the following text:

> Cap Exempt Facility. A Nameplate Cap Exempt Facility or a Cap Exempt Facility Serving On-site Load.
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> Cap Exempt Facility Serving On-site Load: A Class I Net Metering Facility with a Nameplate Capacity greater than 25 kilowatts, Class II Net Metering Facility, or Class III Net Metering Facility with an executed interconnection service agreement with a Distribution Company dated on or after January 1, 2021, provided that it is a Renewable Energy Generating Facility and serves On-site Load, other than parasitic or station load, and provided further that it is not a Net Metering Facility of a Municipality or Other Governmental Entity.
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> Nameplate Cap Exempt Facility. A Class I Net Metering Facility that is a Renewable Energy Generating Facility and has a Nameplate Capacity Rating that is equal to or less than 25 kilowatts.

Apps. Proposed A, Proposed B, § 18.02.

Additionally, to improve clarity, the Proposed Regulations added two new definitions pertaining to capacity and generating facilities:

> Nameplate Capacity. For the purposes of calculating Net Metering capacity only, the nominal capacity of a system that reflects normal operating conditions, and not maximum operating conditions.
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> Renewable Energy Generating Facility. A facility that generates energy from any source that qualifies as a Class I or Class II Renewable Energy generating source under M.G.L. c. 25A, § 11F; provided, however, that after conducting administrative

> proceedings, the Department of Energy Resources, in consultation with the Department of Agricultural Resources, may add technologies or technology categories.

Apps. Proposed A, and Proposed B, § 18.02.

Also, the Proposed Regulations capitalized Nameplate Capacity and Renewable Energy Generating Facility wherever the terms are used throughout the Net Metering Regulations to indicate their status as defined terms. Further, the Proposed Regulations replaced the phrases "design capacity" and "generating capacity" with the defined term "Nameplate Capacity" throughout the Proposed Regulations. Moreover, the Proposed Regulations incorporated Cap Exempt Facilities into the New Solar Net Metering Facility definition by adding the following to the definition of New Solar Net Metering Facility: "(d) A Cap Exempt Solar Net Metering Facility that takes service after September 26, 2016." Apps. Proposed A, and Proposed B, § 18.02.

Finally, with the Department's proposal to include three separate definitions to address Cap Exempt Facilities, to ensure that the appropriate Cap Exempt Facility type is referenced throughout the Net Metering Regulations, the Department proposed changes to 18.04(3),(4) ("Calculation of Net Metering Credits"), 18.05(1)(a),(b) ("Allocation of Net Metering Credits"), and 18.11(3)(c) ("Small Hydroelectric Net Metering Program"). Specifically, in Section 18.04(3), the Proposed Regulations insert ", or Cap Exempt Facility Serving On-site Load" to reflect the 2022 Clean Energy Act's requirement that such a facility "may net meter and accrue Class I, Class II, or Class III Market Net Metering Credits if it is generating Renewable Energy and serves On-site Load other than parasitic or station load." Apps. Proposed A, and Proposed B, § 18.04(3). In Section 18.04(4), the Department proposed to update the term Cap Exempt Facility to Nameplate Cap Exempt Facility. Apps. Proposed A, and Proposed B,

§ 18.04(4)). In subsections 18.05 (1)(a) and (1)(b), New Solar Net Metering Facilities that are also Nameplate Cap Exempt Facilities are excluded from the language therein. Proposed A, Proposed B, §§ 18.05(1)(a),(b). Finally, the Department proposed to apply Section 18.11(3)(c) to Nameplate Cap Exempt Facilities only. Apps. Proposed A, and Proposed B, § 18.11(3)(c).

C. Questions Presented to Stakeholders

In Order Opening Rulemaking, the Department sought public comments regarding the Proposed Regulations. D.P.U. 23-140, at 13. Also, to assist in the formation of our net metering policies, the Department issued the following set of eleven specific requests for comments seeking responses from net metering stakeholders:

1. Requests to all stakeholders:

a. G.L. c. 164, § 139(i) now defines Cap Exempt Facilities to include Class I Net Metering Facilities that (1) are not Net Metering Facilities of a Municipality or Other Governmental Entity, provided that they are generating Renewable Energy; (2) have a Nameplate Capacity equal to or less than 25 kW or if the Nameplate Capacity is greater than 25 kW such a facility must serve On-site Load, other than parasitic or station load; and (3) have executed an ISA on or after January 1, 2021. Please respond to the following:

i. Explain whether the Department should establish a deadline by which Affected Class I Net Metering Facilities must be reclassified as cap exempt. If so, what deadline should the Department establish? Please also provide any recommendations on additional administrative steps that should be established for such facilities to relinquish their Cap Allocations and be reclassified as Cap Exempt Facilities.

ii. Refer to Net Metering Rulemaking, D.P.U. 21-100-A at 53-55 (February 15, 2024),[10] the Department's exception to the credit allocation process, where Affected Host Customers may reallocate Net Metering Credits that accrued, or will accrue, on accounts between January 1, 2022, and March 31, 2025. Explain whether this credit allocation exception should be extended to Class I Cap Exempt Facilities that serve On-site Load. If so, explain whether the date range identified is sufficient or if it should be adjusted.

b. Explain whether a random audit process of interconnected Net Metering facilities, conducted by the Administrator of the System of Assurance ("Administrator or Cadmus"),[11] would be useful in ensuring compliance with Net Metering Program requirements. When conducting the audit, the Administrator would confirm that the capacity of a Net Metering facility matches the Cap Allocation granted to that facility.

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10 In 2022, the Department opened a rulemaking to implement amendments to the Net Metering Regulations required by An Act Creating A Next-Generation Roadmap For Massachusetts Climate Policy, St. 2021, c. 8, §§ 82-85. Net Metering Rulemaking, D.P.U. 21-100 (2021). On February 15, 2024, after notice, public hearing, and comment, the Department issued its Order promulgating final Net Metering Regulations. Net Metering Rulemaking, D.P.U. 21-100-A (February 15, 2024).

11 The Administrator of the System of Assurance is the qualified person or entity approved by the Department to oversee the process for assurance of Net Metering services. Cadmus currently serves as the Administrator of the System of Assurance. System of Assurance, D.P.U. 15-32-A, App. A. Proposed Candidate for the Administrator of the System of Assurance of Net Metering Eligibility, D.P.U. 11-11-D at 10 (2012).

c. Explain whether you agree with the Department's proposal in Section II.C(7) to require Cap Exempt Facilities Serving On-site Load to assign 100 percent of Net Metering Credits to the meter behind which the Net Metering facility is interconnected.

d. Explain whether the Department should define the term Nameplate Capacity in 220 CMR 18.02.

i. If no, explain why.

ii. If yes, please comment on the Department's proposed definition of Nameplate Capacity.

e. Explain whether the Department should define the term Renewable Energy Generating Facility in 220 CMR 18.02.

i. If no, explain why.

ii. If yes, please comment on the Department's proposed definition of Renewable Energy Generating Facility.

f. Currently, in the context of pre-existing Net Metering Facilities that seek to expand, the Distribution Companies either issue a new ISA or amend the existing ISA, but there is not a consistent approach across Distribution Companies. Thus, where a pre-existing Net Metering facility seeks to expand, explain whether the Department should direct the Distribution Companies to engage in consistent treatment of ISAs, e.g., by directing each Distribution Company to issue new ISAs or to amend existing ISAs. Explain whether the Department should direct consistent treatment, with associated reasons favoring or opposing why or why not. If the Department should direct consistent treatment, please indicate what that treatment should be.

2. Requests to the Distribution Companies and the Administrator:

a. Review the proposed process described in Section II.D(2) above to reclassify Affected Class I Facilities[12] and comment on its feasibility and workability, including the proposed time-frames. As

[12] For the purposes of this Order, "Affected Class I Facilities" refers to Net Metering facilities greater than ten kW but less than or equal to 25 kW and those greater than 25 kW but less than or equal to 60 kW that serve On-site Load.

part of your response, please provide an estimated time frame for Step 3.

b. Describe the safeguards or processes that would be employed to ensure that Cap Allocations are revoked only for the appropriate Affected Class I Facilities and not, for example, expansions that may appear as though they are facilities within the identified capacity range but are in fact part of a facility the total capacity of which exceeds 25 kW.

c. Administrator only: Please describe ways in which these implementation processes could be improved.

d. Distribution Companies only: Refer to D.P.U. 21-100-A at 70-73. Please provide an update on the incremental costs and upgrades necessary to move towards allowing monthly Schedule Z updates. As part of the update, please provide the incremental costs of processing Schedule Z updates monthly, including for designated allocations across Distribution Company service territories, and assessing the potential decline in quality and accuracy of validation and processing of revised Schedule Zs in moving from updates four times per year to monthly.

D.P.U. 23-140, at 14-16.

III. FINAL CHANGES TO NET METERING REGULATIONS

A. Introduction

The attached Final Regulations implement the changes to the Net Metering Program required by the 2022 Clean Energy Act and make additional modifications to the Net Metering Regulations. In promulgating the Final Regulations, the Department is mindful that the changes likely will mitigate challenges for developing distributed energy resources and the associated costs are appropriate due to the resulting benefits of increasing access to renewable energy. Below, we discuss these matters, taking into account stakeholder comments.

B. Definitions

1. Cap Exempt Facility

a. Introduction

The 2022 Clean Energy Act amended several aspects of G.L. c. 164, § 139. St. 2022, c. 179, § 54. Specifically, the 2022 Clean Energy Act increased the nameplate capacity of a Net Metering facility to generate Net Metering Credits without the need to secure a Cap Allocation from ten kW to 25 kW regardless of circuit type. This statutory directive necessitated a change to the Department's definition of "Cap Exempt Facility." The Department notes that the current definition accounts for those facilities that are both (a) cap exempt based on nameplate capacity, and (b) cap exempt because the facility serves On-site Load, other than parasitic or station load. 220 CMR 18.02. Therefore, to both incorporate the statutory changes and promote clarity, the Department proposed the three separate definitions to address Cap Exempt Facilities: (1) Cap Exempt Facility; (2) Cap Exempt Facility Serving On-site Load; and (3) Nameplate Cap Exempt Facility, referenced above. Proposed, Apps. A and B, § 18.02.

b. Summary of Comments

The Department did not receive any comments on its proposed definitions relating to Cap Exempt Facilities.

c. Analysis and Findings

The 2021 Climate Act[13] and the 2022 Clean Energy Act each established new criteria for Net Metering facilities to be cap exempt, each requiring updates to Net Metering provisions of

[13] An Act Creating a Next-Generation Roadmap for Massachusetts Climate Policy. St. 2021, c. 8.

220 CMR 18.00. St. 2021, c 8, §§ 82-85;[14] St. 2022, c. 179, § 54. These respective expansions of cap exempt status have different requirements and associated Net Metering Credit values. By providing distinct definitions of a Nameplate Cap Exempt Facility and a Cap Exempt Facility Serving On-site Load, the Department promotes clarity regarding the multiple scenarios under which net metering facilities are eligible for a cap exemption, and how those facilities will generate Net Metering Credits.

No commenters addressed these proposed definitions; however, considering the comments filed in response to the Department's proposed definition for Renewable Energy Generating Facility (See Section III.B.4 below) and the incorporation of that term in the definitions of Cap Exempt Facility Serving On-site Load and Nameplate Cap Exempt Facility, and in the interest of promoting clarity regarding the technology types that are eligible to net meter, we find it necessary to revise these definitions. Specifically, in the definitions of both Cap Exempt Facility Serving On-site Load and Nameplate Cap Exempt Facility we add "an eligible" just prior to the term "Renewable Energy Generating Facility" and "pursuant to M.G.L. c. 164, § 138"[15] immediately following the appearance of the term such that the definitions in the Final Regulations read:

> Cap Exempt Facility Serving On-site Load. A Class I Net Metering Facility with a nameplate capacity greater than 25 kilowatts, Class II Net Metering Facility, or Class III Net Metering Facility with an executed interconnection service agreement with a Distribution Company dated on or after January 1, 2021, provided that it is an eligible Renewable Energy Generating Facility pursuant to M.G.L. c. 164, § 138 and serves

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[14] On February 15, 2024, the Department issued an order promulgating revisions to the Net Metering Regulations prescribed by the 2021 Climate Act. Net Metering Rulemaking, D.P.U. 21-100-A (February 15, 2024)

[15] General Laws c. 164, §138 sets forth definitions applicable to the Net Metering Program.

> On-site Load, and provided further that it is not a Net Metering Facility of a Municipality or Other Governmental Entity.
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> Nameplate Cap Exempt Facility. A Class I Net Metering Facility that is an eligible Renewable Energy Generating Facility pursuant to M.G.L. c. 164, § 138 and has a nameplate capacity rating equal to or less than 25 kilowatts.

Thus, we approve the definitions of "Cap Exempt Facility Serving On-site Load" and "Nameplate Cap Exempt Facility" as they appear above and in the Final Regulations. D.P.U. 23-140, Apps. A and B, § 18.02. As such, we direct the Distribution Companies to update the Net Metering Tariff to reflect the definitions of "Cap Exempt Facility Serving On-site Load" and "Nameplate Cap Exempt Facility" accordingly.

2. Nameplate Capacity

a. Introduction

The Department added a new definition for the term "nameplate capacity" to the Proposed Regulations to improve clarity. D.P.U. 23-140, at 6. The Department requested comments on whether the Department should define the term "nameplate capacity" in 220 CMR 18.02, and whether the Department's proposed definition was appropriate. D.P.U. 23-140, at 15.

b. Summary of Comments

Commenters disagree over whether the Department should define "nameplate capacity." Several commenters are supportive (Cadmus Comments at 3; Resonant Comments at 4; ReVision Comments at 3; SEBANE Comments at 4; Vote Solar Reply Comments at 2). Resonant, ReVision, and SEBANE maintain that defining "nameplate capacity" will clear the path for the adoption of a definition of "export capacity" through a subsequent rulemaking (Resonant Comments at 4-5; ReVision Comments at 3; SEBANE Comments at 4). ReVision

maintains that, although it supports the Department's definition of "nameplate capacity," the term "design capacity"[16] should not be consolidated under the "nameplate capacity" definition and instead should be redefined as "export capacity" (ReVision Comments at 3). SEBANE argues that incorporating a definition of "export capacity" would increase the flexibility of systems to interconnect and, therefore, would support clean energy development (SEBANE Comments at 4). The Distribution Companies assert that the Department should not redefine "design capacity" as "export capacity" at this time, because the Interconnection Implementation Review Group ("IIRG")[17] has discussed "export capacity" in the context of DG interconnection rather than net metering capacity, so defining "export capacity" in this docket is premature and unnecessary (Distribution Companies Reply Comments at 5-6).

Separately, Cadmus asserts that the definition of "nameplate capacity" should provide additional clarity on how to evaluate the capacity of de-rated, curtailed, or export-limited facilities, especially because inconsistencies in capacity values listed on documents have caused confusion and hindered efficient review of applications for cap allocations (Cadmus Comments at 3). For example, the Distribution Companies would consider the de-rated value (which is set by the manufacturer of the inverters) to be the same as the nameplate rating when determining

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16 The term "design capacity" is not defined in the Net Metering Regulations or in the Net Metering Tariff; the Department did not propose a definition of "design capacity" or seek comments on a definition in the Order Opening Rulemaking.

17 In their initial comments, Resonant and SEBANE note that the IIRG has worked to develop a definition of "export capacity" (Resonant Comments at 4-5; SEBANE Comments at 4). The Department established the IIRG to address issues related to the implementation of the DG interconnection process. Interconnection Implementation Review Group, D.P.U. 19-55-F at 4-6 (2023).

