

# The Commonwealth of Massachusetts

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## DEPARTMENT OF PUBLIC UTILITIES

D.P.U. 23-20-A

November 29, 2024

Investigation by the Department of Public Utilities on its own Motion into Revisions to the Single Parcel Rule Pursuant to the Acts of 2022, c. 179, § 55.

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ORDER IMPLEMENTING THE STATUTORY EXCEPTIONS TO THE  
SINGLE PARCEL RULE

TABLE OF CONTENTS

SUMMARY ..... I

I. INTRODUCTION AND PROCEDURAL HISTORY ..... 1

    A. Introduction ..... 1

        1. Single Parcel Rule ..... 1

        2. System of Assurance ..... 5

        3. Statutory Exceptions ..... 7

    B. Procedural History ..... 8

II. SELF-CERTIFICATION PROCESS AND FORM ..... 12

    A. Revised Staff Proposal ..... 12

    B. Summary of Comments ..... 13

    C. Analysis and Findings ..... 13

III. STATUTORY EXCEPTIONS ..... 14

    A. Introduction ..... 14

    B. Statutory Exception 1: Government-Owned Parcel ..... 14

        1. Statutory Language ..... 14

        2. Revised Staff Proposal ..... 14

        3. Summary of Comments ..... 15

        4. Analysis and Findings ..... 16

    C. Statutory Exception 2: Low-or-Moderate Income Housing ..... 18

        1. Statutory Language ..... 18

        2. Revised Staff Proposal ..... 19

        3. Summary of Comments ..... 19

        4. Analysis and Findings ..... 20

    D. Statutory Exception 3: Separate and Distinct Rooftops ..... 23

        1. Statutory Language ..... 23

        2. Revised Staff Proposal ..... 23

        3. Summary of Comments ..... 24

        4. Analysis and Findings ..... 24

    E. Statutory Exception 4: Separate Customers on the Same Rooftop ..... 24

        1. Statutory Language ..... 24

        2. Revised Staff Proposal ..... 25

        3. Summary of Comments ..... 25

        4. Analysis and Findings ..... 26

    F. Statutory Exception 5: Additional Facility Not Less Than One Year ..... 26

        1. Statutory Language ..... 26

        2. Revised Staff Proposal ..... 26

        3. Summary of Comments ..... 27

        4. Analysis and Findings ..... 29

- G. Interplay Between Existing Facilities, Blanket Exceptions, and Net Metering Petitions with the Statutory Exceptions - Revised Staff Proposal ..... 33
  - 1. Revised Staff Proposal ..... 33
  - 2. Summary of Comments ..... 33
  - 3. Analysis and Findings..... 33
  
- IV. OTHER EXCEPTION ISSUES..... 35
  - A. Introduction..... 35
  - B. Existing Blanket Exceptions ..... 36
    - 1. Revised Staff Proposal..... 36
    - 2. Summary of Comments ..... 37
    - 3. Analysis and Findings..... 37
  - C. Petitions for Exceptions ..... 38
    - 1. Revised Staff Proposal..... 38
    - 2. Summary of Comments ..... 38
    - 3. Analysis and Findings..... 39
  
- V. INFORMATION REQUIREMENTS..... 39
  - A. Introduction..... 39
  - B. Information Required to Apply for a Statutory Exception ..... 40
    - 1. Revised Staff Proposal..... 40
    - 2. Summary of Comments ..... 41
    - 3. Analysis and Findings..... 43
  - C. Reporting Changes to Facilities on the Parcel ..... 46
    - 1. Revised Staff Proposal..... 46
    - 2. Summary of Comments ..... 48
    - 3. Analysis and Findings..... 49
  - D. Department Audit..... 50
    - 1. Revised Staff Proposal..... 50
    - 2. Summary of Comments ..... 51
    - 3. Analysis and Findings..... 51
  
- VI. THE FORM ..... 52
  - A. Introduction..... 52
  - B. Identifying the Exceptions ..... 52
  - C. Providing a Copy of the ISA or Conditional Approval ..... 53
  - D. Ten Business Day Curative Period ..... 54
  - E. Adding a Definition Section ..... 55
  - F. Where to Collect Certain Information in the Form..... 55
  - G. Certification, Acknowledgments, and Signature ..... 56
    - 1. Revised Staff Proposal..... 56
    - 2. Summary of Comments ..... 57
    - 3. Analysis and Findings..... 57

- VII. CADMUS AS REVIEWER..... 58
  - A. Reviewer of Self-Certification Forms..... 58
    - 1. Revised Staff Proposal..... 58
    - 2. Summary of Comments ..... 59
    - 3. Analysis and Findings..... 59
  - B. Costs and Application Fees..... 60
    - 1. Revised Staff Proposal..... 60
    - 2. Analysis and Findings..... 62
  - C. Implementation Timing ..... 63
- VIII. SUBDIVISION RULE..... 64
  - A. Revised Staff Proposal..... 64
  - B. Summary of Comments ..... 64
  - C. Analysis and Findings..... 65
- IX. DIRECTIVES ESTABLISHED BY ORDER ..... 66
  - A. Directives to the Distribution Companies..... 66
  - B. Directives to the Reviewer..... 66
- X. SOLICITATION OF COMMENTS ..... 66
- XI. ORDER..... 67

### SUMMARY

The Department of Public Utilities created the Single Parcel Rule in 2012 limiting the number of Net Metering facilities per parcel of land. By this Order, the Department of Public Utilities further expands exceptions to the Single Parcel Rule, which states there may be only one Net Metering facility on a single parcel of land, for the purpose of implementing changes to the Commonwealth's Net Metering Program directed by Section 55 of 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. The exceptions to the Single Parcel Rule clarify Net Metering policies as applied to solar, wind, and anaerobic digestion facilities.

By Chapter 179 of the Acts of 2022, the Legislature created five specific exceptions to the Single Parcel Rule that describe circumstances in which there may be multiple Net Metering facilities on a single parcel of land. To implement this directive, the Department establishes a Self-Certification Process, whereby applying Host Customers may demonstrate eligibility for a Statutory Exception by submitting a Self-Certification Form and supporting documentation to a Reviewer.

With this Order, the Department: (1) establishes the Self-Certification Process and Self-Certification Form; (2) provides guidance on its interpretations of the Statutory Exceptions; (3) discontinues the existing Rooftop Cap Exempt Blanket Exception while maintaining the existing Multiple Technologies Blanket Exception and Petition Exception process; (4) specifies information that Host Customers must provide when seeking a Statutory Exception; (5) discusses

reporting requirements regarding changes impacting facilities and/or the parcel; (6) declines to establish a formal audit process; (7) makes discrete changes to the Form in alignment with policy determinations and identified errors; (8) identifies The Cadmus Group, Inc. as the Reviewer of the Self-Certification Forms; and (9) eliminates the Subdivision Rule, which was initially intended to prevent subdividing a parcel of land solely for the purposes of Net Metering. The Department further directs that the electric distribution companies propose a revised, model Distributed Generation Interconnection Tariff to implement changes directed by this Order.

## I. INTRODUCTION AND PROCEDURAL HISTORY

### A. Introduction

In understanding this Order, it is useful to review the following two key rules governing the Massachusetts Net Metering Program: (1) the Single Parcel Rule; and (2) the System of Assurance of Net Metering Eligibility (“System of Assurance”). Below, we summarize these two rules and explain their relevance to our decision by this Order.<sup>1</sup> By this Order, the Department of Public Utilities (“Department”) outlines the legislatively created exceptions to the Single Parcel Rule (“Statutory Exceptions”) and we establish a process for implementing these Statutory Exceptions. The Department opened this investigation to implement the Statutory Exceptions and docketed this matter as D.P.U. 23-20.

#### 1. Single Parcel Rule

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” or “Act”), which, among other things, established five exceptions to the Department’s administratively created Single Parcel Rule. Specifically, Section 55 of the 2022 Clean Energy Act prescribed five circumstances when more than one Net Metering facility can be located on a single parcel of land.

The Single Parcel Rule arose out of the Department’s definition of a Net Metering facility as “the energy generating equipment associated with a single parcel of land, interconnected with

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<sup>1</sup> Unless otherwise defined in this Order, capitalized terms have the same meaning as provided in the Net Metering Regulations, 220 CMR 18.00. Throughout this Order, the Department sets forth some definitions of capitalized terms to offer informative context.

the electric distribution system at a single point, behind a single meter.” Net Metering and Distributed Generation, Definitions of Unit and Facility, D.P.U. 11-11-C at 23 (2012).<sup>2</sup> The Single Parcel Rule supports basic rules for the Net Metering Program for metering, billing, and accounting for and the transfer of Net Metering Credits (one parcel, one meter connection, one customer account).

In developing the Single Parcel Rule,<sup>3</sup> the Department recognized that there may be certain situations where Net Metering facilities may need to seek relief from its operation. Order on Exception to Definitions of Unit and Facility, D.P.U. 11-11-E at 16 n.11, 20 n.16 (2013) (noting that customers with Net Metering facilities that seek relief from the single interconnection point and/or from the single meter requirement should address their requests to the Distribution Companies; if they seek relief from the single parcel requirement, they should address such petitions for an exception to the Department). After considering whether the Single Parcel Rule could prohibit or impede the optimal interconnection of a Net Metering facility to Distribution Companies’<sup>4</sup> electric power System (“EPS”), the Department established the following two means for obtaining an exception from the Single Parcel Rule: (1) the Optimal

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<sup>2</sup> The Department established the Single Parcel Rule as part of a series of Orders that set administrative rules governing the availability, eligibility, and means for Host Customers to receive Net Metering services and the requirements for Distribution Companies to provide Net Metering services.