Net Metering eligibility but would not consider the curtailed value to be the same as the nameplate rating as it does not represent the generating capacity of the facility (Distribution Companies Reply Comments at 5). Similarly, Great Sky Solar recommends that the regulations should consider the impacts of power control systems on facility capacity (Tr. at 46-47).

On the other hand, the Attorney General and the Distribution Companies assert that the Department should not define "nameplate capacity" at this time, as it is not clear how the related terms "nominal capacity" or "normal operating conditions" are determined (Attorney General Reply Comments at 1; Distribution Company Comments at 6). The Attorney General and the Distribution Companies maintain that it would be beneficial for the Department, the Distribution Companies, and stakeholders to collaborate to develop consistent definition of key terms (Attorney General Reply Comments at 1; Distribution Company Comments at 6).

Finally, Great Sky Solar argues that there should be a clearer industry standard for the meaning of the term "nameplate capacity." Great Sky Solar notes, for example, that NSTAR Electric uses "maximum capacity" and National Grid uses "nominal capacity" (Tr. at 45).

c. Analysis and Findings

Commenters indicate that the Department's proposed definition of "nameplate capacity" does not provide the regulatory clarity that was intended (Attorney General Reply Comments at 2; Cadmus Comments at 3; Distribution Company Comments at 6; ReVision Comments at 3). The Attorney General and the Distribution Companies argue that the Department should work with stakeholders to develop clear and shared understandings around the definition's constituent terms (Attorney General Reply Comments at 2; Distribution Company Comments at 6). The Department is persuaded by these concerns, and we conclude that additional process is necessary

to establish a clear and useful definition for the term "nameplate capacity." Therefore, we decline to include any definition of "nameplate capacity" in the Final Regulations.

Further, Cadmus maintains that the definition should provide additional clarity on the treatment of de-rated or curtailed facilities, while other commenters argue that the Department should incorporate a definition of "export capacity" into its regulations (Cadmus Comments at 3; Resonant Comments at 4-5; ReVision Comments at 3; SEBANE Comments at 4). The Distribution Companies indicate that they would consider the de-rated value the same as the nameplate capacity for determining Net Metering eligibility but would not consider a curtailed value to be the same because the curtailed value does not represent the generating capacity of the facility (Distribution Company Reply Comments at 5). Although the Department declines to include a definition of "nameplate capacity" in the Final Regulations, there are sufficient informed and reliable positions and reasoned knowledge in the record to provide significant guidance on the treatment of de-rated facilities for the purposes of Net Metering eligibility. As such, the Distribution Companies and the Administrator may treat the de-rated value of a Net Metering facility as the nameplate capacity for the purposes of determining Net Metering capacity where:

(1) the de-rating of a facility is performed by the manufacturer on the inverters and the de-rating changes the amount of energy that the equipment (e.g., inverter) can produce such that the maximum output of the inverter listed by the manufacturer reflects the de-rated value; and
(2) the de-rating is accompanied by an acknowledgement from the manufacturer of the limitation.

The Department accepts commenters' recommendation to facilitate an additional collaborative process to seek consensus regarding an optimal definition of "nameplate capacity." As such,

soon after the issuance of this Order, the Department will issue a Hearing Officer Memorandum to the Department's DG Stakeholder Distribution List[18] that will announce next steps in the development of a definition for nameplate capacity.

3. New Solar Net Metering Facility

a. Introduction

The current definition of New Solar Net Metering Facility does not account for Cap Exempt Facilities. Cap Exempt Facilities now include Cap Exempt Facilities Serving On-site Load, which pertain to facilities with an ISA with a Distribution Company executed on or after January 1, 2021. G.L. c. 164, § 139(i). The Proposed Regulations incorporate Cap Exempt Facilities into the New Solar Net Metering Facility definition. In the interests of clarity, the Department proposed adding the following to the definition of New Solar Net Metering Facility: "(d) A Cap Exempt Solar Net Metering Facility that takes service after September 26, 2016." D.P.U. 23-140, Apps. A and B, § 18.02.

b. Summary of Comments

Commenters explain that G.L. c. 164, § 139(i) exempts Nameplate Cap Exempt Facilities from Section 139(b1/2) and Section 139(k) (Distribution Company Reply Comments at 2; Klavens Law Group Reply Comments at 3; NECEC Comments at 4; ReVision Comments at 1; SEBANE Comments at 1-2). The Distribution Companies, Klavens Law Group, and NECEC

[18] The expertise and interests of stakeholders on the Department's DG Stakeholder Distribution List are sufficiently broad and deep to address matters involving both the Net Metering Program and DG interconnection. The Department's DG Stakeholder Distribution List includes individuals working at the organizations and companies who commented on the definition of nameplate capacity.

argue that the Department's definition of New Solar Facility improperly includes these facilities (Distribution Company Reply Comments at 2; Klavens Law Group Reply Comments at 3; NECEC Comments at 4). Additionally, both the Distribution Companies and Klavens Law Group maintain that the Department should not include Nameplate Cap Exempt Facility within 220 CMR 18.04(4), since they are not New Solar Net Metering Facilities (Distribution Company Reply Comments at 2; Klavens Law Group Reply Comments at 3-4). They contend that a Nameplate Cap Exempt Facility, instead, should be included in 220 CMR 18.04(1) for the calculation of Net Metering Credits[19] (Distribution Company Reply Comments at 2; Klavens Law Group Reply Comments at 4). Klavens Law Group and BPVS assert the Legislature was clear and intentional in its exemption of Nameplate Cap Exempt Facilities from the statutory provisions governing Market Net Metering Credits (G.L. c. 164, § 139(b1/2) (BPVS Comments at 1; Klavens Law Group Reply Comments at 3). Further, the Distribution Companies explain that because Nameplate Cap Exempt Facilities are exempt from G.L. c. 164, § 139(b1/2), they cannot allocate Net Metering credits to customers of any Distribution Company in the Commonwealth, as that allocation option is available only to net metering facilities subject to G.L. c. 164, § 139(b1/2) (Distribution Company Reply Comments at 3). To address these matters, Klavens Law Group and NECEC recommend amending the definition of New Solar Net

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19 Net Metering Facilities included within 220 CMR 18.04(1) receive 100% of the net excess kilowatt-hours, by time-of-use, if applicable, multiplied by the sum of the following Distribution Company charges applicable to the rate class under which the Host Customer takes service: (1) basic service kilowatt-hour charge in the ISO-NE load zone where the Host Customer is located; (2) distribution kilowatt-hour charge; (3) transmission kilowatt-hour charge; and (4) transition kilowatt-hour charge.

Metering Facility in G.L. c. 164, § 139(d) to refer only to Cap Exempt Facilities Serving On-site Load (Klavens Law Group Reply Comments at 3; NECEC Comments at 4).

c. Analysis and Findings

Through the promulgation of the Final Regulations, the Department seeks to accurately implement the provisions of the 2022 Clean Energy Act, promote clarity, and impart regulatory certainty. Based on review of the comments filed, our proposed inclusion of Cap Exempt Facilities in the definition of New Solar Net Metering Facility was confusing to many stakeholders. Specifically, BPVS, the Distribution Companies, Klavens Law Group, NECEC, ReVision, and SEBANE maintain that the Department's proposed definition of New Solar Net Metering Facility improperly includes Nameplate Cap Exempt Facilities, as they are exempt from G.L. c. 164, § 139(b1/2) and G.L. c. 164, § 139)(k) (BPVS Comments at 1; Distribution Company Reply Comments at 2; Klavens Law Group Reply Comments at 3; NECEC Comments at 4; ReVision Comments at 1; SEBANE Comments at 1-2). After review and consideration of the comments, and further consideration of G.L. c. 164, § 139(i), the Department agrees with commenters that inclusion of Cap Exempt Facilities in the definition of New Solar Net Metering Facilities is inappropriate. Given that Cap Exempt Facilities Serving On-site Load do not require a cap allocation, the Department also declines to include this category of Net Metering Facility under the definition of New Solar Net Metering Facility. Therefore, we do not include Cap Exempt Facilities in the definition of New Solar Net Metering Facility in the Final Regulations.

4. Renewable Energy Generating Facility

a. Introduction

The Proposed Regulations add a definition of Renewable Energy Generating Facility to improve clarity. D.P.U. 23-140, at 6. In connection with that addition, the Proposed Regulations capitalize Renewable Energy Generating Facility wherever the term is used to indicate its status as a defined term. D.P.U. 23-140, at 6. The Department sought comments on whether the Department should define the term Renewable Energy Generating Facility in 220 CMR 18.02, and whether the Department's proposed definition was appropriate. D.P.U. 23-140, at 15.

b. Summary of Comments

Vote Solar and Resonant support the Department's proposed definition for Renewable Energy Generating Facility (Resonant Comments at 5; Vote Solar Reply Comments at 2). Resonant contends that the flexibility for the Department of Energy Resources ("DOER") to add technologies to the definition would be useful (Resonant Comments at 5). Cadmus maintains that, while it supports providing clear definitions, the proposed definition appears to exclude Class III generating sources, potentially conflicting with other definitions (Cadmus Comments at 3).

The Distribution Companies raise several issues with this definition. They maintain that it is worthwhile to identify the qualifying sources for Renewable Energy Generating Facility and to allow for the addition of technology categories (Distribution Company Comments at 6). The Distribution Companies further assert that, under the definition of Class I Net Metering Credits in G.L c. 164, § 138, only solar, wind, agricultural, and anaerobic digestion Net Metering Facilities up to 25 kW may qualify for standard Net Metering Credits or Market Net Metering

Credits, while other technologies are eligible for Class I Net Metering Credits at ISO New England Inc.'s ("ISO-NE") average monthly clearing price (Distribution Company Comments at 6-7). The Distribution Companies explain that there are more technologies that qualify for DOER's renewable portfolio standard ("RPS") program[20] besides solar, wind, agricultural, and anaerobic digestion (Distribution Company Comments at 7). The Distribution Companies argue that, although the 2022 Clean Energy Act revised G.L. c. 164, § 139(i) to allow Class I Net Metering Facilities to net meter and accrue Class I Net Metering Credits if the facility generates renewable energy, the Legislature must have intended Sections 138 and 139(i) to be harmonious (Distribution Company Comments at 7). The Distribution Companies conclude that only solar, wind, agricultural, and anaerobic digestion Net Metering facilities are eligible for standard Net Metering Credits or Market Net Metering Credits, and that all other technologies may receive Net Metering Credits at the average monthly clearing price from ISO-NE (Distribution Company Comments at 7).

c. Analysis and Findings

The 2022 Clean Energy Act provides that a Class I Net Metering Facility may generate Class I Net Metering Credits without the need to obtain a cap allocation if the facility is not the Net Metering Facility of a Municipality or Other Governmental Entity and "is generating renewable energy and the nameplate capacity of the facility is equal to or less than 25 kilowatts." St. 2022, c. 179, § 54; G.L. c. 164, § 139(i). The 2022 Clean Energy Act goes on to exempt

[20] Part of DOER's administration of the RPS program includes setting standards and eligibility criteria for Class I Renewable Energy generating sources under 225 CMR 14.00 and setting standards and eligibility criteria for Class II Renewable Energy generating sources under 225 CMR 15.00.

Class I Net Metering Facilities greater than 25 kW from requiring a cap allocation so long as such a facility is not the Net Metering Facility of a Municipality or Other Governmental Entity, "has an executed interconnection agreement with a distribution company on or after January 1, 2021 … [and] is generating renewable energy and serves on-site load other than parasitic or station load…" St. 2022, c. 179, § 54; G.L. c. 164, § 139(i). The Department finds it necessary to promulgate a definition for "Renewable Energy Generating Facility" based on:

- The extensive use of the term "renewable energy" throughout the 2022 Clean Energy Act;
- The use of the term "renewable energy generating facility" in the definition of Agricultural Net Metering Facility at 220 CMR 18.02; and
- The definitions of Cap Exempt Facility Serving On-site Load and Nameplate Cap Exempt Facility in the Proposed Regulations and Final Regulations.

Several commenters address the Department's proposed definition of "Renewable Energy Generating Facility" (Cadmus Comments at 3; Distribution Company Comments at 6-7; Resonant Comments at 5; Vote Solar Reply Comments at 2). While Resonant and Vote Solar support the Department's proposed definition, Cadmus and the Distribution Companies express concerns (Resonant Comments at 5; Vote Solar Reply Comments at 2; Cadmus Comments at 3; Distribution Company Comments at 6-7). Specifically, Cadmus argues that the proposed definition appears to exclude Class III Net Metering Facilities potentially conflicting with other definitions (Cadmus Comments at 3;). The terms Class I and Class II in the definition of "Renewable Energy Generating Facility" in the Net Metering Regulations refer to Class I and Class II Renewable Energy generating sources determined under G.L. c. 25A, § 11F for participation in the RPS program established under that statute. DOER administers the RPS

program, which is separate from the Department's Net Metering Program.[21] Thus, the use of the terms Class I and Class II in the definition of "Renewable Energy Generating Facility" in the Net Metering Regulations does not involve Net Metering Facilities as that term is used in the Net Metering Regulations and G.L. c. 164, §§ 138 and 139. In reviewing this matter, the Department finds that it is not necessary to change the proposed definition of "Renewable Energy Generating Facility."[22]

Further, the Distribution Companies recommend clarifying qualifying net metering technology types and their associated Net Metering Credit values (Distribution Companies at 6). The Department agrees that clarifying eligible technology types and associated Net Metering Credit values will promote clarity and regulatory certainty. As such, we revise the definitions of "Cap Exempt Facility Serving On-site Load" and "Nameplate Cap Exempt Facility" above in Section III.B.1. We further clarify here that only solar, wind, agricultural, and anaerobic digestion systems up to 25 kW may qualify for standard Net Metering Credits and all other technologies may receive Net Metering Credits at the average monthly clearing price from ISO-NE. G.L. c. 164, § 138. Finally, "Cap Exempt Facilities Serving On-Site Load" (only solar, wind, agricultural, and anaerobic digestion Renewable Energy Generating Facilities) may Net Meter and earn Market Net Metering Credits, but any Net Metering Credits accrued in excess of

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21 Part of DOER's administration of the RPS program includes setting standards and eligibility criteria for Class I Renewable Energy generating sources under 225 CMR 14.00 and setting standards and eligibility criteria for Class II Renewable Energy generating sources under 225 CMR 15.00.

22 It is important to note that the definition of "Renewable Energy" in the Net Metering Regulations is the same as that definition set by the Legislature in G.L. c. 164, § 138. This definition of Renewable Energy includes reference to G.L. c. 25A, § 11F.

the annual electricity consumption for the period running from April through the following March shall be credited or paid out for such excess credits at the Distribution Company's avoided cost rate ("ACR"). G.L. c. 164. §§ 138, 139(i); St. 2022, c. 179, § 54.

As stated above, we find that the definition of "Renewable Energy Generating Facility" is proper to incorporate into the Net Metering Regulations. As such, the Department promulgates the definition of "Renewable Energy Generating Facility" as follows:

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

Accordingly, the Department amends Section 18.02 ("Definitions") of the Net Metering Regulations to include a new definition of "Renewable Energy Generating Facility" and promulgates this definition as set forth in the Final Regulations, Appendices A and B. The Department directs the Distribution Companies to revise the Net Metering Tariff to incorporate the new term and definition for "Renewable Energy Generating Facility" as set forth herein.

5. Revising Net Metering Regulations to Incorporate Proposed Terms, Sections 18.04, 18.05, and 18.11

a. Introduction

As discussed above, the Department incorporates three separate definitions into the Final Regulations to clarify the different types of Cap Exempt Facilities, minimize confusion, and promote regulatory certainty. To ensure that the appropriate Cap Exempt Facility type is referenced throughout the Net Metering Regulations, the Department updated references to Cap Exempt Facility and deleted redundant language in several sections of the Proposed Regulations.

Specifically, the Department proposed updating the name of the term Cap Exempt Facility in Section 18.04(4) to Nameplate Cap Exempt Facility; inserting "except for a New Solar Net Metering Facility that is a Nameplate Cap Exempt Facility" and striking "or a Cap Exempt Facility that is also a Class II Solar Net Metering Facility or a Class III Solar Net Metering Facility" for both Sections 18.05(1)(a) and (b); and applying Section 18.11(3)(c) to Nameplate Cap Exempt Facilities only. Apps. Proposed A, and Proposed B, §§ 18.04(4); 18.05(1)(a),(b); 18.11(3)(c).

b. Analysis and Findings

As discussed in Section III.B.3above, the Department has amended the proposed definition for the term New Solar Facility to no longer include Cap Exempt Facilities. As such, we determine that it is no longer necessary or appropriate to include the term "Nameplate Cap Exempt Facility" in Section 18.04(4). For the same reason, we determine that it is no longer appropriate to insert "except for a New Solar Net Metering Facility that is a Nameplate Cap Exempt Facility" in Sections 18.05(1)(a) and (b). No commenter opposed the proposed revision to strike "or a Cap Exempt Facility that is also a Class II Solar Net Metering Facility or a Class III Solar Net Metering Facility" from both 18.05(1)(a) and (b). Further, no commenter opposed the proposed revision to section 18.11(3)(c). However, the Department notes that Small Hydroelectric Net Metering Facilities are defined as having a nameplate capacity of two megawatts or less,[23] and neither the 2021 Climate Act nor the 2022 Clean Energy Act precludes Small Hydroelectric Net Metering Facilities from taking service as "Cap Exempt Facilities

[23] See 220 CMR 18.02; G.L. c. 164, § 139A(a).

Serving On-site Load." G.L. c. 164, § 139A(a). Therefore, to be consistent with our definitions for "Cap Exempt Facility Serving On-site Load," we conclude that section 18.11(3)(c) should not specify that it applies to Nameplate Cap Exempt Facilities only. Accordingly, the Department does not include these proposed revisions in the Final Regulations.

C. Additional Clarifications

1. Introduction

The Department proposed to replace the phrase "design capacity" and "generating capacity" with the defined term "Nameplate Capacity" in the Proposed Regulations to eliminate redundant terms throughout the regulations. D.P.U. 23-140, at 8. Further, the Department clarified that the phrase "ISO-NE Tariff" refers to the ISO-NE Open Access Transmission Tariff. D.P.U. 23-140, at 9.[24] Finally, in the Proposed Regulations, the Department capitalized the term "Renewable Energy Generation Unit" in the definition of "Anaerobic Digestion Net Metering Facility." D.P.U. 23-140, at 9.

2. Summary of Comments

ReVision claims that the consolidation of multiple terms, nameplate capacity, design capacity, and generating capacity, is inefficient and confusing because it creates a single definition for terms that have different meanings (ReVision Comments at 3). Stakeholders did

[24] The ISO-NE Open Access Transmission Tariff ("OATT"), as approved in Federal Energy Regulatory Commission ("FERC") Docket No. ER20-450-000 (January 14, 2020) and effective January 22, 2020, governs open access transmission service over the New England Transmission System and is intended to provide for comparable, non-discriminatory treatment of all similarly situated transmission owners, qualified transmission project sponsors, and all transmission customers, https://www.iso-ne.com/participate/rules-procedures/tariff/oatt (last visited November 22, 2024).

not address the Department's proposed clarification of the phrase "ISO-NE Tariff" nor the Department's proposal to capitalize "Renewable Energy Generation Unit" in the definition of "Anaerobic Digestion Net Metering Facility."

3. Analysis and Findings

The Proposed Regulations clarified that the phrase "ISO-NE Tariff" refers to the ISO-NE Open Access Transmission Tariff in the definition of "ISO-NE" and capitalized the term "Renewable Energy Generation Unit" in the definition of "Anaerobic Digestion Net Metering Facility." D.P.U. 23-140, at 9. No commenter opposed these revisions. We find that the proposed revisions to the definition of "ISO-NE" and the definition of "Anaerobic Digestion Net Metering Facility" at 220 CMR 18.02 promote clarity and are consistent with the 2022 Clean Energy Act. Accordingly, the Department promulgates these changes in the Final Regulations and directs the Distribution Companies to revise the Net Metering Tariff to be consistent with the Final Regulations.

Regarding the Department's proposal to replace the terms "design capacity" and "generating capacity" with the defined term "Nameplate Capacity," the Department acknowledges that in industry usage these terms have distinct meanings. However, within the Net Metering Regulations, the terms "design capacity" and "generating capacity"[25] are used for the same purposes: to state the size of a facility as an element in a definition or as a factor in

[25] The term "design capacity" is used in 220 CMR 18.02 as a factor in the definitions of Class I Net Metering Facility, Class II Net Metering Facility, Class III Net Metering Facility, and New Solar Net Metering Facility. The term "generating capacity" is used in 220 CMR 18.07(1) and (2) as a factor for determining eligibility for a classification. The term "nameplate capacity" is used in 220 CMR 18.02 as a factor in the definitions of Cap Exempt Facility and Small Hydroelectric Net Metering Facility.

identifying eligibility for a classification. To avoid confusion in using different terms for the same purpose or concept, the Department finds it appropriate to use one term, "nameplate capacity," in their place for consistency throughout the Net Metering Regulations to promote clarity and to reduce uncertainty. D.P.U. 23-140, at 8.

Lastly, in the Final Regulations at 220 CMR 18.04(7), the Department replaces the term "demand side management" with "energy efficiency." Apps. A and B, § 18.04(7). Changing "demand side management" to "energy efficiency" promotes clarity based on current accepted usage of the term. See, e.g., Massachusetts Electric Company and Nantucket Electric Company, Energy Efficiency Provision, M.D.P.U. No. 1444. Accordingly, the Department promulgates these changes in sections 18.02, 18.04, and 18.07 of the Final Regulations and directs the Distribution Companies to replace the terms "generating capacity" and "design capacity" with the term "nameplate capacity" throughout the Net Metering Tariff and to replace "demand side management" with "energy efficiency" at section 18.04(7).[26]

D. Nameplate Cap Exempt Facility Threshold

1. Introduction

The 2022 Clean Energy Act amends the provisions of G.L. c. 164, § 139 to increase the capacity threshold for Class I facilities eligible for Net Metering services to be considered exempt from the Cap Allocation. Specifically, the 2022 Clean Energy Act increased the nameplate capacity of a Net Metering facility to generate Net Metering Credits without a Cap

[26] As discussed in Section III.B.2, based on comments received from stakeholders, the Department does not make the term "nameplate capacity" a defined term in the Final Regulations.

Allocation from ten to 25 kW regardless of whether there is a three-phase circuit. G.L. c. 164, § 139(i).

2. Summary of Comments

The Department did not receive any written comments addressing the increased capacity threshold applicable to Nameplate Cap Exempt Facilities.

3. Analysis and Findings

The 2022 Clean Energy Act amends the provisions of G.L. c. 164, § 139, setting a higher threshold for the nameplate capacity of Net Metering facilities eligible to receive Net Metering services without a Cap Allocation. St. 2022, c. 179, § 54; G.L. c. 164, § 139(i). Thus, in the Final Regulations, the Department increases the nameplate capacity threshold under which a facility may Net Meter without the need to acquire a Cap Allocation from ten kW to 25 kW regardless of circuit type. Apps. A and B, § 18.02.

E. Reclassification of Affected Class I Facilities

1. Introduction

In pertinent part, Section 54 of the 2022 Clean Energy Act provides:

> A Class I net metering facility[27] shall be exempt from … the aggregate net metering capacity of facilities that are not net metering facilities of a municipality or other governmental entity under subsection (f) and may net meter and accrue Class I net metering credits if it is generating renewable energy and the nameplate capacity of the facility is equal to or less than 25 kilowatts.

And further:

> A Class I net metering facility with a capacity greater than 25 kilowatts … with an executed interconnection agreement with a distribution company on or after January 1, 2021 shall be exempt from the aggregate net metering capacity of

[27] A Class I Net Metering Facility has a capacity of less than or equal to 60 kW. 220 CMR 18.02; G.L. c. 164, § 138.

> facilities that are not net metering facilities of a municipality or other governmental entity under subsection (f) and … if it is generating renewable energy and serves on-site load other than parasitic or station load…

St. 2022, c. 179. § 54; G.L. c. 164, § 39(i).

For the purposes of this Order and for ease of reference, the Department has synthesized these provisions to derive the term "Affected Class I Facilities," which refers to preexisting facilities with: (1) a nameplate capacity that is greater than ten kW and equal to or less than 25 kW; or (2) a nameplate capacity that is greater than 25 kW and less than or equal to 60 kW that is also serving On-site Load, other than parasitic or station load, with an executed ISA dated on or after January 1, 2021, and where the facility is not a Net Metering Facility of a Municipality or Other Governmental Entity. Correspondingly, Affected Host Customer refers to the Host Customer of an Affected Class I Facility.

A close reading of the 2022 Clean Energy Act in the context of current law and regulations discloses the requirement that Affected Class I Facilities be exempt from the Net Metering caps.[28] St. 2022, c. 179, § 54. Thus, to comply with the 2022 Clean Energy Act, all Affected Class I Facilities must reclassify as cap exempt. The Department proposed a four-step

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[28] The Net Metering Program has separate limits for public and private projects, which are respectively referred to as the "public cap" and the "private cap." The public and private caps were established pursuant to Chapter 359 of the Acts of 2010, An Act Making Appropriations for the Fiscal Years 2010 and 2011 to Provide for Supplementing Certain Existing Appropriations and for Certain Other Activities and Projects, and most recently amended by St. 2016, c. 75, §§ 5-6; G.L. c. 164, § 139(f); see also, Net Metering, D.P.U. 16-64-C (July 15, 2016); Net Metering, D.P.U. 11-10-A at 2 (2012); Net Metering, D.P.U. 14-104-A at 2 (2015). Municipalities and other governmental entities, as classified by the Department, are subject to the "public cap"; all other entities are subject to the "private cap." D.P.U. 11-10-A.

process for reclassification, whereby: (1) within 30 days of the Order adopting Final Regulations, the Distribution Companies would identify the location and nameplate capacity of each Affected Class I Facility and submit an informational filing in this docket; (2) within 30 days of receipt of the informational filing, the Administrator would file a letter with the Department either confirming that it has all the pertinent information to reclassify the Affected Class I Facilities or requesting additional or clarifying information from the Distribution Company and/or Host Customer(s); (3) the Administrator would then notify all Affected Host Customers of their Cap Allocation revocation; and (4) the Administrator would revoke the Affected Class I Facilities' Cap Allocations and update the net metering cap to reflect the revoked allocations. D.P.U. 23-140, at 12-13.

The Department sought comments on: (1) whether the Department should establish a deadline by which Affected Class I Facilities must be reclassified as cap exempt; (2) what measures might be taken during the identification of Affected Class I Facilities to ensure that Cap Allocations are revoked only from appropriately eligible Affected Class I Facilities; and (3) the feasibility of and potential improvements to the proposed reclassification process. D.P.U. 23-140, at 14-16.

2. Summary of Comments

Commenters are divided regarding whether a deadline should be established for reclassification of Affected Class I Facilities. NECEC and Cadmus argue that any Affected Class I Facility should be reclassified as cap exempt, regardless of when it is identified (NECEC Comments at 4; Cadmus Comments at 1-2). NECEC notes that the 2022 Clean Energy Act does not mention any deadline and, therefore, no deadline is warranted (NECEC Comments at 4).

Cadmus does not see a benefit to establishing such a deadline and anticipates that potential difficulties may prevent some facilities from being identified before a deadline (Cadmus Comments at 2). PowerOptions contends that the Department should consider an automatic reclassification of Affected Class I Facilities rather than imposing a deadline for system owners to reclassify themselves (PowerOptions Comments at 2). Additionally, Greenfield Solar, Klavens Law Group, and ReVision assert that it is important to ensure that projects that did not receive a Cap Allocation and are currently operating as Qualifying Facilities ("QF"), will also be transitioned to Cap Exempt Net Metering Facilities (ReVision Comments at 4; Tr. at 12-13; 21-22).

Resonant, ReVision, SEBANE, and Vote Solar express that, with the regulatory delay in implementing the 2022 Clean Energy Act, reclassification should occur as quickly as practicable and suggest a 90-day deadline after promulgation of the Final Regulations (Resonant Comments at 1-2; ReVision Comments at 2; SEBANE Comments at 2; Vote Solar Reply Comments at 1). The Distribution Companies assert that the Department should remain consistent in its implementation of eligibility changes and should establish a deadline for the reclassification of Affected Class I Facilities (Distribution Company Comments at 2). The Distribution Companies recommend a deadline of July 1, 2025 for reclassifying Affected Class I Net Metering Facilities, which is the same deadline established for reporting on Class II and Class III Cap Exempt Facilities Serving On-site Load (Distribution Company Comments at 2-3). Further, the Distribution Companies maintain that the Department's reclassification process should be widely announced within the industry to provide regulatory certainty (Distribution Company Comments at 2, citing D.P.U. 21-100-A at 96-97, 99).

Additionally, Klavens Law Group, SEBANE, and ReVision express concerns regarding an apparent error in the wording of the Department's question (SEBANE Comments at 1-2; ReVision Comments at 1-2; Tr. at 21). Specifically, SEBANE and ReVision maintain that the 2022 Clean Energy Act does not impose the same interconnection date eligibility requirement on "Nameplate Cap Exempt Facilities" as it does on "Cap Exempt Facilities Serving On-site Load" (SEBANE Comments at 1-2; ReVision Comments at 1-2). SEBANE and ReVision argue that both eligible "Nameplate Cap Exempt Facilities" and "Cap Exempt Facilities Serving On-site Load" should be reclassified as quickly as possible (SEBANE Comments at 2; ReVision Comments at 2).

Regarding the proposed reclassification process, Cadmus and the Distribution Companies relate that more direct communication and collaboration, rather than exclusively informational filings, would aid the process and enhance efficiency (Cadmus Comments at 5; Distribution Company Comments at 8). Additionally, Cadmus expresses concern about the proposed 30-day timeframe within which Cadmus would have to review such informational filings (Cadmus Comments at 4). Cadmus explains that, while the 30-day timeframe was employed in D.P.U. 21-100, the magnitude of the difference between the number of potentially affected facilities in each proceeding is large and may result in efforts that will take substantially longer than 30 days (Cadmus Comments at 4-5). Further, Cadmus asserts that the efforts necessary to complete Step 3 may take at least an additional 60 days to complete (Cadmus Comments at 5).

Cadmus presents three potential measures to ensure that Cap Allocations are revoked only for the appropriate Affected Class I Facilities (Cadmus Comments at 5-6). Specifically, Cadmus suggests that (1) cross-referencing each identified Affected Class I Facility to identify

whether there is another Application for Cap Allocation ("ACA")[29] for the same Host Customer and confirming that they are at the same address; (2) checking each identified Affected Class I Facility to determine whether there is another ACA under the same address; and (3) reviewing the application field asking if the ACA is for an expansion of a previously operating facility (Cadmus Comments at 6).

Additionally, Cadmus proposes several improvements to the reclassification process (Cadmus Comments at 6-8). Cadmus recommends that the Department provide clear direction that Affected Class I Facilities should include all facilities that are operating with a Cap Allocation as well as facilities that are on the pathway towards obtaining a Cap Allocation, even if they are not currently taking Net Metering services, to ensure that the broadest number of facilities is captured (Cadmus Comments at 6). Further, Cadmus describes barriers to matching data maintained by itself and the Distribution Companies, particularly given that there is no common identifier across Cadmus and Distribution Company records (Cadmus Comments at 6).[30] To overcome this barrier to data matching and to improve the efficiency of the reclassification process, Cadmus details several options for changes, ranked in order of its preference (Cadmus Comments at 7-8).