<sup>3</sup> The Department first referred to the application of its definition of Net Metering facility as the “Single Parcel Rule” in D.P.U. 11 11-E at 11.

<sup>4</sup> The Distribution Companies are Fitchburg Gas and Electric Light Company d/b/a Unitil (“Unitil”), NSTAR Electric Company d/b/a Eversource Energy (“NSTAR Electric”), and Massachusetts Electric Company and Nantucket Electric Company each d/b/a National Grid (“National Grid”).



Interconnection Exception; and (2) filing a petition with the Department for an exception pursuant to 220 CMR 18.09(7) (“Petition Exception”).<sup>5</sup> D.P.U. 11-11-E at 13-14. The Optimal Interconnection Exception allows for more than one interconnection point and more than one meter on the basis of optimal interconnection for the most cost-effective solution having effect on the electrical safety, electrical reliability, or electrical efficiency of a facility’s interconnection. D.P.U. 11-11-E at 13. The Department determined that the Distribution Companies, in the exercise of reasonable discretion, may grant an Optimal Interconnection Exception. D.P.U. 11-11-E at 15-16.

The Department considers Petition Exceptions on a case-by-case basis. D.P.U. 11-11-E at 14. In reviewing Petition Exceptions, the Department first looks to the reasons for the petitioner’s noncompliance with the Net Metering Regulations or rules. Direct Energy Solar D.P.U. 15-74, at 13. Project costs alone do not warrant a Petition Exception. D.P.U. 15-74, at 13 (2015) (finding higher facility installation costs alone are not a valid basis for failing to comply with basic Net Metering eligibility rules). When ruling on a Petition Exception, the Department considers factors related to the proposed Net Metering facilities, including but not limited to the following: (a) the identities of the entities that will benefit from the proposed Net Metering facilities; (b) the size of such facilities and relationship to On-site Load; and (c) the land use associated with the proposed Net Metering projects. Ameresco, Inc., D.P.U. 21-17,

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<sup>5</sup> The Net Metering Regulations at Section 18.09(7) provides that “The Department may, where appropriate, grant an exception from any provision of 220 CMR 18.00.” At this time of the issuance of D.P.U. 11-11-E, this exception provision was set at 220 CMR 18.09(6).

at 6 (2021); Main South Community Development Corporation, D.P.U. 20-94, at 7-8 (2021); Women’s Institute for Housing & Economic Development, Inc., D.P.U. 20-43, at 7 (2020).

Later, in the interest of streamlining the Net Metering process, the Department established two blanket exceptions to the Single Parcel Rule: (1) the Multiple Technologies Blanket Exception;<sup>6</sup> and (2) the Rooftop Cap Exempt Blanket Exception (“Blanket Exceptions”).<sup>7</sup> Inquiry Into Single Parcel and Subdivision Rules, Order Announcing Blanket Exceptions and Streamlining Process, D.P.U. 17-22-A at 22-29, 35-36 (2018). To qualify for either of these Blanket Exceptions, a Host Customer completes an application (“Net Metering Blanket Application Form”)<sup>8</sup> with required supporting documentation and submits it electronically to the Department. D.P.U. 17-22-A at 37-38. The Department reviews the Net Metering Blanket Application Form and issues a determination of eligibility to the Host Customer electronically. D.P.U. 17-22-A at 38. If the Department grants a Blanket Exception to the Host Customer, the Host Customer provides a copy of the approval to (1) the applicable

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<sup>6</sup> Under the Multiple Technologies Blanket Exception, more than one Net Metering facility can occupy the same parcel of land if each Net Metering facility is powered by a different renewable energy technology. D.P.U. 17-22-A at 22, 28.

<sup>7</sup> Under the Rooftop Cap Exempt Blanket Exception, more than one Net Metering facility can occupy the same parcel of land if each Net Metering facility is located on a rooftop and the aggregate nameplate capacity of the Net Metering facilities is 10 kilowatts (“kW”) alternating current (“AC”) or less on a single-phase circuit or 25 kW AC or less on a three-phase circuit. D.P.U. 17-22-A at 35-36.

<sup>8</sup> The Net Metering Blanket Exception Application Form is available on the Department’s homepage at: <https://www.mass.gov/net-metering>. Also, for more information on Blanket Exceptions visit: <https://www.mass.gov/info-details/apply-for-a-net-metering-blanket-exception>.

Distribution Company; and (2) the Administrator of the System of Assurance (“Administrator”) if a Cap Allocation is required for the Net Metering facility.<sup>9</sup> D.P.U. 17-22-A at 38.

2. System of Assurance

In 2009, the Department considered establishing a queue to manage the process for the interconnection of facilities to a Distribution Company’s EPS with the intent to seek Net Metering services.<sup>10</sup> At that time, considering the stage of the developing Net Metering Program, the Department determined that it would require specific information to assess the need for a queue and the structure if needed. Net Metering Rulemaking, D.P.U. 08-75-A at 20-21 (2009). To monitor the development of the Net Metering Program to inform on the issue of an interconnection queue, the Department instituted a tracking and reporting requirement for Distribution Companies. D.P.U. 08-75-A at 21 & App. A, § 18.08. In 2010, the Legislature undertook the issue of a Net Metering queue and required the Department to institute a system that provides certain proposed facilities with an assurance of Net Metering eligibility, given the statewide limitations on the amount of Net Metering capacity available. St. 2010, c. 359, § 30;<sup>11</sup> G.L. 164, § 139(g). In complying with this legislative directive, the Department found that,

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<sup>9</sup> The terms “System of Assurance” and “Cap Allocation” are discussed in the next section.

<sup>10</sup> An interconnection queue would be a list of prospective Net Metering projects, in order of application, to begin the process of interconnection.

<sup>11</sup> 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.

because there is a statutory cap on overall Net Metering capacity,<sup>12</sup> “a system of assurance of net metering eligibility: (1) assures customers that they will be able to receive net metering services when their net metering facility is ready to interconnect; and (2) facilitates more efficient planning and development of distributed generation resources within Massachusetts.” Net Metering and Distributed Generation, Order Adopting System of Assurance of Net Metering Eligibility, D.P.U. 11-11-A at 1 (2011). This is known as the System of Assurance.

Under the System of Assurance, a Host Customer may submit an application for a Cap Allocation (“ACA”) of Net Metering capacity. D.P.U. 11-11-A at 19-20, 24; The Cadmus Group, Inc., D.P.U. 15-32-A, App. A, § 5 (2020). Together with reporting from the Distribution Companies, the System of Assurance makes it possible to track the amount of Net Metering capacity available under the statewide limit. D.P.U. 11-11-A at 36-37.

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<sup>12</sup> 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 Chapter 75 of the Acts of 2016, An Act Relative to Solar Energy. St. 2016, c. 75, §§ 5-6; G.L. c. 164, § 139(f); see also, Net Metering, D.P.U. 16-64-C at 4 n.5 (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 at 19-22.

### 3. Statutory Exceptions

As stated above, the Legislature established the Statutory Exceptions in the 2022 Clean Energy Act, setting out the following five circumstances where more than one Net Metering facility can be located on a single parcel of land:<sup>13</sup>

1. **Government-Owned Parcel:** The Net Metering facilities are placed on a government-owned parcel; provided, however, that all the facilities on the single parcel do not exceed an aggregate capacity limit of ten megawatts. G.L. c. 164, § 139(I)(i).
2. **Low-or-Moderate-Income Housing:** The Net Metering facilities are placed on a single parcel of land where all buildings on that parcel comprise low- or moderate-income housing as defined in G.L. c. 40B, § 20; provided, however, that all the facilities on the single parcel do not exceed an aggregate capacity limit of ten megawatts. G.L. c. 164, § 139(I)(ii).
3. **Separate and Distinct Rooftops:** Each Net Metering facility is placed on a separate and distinct rooftop where no two systems occupy the same rooftop; provided, however, that all the facilities on the single parcel do not exceed an aggregate capacity limit of two megawatts. G.L. c. 164, § 139(I)(iii).
4. **Separate Customers Under the Same Rooftop:** Each Net Metering facility installed on the same rooftop is interconnected behind a meter of a separate customer; provided, however, that all the facilities on the single parcel do not exceed an aggregate capacity limit of ten megawatts. G.L. c. 164, § 139(I)(iv).
5. **Additional Facility Not Less Than One Year:** The additional Net Metering facilities are installed not less than one year after any previously installed facility was placed into service; provided, however, that all the facilities on the single parcel do not exceed an aggregate capacity limit of two megawatts. G.L. c. 164, § 139(I)(v).

The statute further provides “if all net metering facilities located on a single parcel are net metering facilities of a municipality, the aggregate capacity limit shall be ten megawatts per

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<sup>13</sup> Section 55 of the 2022 Clean Energy Act added Subsection (I) to G.L. c. 164, § 139 to establish the Statutory Exceptions.

single parcel.” G.L. c. 164, § 139(*I*). Consistent with Department practice with respect to public identification numbers,<sup>14</sup> we interpret this provision to include Other Governmental Entities.<sup>15</sup>

In this Order, the Department provides a framework for implementing the Statutory Exceptions in the context of its broader Net Metering regulatory regime.