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29 ACA is a prescribed form containing the information (and including supporting documentation and Certification) necessary to determine eligibility for a Cap Allocation or a position on the Waiting List under the Net Metering Program. Net Metering and Distributed Generation, D.P.U. 11-11-D (2012), App. A (System of Assurance), § 2 (Definitions).

30 Cadmus explains that while an ISA number can serve as an identifier where it exists, this number as received in the ACA database is entered by applicants and may not always perfectly align with the number maintained by the Distribution Companies (Cadmus Comments at 6).

Cadmus's first choice would be for the Distribution Companies to provide as much identifying information as possible for each facility, including some information that may be classified as personally identifiable information ("PII"),[31, 32] and notes that the information included in the D.P.U. 21-100 informational filings[33] is not a sufficient level of detail (Cadmus Comments at 7). Cadmus's second choice would be for it to begin the reclassification process by providing the Distribution Companies with a list of all potentially Affected Class I Facilities, which each Distribution Company would then compare to its database to identify facilities that, in fact, are affected (Cadmus Comments at 8). Under Cadmus's third choice, the Distribution Companies would begin the reclassification effort by referencing the publicly available ACA

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31 Under Massachusetts law governing data breaches, "personal information" is:

> a resident's first name and last name or first initial and last name in combination with any one or more of the following data elements that relate to such resident:
>
> (a) Social Security number;
>
> (b) driver's license number or state-issued identification card number; or
>
> (c) financial account number, or credit or debit card number, with or without any required security code, access code, personal identification number or password, that would permit access to a resident's financial account; provided, however, that "Personal information" shall not include information that is lawfully obtained from publicly available information, or from federal, state or local government records lawfully made available to the general public.

G.L. c. 93H, § 1.

32 Cadmus asserts that if the Department were to direct the Distribution Companies to provide PII to Cadmus, Cadmus would commit to working with the Distribution Companies and the Department to ensure the data are protected and that privacy is maintained (Cadmus Comments at 7-8).

33 The Department's informational filing requirements for Distribution Companies regarding their progress in developing revisions to Schedule Z of the DG Interconnection Tariff are set out at D.P.U. 21-100-A at 62-64.

database and proceeding to identify which facilities in that database are affected (Cadmus Comments at 8). Cadmus notes that its third option could be difficult to implement as the public database may not contain shared identifiers (Cadmus Comments at 8).

3. Analysis and Findings

As stated above, to comply with the 2022 Clean Energy Act, all Affected Class I Facilities must reclassify as Cap Exempt Facilities. The Department finds it appropriate to set out comprehensive directions so that tasks for reclassification are consistently completed. Thus, based on our proposed four-step process and in consideration of comments, the Department establishes the following three-step process ("Reclassification Process"):[34]

Step 1 (based on combined proposed Steps 1 and 2)

Within 60 calendar days of the date of this Order, the Distribution Companies and the Administrator shall jointly file an informational letter in this docket confirming that the requisite information has been compiled and that the Administrator is ready to move forward with notification to Affected Host Customers of reclassification and cap

[34] In addition to the Administrator/Distribution Company-led reclassification process detailed in Steps 1 through 3, Host Customers of Affected Class I Facilities may proactively contact their Distribution Company to request reclassification. In such instances, Host Customers may start generating Net Metering Credits in accordance with the credit values associated with either Nameplate Cap Exempt Facilities or Cap Exempt Facilities Serving On-site Load as of the date that the Final Regulations are published in the Massachusetts Register. The Distribution Companies shall retain records associated with these instances of reclassification and provide them to the Administrator so that the Administrator may revoke the Cap Allocations in accordance with the revocation process detailed in Step 3.

revocation.[35] If the Administrator and the Distribution Companies anticipate exceeding the 60-day timeline, the Administrator and the Distribution Companies shall provide a written notification to the Department no later than 45 calendar days from the date of this Order with an update on the remaining steps to complete this stage of the process and an anticipated timeline for completion.

Step 2 (based on proposed Step 3)

After the Administrator has the necessary information to proceed with the Reclassification Process, the Administrator shall provide notice to each Affected Host Customer, as soon as practicable, but no later than 90 calendar days after Step 1 is complete, that (a) its Cap Allocation will be revoked and (b) the Affected Class I Facility will be reclassified as a Cap Exempt Facility. The Administrator shall work with the Department to develop the language included in the notification.

Step 3 (based on proposed Step 4)

As soon as practicable (to be determined by the Administrator and the Department), the Administrator shall revoke the Affected Class I Facilities' Cap Allocations and update the private caps accordingly. The Department will then issue a Hearing Officer Memorandum in this docket to notify the public that the update to the private cap is complete.

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[35] Affected Class I Facilities must currently have a Cap Allocation to Net Meter. Because the 2022 Clean Energy Act requires such facilities to reclassify as cap exempt, we direct the Administrator to revoke Cap Allocations currently associated with Affected Class I Facilities and return the capacity back to the relevant Distribution Company's private cap.

Below, the Department provides direction for implementation of the Reclassification Process and clarification and explanation for some steps.

The Department agrees with commenters that reclassification of Affected Class I Facilities should occur as soon as practicable. Based on our knowledge of the operation of the System of Assurance, our engagement with the Administrator in the functioning of the System of Assurance, and our experience with the Distribution Companies, the Department finds it appropriate that the Reclassification Process takes place through coordinated efforts between the Distribution Companies and the Administrator.

Moreover, given the existing role of the Administrator and its experience with reclassifying Affected Class II and Affected Class III Facilities pursuant to the Department's directives in D.P.U. 21-100-A, we find it appropriate for the Administrator to manage the Reclassification Process for Affected Class I Facilities, subject to the Department's supervision and control. Net Metering Rulemaking, D.P.U. 21-100-A at 40-41. Cadmus presented three approaches for collaboration with the Distribution Companies to collect the relevant information for reclassification, which relates to Step 1 of the Reclassification Process.[36]

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[36] In Order Opening Rulemaking, the Department proposed the following four-step process for reclassifying Affected Class I Facilities:

Step 1: Within 30 days of the order adopting Final Regulations, the Distribution Companies shall identify the location and nameplate capacity of each Affected Class I Facility in their service territories and submit an informational filing in this docket.

Step 2: Within 30 days of the receipt of the Distribution Companies' informational filing, the Administrator shall: (a) file a letter in this docket indicating that it has the requisite information to move forward with a notification to the Affected Host Customer of reclassification and revocation of a Cap Allocation; or (b) file a letter in this docket and with the relevant Distribution Company and/or Affected Host Customer, requesting additional or clarifying information.

Cadmus and the Distribution Companies recommend more direct communication and collaboration, rather than exclusively formal informational filings, to aid the Reclassification Process and enhance efficiency, especially since the Administrator estimates that approximately 7,500 Affected Class I Facilities will need to be reclassified (Cadmus Comments at 2, 5; Distribution Company Comments at 8). The Department appreciates these recommendations and agrees that more open collaboration and communication between the Administrator and the Distribution Companies should improve the efficiency of the effort. As such, the Department directs the Distribution Companies and Cadmus to coordinate, as frequently as necessary, outside of the formal D.P.U. 23-140 process, to promote efficiency throughout the Reclassification Process.

The Department finds instructive Cadmus's comments identifying measures for implementation of the Reclassification Process to improve efficiency and to protect against incorrect reclassification (Cadmus Comments at 5-8). We expect that these measures will provide a useful foundation for the Distribution Companies and Cadmus in their coordinated efforts. As part of that effort, the Department relies on the reasonable judgment of Cadmus and

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> Step 3: After the Administrator receives the necessary information to move forward with the reclassification process, the Administrator shall provide notice to each Affected Host Customer that its Cap Allocation will be revoked, and the Affected Facility will be reclassified as a Cap Exempt Facility. The Administrator shall work with the Department to develop the language included in the notification.
>
> Step 4: After a reasonable time (to be determined by the Administrator and the Department), the Administrator shall revoke the Affected Class I Facility's Cap Allocation and update the private cap accordingly. The Department will then post a Hearing Officer Memorandum in this docket to notify the public that the update to the private cap is complete.
>
> D.P.U. 23-140, at 12-13.

the Distribution Companies to decide the project information that will be most useful to share to identify the Affected Class I Facilities. As such, we do not prescribe that information that Cadmus and the Distribution Companies must share to most efficiently identify Affected Class I Facilities.

Related to Step 2 (proposed Step 3),[37] Cadmus explains that it may take an additional 60 days, at a minimum, after the notification language is finalized to notify all Affected Host Customers (Cadmus Comments at 5). This estimate anticipates Host Customer questions as part of the Reclassification Process, which may lengthen Cadmus's efforts (Cadmus Comments at 5). The Department acknowledges that the estimated number of Affected Class I Facilities (approximately 7,500) is significantly higher than the comparable number of Affected Class II and Class III Facilities that were reclassified through the D.P.U. 21-100 proceeding (approximately 130) and finds the Administrator's reasoning to request an extension to be reasonable (Cadmus Comments at 5). As such, as established in Step 2 above, the Administrator shall notify Affected Host Customers as soon as practicable, but no later than 90 days after Step 1 is complete.

To summarize, the Department finds it appropriate to revise the proposed Reclassification Process for Affected Class I Facilities as set forth above for the efficient and effective implementation of the Reclassification Process.

With respect to implementation concerns raised by commenters, Klavens Law Group, SEBANE, and ReVision assert that the 2022 Clean Energy Act does not impose the same

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[37] As stated above, Step 2 of the Reclassification Process requires the Administrator (Cadmus) to notify all Affected Host Customers of their Cap Allocation Revocation.

interconnection date eligibility requirement on Nameplate Cap Exempt Facilities as it does on Cap Exempt Facilities Serving On-site Load (Klavens Law Group, Tr. at 21; SEBANE Comments at 1-2; ReVision Comments at 1-2). The Department clarifies that the January 1, 2021 ISA date applies only to Class I Cap Exempt Facilities Serving On-site Load when determining eligibility for reclassification. G.L. c. 164, § 139(i).[38]

Regarding the issue of QF projects, the Department finds that pre-existing projects that did not receive a Cap Allocation and are currently operating as QFs may reclassify as Cap Exempt Facilities, so long as such facilities meet either the definition of "Cap Exempt Facility Serving On-site Load" or "Nameplate Cap Exempt Facility" set forth in the Final Net Metering Regulations. D.P.U. 23-140-A, Apps. A and B, § 18.02. The Distribution Companies will notify owners of such QFs that they may be eligible to reclassify as a Cap Exempt Facility under the Net Metering Program in accordance with the Department's directives set forth below.

For this notification, the Department directs the Administrator and the Distribution Companies during the identification of Affected Class I Facilities to work together to identify pre-existing QFs that may now be eligible to operate as Cap Exempt Facilities. Additionally, the Department directs that, within 45 calendar days of the date of this Order, the Distribution Companies jointly file a timeline and proposed communication to notify all owners of QFs that

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38 "A Class I net metering facility with a capacity greater than 25 kilowatts … with an executed interconnection agreement with a distribution company on or after January 1, 2021 shall be exempt from the aggregate net metering capacity of facilities" in the public cap "and may net meter and accrue Class I … market net metering credits if it is generating renewable energy and serves on-site load other than parasitic or station load." G.L. c. 164, § 139(i).

they may now be eligible to receive Net Metering services.[39] Further, as soon as practicable, but no later than 45 calendar days from the date of this Order, the Distribution Companies shall provide the Department with a draft notification to Net Metering Customers that provides an update on the changes to the Net Metering Program rules as a result of the 2021 Climate Act and 2022 Clean Energy Act. At their discretion, the Distribution Companies may file joint or company-specific draft notifications. Finally, consistent with the statutory changes in the 2022 Clean Energy Act, the Administrator shall file with the Department proposed revisions to the ACA and the application review process for Affected Class I Facilities.

F. Cap Exempt Facilities Serving On-site Load Allocation Restriction

1. Introduction

Cap Exempt Facilities Serving On-site Load (1) must have an ISA with a Distribution Company dated on or after January 1, 2021; (2) must be a Renewable Energy Generating Facility; (3) must serve On-site Load, other than parasitic or station load; and (4) cannot be a Net Metering Facility of a Municipality or Other Governmental Entity. G.L. c. 164, § 139(i). While such facilities must serve On-site Load, other than parasitic or station load, a Net Metering

39 The owner of a QF may choose to retain QF status rather than pursuing reclassification as a Cap Exempt Facility. Therefore, the Department does not direct the automatic reclassification of these facilities. Host Customers of such a facility will be responsible for pursuing cap exempt status to receive Net Metering services. The Department further clarifies that there is no deadline for such preexisting, eligible QFs to request reclassification to Cap Exempt Facility status. In addition to the Distribution Company-led notification process detailed above, owners of QFs that are eligible to Net Meter as Cap Exempt Facilities may proactively contact their Distribution Company to request reclassification. In such instances, QF owners may start generating Net Metering Credits in accordance with the credit values associated with either Nameplate Cap Exempt Facilities or Cap Exempt Facilities Serving On-site Load as of the date that the Final Regulations are published in the Massachusetts Register.

facility could be designed to produce more energy than it can consume on site over the course of a year.

In D.P.U. 21-100-A, the Department determined that a Host Customer of a Class II Cap Exempt Facility Serving On-site Load or Class III Cap Exempt Facility Serving On-site Load may choose either to receive a payout or to carry forward an accrued Net Metering Credit balance, as of March of each year. D.P.U. 21-100-A at 49-50. The Legislature determined that the value of the Net Metering Credit balance for the annual payout or carry forward will be at the Distribution Company's ACR, which is less than the Net Metering Credit value. G.L. c. 164, § 139(i). Taking this valuation into consideration, the Department interpreted the Legislature's intent for the application of the annual payout or carry forward is that Cap Exempt Facilities Serving On-site Load should not only be behind the meter, but also sized to load because the value of excess Net Metering Credits remaining on the account will be reduced to the ACR at the end of the year. D.P.U. 23-140, at 10. That is, the Department treated the ACR payout as an incentive against oversizing a facility and, therefore, if a facility were to assign most of its credits to satellite accounts, it could circumvent this incentive structure. D.P.U. 23-140, at 10. To prevent such circumvention, which could constitute gaming of the Net Metering Program, the Department proposed that 100 percent of the Net Metering Credits be assigned to the meter behind which the Cap Exempt Facility Serving On-site Load is interconnected, with such policy taking effect 60 days from the date of a final Order. D.P.U. 23-140, at 10. The Department sought comments on this proposed policy. D.P.U. 23-140, at 15.

2. Summary of Comments

Most commenters oppose the Department's proposal to restrict the ability of Cap Exempt Facilities Serving On-site Load to assign Net Metering Credits to other accounts that are behind the meter. Several commenters argue that the statute does not require such a restriction and, therefore, the proposal exceeds the Department's authority (Charles Hornig Comments at 1; Klavens Law Group Reply Comments at 4-6; NECEC Comments at 2; Resonant Comments at 2-3; SEBANE Comments at 3). Klavens Law Group contends that clear statutory language permits all Net Metering facilities to allocate credits to other accounts (Klavens Law Group Reply Comments at 4-5). NECEC asserts that the concern that a facility could potentially circumvent the ACR payout by assigning excess credits to an offsite meter is speculative and unrealistic (NECEC Comments at 2). Resonant contends that the statute does not state that annual electricity consumption should be defined by or limited to the consumption associated with a specific meter (Resonant Comments at 3). Klavens Law Group and Resonant argue that the statutory language implies that the Legislature intended the statute to prevent the buildup of Net Metering Credit balances, rather than create a restriction on Net Metering facilities that serve On-site Load (Klavens Law Group Reply Comments at 6; Resonant Comments at 3-4). Resonant further asserts that it would be more consistent with the Legislature's broader policy priorities to encourage customers to build larger on-site facilities, not to restrict facilities' size to load (Resonant Comments at 4). Klavens Law Group and SEBANE maintain that the Legislature had the opportunity to address the concern regarding sizing the affected systems to load and chose not to (Klavens Law Group Reply Comments at 5-6; SEBANE Comments at 3). SEBANE asserts that the Legislature clearly expanded incentives for the growth of behind-the-

meter systems and did not impose conditions that may stifle such development (SEBANE Comments at 3).