B. Procedural History

On January 18, 2023, the Department opened this investigation to implement the Statutory Exceptions. Revisions to the Single Parcel Rule, Vote and Order Opening Investigation, D.P.U. 23-20 (2023). The Department provided background on the Single Parcel Rule and its administratively established exceptions identified above. D.P.U. 23-20, at 2-3. The Department set out the five Statutory Exceptions and scheduled an initial conference call for February 8, 2023 to discuss “what, if any, application, attestation, or other review and approval

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<sup>14</sup> A municipality or other governmental entity must obtain a public identification number (“Public ID”) from the Department to receive Net Metering services under the public cap. D.P.U. 11-10-A at 20-22 (2012); Amended and Restated Order of Delegation, D.P.U. 18-54-A at 2-3 (2023). An applicant that seeks a determination regarding its eligibility as a Municipality or Other Governmental Entity must file with the Department an application for a Public ID and adequately demonstrate its governmental character, purpose, and function. D.P.U. 18-54-A at 34. Once approved, a Municipality or Other Governmental Entity’s Public ID is valid in perpetuity beginning on the date of approval, unless the other governmental entity’s character changes in such a way as to make it ineligible for a Public ID. D.P.U. 18-54-A at 3-4.

<sup>15</sup> G.L. c. 164, § 138 does not define “net metering facility of a municipality,” but does define “net metering facility of a municipality or other governmental entity.” This statutory definition is also included in the Net Metering Regulations at 220 CMR 18.02. Moreover, G.L. c. 164, § 139(f) allows for the maximum generating capacity eligible for net metering by a municipality or other governmental entity to be ten MW. The Department, therefore, interprets municipality in this context to include Other Governmental Entities. Cf. D.P.U. 11-11-C at 14-15 (drawing no distinction between municipality and other governmental entity).

process should be implemented” for the Statutory Exceptions. D.P.U. 23-20, at 5. On February 7, 2023, the Department issued an outline of an implementation process for discussion at the conference call that proposed the following elements of a self-certification process:

- Use of a self-certification application form;
- Host Customers would submit the form through an online portal to the relevant Distribution Company as part of the facility interconnection process;
- The relevant Distribution Company would review the form and verify information as complete;
- Each Distribution Company would make a periodic report to the Department to include relevant information from the forms (to be determined), the applicant’s interconnection application number, attachments (to be determined), and a list of forms received from the period of the last reporting period;
- Department would have authority to audit any form within a period of time (to be determined) from the date that the Distribution Company deems the form complete;
- Under its authority, the Department could suspend the audit to require the applicant to provide information, clarification, and/or documentation; and
- As a result of the audit, the Department could take adverse action to reject the form as deficient or to determine that the applicant was ineligible for the Statutory Exception.

Hearing Officer Memorandum at 2-3 (February 7, 2023).

On the conference call, the Department and stakeholders engaged in extensive discussions on all elements of this proposal. Following the conference call, the Department conducted an expansive internal evaluation of the proposal.

On March 15, 2024, the Department issued: (1) a Hearing Officer Memorandum with an initial staff proposal (“Initial Staff Proposal Memo”) and (2) a Self-Certification Form (“Initial Staff Proposal Form”) (collectively “Initial Staff Proposal”) to the DG Electronic Stakeholder

Distribution List.<sup>16</sup> The Initial Staff Proposal Memo set forth a Self-Certification Process, which included the Initial Staff Proposal Form, to implement the Statutory Exceptions. The Initial Staff Proposal Memo also sought written comments and posed questions for directed responses on the Initial Staff Proposal. The deadline for stakeholders to provide their responses and comments on the Initial Staff Proposal was April 26, 2024, with reply comments due no later than May 17, 2024.<sup>17, 18</sup>

On July 8, 2024, the Department notified stakeholders of a Technical Conference to be held on August 12, 2024 (“August 12 Technical Conference”)<sup>19</sup> to discuss the Initial Staff Proposal and issues raised via written comment. The August 12 Technical Conference was

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<sup>16</sup> The Department has compiled a listing of parties, participants, and other entities interested in and contributing to the Department’s decision-making in the areas of distributed generation, interconnection with the electric power system, net metering, renewable energy, and solar energy in the course of rulemakings, policy initiatives, and adjudicatory proceedings over an extended period of time. The Department refers to this listing as the “DG Stakeholder Electronic Distribution List.” At times, the Department uses this list to provide notice in docketed matters and to provide information to a broad community of interest.

<sup>17</sup> The Department received comments on the Initial Staff Proposal from: Eric and Barbara Baatz; The Cadmus Group, Inc. (“Cadmus”); the Department of Energy Resources (“DOER”); the Distribution Companies; Greenfield Solar; Klavens Law Group (“Klavens”); MassSolar; PV Squared; Solar Energy Business Association of New England (“SEBANE”); State Representative Jeffrey Roy (“Representative Roy”); State Senator Jo Comerford (“Senator Comerford”); and WinnCompanies (“WinnCompanies”).

<sup>18</sup> On April 25, the Department granted a motion for an extension of time for Cadmus to provide responses to directed questions no later than May 10, 2024, and directed stakeholders to provide replies to those comments no later than May 24, 2024.

<sup>19</sup> Consistent with the Department’s general practice for conducting Technical Conferences, the August 12 Technical Conference was not transcribed in the interests of promoting open and wide-ranging discussions.



attended by many of the commenters on the Initial Staff Proposal, as well as individuals interested in Net Metering. Discussion during the August 12 Technical Conference identified several areas of consensus among the stakeholders, as well as items that required further discussion.

On September 10, 2024, the Department issued: (1) a Hearing Officer Memorandum with a Revised Staff Proposal (“Revised Staff Proposal Memo”); (2) a supplement to the Initial Staff Proposal (“Initial Staff Proposal Supplement”); and (3) a revised Self-Certification Form (“Revised Staff Proposal Form”) (collectively “Revised Staff Proposal”) (attached to this Order as Attachment A) which incorporated stakeholder feedback from the August 12 Technical Conference, presented proposed solutions to unresolved questions, sought comment, and posed questions for directed response. On September 23, 2024, the Department received written comments on the Revised Staff Proposal.<sup>20</sup> On September 30, 2024, SEBANE filed reply comments.

The Revised Staff Proposal also sought comment from Cadmus in its capacity as the preferred Reviewer of the Forms. Cadmus filed its comments on September 30, 2024. There were no reply comments to Cadmus’s September 30, 2024 comments.

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<sup>20</sup> The Department received comments on the Revised Staff Proposal from: the Alliance for Climate Transition (“ACT”) (formerly Northeast Clean Energy Council (“NECEC”)); Cadmus; SEBANE; WinnCompanies; and the Distribution Companies. In this Order, references to “Comments” and “Reply Comments” in cites are referencing comments to the Revised Staff Proposal. Stakeholder comments with “March 15 Comments” and “March 15 Reply Comments” in cites are referencing comments to the Initial Staff Proposal.

## II. SELF-CERTIFICATION PROCESS AND FORM

### A. Revised Staff Proposal

With the Initial Staff Proposal, Department staff proposed to implement the Statutory Exceptions via a Self-Certification Process (Initial Staff Proposal Memo at 5). Department staff described a multi-step process whereby a Host Customer seeking to avail itself of a Statutory Exception would submit a Self-Certification Form (“Form”) through a digital online portal with information and supporting documentation relevant to the Statutory Exception for which it is applying (Initial Staff Proposal Memo at 5). The Host Customer would then sign the Form, certifying that the information and any supporting documentation is true, accurate, and complete (Initial Staff Proposal Memo at 5). The Form would be submitted to a Reviewer, who would examine the Form for accuracy and completeness and would either (a) accept the Form, in which case the Host Customer is eligible for the Statutory Exception, or (b) reject the Form, in which case the Host Customer is not eligible for the Statutory Exception (Initial Staff Proposal Memo at 5).<sup>21</sup>

In the Revised Staff Proposal, Department staff presented edits to the Self-Certification Process based on stakeholder feedback but generally maintained the framework (Revised Staff Proposal Memo at 1). Department staff requested comment on whether the Self-Certification Process is an appropriate way to implement the Statutory Exceptions (Revised Staff Proposal Memo at 13).

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<sup>21</sup> As discussed below, as part of the Reviewer’s examination, it can request clarification, explanation, and/or documentation from the applicant before accepting or rejecting the Form.

B. Summary of Comments

Commenters agree that the Self-Certification Process is appropriate (Distribution Company Initial Staff Proposal Comments at 2; Klavens Law Group Initial Staff Proposal Comments at 4). Klavens Law Group asserts that a Self-Certification Form is the correct and most efficient way to implement the Statutory Exceptions (Klavens Law Group Initial Staff Proposal Comments at 4).

C. Analysis and Findings

After review of the Revised Staff Proposal and the related discussion, as well as revisions to the Revised Staff Process as explained below, the Department finds that the Self-Certification Process as set forth in Attachment A is appropriate for processing Host Customers' applications for eligibility for the Statutory Exceptions. Further, after review of the Revised Staff Proposal and the related discussion, as well as revisions to the Revised Staff Proposal as set forth and explained below, the Department prescribes the Self-Certification Form as set forth in Attachment B as the document for Host Customers to apply for eligibility for Statutory Exceptions.<sup>22</sup> Consistent with the established Self-Certification Process, a Host Customer shall submit the Self-Certification Form to the Reviewer which, upon examination, shall either accept or reject the Form.