Several commenters express concern regarding the limitations that the proposal would place on entities seeking to transfer credits to other of their accounts, whether on the same parcel or on other properties (Charles Hornig Comments at 1; PowerOptions Comments at 1; Resonant Comments at 3; ReVision Comments at 3-4; Roman Catholic Diocese of Fall River Reply Comments at 1; SEBANE Comments at 3; Tr. at 8-10). Charles Hornig explains that a customer may want to have a facility serve two sites, one suitable for solar and one that is not (Charles Hornig Comments at 1). PowerOptions avers that customers may have multiple meters in close proximity to the Net Metering facility that are operationally infeasible to interconnect (PowerOptions Comments at 1). Similarly, commenters argue that the proposal would hinder customers living in multifamily housing from participating in the Net Metering Program (NECEC Comments at 3; Resonant Comments at 3; ReVision Comments at 3-4; SEBANE Comments at 3). Resonant and SEBANE maintain that allowing these facilities to allocate credits to other meters is critical for multifamily, affordable housing, as these properties usually have multiple meters for separate tenants and for common area load (Resonant Comments at 3; SEBANE Comments at 3). ReVision and SEBANE argue that, while solar production at the facility may exceed 100 percent of that meter's load, it does not mean that solar production exceeds 100 percent of the load that it is meant to serve (ReVision Comments at 2-3; SEBANE Comments at 3). NECEC observes that facilities serving multiple tenants with multiple meters typically experience temporary variations in load when there is a gap in tenancy (NECEC Comments at 3). Additionally, NECEC and SEBANE allege that the proposal would impede

solar development in urbanized areas, which is contrary to the Commonwealth's policies to encourage solar development in such areas (NECEC Comments at 3; SEBANE Comments at 3).

Further, commenters assert that the proposal harms the economic viability of existing and proposed facilities (Charles Hornig Comments at 1; NECEC Comments at 3; Resonant Comments at 4; Roman Catholic Diocese of Fall River Reply Comments at 1). Charles Hornig and Resonant explain that existing Class I Facilities Serving On-site Load are currently allocating excess credits to external accounts, and that these economic benefits were dependent on when the facilities were built and financed (Charles Hornig Comments at 1; Resonant Comments at 4). Resonant argues that, for the sake of an orderly transition, the Department should avoid penalizing these existing facilities and allow legacy facilities to continue to allocate credits without additional restrictions (Resonant Comments at 4). NECEC claims that implementing the Department's proposed allocation restriction would make financing new projects even more challenging than converting excess credits to the ACR and would decrease investment in and deployment of new facilities (NECEC Comments at 3). The Roman Catholic Diocese of Fall River avers that the restriction would severely harm the economic justification for its planned solar projects across its campus (Roman Catholic Diocese of Fall River Reply Comments at 1).

PowerOptions, Resonant, and Vote Solar offer potential modifications to alleviate some of the concerns discussed above (PowerOptions Comments at 1; Resonant Comments at 3; Vote Solar Reply Comments at 1-2). PowerOptions proposes to allow unrestricted transfer of credits to other accounts owned by a parent, subsidiary, or affiliated entity within the same utility territory and ISO-NE load zone, or alternatively, on the same parcel of land or an immediately

adjacent parcel (PowerOptions Comments at 1). Resonant and Vote Solar contend that a justifiable interpretation would be to consider the annual electricity consumption of the property that hosts the facility, rather than that of a specific meter (Resonant Comments at 3; Vote Solar Reply Comments at 1-2). Further, Resonant declares that this interpretation should be extended to include multiple buildings that are owned by the same Host Customer (Resonant Comments at 3). Resonant concludes that requiring 100 percent of the facility's Net Metering Credits to be assigned to accounts owned or controlled by a Host Customer associated with the facility would be a more reasonable limitation (Resonant Comments at 3). The Distribution Companies offer a preferred alternative (a) to implement the Department's proposed restriction and (b) to allow certain facilities to obtain an exemption from the restriction by obtaining permission from the Department (or the Department's DG and Clean Energy Ombudsperson) to allocate Net Metering Credits to certain other accounts (Distribution Company Reply Comments at 4).

Finally, Klavens Law Group, NECEC, and SEBANE express concern regarding the proposed 60-day timeline for the implementation of the policy, which they contend contravenes statutory and regulatory provisions governing rulemakings, as well as the Department's stated commitments to transparency (Klavens Law Group Reply Comments at 5; NECEC Comments at 3; SEBANE Comments at 3-4; Tr. at 33-34). NECEC explains that unless the Department intends to wait 60 days to file final regulations with the Secretary of the Commonwealth, the meaning of the timeline is unclear (NECEC Comments at 3). NECEC and SEBANE note that the proposed change does not appear in the Proposed Regulations, but only in the Order Opening Rulemaking (NECEC Comments at 3; SEBANE Comments at 3-4).

The Attorney General and the Distribution Companies support the Department's proposal (Attorney General Reply Comments at 1; Distribution Company Reply Comments at 4). The Attorney General avers the proposed restriction would prevent Host Customers from reallocating excess Net Metering Credits to improperly receive payouts at the Market Net Metering Credit rate instead of the ACR (Attorney General Reply Comments at 1). The Distribution Companies agree with the Department that the statute intends for Cap Exempt Facilities to be behind the meter and generally sized to load (Distribution Company Reply Comments at 4). The Distribution Companies assert that it is unambiguous that (quoting the statute) "any credits in excess of annual electricity consumption" are intended to be paid out at the ACR (Distribution Company Reply Comments at 4). The Distribution Companies share the Department's concern that substantially oversized Net Metering facilities could circumvent the ACR payout by allocating credits to other accounts (Distribution Company Reply Comments at 4).

3. Analysis and Findings

In establishing Cap Exempt Facilities Serving On-site Load, the Legislature enabled entities to build certain Class I, II, and III Net Metering facilities without having to obtain a Cap Allocation. G.L. c. 164, § 139(i). The Legislature prescribed several criteria for a facility to qualify for this cap exemption, including that the facility must be a Renewable Energy Generating Facility and that it must serve On-site Load. G.L. c. 164, § 139(i). The Department finds that the 2022 Clean Energy Act is intended to spur the development of Renewable Energy Generating Facilities to serve the On-site Load of Net Metering Customers.[40] The Legislature

[40] The Department has long held that Net Metering is an important tool in the advancement of renewable energy. Solect Energy Development LLC, D.P.U. 16-21, at 12 (2016);

stipulated that any Net Metering Credits accrued in excess of the annual electricity consumption of a Cap Exempt Facility Serving On-site Load must be paid out at the Distribution Company's ACR. G.L. c. 164, §§ 139(2)(c) and (i). For purposes of the Net Metering Program, ACR is calculated pursuant to 220 CMR 18.05(5):

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

220 CMR 18.05(5).

The inputs for calculating ACR produce an adjustment factor that is a fraction less than one. Thus, Net Metering Credits calculated based on a Distribution Company's ACR will be lower than Net Metering Credits calculated under 220 CMR 18.04.

The Legislature's assignment of this lower credit value to this classification of Net Metering facilities will limit costs to distribution customers[41] that arise from expanded access to

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BCC Solar Energy Advantage, Inc., D.P.U. 14-149, at 18 (2015); Borrego Solar Systems, Inc., D.P.U. 12-80, at 7 (2012); Borrego Solar Systems, Inc., D.P.U. 12-79, at 7 (2012).

41 The Distribution Companies recover Net Metering Credits through the Net Metering Recovery Surcharge ("NMRS"), which is a reconciling charge billed to all Distribution Companies. Net Metering Rulemaking, D.P.U. 21-100-A at 16-17. The NMRS is paid by all Distribution Company customers regardless of whether a customer receives Net Metering services.

Net Meter as Cap Exempt Facilities as a result of the 2021 Climate Act[42] and 2022 Clean Energy Act.[43] Additionally, we find that the ACR payout is a clear incentive against oversizing facilities to generate excess Net Metering Credits. If an oversized facility could allocate excess credits to satellite accounts, it would circumvent the annual payout out established by the Legislature. Further, the Department is concerned that unrestricted Net Metering Credit allocation for these facilities could result in gaming of the Net Metering Program. Specifically, Host Customers could utilize this cap exemption to build a facility that serves a nominal amount of On-site Load and is mostly intended to allocate Net Metering Credits in arrangements solely to realize profits.

The Department acknowledges the concerns brought forth by commenters, however, and recognizes that there are instances in which a Host Customer may need to allocate Net Metering Credits to the accounts of other meters to offset on-site electricity usage. Regarding sites with multiple meters, a facility's solar production may exceed 100 percent of that meter's load, even though that solar production does not exceed 100 percent of the load it is meant to serve (Roman Catholic Diocese of Fall River Reply Comments at 1; NECEC at 2-3; PowerOptions at 1; ReVision Comments at 2-3; SEBANE Comments at 3; Vote Solar at 1-2. Additionally, multifamily housing properties usually have multiple meters for separate tenants and for common area load (NECEC at 2-3; Resonant Comments at 3; SEBANE Comments at 3). The Department concludes that the phrase "annual electricity consumption," as used in the 2021

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42 St. 2021, c 8, § 85.

43 St. 2022, c. 179, § 54.

Climate Act,[44] 2022 Clean Energy Act,[45] and G.L. c. 164, § 139(i), applies to the consumption at the property rather than a specific meter on the property. Therefore, we find that the Department's proposed credit allocation restriction would prevent certain facilities from serving intended On-site Load and would be inconsistent with the Legislature's intended Net Metering structure. Accordingly, we decline to restrict the ability of Cap Exempt Facilities Serving On-site Load to allocate Net Metering Credits to other electric accounts.

G. Crediting/Payout Process

1. Introduction

Consistent with the 2022 Clean Energy Act, the Proposed Regulations also include revisions to Section 18.05, Allocation of Net Metering Credits. The Proposed Regulations would, for a Class I Net Metering Facility that is also a Cap Exempt Facility Serving On-site Load, require the Distribution Company to credit or pay the Host Customer for any Net Metering Credits that are accrued in excess of such Customer's annual electricity consumption, for the period running from April through the following March, at the Distribution Company's ACR. The Proposed Regulations at Section 18.05(4) replace "Class II Net Metering Facility or Class III Net Metering Facility that is also a Cap Exempt Facility" with "Cap Exempt Facility Serving On-site Load" (Apps. A and B, § 18.05(4)). D.P.U. 23-140, at 5.

In D.P.U. 21-100-A, the Department created an exception to the credit allocation process, where Affected Host Customers may reallocate Net Metering Credits that accrued, or will

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44 St. 2021, c. 8, § 85.

45 St. 2022, c. 179, § 54.

accrue, on accounts between January 1, 2022 and March 31, 2025. D.P.U. 21-100-A at 53-55. For those Affected Class I Facilities, the Department sought comment on: (1) whether the credit allocation exception set forth in D.P.U. 21-100-A for Affected Class II and Class III Net Metering Facilities Serving On-site Load should be extended to Affected Class I Facilities that are also Cap Exempt Facilities Serving On-site Load; and (2) whether the date range identified therein is sufficient or if it should be adjusted. D.P.U. 23-140, at 6.

2. Summary of Comments

The Distribution Companies, Resonant, and Vote Solar contend that it would be appropriate to extend the Department's exception to the credit allocation process established in D.P.U. 21-100-A to Affected Class I Facilities that are also Cap Exempt Facilities Serving On-site Load (Distribution Company Comments at 4-5; Resonant Comments at 2; Vote Solar Reply Comments at 1). The Distribution Companies maintain that the date range identified by the Department is sufficient, while Resonant and Vote Solar assert that the deadline should be extended to December 31, 2025, as the rulemaking was opened later than the issuance of D.P.U. 21-100-A (Distribution Company Comments at 4-5; Resonant Comments at 2; Vote Solar Reply Comments at 1).

3. Analysis and Findings

The 2022 Clean Energy Act expands the definition of Cap Exempt Facility, requiring the Department to develop a Net Metering Credit allocation exception and payout process for newly Cap Exempt Facilities. For administrative efficiency and regulatory consistency, the Department extends the same credit allocation and carry forward/payout process to Affected Class I Facilities for Net Metering Credits as was provided to Affected Class II and Class III Facilities in

D.P.U. 21-100-A, at 53-55. The Department directs that the Distribution Companies and the Net Metering Host Customers must communicate regarding the excess balance of unallocated Net Metering Credits prior to the processing of a credit or payout. Because the Distribution Company controls the key account information, it shall initiate the communications with a written report to each Affected Host Customer with pertinent information regarding unallocated Net Metering Credits. To support the credit/payout transaction, the relevant Host Customer must provide necessary instructions and payment information. D.P.U. 21-100-A at 50. Consistent with the "April through March" period set forth in the 2022 Clean Energy Act, the following process shall apply:

> By May 15 of each year, the Distribution Company shall provide a written report to each Host Customer of a Class I Net Metering Facility that is also a Cap Exempt Facility Serving On-site Load that includes:
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> (a) the excess balance of unallocated Net Metering Credits that had accrued during the preceding 12-month period beginning from April of the preceding year and is remaining on the Host Customer's billing account as of March 31 of the same calendar year;
> (b) an estimate of the payout/carry forward credit amount, with supporting calculation using the ACR;
> (c) a directive that the Host Customer send the Distribution Company, by June 1, a written election for payout,[46] carry forward, or partial carry forward and partial payout;

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

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

Also, credit balances that are carried forward monthly on Host Customer accounts of Affected Class I Facilities that are also Cap Exempt Facilities Serving On-site Load will be calculated at the Class I Market Net Metering Credit value from April to the following March before being reduced to the ACR. The Department acknowledges that for Affected Class I Facilities that are also Cap Exempt Facilities Serving On-site Load, (a) the value of excess Net Metering Credits earned and posted on Host Customers' accounts at the end of the year will be higher than (b) the value of payouts or credit balances accounted for at the end of the year at the ACR. Thus, the Distribution Companies shall adjust Host Customers' accrued net balances to the ACR annually prior to the carry forward of any credit balance or payout. Further, consistent with the directives set forth in D.P.U. 21-100-A for Affected Class II and Class III Facilities, the Distribution Companies shall return the difference between the Net Metering Credit and ACR through the NMRS in the event of an over-recovery of costs from distribution customers. D.P.U. 21-100-A at 51.

Finally, to provide reasonable notice to Affected Host Customers and to allow for an opportunity to use or allocate accrued Net Metering Credits prior to the value being adjusted to

the ACR, in addition to providing time for implementation requirements by the Distribution Companies, April 1, 2025 through March 31, 2026 shall be the first April through March period for the purposes of implementing this process for Affected Class I Facilities that are also Cap Exempt Facilities Serving On-site Load. Thus, the first report of this kind shall be provided to Affected Host Customers no later than May 15, 2026, and the first account balance payout or carry forward at the ACR shall occur after June 1, 2026.

a. Host Customer

By June 1 of each year, beginning in 2026, in response to the Distribution Company's report, the Host Customer of a Class I Net Metering Facility that is also a Cap Exempt Facility Serving On-site Load shall provide the following in writing to the Distribution Company:

(a) an election for the carry forward or payout of the reported excess balance of unallocated Net Metering Credits at the ACR, or a stated election for the partial carry forward and partial payout of the balance; and

(b) if electing a payout, the requested banking, tax, and mailing information.