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<sup>22</sup> Following issuance of the Order, the Department will confer with the Reviewer through the activation of the Self-Certification Process to ensure that the prescribed Form functions properly and effectively for its intended purpose. If the Department makes substantive revisions to the Form set forth as Attachment B, the Department will distribute the revised Form for comment before it is approved for use.

### III. STATUTORY EXCEPTIONS

#### A. Introduction

In the Revised Staff Proposal, Department staff summarized its key takeaways from the discussions in the August 12 Technical Conference and proposed revisions to the Initial Staff Proposal based on those discussions. Below, the Department sets forth our interpretation of the language presenting Statutory Exceptions to determine the meaning for appropriate application of each Statutory Exception. Further, we set forth any changes from the Revised Staff Proposal.

#### B. Statutory Exception 1: Government-Owned Parcel

##### 1. Statutory Language

The statute allows multiple Net Metering facilities on a single parcel of land if “the net metering facilities are placed on a government-owned parcel; provided, however, that all facilities on the single parcel do not exceed an aggregate limit of 10 megawatts.” G.L. c. 164, § 139(D)(i).

##### 2. Revised Staff Proposal

To demonstrate an entity’s eligibility for this Statutory Exception, the Initial Staff Proposal Memo required owners of a “government-owned” parcel to provide evidence they could operate within the public cap (Initial Staff Proposal Memo at 14). In response to stakeholder feedback via both written comment and in the August 12 Technical Conference, Department staff clarified in the Revised Staff Proposal that

the owner of the parcel of land applying for this exception must be eligible to participate in the public cap under the System of Assurance of Net Metering Eligibility and have a Public ID number assigned by the Department, but that the facility itself is not required to operate within the public cap.

(August 12 Technical Conference Presentation at 10; Revised Staff Proposal Memo at 3).

In response to a stakeholder question during the August 12 Technical Conference, Department staff requested comment on the appropriate capacity of Net Metering facilities when a governmental entity that owns a parcel of land leases the parcel to a private entity:

(a) ten megawatts (“MW”), which is the cap for governmental entities; or (b) two MW, which is the cap for private entities (Revised Staff Proposal Memo at 15). G.L. c. 164, § 139(f),(l).

### 3. Summary of Comments

SEBANE explains the necessity of applying this Statutory Exception in a flexible way (SEBANE Revised Staff Proposal Comments at 4-5). According to SEBANE, municipalities are subject to a procurement process<sup>23</sup> for the lease of land (SEBANE Revised Staff Proposal Comments at 4-5).<sup>24</sup> Energy and energy-related services are exempt from this process (SEBANE Revised Staff Proposal Comments at 4-5).<sup>25</sup> SEBANE explains that because energy and energy-related services are not a necessary part of the bid solicitation process for leasing land, municipalities will often preserve flexibility by not including energy output in a bid request, but ultimately will reserve the right to exercise the option for the energy output (SEBANE Revised

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<sup>23</sup> The Uniform Procurement Law, Chapter 30B of the Massachusetts General Laws, applies to the procurement of supplies, services, or real property for a governmental body. G.L. c. 30B, § 1. A governmental body is defined under the statute as city, town, district, regional school district, county, or agency, board, commission, authority, department or instrumentality of a city, town, district, regional school district or county. G.L. c. 30B, § 2. Under the statute, a governmental body must adhere to a prescribed bid solicitation process for supplies and services, and award a contract based on specific criteria. G.L. c. 30B, § 4.

<sup>24</sup> The Uniform Procurement Law also prescribes a bid solicitation process for transactions that rent, convey, or otherwise dispose of real property. G.L. c. 30B, § 16.

<sup>25</sup> See G.L. c. 30B, § 1(b)(33).

Staff Proposal Comments at 4-5). SEBANE argues that maintaining this discretion allows municipalities to pursue renewable energy on their parcels without the requirement to purchase the energy output (SEBANE Revised Staff Proposal Comments at 5). Allowing a municipality to lease its land to a private entity for the purpose of Net Metering, SEBANE argues, allows municipalities to continue to retain this flexibility so that they do not inadvertently take on surplus Net Metering credit balances or otherwise constrain themselves by constructing renewable energy facilities on their land (SEBANE Revised Staff Proposal Comments at 4-5). Neither SEBANE nor other commenters addressed whether such configurations of facilities should be subject to the two MW cap applicable to private entities or the ten MW cap applicable to municipalities or other governmental entities.

#### 4. Analysis and Findings

Initially, the Department notes that the term “municipality or other governmental entity” appears throughout G.L. c. 164, § 139, whereas the term “government-owned” appears just once, as cited above. In the Revised Staff Proposal, Department staff made a similar observation regarding the term “municipality” (Initial Staff Proposal Supplement at 2-3 n.2). Under the current Net Metering Regulations, the characteristic of the owner of a parcel of land does not control whether the Host Customer is a Municipality or Other Governmental Entity eligible for a Public ID. 220 CMR 18.02 (Definition of a Net Metering Facility of a Municipality or Other Governmental Entity).<sup>26</sup> To obtain a Public ID and receive Net Metering services under the

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<sup>26</sup> 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

public cap, an Other Governmental Entity “must demonstrate qualities such as governmental character, a governmental purpose, and performance of a government function.”

D.P.U. 11-10-A at 21. A key principle of statutory construction provides that all sections and subsections of the statute must be read in harmony. See Plymouth Retirement Board v. Contributory Retirement Appeal Board, 483 Mass. 600, 605 (2019) (beyond plain language, courts must look to the statutory scheme as a whole to ensure internal consistency). Assigning different treatment for Municipalities and Other Governmental Entities in the context of G.L. c. 164, § 139(l)(i) is inconsistent with the conforming treatment of these entities in the existing Net Metering regulatory scheme. Thus, for the purposes of Statutory Exception 1, the Department clarifies that a “government-owned” parcel is one owned by a Municipality or Other Governmental Entity eligible for a Public ID.

As discussed above, SEBANE outlined several scenarios under which a Municipality currently leases a parcel to a private entity and argued that the application of this Statutory Exception should retain this flexibility (SEBANE Revised Staff Proposal Comments at 4-5). The Department accepts the commonality of such configurations and, therefore, the Department finds that a Municipality or Other Governmental Entity that owns a parcel of land may lease the land to a private entity for the purposes of Net Metering under Statutory Exception 1. The Department confirms staff’s position in the Revised Staff Proposal that, to be eligible for Statutory Exception 1, “the owner of the parcel of land applying for this exception must be

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which the Municipality or Other Governmental Entity is the Host Customer and is assigned 100% of the output.

**eligible to participate** in the public cap under the System of Assurance [...] and have a Public ID number assigned by the Department, but that the facility itself is not required to operate within the public cap.” (Revised Staff Proposal Memo at 3).

The Department further finds it appropriate to apply the ten MW cap to a parcel owned by a Municipality or Other Governmental Entity, even if the parcel or buildings thereon have been leased to a private entity. The statutory text is instructive, allowing more than one Net Metering facility on a single parcel of land “if the net metering facilities are placed on a government-owned parcel; provided, however, that all facilities on the single parcel do not exceed an aggregate limit of 10 megawatts.” G.L. c. 164, § 139(*I*)(i). The text is silent on the owner of the Net Metering facility, focusing instead on the owner of the parcel. Based on a plain reading of the text, the Department finds that Statutory Exception 1 may be applied to publicly or privately owned Net Metering facilities on a government-owned parcel up to an aggregate size of ten MW.

C. Statutory Exception 2: Low-or-Moderate Income Housing

1. Statutory Language

The statute allows multiple Net Metering facilities on a single parcel of land if “the net metering facilities are placed on a single parcel of land where all buildings on the parcel comprise low- or moderate-income housing as defined in Section 20 of Chapter 40B; provided, however, that all facilities on a single parcel do not exceed an aggregate limit of 10 megawatts.” G.L. c. 164, § 139(*I*)(ii).



## 2. Revised Staff Proposal

In response to written stakeholder comments and feedback at the August 12 Technical Conference, the Revised Staff Proposal states that Statutory Exception 2 includes “community centers or other buildings on parcels of land where housing is subsidized by the federal or state government under any program to assist the construction of low- or moderate-income housing” within the definition of “low- or moderate-income housing” under G.L. c. 40B, § 20.”<sup>27,28</sup>

(Revised Staff Proposal Memo at 4).

## 3. Summary of Comments

SEBANE and WinnCompanies agree with the Department’s acceptance of the definition for “low- or moderate-income housing” from G.L. c. 40B (“Chapter 40B”) (SEBANE Revised Staff Proposal Reply Comments at 2; WinnCompanies Revised Staff Proposal Comments at 1). However, both SEBANE and WinnCompanies identify an important nuance to assessing what constitutes “low- or moderate-income housing,” noting that the calculation of affordable units required to determine eligibility under Chapter 40B is done at the parcel level, not at the building level (SEBANE Revised Staff Proposal Reply Comments at 2; WinnCompanies Revised Staff Proposal Comments at 1). Moreover, WinnCompanies contends that this distinction matters because supporting documentation contemplated by the Department (such as deed restrictions,

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<sup>27</sup> The Initial Staff Proposal did not address this issue.