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

b. Net Metering Credit Balances on Affected Host Customer Accounts Accrued between January 1, 2022, and March 31, 2026

The Department recognizes that there are timing differences between the effective date of the 2022 Clean Energy Act, the date of this Order, and the effective date of the Final Regulations which, in turn, affect the timing eligibility for the new payout or credit of the excess balance of unallocated Net Metering Credits, as set forth in the 2022 Clean Energy Act. As previously stated, the 2022 Clean Energy Act became effective November 9, 2022. As stated below, the Final Regulations pursuant to the 2022 Clean Energy Act will be effective upon publication in the Massachusetts Register after the Department has submitted them to the Secretary of the Commonwealth following issuance of this Order. Further, the 2022 Clean Energy Act provides eligibility for the newly promulgated Net Metering Credit carry forward or payout rule for Affected Class I Facilities. St. 2022, c. 179, § 54; G.L. c. 164, § 139(i). The Department identifies January 1, 2022 as the appropriate start date to calculate accrued Net Metering Credits eligible for the allocation exception, outlined below, given its proximity to the passage of the 2022 Clean Energy Act, to promote administrative efficiency, and for ease and consistency of Distribution Company accounting.

As a result of these timing differences, Affected Host Customers may be carrying Net Metering Credit balances on their accounts that were accrued prior to reclassification. In this scenario, the Department provides for an exception to the current practice for Net Metering Credits to be allocated prospectively via Schedule Z.[47] G.L. c. 164, § 139(a)(1), (b)(1). In

[47] Schedule Z to the Standards for the Interconnection of Distributed Generation ("DG Interconnection Tariff"), which is a form completed by or on behalf of a Host Customer, contains information regarding the Host Customer and the generating facility necessary

D.P.U. 21-100-A, the Department allowed Affected Host Customers, whose Affected Class II and Class III Facilities have been reclassified as Cap Exempt Facilities Serving On-site Load, to reallocate Net Metering Credits that may accrue on their accounts between January 1, 2022 and March 31, 2025. D.P.U. 21-100-A at 54. Since the Department's decision in this proceeding comes over nine months after our decision in D.P.U. 21-100 and notice to Affected Host Customers will occur following the issuance of this Order, we are persuaded by Resonant's and Vote Solar's arguments that the end date of the accrued Net Metering Credit transfer exception should be extended. Further, because in Section III.G.3 above we have established April 1, 2025 through March 31, 2026 as the first April through March period for the purposes of adjusting accrued Net Metering Credit balances to the ACR for Affected Class I Facilities that are also Cap Exempt Facilities Serving On-site Load, in the interest of fairness and for the sake of consistency and ease of administration, we extend the end date for the accrued Net Metering Credit transfer exception to March 31, 2026.

Affected Host Customers whose Affected Class I Facilities have been reclassified as Cap Exempt Facilities Serving On-site Load thus will have the opportunity to reallocate Net Metering Credits that may have accrued and will accrue on their accounts between January 1, 2022, and March 31, 2026. These Affected Host Customers may reallocate Net Metering Credits to other accounts at the Class I Net Metering Credit value for the credits that accrued prior to April 1, 2026. Any Net Metering Credit balance remaining on the Affected Host Customer's account as

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to receive Net Metering services from the Distribution Company and to allocate Net Metering Credits to the Host Customer and other customer accounts, if applicable.

of April 1, 2026 will be recalculated at the ACR and subject to the first annual payout and carry forward report and process described above.

The following process shall apply in those instances where Affected Host Customers are carrying Net Metering Credit balances on their accounts prior to reclassification:

> Within 30 calendar days of the date of the Distribution Companies' and Administrator's joint letter, each Distribution Company shall send a written statement to each Affected Host Customer:
>
> (a) Identifying the balance of unallocated Net Metering Credits that had accrued from January 1, 2022, and are remaining on the Host Customer's billing account as of the effective date of the Final Regulations;
>
> (b) Making clear that any Net Metering Credit balance remaining on the Host Customer's accounts as of March 31, 2026, will be converted to the ACR at which point the Host Customer may elect for a payout or carry forward;
>
> (c) Providing notice to Affected Host Customers of the credit allocation exception by informing them that they may submit Schedule Z to their Distribution Company to reallocate the balance of unallocated Net Metering Credits that had accrued from January 1, 2022 through March 31, 2026; and
>
> (d) Providing contact information for any questions.

IV. ADDITIONAL CONSIDERATIONS

A. Treatment of ISA for Net Metering Facilities That Seek to Expand

1. Introduction

Currently, where pre-existing Net Metering facilities seek to expand, the Distribution Companies either issue a new ISA or amend the existing ISA, but there is not a consistent approach across Distribution Companies. D.P.U. 23-140, at 15. The Department sought

comments on whether the Department should direct the Distribution Companies to treat these ISAs consistently and, if so, what that treatment should be. D.P.U. 23-140, at 15.

2. Summary of Comments

Most commenters agree that there should be consistent treatment of ISAs across the Distribution Companies with respect to Net Metering facility expansions (Cadmus Comments at 4; Resonant Comments at 5; ReVision Comments at 3; SEBANE Comments at 5). Cadmus asserts that consistent treatment is important because the date of an ISA can significantly impact a facility's cap-exempt status and Net Metering Credit calculations (Cadmus Comments at 4). The Distribution Companies do not oppose the Department directing consistent ISA treatment (Distribution Company Comments at 7). In addition, most commenters agree that amending existing ISAs would be the appropriate treatment (Resonant Comments at 5; ReVision Comments at 3; SEBANE Comments at 5; Tr. at 11, 35). Specifically, Resonant, ReVision, and SEBANE maintain that amending ISAs would be the most efficient and least burdensome process (Resonant Comments at 5; ReVision Comments at 3; SEBANE Comments at 5). Cadmus and SEBANE relate that, under the current System of Assurance, requiring a new ISA would result in a Net Metering facility losing its existing Cap Allocation (Cadmus Comments at 4; SEBANE Comments at 5). Further, Cadmus explains that an executed ISA and its date of execution can be key actions under the System of Assurance and raise concerns that there may be confusion or complications for Net Metering facilities that have an original ISA dated prior to January 1, 2021 and an amended ISA on or after January 1, 2021(Cadmus Comments at 4). Thus, Cadmus requests clarification as to whether the ISA date used for the purposes of participating in

the Net Metering Program should be the original date or the amended date (Cadmus Comments at 4).

The Distribution Companies maintain that the Department should consider several factors before determining the appropriate ISA treatment, such as: (1) rules and regulations tying eligibility to the ISA date and the potential for the gaming of incentive programs; (2) allowing the Distribution Companies to propose revisions to the Interconnection Application, ISA, and Schedule Z could clarify facilities' status with regard to time-based rules; (3) aligning Cadmus's treatment of Cap Allocations for expansions with the Department's directive on ISA treatment; and (4) providing clear guidance as to what constitutes an expansion to inform all parties (Distribution Company Comments at 7-8).

Additionally, NECEC describes a separate but related issue, which it asserts must be addressed in this context (NECEC Comments at 5). NECEC explains that, under the System of Assurance, revoking Cap Allocations if a facility must submit a new ISA creates a problem for facilities seeking to add energy storage systems ("ESS") to existing solar generation because a new ISA will be required (NECEC Comments at 5). NECEC argues that, to address this problem, the Department should allow new ISAs resulting from the addition of ESS to constitute a permissible change under Section 8b(iii) of the System of Assurance (NECEC Comments at 5).

3. Analysis and Findings

As an initial matter, the Department does not find that Net Metering laws or Distribution Companies' processes support different treatment of ISAs in the instance of Net Metering facility expansion across Distribution Company service territories. In numerous contexts, the Department has found uniformity across companies in tariff language, policies, and charges to be

beneficial. 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); 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 Into Competitively Priced Electricity in the Commonwealth, Vote and Order Opening Investigation, D.P.U. 12-126, at 4 (2012) (finding that 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). The Department prefers uniform processes, policies, and procedures relating to Net Metering across Distribution Company service territories, where administratively feasible, to promote certainty among Host Customers and other Net Metering stakeholders. D.P.U. 21-100-A at 72; Net Metering, SMART Provision, and the Forward Capacity Market, D.P.U. 17-146-B at 68 (2014). We continue to hold that a uniform policy provides benefits and clarity for participants and stakeholders. D.P.U. 21-100-A at 72. No commenter provided support for a differentiated policy. Therefore, the Department finds that the Distribution Companies' policies regarding the ISA treatment with respect to Net Metering facility expansions shall be uniformly applied to all Net Metering facilities.

The Department agrees with commenters that expressed a preference for the issuance of amended ISAs, rather than new ISAs, for Net Metering facility expansions (Cadmus Comments at 4; SEBANE Comments at 5). Such commenters expressed concern that the issuance of a new ISA could result in the loss of a Cap Allocation under the System of Assurance (Cadmus

Comments at 4; SEBANE Comments at 5). Establishing a policy that could result in loss of Net Metering services, even temporarily, would create regulatory uncertainty and would likely hinder the growth of solar development, a key tool in achieving the Commonwealth's clean energy goals.[48] Further, while the Distribution Companies did not state a preference, they offered several important factors to consider in applying a rule for requiring a new ISA or an amended ISA for expansion of a preexisting Net Metering facility (Distribution Company Comments at 7-8). The Department appreciates the Distribution Companies' insight on this matter, and upon review, determines that these considerations also support amending ISAs. Specifically, consistently issuing amended ISAs for Net Metering facility expansions would minimize the potential for gaming the Net Metering Program, as Customers could not seek a new date for an ISA to qualify for later-developed incentive program rules.[49] Requiring amended ISAs would also better align with Cadmus's ACA process which, as discussed above, would result in revocation of a Cap Allocation in the event of the execution of a new ISA. Therefore, we direct the Distribution Companies to enter into amended ISAs in the event of Net Metering facility expansion. Further, the Distribution Companies shall file proposed revisions to the Net Metering Tariff and to the DG Interconnection Tariff to incorporate this directive.

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48 The overall purpose of the net metering statutes and regulations is the advancement of renewable energy projects in the Commonwealth. Borrego Solar Systems, Inc., D.P.U. 12-79, at 7 (2012).

49 While the Department cannot foresee what future rules may tie regulatory eligibility to the ISA date in either the Net Metering Program or other state incentive programs, we conclude that the amendment treatment would minimize this potential for gaming.

Several commenters request clarification on related points. Specifically, commenters allege that the Proposed Regulations are unclear whether facilities with original ISAs executed prior to January 1, 2021 and amended ISAs executed after that date may take service as Cap Exempt Facilities Serving On-site Load (Cadmus Comments at 4). After review and consideration, the Department determines that it is appropriate to use the amended ISA date when determining whether a facility meets the January 1, 2021 or later executed ISA requirement to Net Meter as a Cap Exempt Facility Serving On-site Load under G.L. c.]164, § 139(i). The Department finds that this approach aligns with the intent of the 2021 Climate Act and 2022 Clean Energy Act, as it will encourage the development of more solar that serves On-site Load, moving closer to achieving the Commonwealth's clean energy goals. Specifically, through this approach, Net Metering customers may expand their existing facilities to meet growing on-site electricity needs, without risking losing their ability to Net Meter. While the Department initially expressed concern with possible gaming regarding the ability to seek a new ISA date, the statute is clearly intended to encourage the installation of new renewable energy generating capacity to serve customers' On-site Load needs, which is in line with the Department's determination on this matter. Further, the ACR payout is a safeguard against program gaming from Cap Exempt Facilities Serving On-site Load.

The Distribution Companies maintain that providing clear guidance as to what constitutes an expansion would help all parties. Further, the Distribution Companies contend that allowing them to propose revisions to the Interconnection Application, ISA, and Schedule Z could help clarify net Metering facilities' statuses with regards to time-based rules related to these forms (Distribution Company Comments at 8). Considering the importance of DG Interconnection

Tariffs in establishing the process and requirements for interconnection, the Department directs the Distribution Companies to propose clarifying revisions to the DG Interconnection Tariff, including supporting Exhibits and Schedule Z. While the record in this proceeding does not support setting a specific classification for an expansion, the revised DG Interconnection Tariff, which is approved during the compliance phase, should provide clarity on this matter. Additionally, the Department recognizes the concern that the addition of an ESS to a Net Metering facility may trigger a new ISA resulting in the loss of a Cap Allocation (NECEC Comments at 5). As such, we will direct additional process on this topic via Hearing Officer Memorandum to be issued shortly after the issuance of this Order.

B. Retroactive Credit Reimbursement

1. Introduction

As discussed in Section III.B.1 above, the 2022 Clean Energy Act increases the nameplate capacity of a Net Metering facility to generate Net Metering Credits without a Cap Allocation from ten kW to 25 kW regardless of circuit type. G.L. c. 164, § 139(i). To both incorporate the statutory changes and promote clarity, the Department proposed a new definition, "Nameplate Cap Exempt Facility," defined as "A Class I Net Metering Facility that is a Renewable Energy Generating Facility and has a Nameplate Capacity rating equal to or less than 25 kilowatts." D.P.U. 23-140, at 4, citing Apps. A and B, § 18.02. Relying on this definition, some commenters argue that the Department should require the Distribution Companies to retroactively apply Net Metering Credits to electric accounts of Host Customers that have been operating Net Metering facilities between ten kW and 25 kW on a single-phase circuit since the enactment of the 2022 Clean Energy Act.

2. Summary of Comments

Most of the public comments on this topic were submitted by smaller, residential generators operating solar facilities with a nameplate capacity between ten kW and 25 kW on a single-phase circuit and, as such, were not eligible to earn Net Metering Credits without a Cap Allocation prior to the implementation of the 2022 Clean Energy Act (Aleksey Averin Comments at 1; Warren Brown Comments at 1; Jake and Autumn Delaney Comments at 1; Scott Rodman Comments at 1). Following the enactment of the 2022 Clean Energy Act and through this rulemaking process, some customers have operated their solar facilities sized between ten kW and 25 kW as QFs (see Aleksey Averin Comments at 1; Warren Brown Comments at 1-2; Jake and Autumn Delaney Comments at 1; Scott Rodman Comments at 1-2). Some commenters suggest that Host Customers that have been generating electricity as a QF should be credited Net Metering Credits retroactively to the effective date of the 2022 Clean Energy Act[50] (Aleksey Averin Comments at 1; Warren Brown Comments at 2; Jake and Autumn Delaney Comments at 1; Great Sky Solar Comments Tr. at 46; Scott Rodman Comments at 1; State Rep. Lindsay Sabadosa Comments at 2). One commenter suggests that the Department revise its Proposed Regulations to include provisions that would require retroactively applied Net Metering credits for the period in which Host Customers installed solar facilities and were not able to earn Net Metering Credits (State Rep. Lindsay Sabadosa Comments at 2). The

[50] Other commenters disagree as to what date the retroactive Net Metering Credits should apply, with suggestions ranging from August 11, 2022, January 1, 2023, or some other unspecified date (Warren Brown Comments at 2; Jake and Autumn Delaney Comments at 1; Great Sky Solar Tr. at 46; Scott Rodman Comments at 1; State Rep. Lindsay Sabadosa Comments at 2).

Distribution Companies contend that re-billing and crediting small, mostly residential customers, taking service under their QF tariffs since the 2022 Clean Energy Act was enacted, would be a long and arduous process and could be confusing for customers (Distribution Company Comments at 4).