<sup>28</sup> “Low- or moderate-income housing” is defined as “any housing subsidized by the federal or state government under any program to assist the construction of low or moderate income housing as defined in the applicable federal or state statute, whether built or operated by any public agency or any nonprofit or limited dividend organization.” G.L. c. 40B, § 20. See also 760 CMR 56.02 (elaborating on statutory definition of “Low or Moderate Income Housing”).

restrictive covenants, etc.) references the total affordable units on the parcel, not in any single building (WinnCompanies Revised Staff Proposal Comments at 1). As a result, SEBANE and WinnCompanies propose changes to the Revised Staff Proposal Form that deletes the phrase “each housing building” from all parts of the Revised Staff Proposal Form and inserts the following language in the Revised Staff Proposal Form at Part 5, Section 2:

(a) At least 25 percent of the housing available at the properties to be served by the facility on the parcel is required to be rented to households that are at or below 80 percent of the area median income (“AMI”);<sup>29</sup> and (b) at least 20 percent of the housing available at the properties to be served by the facility on the parcel is required to be rented to households that are at or below 50 percent of the AMI.

(SEBANE Revised Staff Proposal Reply Comments at 2, WinnCompanies Revised Staff Proposal Comments at 2).

#### 4. Analysis and Findings

To apply Exception 2, we begin with the statutory directive, which permits multiple facilities to Net Meter if they are “placed on a single parcel of land where all buildings on the parcel comprise low- or moderate-income housing as defined in Section 20 of Chapter 40B; provided, however, that all facilities on a single parcel do not exceed an aggregate limit of 10 megawatts.” G.L. c. 164, § 139(I)(ii). G.L. c. 40B (“Chapter 40B”), one of the Commonwealth’s primary policy tools to promote affordable housing, in turn defines “low- or moderate-income housing” by reference to the state and federal programs that public and private

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<sup>29</sup> AMI is the midpoint of a specific area’s income distribution, meaning that half of the families in that area earn more than the median income and half earn less. The U.S. Department of Housing and Urban Development calculates AMI annually for cities across the country. AMI is a key metric used in affordable housing. <https://www.huduser.gov/portal/datasets/il/html>.

housing developers access to finance affordable housing projects. See n. 28 above.

Accordingly, the Department accepts the definition of “low- and moderate-income housing” from Chapter 40B and finds that multiple Net Metering facilities may be located on a single parcel of land under Statutory Exception 2 if all the buildings on the parcel comprise low- or moderate-income housing as defined therein,<sup>30</sup> provided that all facilities on the parcel do not exceed an aggregate limit of ten MW.

SEBANE and WinnCompanies assert that, in the context of Chapter 40B, affordability is evaluated at the parcel level, and not the building level. The Department agrees with the comments and appreciates the proposed changes to the Revised Staff Proposal Form. Additionally, the Department, taking notice of guidance from the Commonwealth’s housing development agencies, finds that the definition in the Revised Staff Proposal includes conjunctive “and” when the disjunctive “or” is appropriate. Specifically, Part 5, Section 2.d(2) of the Revised Staff Proposal Form will be amended to read:

(a) At least 25 percent of the housing available at the properties to be served by the facility on the parcel is required to be rented to households that are at or below 80 percent of the area median income (“AMI”); **or** (b) at least 20 percent of the housing available at the properties to be served by the facility on the parcel is required to be rented to households that are at or below 50 percent of the AMI.<sup>31</sup>

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<sup>30</sup> The parcel of land may include non-housing buildings such as community centers as provided in the definition of “low- or moderate-income housing” under G.L. c. 40B, § 20.

<sup>31</sup> The Department takes official notice, pursuant to 220 CMR 1.10(2), of the former Department of Housing and Community Development’s Guidelines regarding 40B Comprehensive Permit Projects (2014), at II.A.2(b)(1) <https://www.mass.gov/files/documents/2017/10/10/guidecomprehensivepermit.pdf> (distinguishing between rental developments offering 25% of units to households earning 80% or less than AMI and, alternatively, developments offering 20% of units to households earning 50% or less than AMI).

After review of the Revised Staff Proposal and the related discussion, the Department finds that the Self-Certification Process as set forth in Attachment A regarding Statutory Exception 2 is appropriate and consistent with the statutory intent for this Exception. Thus, in seeking eligibility for Statutory Exception 2, a Host Customer must demonstrate eligibility depending on the type of entity that built or operates the low-or moderate-income units on the parcel. Therefore, the Department finds that:

- (a) If a public housing authority built or operates the units on the parcel, the Host Customer must provide: (1) the name of the public housing authority; and (2) the Department-assigned Public ID number; and
- (b) If a private entity built or operates the buildings on the parcel, the Host Customer must provide the name of the non-profit organization, limited dividend organization, or other private entity.

A private entity Host Customer applying for Statutory Exception 2 must also demonstrate that (1) at least 25 percent of the housing available on the parcel is required to be rented to households that are at or below 80 percent of the AMI; or (2) at least 20 percent of the housing available on the parcel is required to be rented to households that are at or below 50 percent of the AMI. To demonstrate eligibility, private entity Host Customers must include copies of one or more of the following documents when completing the Form:

- Regulatory agreement (memorializes affordability restrictions between owner and state or federal agency);
- Deed restriction;
- Affordable housing restriction that lists the number of restricted units, level income applicable to restricted units, and term of agreement;
- Housing Assistance Payments (“HAP”) contract, which documents Section 8 provisions or state vouchers;
- Rent roll/income report that shows actual annual income of existing residents;
- Utility program affordability restriction;

- Evidence documenting the housing development’s listing on or eligibility for the municipality’s Subsidized Housing Inventory;
- Tax credit regulatory agreement and declaration of restrictive covenant; or
- Other relevant documentation not listed, which the Department may define in subsequent guidance.

D. Statutory Exception 3: Separate and Distinct Rooftops

1. Statutory Language

The statute allows multiple Net Metering facilities on a single parcel of land if “each Net Metering facility is placed on a separate and distinct rooftop, where no systems occupy the same rooftop; provided however, that all facilities on the single parcel do not exceed an aggregate limit of 2 megawatts.” G.L. c. 164, § 139(I)(iii).

2. Revised Staff Proposal

In response to written stakeholder comments and feedback at the August 12 Technical Conference, the Revised Staff Proposal specifies that “separate and distinct” rooftops refer to rooftops on physically separate structures (Revised Staff Proposal Memo at 5). Department staff stated that this is consistent with the definition of rooftop set forth in D.P.U. 17-22-A at 37 (Revised Staff Proposal Memo at 5). The only expansion of this definition in Section 55 of the 2022 Clean Energy Act is that “a solar net metering facility installed as a canopy over a parking area shall be considered to be installed on a roof” (Revised Staff Proposal Memo at 5). St. 2022, c. 179, § 55(iii); G.L. c. 164, § 139(I). The Revised Staff Proposal further specifies that, under this definition, “rooftop” as described in Statutory Exception 3 does not apply to pole-mounted facilities or other supporting structures that a Net Metering facility may require (e.g., mounting and racking equipment, dual tracker systems) (Revised Staff Proposal Memo at 5).

3. Summary of Comments

The Department did not receive comments on this issue.

4. Analysis and Findings

After review of the Revised Staff Proposal and the related discussion, the Department finds that the Self-Certification Process as set forth in Attachment A regarding Statutory Exception 3 is appropriate and consistent with the statutory intent for this Exception.

Specifically, the Department finds that multiple Net Metering facilities may be located on a single parcel of land if each Net Metering facility is placed on a separate and distinct rooftop, where no two systems occupy the same rooftop; provided, however, that all facilities on the single parcel do not exceed an aggregate limit of two MW. Further, the Department defines a rooftop as an off-ground structure capable of supporting a Net Metering facility, including buildings, garages, carports, and canopies (including canopies over a parking area).<sup>32</sup>

D.P.U. 17-22-A. at 37; G.L. c. 164, § 139(I). To meet the definition of “separate and distinct” under Statutory Exception 3, the Net Metering facility must be: (1) located on the rooftop of physically separate structures, and (2) tied behind the electric service of the structure on which it is located.

E. Statutory Exception 4: Separate Customers on the Same Rooftop

1. Statutory Language

The statute allows for multiple Net Metering facilities on a single parcel of land if “each net metering facility installed on the same rooftop is interconnected behind a meter of a separate

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<sup>32</sup> Consistent with this definition, the Department finds that pole mounted facilities or other supporting structures that a Net Metering facility may require (e.g., mounting and racking equipment, dual tracker systems) are not considered rooftop facilities.

customer; provided, however, that all facilities on the single parcel do not exceed an aggregate limit of 10 megawatts.” G.L. c. 164, § 139(l)(iv).

## 2. Revised Staff Proposal

The Revised Staff Proposal specifies that Statutory Exception 4 can apply to multiple rooftops per parcel, as in the examples stakeholders raised regarding multiple apartment buildings, condominiums, or duplexes on a single parcel of land, provided there is at least one rooftop that has at least two customers (Revised Staff Proposal Memo at 6). All customers with Net Metering facilities under a single rooftop must be unique customers (Revised Staff Proposal Memo at 6). Additional rooftops can have one or more facilities, provided that, under every rooftop, the customers with Net Metering facilities are separate customers (Revised Staff Proposal Memo at 6). The Revised Staff Proposal further specifies that Statutory Exception 4 applies only to behind-the-meter facilities (Revised Staff Proposal Memo at 4).

## 3. Summary of Comments

The Department did not receive comments on this issue.<sup>33</sup>

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<sup>33</sup> Combining multiple Statutory Exceptions was not permitted in the Initial Staff Proposal (Initial Staff Proposal Memo at 11). In response, several stakeholders filed written comments and/or appeared at the August 12 Technical Conference noting examples involving multiple apartment buildings, condominiums, or duplexes on a single parcel of land that would require multiple Statutory Exceptions to allow each Host Customer to Net Meter. In her April 22, 2024 comments, for example, state Senator Jo Comerford presented a real-life scenario of eight solar systems on a single parcel where only one system was Net Metered due to the Single Parcel Rule (Comerford Initial Staff Proposal Comments at 1-2). In response to these stakeholder concerns, staff clarified in the Revised Staff Proposal that Exception 4 can apply to multiple rooftops per parcel (Revised Staff Proposal 6). With this interpretation, as well as the Department’s clarification on the operation of multiple exceptions per parcel (see Sections III.F and VI.B below), we intend that the configurations described will be able to obtain an exception to the Single Parcel Rule using Statutory Exception 4.

#### 4. Analysis and Findings

After review of the Revised Staff Proposal and the related discussion, the Department finds that the Self-Certification Process as set forth in Attachment A regarding Statutory Exception 4 is appropriate and consistent with the statutory intent for this Exception.

Specifically, multiple Net Metering facilities may be located on a single rooftop on a single parcel of land if each Net Metering facility installed on that rooftop is interconnected behind the meter of a separate Host Customer, provided that all facilities on that single parcel of land do not exceed ten MW. This exception can apply to multiple rooftops per parcel of land, provided that at least one rooftop has two or more Net Metering facilities where each Customer is a separate Host Customer. Host Customers that apply for Exception 4 on the parcel at a later point may have one or more Net Metering facilities, provided that, under each rooftop, the Customers are separate Host Customers. Furthermore, the Department confirms that Statutory Exception 4 applies only to behind-the-meter facilities.

#### F. Statutory Exception 5: Additional Facility Not Less Than One Year

##### 1. Statutory Language

The statute allows for multiple Net Metering facilities on a single parcel of land if “the additional net metering facilities are installed not less than 1 year after any previously installed facility was placed into service; provided, however that all facilities on the single parcel do not exceed an aggregate limit of two megawatts.” G.L. c. 164, § 139(I)(v).

##### 2. Revised Staff Proposal

The Initial Staff Proposal prohibited Host Customers from claiming Statutory Exception 5 for a new facility on the parcel if any other facilities on the parcel had previously



been granted a different Statutory Exception (Initial Staff Proposal Memo at 12). In consideration of both written stakeholder comments and feedback at the August 12 Technical Conference, as well as recognizing the broader context of the Net Metering Program, the Revised Staff Proposal reaffirmed that Statutory Exception 5 cannot be combined with any other Statutory Exceptions (Revised Staff Proposal Memo at 9-10). Department staff stated that this provision will “prevent a Host Customer, which had previously been granted a Statutory Exception, from installing an additional facility on the same parcel that would not meet the configuration requirements of the original exception” (Revised Staff Proposal Memo at 10). Responding to stakeholder feedback, the Revised Staff Proposal clarified that there is a one-year waiting period prior to eligibility under Statutory Exception 5; that is, a new facility may not apply for Statutory Exception 5 until one year after any other facility on the parcel received an authorization to interconnect<sup>34</sup> from the Distribution Company (Revised Staff Proposal Memo at 10).

### 3. Summary of Comments

ACT and SEBANE oppose the interpretation of Statutory Exception 5 as set forth in the Revised Staff Proposal (ACT Revised Staff Proposal Comments at 2; SEBANE Revised Staff Proposal Comments at 3, SEBANE Revised Staff Proposal Reply Comments at 2). ACT asserts that the Revised Staff Proposal’s treatment of Statutory Exception 5 is inconsistent with the language of the statute and the underlying legislative intent (ACT Revised Staff Proposal

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<sup>34</sup> An authorization to interconnect means “an official written notification provided by the Company to the Interconnecting Customer, authorizing the Interconnecting Customer to activate and operate the Facility subject to the terms of the Interconnection Service Agreement.” See, e.g., NSTAR Electric Company, M.D.P.U. No. 55A, § 1.2.

Comments at 2). ACT contends that the Revised Staff Proposal goes beyond the statute, as the Legislature did not preclude facilities from being eligible for Statutory Exception 5 simply because previously installed facilities had received a Statutory Exception under any other category (ACT Revised Staff Proposal Comments at 2). ACT further asserts that the Revised Staff Proposal is contrary to the Commonwealth's goal of maximizing solar deployment on rooftops and other built structures, creating a barrier to the accelerated deployment of solar (ACT Revised Staff Proposal Comments at 2).

SEBANE argues that if a Host Customer seeks Statutory Exception 5 to install a facility on a parcel with other facilities installed under Statutory Exceptions 1 through 4, the Reviewer should focus on whether the new facility meets the requirements of Statutory Exception 5, without consideration of the existing facilities and Statutory Exceptions on the parcel (SEBANE Revised Staff Proposal Comments at 3; SEBANE Revised Staff Proposal Reply Comments at 2). SEBANE recommends that the Department insert the following language into its rules: "If a previous Exemption has been used, Exemption 5 is allowed and will not negate any previous Exemption that has been granted" (SEBANE Revised Staff Proposal Reply Comments at 2). SEBANE contends that the Reviewer should grant each Statutory Exception on the terms of the application (SEBANE Revised Staff Proposal Reply Comments at 2). The type of Statutory Exception applicable to a parcel could change over time, SEBANE argues, such as a parcel with multi-tenant buildings that may need to move from Exception 3 to Exception 4 (SEBANE Revised Staff Proposal Reply Comments at 2).

#### 4. Analysis and Findings

We first address ACT and SEBANE's arguments that the Department should allow Host Customers to combine Statutory Exception 5 with other Statutory Exceptions, contrary to the Revised Staff Proposal.<sup>35</sup> The plain meaning of the statutory text is the principal source of insight into the Legislature's intent. Commonwealth v. Rainey, 491 Mass. 632, 641 (2023) (citing Patel v. 7-Eleven, Inc., 489 Mass. 356, 362 (2022)). A statute must be interpreted according to its plain wording, so long as its application would not lead to an absurd or unreasonable result. Commonwealth v. Diggs, 475 Mass. 79, 81-82 (2016).

The Department must also consider the broader context of the Net Metering Program. See Commonwealth v. J.F., 491 Mass. 824, 836 (2023) (citing In re Globe Newspaper Co., Inc., 461 Mass. 113, 117 (2011) (when the Legislature acts, it is assumed to be aware of relevant existing law); Commonwealth v. Callahan, 440 Mass. 436, 439-440 (2003) (wherever possible, a statute should be interpreted in harmony with prior enactments to give rise to a consistent body of law). The Net Metering Program allows Host Customers to generate Net Metering Credits, the costs of which are shared by all ratepayers via the Net Metering Recovery Surcharge.<sup>36</sup>

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<sup>35</sup> The Revised Staff Proposal states that allowing multiple statutory exceptions per parcel is not inconsistent with the statute and allows the Host Customer to identify on the Form all exceptions for which it is eligible, noting that this does not include Statutory Exception 5 (Revised Staff Proposal at 6).

<sup>36</sup> The Net Metering Recovery Surcharge is a reconciling charge in each Distribution Company's Net Metering Tariff. See, e.g., NSTAR Electric Company, M.D.P.U. No. 68J, § 1.08

G.L. c. 164, § 139(c).<sup>37</sup> In establishing, developing, and setting rules for the Net Metering Program, the Department has found it in the public interest to consider cost consequences for ratepayers. See, e.g., Net Metering Rulemaking, D.P.U. 16-64-C at 25 (2016) (finding a strict cut-off date after which all solar generation capacity earns Market Net Metering Credits to avoid unnecessary cost burden on ratepayers); see also Net Metering Rulemaking, D.P.U. 21-100-A at 38 (February 15, 2024) (declining to define an Energy Storage System as On-site Load for the purposes of qualifying as a Cap Exempt Facility to limit the costs associated with the expansion of the Net Metering Program).

Here, the statute provides that a Solar Net Metering Facility “shall be eligible to, or shall continue to, receive net metering credits as otherwise provided by this section if such facility is on the same parcel as any number of other such solar net metering facilities and if” the facility meets the conditions for Statutory Exception 1 or 2 or 3 or 4 or 5. G.L. c. 164, § 139(*l*) (in the statute, the word “or” follows each enumerated Statutory Exception). The word “or” is generally given a disjunctive meaning unless the context or the main purpose of all the words demand otherwise. Eastern Massachusetts Street Railway Company v. Massachusetts Bay Transportation Authority, 350 Mass. 340, 343 (1966). This statutory construct does not demand or suggest other than a disjunctive meaning.