Some commenters claim that the regulatory process to implement the 2022 Clean Energy Act has allowed the Distribution Companies to profit from QFs' generation of electricity. They assert that QF customers have effectively been subsidizing Distribution Companies by the Distribution Company's paying the lower ISO-based QF rate, which is based on ISO-NE wholesale market prices, only then for the Distribution Company to sell that electricity at a higher rate to its customers (including the QF operators themselves) thereby earning a profit (Judson Brewer Comments at 1; Warren Brown Comments at 1-2).

The Distribution Companies maintain that the regulatory process being followed to implement the 2022 Clean Energy Act is fully consistent with the law and that they were not enriched by this process (Distribution Company Reply Comments at 7). The Distribution Companies state that they "recover the full cost of any net metering credits provided to customers and credit the full amount of any direct revenues received for Net Metering facility output to all customers through operation of their respective Net Metering Recovery Surcharge" (Distribution Company Reply Comments at 7). Furthermore, the Distribution Companies explain that the NMRS is expected to increase for all customers as the number of Nameplate Cap Exempt Facilities and Cap Exempt Facilities Serving On-site Load earning Net Metering Credits increases (Distribution Company Reply Comments at 7). The Distribution Companies contend that, should the Department allow retroactive Net Metering Credits, all distribution customers

would bear the cost because such costs are recovered through the NMRS (Distribution Company Reply Comments at 7).

Finally, some commenters acknowledge that they did not understand that their facilities would not be immediately eligible to earn full Net Metering Credits upon the 2022 Clean Energy Act's effective date (Judson Brewer Comments at 1; Jake and Autumn Delaney Comments at 1; Scott Rodman Comments at 1). The Distribution Companies state that, while it is unfortunate that these customers feel misinformed about the effective date of the 2022 Clean Energy Act's provisions, the Department should not depart from its precedent and should not retroactively apply its regulations to allow retroactive Net Metering Credits or payments (Distribution Company Reply Comments at 6-8; citing Revised SMART Program Provision, D.P.U. 20-145-D at 116 (June 4, 2024); Net Metering Rulemaking, D.P.U. 21-100-A at 27 (February 2, 2024)).

3. Analysis and Findings

In D.P.U. 21-100-A, the Department considered whether the 2021 Climate Act required certain retroactive regulatory applications to government-owned Net Metering facilities and concluded that, because the Legislature did not clearly articulate an "unambiguous directive" that the Act's provisions were to be applied retroactively, pursuant to principles of statutory interpretation and administrative deference, the Department could act only prospectively so that the operative date for the provisions would be the date of the Department's amended Net Metering Regulations. D.P.U. 21-100-A at 25-27. Similarly, in the 2022 Clean Energy Act, the Legislature changed the definition of Cap Exempt Facilities to include Class I Net Metering Facilities equal to or less than 25 kW without any directive regarding the timing of this change.

The plain language of Section 54 of the 2022 Clean Energy Act[51] does not specify whether this change should be retroactive or prospective. Accordingly, given the statutory gap and the authority delegated to the Department to implement and manage the Net Metering Program in the Commonwealth, the Department has the authority to determine, consistent with our precedent, whether the change in definition of a Cap Exempt Facility is retroactive or prospective. D.P.U. 21-100-A at 26, citing G.L. c. 164, §§ 138, 139; 220 CMR 18.00. The Department finds that Nameplate Cap Exempt Facilities shall be able to generate Net Metering Credits without a Cap Allocation as of the date the Final Regulations are published in the Massachusetts Register.

Facilities greater than ten kW and less than or equal to 25 kW will be entitled to generate Net Metering Credits in accordance with amended 220 CMR 18.04(1) once the Final Regulations are published in the Massachusetts Register. Where this size facility operates as a QF, the relevant Distribution Company would purchase the output, or provide a credit, at rates in accordance with 220 CMR 8.05(2)(c). Commenters' suggestion that the Department direct the Distribution Companies to retroactively credit these QFs at the Net Metering rate is inappropriate and goes beyond what the statute and Department precedent allow.

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[51] Section 54 of the 2022 Clean Energy Act states:

> A Class I net metering facility shall be exempt from subsections (b1/2) and (k) and from the aggregate net metering capacity of facilities that are not net metering facilities of a municipality or other governmental entity under subsection (f) and may net meter and accrue Class I net metering credits if it is generating renewable energy and the nameplate capacity of the facility is equal to or less than 25 kilowatts.

With respect to the commenters' suggestion that the Distribution Companies earned a profit on the electricity generated by QFs, the argument has no merit. The QFs in question have been credited or paid for the excess electricity that they exported onto the EPS at the rate to which they are legally entitled, just like other small power producers and cogenerators that meet the criteria specified by FERC in 18 C.F.R. § 292.203(a) and (b) pursuant to 220 CMR 8.02 and each Distribution Company's applicable QF tariff.[52] Distribution Companies recover the cost of Net Metering Credits provided to customers and credit the full amount of any direct revenues received for Net Metering facility output to all distribution customers through the NMRS.

Finally, the Department recognizes the important role of solar developers and Host Customers in the Commonwealth's transition to a clean energy future. While the Department and Distribution Companies strive to communicate accurate and current information pertaining to the Commonwealth's Net Metering Program to the public and to the business community, developers have direct contact with Host Customers. The Department expects developers to have a working knowledge of the applicable Net Metering rules and regulations so that they may properly advise prospective and existing Host Customers. Host Customers' vital role in the transition to clean energy is evident in their decision to invest their money in renewable energy projects. It is essential that Host Customers appreciate and understand the costs and benefits of Net Metering prior to participating in the Net Metering Program. The Department recognizes, respects, and appreciates all participants in the Commonwealth's Net Metering Program.

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[52] For example, NSTAR Electric Company, Purchase Power Rate P-2, M.D.P.U. No. 54B.

C. Net Metering Facility Audit Process

In the Order Opening Rulemaking, the Department sought public comments regarding conducting an audit of Net Metering facilities to ensure compliance with the Net Metering Program. D.P.U. 23-140, at 14. The Department appreciates the responsive comments from Cadmus, the Distribution Companies, Resonant Energy, ReVision, and SEBANE. At this time, considering the breadth of the Department's oversight authority, the need for the practical effects of back-to-back amendments to the Net Metering Regulations to be realized, and the likely commitment of substantial resources in conducting audits, the Department declines to institute an audit provision at this time.[53]

D. Schedule Z Updates

In D.P.U. 21-100-A, the Department directed the Distribution Companies allow Host Customers to update their Schedule Z four times per year. D.P.U. 21-100-A at 73. In D.P.U. 21-100-A, the Department also stated that it would explore the incremental costs and upgrades necessary to move towards allowing monthly Schedule Z updates in a forthcoming rulemaking. D.P.U. 21-100-A at 73, n.75. To keep the Department and stakeholders apprised of their progress, the Department also directed NSTAR Electric and National Grid each to file an informational update by July 1 of each year in the DG Docket[54] on: (1) further progress on

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53 Also, it will be instructive for the Department to gain insight into the process employed by Cadmus in conducting audits for the Commonwealth's Solar Renewable Energy Certificate Program (Cadmus Comments at 2).

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

automation achieved since the last filing; and (2) its proposed continued implementation plan for achieving automation with an associated timeline. D.P.U. 21-100-A at 95. For Unitil, the Department accepted Unitil's position that incurring additional costs for automation was not warranted. D.P.U. 21-100-A at 96. However, the Department directed Unitil to file an information update by July 1 of each year in the DG Docket regarding whether any level of automation of updates to Schedule Z should be considered. D.P.U. 21-100-A at 96.

In the Order Opening Rulemaking, the Department sought comments from the Distribution Companies regarding these incremental costs and upgrades necessary to move towards monthly Schedule Z updates including implementing these changes across Distribution Company service territories. D.P.U. 23-140, at 16. While more frequent updates should benefit renewable energy developers and Net Metering customers, especially those intending to participate in community-shared solar programs, the issue of automating Schedule Z is complicated given that each Distribution Company has different billing systems and costs, and given the importance of carefully developing a method of assigning Net Metering Credits to Host Customers of other Distribution Companies that accurately and fairly represents associated benefits and costs (Distribution Company Comments at 12). D.P.U. 21-100-A at 71. Given the changes to the Net Metering Program prescribed by the 2021 Climate Act and the 2022 Clean Energy Act, the Department does not direct any further changes at this time regarding the automation of Schedule Z. Once the legislative changes are fully implemented, the Department expects the Distribution Companies to be better positioned to provide an informational update on the cost and feasibility of moving to monthly Schedule Z allocation changes.

V. SUBSEQUENT PROCEEDINGS

In addition to promulgating Final Regulations amending the Net Metering Regulations, in this Order the Department has directed revisions to the Net Metering Tariff and the DG Interconnection Tariff and has made findings and determinations that will require revisions to the System of Assurance. To provide for the formal review of the Distribution Companies' compliance filing of a revised Net Metering Tariff, the Department establishes docket D.P.U. 24-181. To provide for the formal review of the Distribution Companies' compliance filing of a revised DG Interconnection Tariff, the Department establishes docket D.P.U. 24-182. The Distribution Companies shall submit both Model Net Metering Tariff and Model DG Interconnection Tariff compliance filings within 45 days of the date of this Order. In the near term, the Department will open a separate proceeding to address requisite revisions to the System of Assurance.

VI. DIRECTIVES ESTABLISHED BY ORDER

Given the volume of changes necessitated by the 2022 Clean Energy Act to the Net Metering Regulations, tariffs, and the System of Assurance, the Department provides a summary of the directives to the Distribution Companies, Host Customers, and Administrator for ease of reference. The actions summarized below are not necessarily exhaustive of all directives required to implement the Net Metering provisions of the 2022 Clean Energy Act.

A. Directives to Distribution Companies

1. Reclassification of Affected Class I Facilities

- Within 60 calendar days of this Order, the Distribution Companies and the Administrator shall jointly file a letter in this docket, indicating confirmation that the requisite information has been compiled and the

Administrator is ready to move forward with notification to Affected Host Customers of reclassification and cap revocation.

- If the Administrator and the Distribution Companies anticipate exceeding the 60-day timeline, the Administrator and the Distribution Companies shall provide a written notification to the Department no later than 45 calendar days from the date of this Order with an update on completing this step and an anticipated timeline for completion, as outlined in Section III.E.3.

- Within 30 calendar days of the date of the Distribution Companies' and Administrator's joint letter, each Distribution Company shall send a written statement to each Affected Host Customer regarding the Host Customer's Net Metering Credit balance and the Department's one-time reallocation exception, as outlined in Section III.G.3.b.

2. Annual Net Metering Credit Balance/ACR Communication

- Annually, by May 15, the Distribution Companies must provide a written report to each Host Customer of a Class I Net Metering Facility that is also a Cap Exempt Facility that sets out the amount of unallocated Net Metering Credits and the calculation of the ACR payout/carry forward described in Section III.G.3.b. The first report shall be provided to Affected Host Customers no later than May 15, 2026, and the first account balance payout or carry forward at the ACR shall occur after June 1, 2026.

3. QF and Net Metering Customer Notifications

- Within 45 calendar days of this Order, the Distribution Companies shall jointly file with the Department a timeline and proposed communication to notify QF owners with facilities sized greater than

ten kW AC and equal to or less than 60 kW AC that they may be eligible to Net Meter as Nameplate Cap Exempt Facilities or Cap Exempt Facilities Serving On-site Load, as outlined in Section III.E.3.

- Within 45 calendar days of this Order, the Distribution Companies shall jointly file with the Department a timeline and proposed communication to Net Metering Customers summarizing the major changes to the Net Metering Program from the 2021 Climate Act and 2022 Clean Energy Act, as outlined in Section III.E.3.

4. Model Tariff Compliance Filings

In this Order, the Department also directs the Distribution Companies to propose specific changes to both the Net Metering Tarriff and the DG Interconnection Tariff, for Department review, through compliance filings in subsequent dockets. Within 45 calendar days of the date of this Order, the Distribution Companies shall make a compliance filing of a Model Net Metering Tariff in D.P.U. 24-181 and a compliance filing of a Model DG Interconnection Tariff in D.P.U. 24-182, which will modify the Interconnection Application, ISA, and Schedule Z. The Distribution Companies are reminded that they are encouraged to work together as soon as practicable to create a uniform document. Once the Department reviews and approves a Model Net Metering Tariff and Model DG Interconnection Tariff, each Distribution Company must file a company-specific Net Metering Tariff and DG Interconnect Tariff for Department review and approval.

a. Net Metering Tariff Revisions

The Department directs the Distribution Companies to propose revisions to the Net Metering Tariff that:

- Update Section 1.01 (Definitions) to (a) include the revised definition of "Cap Exempt Facility," (b) add definitions for the new terms "Cap Exempt Facility Serving On-site Load," "Nameplate Cap Exempt Facility," and "Renewable Energy Generating Facility" and (c) include the definition of "Nameplate Cap Exempt Facility" specifying the Nameplate Cap Exempt Facility capacity threshold as 25 kW AC, each as addressed in Section III.B.1.

- Update Section 1.03(4) (Metering and Reporting of Generation) to include Class I Net Metering Facilities that are also Cap Exempt Facilities Serving On-site Load, as addressed in Section III.B.3.

- Update Section 1.08 (Net Metering Recovery Surcharge) to include Class I Net Metering Facilities that are also Cap Exempt Net Metering Facilities consistent with our decision in Section III.G.3.

- Change the term "ISO-NE Tariff" to "ISO-NE Open Access Transmission Tariff," which appears in the definition of "ISO-NE" in Section 1.01, as addressed in Section III.C.3.

- Capitalize the term "Renewable Energy Generation Unit" in the definition of "Anaerobic Digestion Net Metering Facility" in Section 1.01, as addressed in Section III.C.3.

- Delete the terms "generating capacity" and "design capacity" and replace them with the term "nameplate capacity" in the various definitions in Section 1.01, Section 1.06, Section 1.09, Appendix A, and Appendix B, as addressed in Section III.C.3.

b. DG Interconnection Tariff Revisions

The Department directs the Distribution Companies to propose revisions to the Interconnection Application, ISA, and Schedule Z to promote clarity regarding facility expansions, as addressed in Section IV.A.3.

B. Accrual of Net Metering Credits With Reclassification

1. Directives to Host Customers

Annually by June 1, Host Customers shall communicate to the Distribution Company, in writing, with requisite banking, tax, and mailing information, an election of payout or carry forward of accrued Net Metering Credits of their Class I Net Metering Facility credit balance at the Avoided Cost Rate as discussed in Section III.G.3(a) of this Order. Following issuance of this Order, Host Customers of Affected Class I Facilities may proactively contact their Distribution Company to request reclassification. The Department also informs Host Customers that the Final Regulations will be effective upon publication in the Massachusetts Register, following the issuance of this Order. Additionally, it will take some time to fully implement the Final Regulations because the Distribution Companies must file revised model Net Metering and DG Interconnection tariffs that incorporate the Department's directives from this Order. Once the Department completes our review and approves the model tariffs, the Distribution Companies must file for Department review and approval company-specific Net Metering Tariffs and DG Interconnection Tariffs that are consistent with the approved model tariffs, , as discussed above. Further, the Administrator needs time to implement the Reclassification Process. Host Customers of Nameplate Cap Exempt Facilities shall be able to generate Net Metering Credits without a Cap Allocation as of the date the Final Regulations are published in

the Massachusetts Register. However, given the compliance processes required to review and approve the revised company-specific tariffs, Host Customers who proactively seek reclassification will not see the updated Net Metering Credit value on their bill until after the company-specific compliance process has concluded. The Department directs all stakeholders to work collaboratively to ensure this process moves forward as expeditiously as possible.