The disjunctive structure of subsection (*l*) leads the Department to examine not only each Statutory Exception by its terms, but also to examine the interplay between them. Given that

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<sup>37</sup> The statewide statutory cap on Net Metering capacity established under G.L. c. 164, § 139(f) acts to safeguard ratepayers against excessive costs for the Net Metering program.

there is no language stating that the Statutory Exceptions are limited to one exception per parcel, we find that a Host Customer is eligible for net metering if there are (1) multiple facilities per parcel and (2) one of the additional criteria articulated in the Statutory Exceptions applies.<sup>38</sup> However, the statute must also be interpreted in harmony with prior enactments, including the Department's careful consideration of ratepayer interests in setting rules for the Net Metering Program.<sup>39</sup> Thus, we conclude that Statutory Exceptions on the parcel cannot be combined in such a way that they contradict each other. That is, every facility on the parcel must be eligible for every condition of every Statutory Exception that the Host Customer has received or applied for, and new exceptions cannot negate previously existing exceptions.

In considering the interplay of the Statutory Exceptions, it is important that Statutory Exceptions 1 through 4 contain specific conditions for eligibility while Statutory Exception 5 has general applicability. Allowing the all-purpose Statutory Exception 5 to combine with another Statutory Exception could circumvent the conditions of the other Statutory Exception. For example, in a Statutory Exception 4 configuration of two facilities on a single rooftop with two separate Host Customers, if one of the Host Customers were to install an additional facility on that rooftop pursuant to Statutory Exception 5, then the original two facilities would no longer be meeting the conditions for the granted Statutory Exception 4 because not every Host Customer on the rooftop would be unique. Further, adding this additional Net Metering facility pursuant to Statutory Exception 5 would effectively block any new Host Customers from claiming Statutory

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<sup>38</sup> For additional discussion on the combination of Statutory Exceptions, See Section VI.B below.

<sup>39</sup> See Section I.A above.

Exception 4 to install a facility of their own, a scenario we find as unacceptable. Without eligibility restrictions, a Host Customer with Net Metering facilities under any of Statutory Exceptions 1 through 4 could add a new facility pursuant to Statutory Exception 5 and allocate the generating capacity among the multiple facilities to circumvent cap requirements or obtain a higher credit value. Based on the statutory structure of subsection (l) and in specific consideration of our concern with combinations involving Statutory Exception 5, we find that the interplay of Statutory Exceptions applied for must be examined in determining eligibility for each Statutory Exception. SEBANE's proposal to consider the application of a facility on an additive basis in isolation, without considering potential impacts to previously granted Statutory Exceptions, is inconsistent with the Department's informed interpretation of the statute.<sup>40</sup>

After review of the Revised Staff Proposal and the related discussion, the Department finds that Statutory Exception 5 cannot be combined with any other Statutory Exceptions for the reasons discussed above. Specifically, Host Customers cannot claim Statutory Exception 5 for a new facility on the parcel if other Net Metering facilities on the parcel had previously been granted a different Statutory Exception. Additionally, any parcel previously granted Statutory Exceptions 1 through 4 may not change its Statutory Exception type to Statutory Exception 5. Further, the Department declines to accept ACT and SEBANE's proposed interpretations of Statutory Exception 5. A Solar Net Metering Facility shall be eligible to apply for and receive

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<sup>40</sup> SEBANE's concern regarding a solar deployment pattern moving from Statutory Exception 3 to Statutory Exception 4 is not relevant to the Revised Staff Proposal, as the Department's interpretation of Exception 4 means that all facilities on the parcel in that scenario would meet Statutory Exception 4's eligibility requirements and be able to proceed (SEBANE Revised Staff Proposal Reply Comments at 2).

Statutory Exception 5 not less than one year after the most recently installed facility situated on the same parcel received its authorization to interconnect from the Distribution Company.

G. Interplay Between Existing Facilities, Blanket Exceptions, and Net Metering Petitions with the Statutory Exceptions - Revised Staff Proposal

1. Revised Staff Proposal

Department staff initially proposed that a Petition Exception or a Blanket Exception applicable to an existing facility would remain in effect, and that a Host Customer would not need to apply for a Statutory Exception covered by those exceptions for such a facility (Initial Staff Proposal Memo at 11). However, the Revised Staff Proposal explains that a Host Customer with existing Solar Net Metering Facilities operating with a Blanket Exception or Petition Exception that seeks to add an additional facility or expand the existing facilities to greater than 10 kW AC would need to submit a Form for each facility and demonstrate that all Solar Net Metering Facilities are eligible for the same Statutory Exception (Revised Staff Proposal Memo at 7).

2. Summary of Comments

The Department did not receive comments on this issue.

3. Analysis and Findings

After review of the Revised Staff Proposal and the related discussion, the Department finds that the treatment of a Host Customer's existing exceptions and the new Statutory Exceptions is consistent with the statute, and the Department accepts such an approach as part of the Self-Certification Process. Specifically, a Petition Exception or a Blanket Exception applicable to an existing facility will remain in effect. A Host Customer with existing Solar Net Metering Facilities operating with a Rooftop Exception or a Petition Exception that seeks to

expand or add one or more facilities on the parcel must submit a Form and demonstrate that all Solar Net Metering Facilities are eligible for the same Statutory Exception.

Currently, Petition Exceptions are limited to the specific configuration and parcel location identified in the underlying Petition. See Avalon Bay Communities, D.P.U. 21-85, at 17 (2022) (exception to the Single Parcel Rule granted for parcels of land specified in the petition). If an individual or entity seeks to build additional Net Metering facilities at a future date on the same parcels of land, that individual or entity must petition the Department for a further exception to the Net Metering rules and regulations. D.P.U. 21-85, at 17. The Department applies this reasoning to the Statutory Exceptions and finds that a Host Customer currently taking Net Metering service under a Petition Exception or a Rooftop Exception and seeking to expand its facilities must seek an additional exception, either through a Petition Exception or a Statutory Exception.

The Department further finds that a parcel with a Multiple Technologies Exception is not also eligible for a Statutory Exception. Importantly, the statute applies only to Solar Net Metering Facilities. G.L. c. 164, § 139(I). The Multiple Technologies Exception allows only one type of each technology per parcel of land (e.g., only one solar facility, only one wind facility, and/or only one anaerobic digestion facility). D.P.U. 17-22-A at 28. Because the Multiple Technologies Exception allows for technologies beyond solar and allows only one type of each technology per parcel of land, it is incompatible with the Statutory Exceptions and, therefore, they may not be combined.

As discussed, all Solar Net Metering Facilities on the parcel of land must be eligible for the Statutory Exception for which a Host Customer applies. See Sections III.F above and VI.B



below. Because the statute states that Statutory Exception 3 and Statutory Exception 4 are available only to rooftop Solar Net Metering Facilities, Host Customers with an existing ground-mounted facility are not eligible for either Statutory Exception 3 or 4. Therefore, Statutory Exception 5 is the only Statutory Exception available to most Host Customers with an existing ground-mounted facility that seek to add one or more Solar Net Metering Facilities to their parcel of land. If a Host Customer with an existing ground-mounted facility is eligible for Statutory Exception 1 or Statutory Exception 2, it would be able to use those Statutory Exceptions instead of Statutory Exception 5. Similarly, if a Host Customer has a granted Petition Exception or Blanket Exception as of the date of this Order and seeks to add more Net Metering facilities on its parcel of land through a Statutory Exception, all the facilities on that parcel must meet the requirements for a Statutory Exception. If the existing facilities do not meet the requirements for Statutory Exceptions 1 through 4, the Host Customer may add an additional Net Metering facility under Statutory Exception 5.

#### IV. OTHER EXCEPTION ISSUES

##### A. Introduction

As discussed above, the Department has three pre-existing exceptions to the Single Parcel Rule: (1) the Multiple Technologies Exception; (2) the Rooftop Exception; and (3) a Petition Exception under 220 CMR 18.09(7). D.P.U. 17-22-A at 22, 28, 35-36; 11-11-E, at 14, 16 n.11, 20 n.16. In the Revised Staff Proposal, Department staff summarized its key takeaways on the operation of these exceptions in the new Statutory Exception framework based on discussions in the August 12 Technical Conference and revised the Initial Staff Proposal accordingly. Below,

the Department determines whether any of these administratively created exceptions should continue with the Statutory Exceptions.

B. Existing Blanket Exceptions

1. Revised Staff Proposal

The Department has established two Blanket Exceptions to the Single Parcel Rule: (1) the Multiple Technologies Exception; and (2) the Rooftop Exception. D.P.U. 17-22-A at 22, 28, 35-36.<sup>41</sup> The Initial Staff Proposal contemplated eliminating these blanket exceptions because “[by] establishing the Statutory Exceptions, the Legislature has set forth an inclusive scheme for allowing more than one Solar Net Metering Facility to be located on a single parcel of land.” (Initial Staff Proposal Memo at 11).

The written stakeholder comments and discussions at the August 12 Technical Conference produced an area of consensus that was incorporated in the Revised Staff Proposal. Specifically, the Revised Staff Proposal retains the Multiple Technologies Exception (Revised Staff Proposal Memo at 7). In contrast, consistent with the Initial Staff Proposal, the Revised Staff Proposal discontinues the Rooftop Exception. Department staff stated that the “broad range of Statutory Exceptions available to Host Customers should sufficiently address all scenarios which the former Rooftop Cap Exempt Blanket Exception was designed to address” (Revised Staff Proposal Memo at 7).

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<sup>41</sup> See Section I.A and III.G above.

## 2. Summary of Comments

The Department did not receive any written comments specifically addressing the Revised Staff Proposal regarding the existing Blanket Exceptions. SEBANE states that Department staff's representation of stakeholder consensus is accurate (SEBANE Revised Staff Proposal Comments at 1).