2. Accounting for Accrued Net Metering Credits

As set forth in Section VI.B.1 above, the Department determines that Host Customers who are reclassifying their facilities will be eligible to accrue Net Metering Credits as of the earlier of: (1) the completion of the Reclassification Process; or (2) the Host Customer's affirmative request to reclassify their facility, which reclassification Host Customers may request as soon as the Final Regulations are published in the Massachusetts Register. As further set forth above, the value of these accrued Net Metering Credits will not appear on a Host Customer's bill until the Department approves the relevant Distribution Company's company-specific Net Metering Tariff. The Department directs the Distribution Companies to track Host Customers' accrued Net Metering Credit balances during this interim period.

C. Directives to the Administrator

Within 60 days of the date of this Order, the Administrator shall jointly file with the Distribution Companies a letter in this docket indicating that it has the requisite information to proceed with notification to Affected Host Customers of reclassification and cap revocation. If the Administrator and the Distribution Companies anticipate exceeding the 60-day timeline, the Administrator and the Distribution Companies shall provide an informational filing to the Department no later than 45 calendar days from the date of the Order promulgating Final

Regulations with an update on the progress made on this process and an anticipated timeline for completion. The Administrator shall notify Host Customers if they are one of the Affected Class I Facilities no later than 90 days after Step 2 of the reclassification process outlined in Section III.E.3 is completed.

As soon as practicable, to be determined by the Administrator and the Department, the Administrator shall revoke the Affected Class I Facilities' Cap Allocations and update the private Net Metering caps, accordingly, reflecting the process described in Section III.E.3.

VII. PROMULGATION OF FINAL REGULATIONS

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

The Department will file the standard Regulation Filing Form and the regulations, 220 CMR 18.00, with the Office of the Secretary of the Commonwealth, State Publications and Regulations Division. These regulations are effective upon publication in the Massachusetts Register.

By Order of the Department,

James M. Van Nostrand, Chair

Cecile M. Fraser, Commissioner

Staci Rubin, Commissioner

220 CMR: DEPARTMENT OF PUBLIC UTILITIES

220 CMR 18.00: NET METERING

Section

18.01: Purpose and Scope

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

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

18.02: Definitions

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

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

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

Anaerobic Digestion Net Metering Facility. A facility that:

(a) generates electricity from a biogas produced by the accelerated biodegradation of organic materials under controlled anaerobic conditions;

(b) has been determined by the Department of Energy Resources, in coordination with the Department of Environmental Protection, to qualify under the Department of Energy Resources' regulations as a Class I Renewable Energy Generation Unit under 225 CMR 14:00: *Renewable Energy Portfolio Standard – Class I* and M.G.L. c. 25A, § 11F; and

(c) is interconnected to a Distribution Company.

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

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

Cap Exempt Facility. A Nameplate Cap Exempt Facility or a Cap Exempt Facility Serving On-site Load.

Cap Exempt Facility Serving On-site Load. A Class I Net Metering Facility with a ~~N~~nameplate ~~C~~capacity greater than 25 kilowatts, Class II Net Metering Facility, or Class III Net Metering Facility with an executed interconnection service agreement with a Distribution Company dated on or after January 1, 2021, provided that it is an eligible Renewable Energy Generating Facility pursuant to M.G.L. c. 164, § 138 and serves On-site Load~~, other than parasitic or station load~~, and provided further that it is not a Net Metering Facility of a Municipality or Other Governmental Entity.

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

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

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

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

Department. Department of Public Utilities.

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

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

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

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

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

(a) the operating characteristics of, and the major constraints on, the New England transmission system at each area; and

(b) the losses resulting from physical limits of the transmission system.

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

Municipality. A city or town.

~~Nameplate Capacity. For the purposes of calculating Net Metering capacity only, the nominal capacity of a system that reflects normal operating conditions, and not maximum operating conditions.~~

Nameplate Cap Exempt Facility. A Class I Net Metering Facility that is an eligible Renewable Energy Generating Facility pursuant to M.G.L. c. 164, § 138 and has a ~~N~~nameplate ~~C~~capacity rating equal to or less than 25 kilowatts.

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

(a) is recognized by the residents as including a unique community of interests;

(b) falls within the service territory of a single Distribution Company and within a single ISO-NE load zone; and

(c) may encompass residential, commercial, and undeveloped properties.

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

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

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

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

Net Metering Facility of a Municipality or Other Governmental Entity. A Class I Net Metering Facility, Class II Net Metering Facility, or Class III Net Metering Facility:
(a) that is owned or operated by a Municipality or Other Governmental Entity; or
(b) of which the Municipality or Other Governmental Entity is the Host Customer and is assigned 100% of the output.

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

~~(c)~~(d) ~~A Cap Exempt~~ Solar Net Metering ~~Facility that takes service after September 26, 2016~~.

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

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

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

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

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

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

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

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

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

18.03: Net Metering Services

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

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

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

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

18.04: Calculation of Net Metering Credits

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

(a) 100% of the net excess kilowatt-hours, by time of use, if applicable, multiplied by the sum of the following Distribution Company charges applicable to the rate class under which the Host Customer takes service:

1. basic service kilowatt-hour charge in the ISO-NE load zone where the Host Customer is located;
2. distribution kilowatt-hour charge;

3. transmission kilowatt-hour charge; and
4. transition kilowatt-hour charge;

(b) Except that a Class I Net Metering Facility that is a Solar Net Metering Facility, Class II Net Metering Facility that is a Solar Net Metering Facility, or a Class III Net Metering Facility that is a Solar Net Metering Facility shall receive Market Net Metering Credits as provided in 220 CMR 18.04(3) or (4) after 25 years from the date on which the Solar Net Metering Facility was first authorized to interconnect to the distribution system.

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

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

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

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

(4) For ~~a New Solar Class I Net Metering Facility that is a~~ Nameplate ~~Cap Exempt Facility, or~~ a New Solar Net Metering Facility, of which the Municipality or Other Governmental Entity is the Host Customer and ~~only~~ allocates Net Metering Credits only to the accounts of other customers that could also qualify as a Municipality or Other Governmental Entity, each Distribution Company shall calculate for each Billing Period a Market Net Metering Credit equal to 100% of the net excess kilowatt-hours, by time ~~-~~of ~~-~~use, if applicable, multiplied by the sum of the Distribution Company's:

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

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

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

(b) Except that a Solar Net Metering Facility that is a Neighborhood Net Metering Facility shall receive Market Net Metering Credits, as provided in 220 CMR 18.04(6), after 25 years from the date on which it was first authorized to interconnect to the distribution system; and

(c) Except those Class III Net Metering Facilities governed by 220 CMR 18.04(1)(b).

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

(a) basic service kilowatt-hour charge in the ISO-NE load zone where the Host Customer is located;

(b) transmission kilowatt-hour charge; and

(c) transition kilowatt-hour charge.

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

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

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

18.05: Allocation of Net Metering Credits

(1) Net Metering Credits shall be allocated to Customer accounts by each Distribution

Company as follows:

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

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

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

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

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

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

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

18.06: Eligibility for Net Metering

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

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

18.07: Net Metering Capacity

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

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

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

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

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

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

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

(a) A Solar Net Metering Facility shall be 80% of the facility's direct current rating at standard test conditions; and

(b) All other non-solar Net Metering facilities shall be the facility's nameplate rating in alternating current.

(5) A Cap Exempt Facility shall be exempt from the calculation of the aggregate capacity of Net Metering facilities.

(6) A Municipality or Other Governmental Entity that is a member of a Governmental Cooperative may transfer any or all of the Net Metering ~~N~~nameplate ~~C~~capacity associated with one or more Class II or III Net Metering Facilities, including a Class II Net Metering Facility that is a New Solar Net Metering Facility or a Class III Net Metering Facility that is a New Solar Net Metering Facility, to said Governmental

Cooperative by providing written assent to the Governmental Cooperative and obtaining approval from the Department.

(7) A Governmental Cooperative may serve as a Host Customer for a Net Metering Facility of a Municipality or Other Governmental Entity for all capacity allocated pursuant to 220 CMR 18.07(6) and its own capacity as an Other Governmental Entity, provided that the Net Metering Credits for which such Governmental Cooperative serves as Host Customer shall ~~only~~ be allocated only to that same Governmental Cooperative or its members.

(8) Notwithstanding the capacity limits set forth herein 220 CMR 18.07, a Class I Net Metering Facility shall be eligible for Net Metering if it qualifies under the Department of Energy Resources' regulations as a Class I Renewable Energy generating source under 225 CMR 14:00: *Renewable Energy Portfolio Standard – Class I* and M.G.L. c. 25A, § 11F and is a Cap Exempt Facility.

18.08: Net Metering Reports

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

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

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

18.09: Miscellaneous

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

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

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

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

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

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

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

18.10: Monthly Minimum Reliability Contribution

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

18.11: Small Hydroelectric Net Metering Program

(1) The Small Hydroelectric Net Metering Program shall remain open until the Department certifies that the aggregate capacity of Small Hydroelectric Net Metering Facilities participating in the program is equal to 60 megawatts.

(2) While the Small Hydroelectric Net Metering Program is open, any Small Hydroelectric Net Metering Facility that seeks to net meter must participate in the Small Hydroelectric Net Metering Program and generate Net Metering Credits pursuant to 220 CMR 18.04(6A).

(3) Upon certification by ~~Once~~ the Department ~~certifies~~ that the aggregate capacity of Small Hydroelectric Net Metering Facilities participating in the program is equal to 60 megawatts, a Small Hydroelectric Net Metering Facility shall:
   (a) apply for Net Metering services as a Class I Net Metering Facility;
   (b) generate Net Metering Credits pursuant to 220 CMR 18.04(2); and
   (c) apply for a Cap Allocation pursuant to 220 CMR 18.07(1), if it is not a ~~Nameplate~~ Cap Exempt Facility.

REGULATORY AUTHORITY

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

220 CMR: DEPARTMENT OF PUBLIC UTILITIES

220 CMR 18.00: NET METERING

Section

18.01: Purpose and Scope

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

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

18.02: Definitions

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

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

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

Anaerobic Digestion Net Metering Facility. A facility that:

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

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

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

Cap Exempt Facility. A Nameplate Cap Exempt Facility or a Cap Exempt Facility Serving On-site Load.

Cap Exempt Facility Serving On-site Load. A Class I Net Metering Facility with a nameplate capacity greater than 25 kilowatts, Class II Net Metering Facility, or Class III Net Metering Facility with an executed interconnection service agreement with a Distribution Company dated on or after January 1, 2021, provided that it is an eligible Renewable Energy Generating Facility pursuant to M.G.L. c. 164, § 138 and serves On-site Load, and provided further that it is not a Net Metering Facility of a Municipality or Other Governmental Entity.

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

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

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

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

Department. Department of Public Utilities.

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

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

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

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

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

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

Market Net Metering Credit. A Net Metering Credit provided by a Distribution Company for the net excess electricity generated and fed back to the Distribution

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

Municipality. A city or town.

Nameplate Cap Exempt Facility. A Class I Net Metering Facility that is an eligible Renewable Energy Generating Facility pursuant to M.G.L. c. 164, § 138 and has a nameplate capacity rating equal to or less than 25 kilowatts.

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

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

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

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

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

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

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

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

New Solar Net Metering Facility.

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

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

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

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

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

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

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

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

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

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

18.03: Net Metering Services

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

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

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

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

18.04: Calculation of Net Metering Credits

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

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

(b) Except that a Class I Net Metering Facility that is a Solar Net Metering Facility, Class II Net Metering Facility that is a Solar Net Metering Facility, or a Class III Net Metering Facility that is a Solar Net Metering Facility shall receive Market Net Metering Credits as provided in 220 CMR 18.04(3) or (4) after 25 years from the date on which the Solar Net Metering Facility was first authorized to interconnect to the distribution system.

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

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

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

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

(4) For a New Solar Net Metering Facility, of which the Municipality or Other Governmental Entity is the Host Customer and allocates Net Metering Credits only to the accounts of other customers that could also qualify as a Municipality or Other Governmental Entity, each Distribution Company shall calculate for each Billing Period a Market Net Metering Credit equal to 100% of the net excess kilowatt-hours, by time of use, if applicable, multiplied by the sum of the Distribution Company's:

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

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

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

(b) Except that a Solar Net Metering Facility that is a Neighborhood Net Metering Facility shall receive Market Net Metering Credits, as provided in 220 CMR 18.04(6), after 25 years from the date on which it was first authorized to interconnect to the distribution system; and

(c) Except those Class III Net Metering Facilities governed by 220 CMR 18.04(1)(b).

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

(a) basic service kilowatt-hour charge in the ISO-NE load zone where the Host Customer is located;

(b) transmission kilowatt-hour charge; and

(c) transition kilowatt-hour charge.

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

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

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

18.05: Allocation of Net Metering Credits

(1) Net Metering Credits shall be allocated to Customer accounts by each Distribution

Company as follows:

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

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

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

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

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

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

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

18.06: Eligibility for Net Metering

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

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

18.07: Net Metering Capacity

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

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

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

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

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

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

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

(a) A Solar Net Metering Facility shall be 80% of the facility's direct current rating at standard test conditions; and

(b) All other non-solar Net Metering facilities shall be the facility's nameplate rating in alternating current.

(5) A Cap Exempt Facility shall be exempt from the calculation of the aggregate capacity of Net Metering facilities.

(6) A Municipality or Other Governmental Entity that is a member of a Governmental Cooperative may transfer any or all of the Net Metering nameplate capacity associated with one or more Class II or III Net Metering Facilities, including a Class II Net Metering Facility that is a New Solar Net Metering Facility or a Class III Net Metering Facility that is a New Solar Net Metering Facility, to said Governmental Cooperative by providing

written assent to the Governmental Cooperative and obtaining approval from the Department.

(7) A Governmental Cooperative may serve as a Host Customer for a Net Metering Facility of a Municipality or Other Governmental Entity for all capacity allocated pursuant to 220 CMR 18.07(6) and its own capacity as an Other Governmental Entity, provided that the Net Metering Credits for which such Governmental Cooperative serves as Host Customer shall be allocated only to that same Governmental Cooperative or its members.

(8) Notwithstanding the capacity limits set forth herein 220 CMR 18.07, a Class I Net Metering Facility shall be eligible for Net Metering if it qualifies under the Department of Energy Resources' regulations as a Class I Renewable Energy generating source under 225 CMR 14:00: *Renewable Energy Portfolio Standard – Class I* and M.G.L. c. 25A, § 11F and is a Cap Exempt Facility.

18.08: Net Metering Reports

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

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

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

18.09: Miscellaneous

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

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

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

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

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

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

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

18.10: Monthly Minimum Reliability Contribution

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

18.11: Small Hydroelectric Net Metering Program

(1) The Small Hydroelectric Net Metering Program shall remain open until the Department certifies that the aggregate capacity of Small Hydroelectric Net Metering Facilities participating in the program is equal to 60 megawatts.

(2) While the Small Hydroelectric Net Metering Program is open, any Small Hydroelectric Net Metering Facility that seeks to net meter must participate in the Small Hydroelectric Net Metering Program and generate Net Metering Credits pursuant to 220 CMR 18.04(6A).

(3) Upon certification by the Department that the aggregate capacity of Small Hydroelectric Net Metering Facilities participating in the program is equal to 60 megawatts, a Small Hydroelectric Net Metering Facility shall:
   (a) apply for Net Metering services as a Class I Net Metering Facility;
   (b) generate Net Metering Credits pursuant to 220 CMR 18.04(2); and
   (c) apply for a Cap Allocation pursuant to 220 CMR 18.07(1), if it is not a Cap Exempt Facility.

REGULATORY AUTHORITY

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