## 3. Analysis and Findings

The Department finds that the broad range of Statutory Exceptions effectively supplants the usefulness of the Rooftop Exception. Therefore, the Department will cease granting Rooftop Exceptions as of the date Host Customers can start submitting Forms. As stated above, this decision applies prospectively only; existing facilities Net Metering under a Rooftop Exception may continue to take Net Metering service.

Regarding the Multiple Technologies Exception, the Department concludes that retaining this option provides an important additional pathway for customers to participate in the Net Metering Program. While the Statutory Exceptions are specific to Solar Net Metering Facilities, the Multiple Technologies Exception facilitates the development of additional types of renewable technologies.<sup>42</sup> Revoking this option would unduly restrict certain facilities from Net Metering. Therefore, we find that the Multiple Technologies Exception shall remain available (Revised Staff Proposal Memo at 7). The Department determines that it would be administratively efficient to transfer the intake and review of the Multiple Technologies

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<sup>42</sup> The Multiple Technologies Exception allows only one type of each technology per parcel of land (e.g., only one solar facility, only one wind facility, and/or only one anaerobic digestion facility). D.P.U. 17-22-A at 28.

Exception to the Reviewer. Using one clearinghouse for Single Parcel Rule exception applications will improve the application process. Thus, the Department directs the Reviewer to enable customers to apply for the Multiple Technologies Exception through the same functionality prescribed below.

C. Petitions for Exceptions

1. Revised Staff Proposal

In the Initial Staff Proposal Memo, Department staff proposed eliminating the ability to petition for an exception to the Single Parcel Rule on the grounds that that the Legislature had advanced uniform and effective standards for locating Solar Net Metering Facilities on a single parcel of land through the Statutory Exceptions (Initial Staff Proposal Memo at 11). In consideration of both written stakeholder comments and feedback at the August 12 Technical Conference, Department staff would retain the availability of the Petition Exception applicable to the Single Parcel Rule (Revised Staff Proposal Memo at 7). Department staff stated that the “Department cannot reasonably foresee all eventualities including possible configurations affecting Net Metering facilities” (Revised Staff Proposal Memo at 7).

2. Summary of Comments

The Department did not receive any written comments specifically addressing the Revised Staff Proposal regarding the petition process. SEBANE states that Department staff’s representation of stakeholder consensus is accurate (SEBANE Revised Staff Proposal Comments at 1).

### 3. Analysis and Findings

The Department finds that the Petition Exception serves as an important option for configurations that may not neatly fit under other exceptions. Therefore, the Department retains Petition Exceptions (Revised Staff Proposal Memo at 7). However, the Department finds that a Petition Exception filing must include a demonstration of why the petitioner's particular configuration could not be designed in a way to qualify for one of the five Statutory Exceptions.<sup>43</sup> With this directive, the Department believes Petition Exceptions will be resolved efficiently and expeditiously whenever the need arises.

## V. INFORMATION REQUIREMENTS

### A. Introduction

As presented in both the Initial Staff Proposal and Revised Staff Proposal, the Self-Certification Process requires Host Customers applying for a Statutory Exception to provide additional documentation to support their eligibility. As conditions related to the Solar Net Metering Facilities or the parcel of land may change over time, it may be necessary to report changes to the Department or Reviewer to ensure compliance with the Statutory Exceptions. The Revised Staff Proposal also reiterates that the Department may investigate authorized Statutory Exception applications if the Department becomes aware of information which impacts

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<sup>43</sup> The Department reminds stakeholders that when submitting a Petition Exception, they must include a copy of the petition checklist form, which is available on the Department's website at <https://www.mass.gov/how-to/file-a-petition-for-a-net-metering-exception>. D.P.U. 17-22-A at 58-59. Consistent with the disposition of this issue, the Department will revise the checklist to specify that petitioners must demonstrate that the Statutory Exceptions are inapplicable.

a Host Customer's eligibility. Below, the Department provides direction on the information required as part of the Self-Certification Process.

B. Information Required to Apply for a Statutory Exception

1. Revised Staff Proposal

The Form was designed to collect information Department staff determined necessary to prove eligibility for the Statutory Exceptions (Initial Staff Proposal Supplement at 5-6). In consideration of both written stakeholder comments and feedback at the August 12 Technical Conference, Department staff have identified certain problematic information requirements in the Initial Staff Proposal Form (Revised Staff Proposal Memo at 10-11). As a result, Department staff proposed four revisions to the Form. First, Department staff proposed that the Host Customer utility account number and the Distribution Company interconnection application number are required only for proposed facilities<sup>44</sup> (Revised Staff Proposal Memo at 11). Second, Department staff proposed that the Form require the nameplate capacity for all facilities. If the nameplate capacity for existing facilities is unknown, and if the parcel size is less than ten acres,<sup>45</sup> the Host Customer can so indicate and continue with the application without providing the exact capacity (Revised Staff Proposal Memo at 11). Third, Department staff proposed that the Form include an additional column to Table 1 to capture an address for each Net Metering facility situated on the parcel (Revised Staff Proposal Memo at 11). Fourth,

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<sup>44</sup> Stakeholders expressed privacy concerns regarding reporting these data (Revised Staff Proposal Memo at 10).

<sup>45</sup> At the August 12 Technical Conference, stakeholders explained that a parcel smaller than ten acres is not capable of supporting more than two MW of solar capacity (Revised Staff Proposal Memo at 11 n. 6).

Department staff proposed that an applicant identify the Host Customer for all facilities for Statutory Exception 4 to ensure that each Net Metering facility is interconnected behind the meter of a separate Customer in accordance with the statute (Revised Staff Proposal Memo at 11.) For all other Statutory Exceptions, the Form requires information about the Host Customer for proposed facilities (Revised Staff Proposal Memo at 11). Applicants are encouraged to provide information about Host Customers for existing facilities, but the information is not required (Revised Staff Proposal Memo at 11). Department staff requested comment on: (1) whether it is appropriate to exempt a parcel of land that is smaller than ten acres from providing capacity information for all the facilities thereon; and (2) whether the proposed changes to the Form mitigate stakeholder concerns regarding access to and sensitivity of provided information (Revised Staff Proposal Memo at 14).

## 2. Summary of Comments

SEBANE affirms that it is appropriate to exempt parcels smaller than ten acres from providing capacity information for existing facilities (SEBANE Revised Staff Proposal Comments at 2).<sup>46</sup> SEBANE explains that each facility has its own timeline, budget, and interconnection process and, therefore, requiring capacity information for each facility would be burdensome and unnecessary so long as the two MW parcel limit is enforced (SEBANE Revised Staff Proposal Comments at 2). Additionally, SEBANE supports extending this reporting exemption to Statutory Exceptions with a ten MW aggregate capacity limit, such that parcels that are 50 acres or less would not have to provide capacity information for all facilities under

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<sup>46</sup> The WinnCompanies endorse SEBANE's comments on this matter (WinnCompanies Revised Staff Proposal Comments at 1).

Statutory Exception 2 and Statutory Exception 4 (SEBANE Revised Staff Proposal Comments at 2). Cadmus maintains that from a technical standpoint, parcels smaller than ten acres may not be able to support two MW of solar generation, and from a programmatic standpoint, failure to require capacity data for all facilities on the parcel will limit the availability to the Reviewer and the Department of information regarding capacity, individually and in aggregate, of the facilities on such parcels (Cadmus Revised Staff Proposal Comments at 2). The Distribution Companies argue that it should be clear that the applicant must make reasonable efforts to obtain existing facility capacity data, and that the reporting exemption is available only when, despite those efforts, the Host Customer certifies that it is unable to obtain the information (Distribution Company Revised Staff Proposal Comments at 2). Additionally, the Distribution Companies state that the Department should confirm that the ten acre threshold is appropriately conservative and should consider future-proofing<sup>47</sup> this threshold to ensure that this alternative will maintain compliance with the aggregate parcel limitations (Distribution Company Revised Staff Proposal Comments at 2). Further, the Distribution Companies explain that Host Customers should understand that this parcel size threshold is not an exemption to the aggregate capacity limitations, but rather an alternative means of certifying compliance with such limitations (Distribution Company Revised Staff Proposal Comments at 2).

Commenters offered recommendations regarding other information required by the Revised Staff Proposal Form. SEBANE maintains that, to account for multi-tenant ownership,

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<sup>47</sup> The Department understands “future-proofing” in this context to mean considering future advances in technology and solar panel efficiency when selecting the appropriate acreage thresholds.



the Revised Staff Proposal Form should be modified to require only the parcel identification and acreage information, and not the name of the landowner and Registry of Deeds book and page number, since the Form requires information about parcels and not deeds (SEBANE Revised Staff Proposal Comments at 2). The Distribution Companies explain that an edit made to the Revised Staff Proposal Form regarding the collection of account numbers is inaccurate and that the original language should be used (Distribution Company Revised Staff Proposal Comments at 4).

3. Analysis and Findings

a. Host Customer Information and Utility Account Number

The Department did not receive comments on the Revised Staff Proposal requirement that the Form provide a Host Customer's name and utility account number for each proposed Net Metering facility. The Department has reviewed the proposed Self-Certification Process and the proposed Form, and we find that this information is appropriate for the systematic and organized review of the Form. Thus, the Department directs that, consistent with the Revised Staff Proposal, the Form requires: (1) the Host Customer's utility account number and the Distribution Company's interconnection application number only for the proposed facilities; (2) the address for each facility situated on the parcel for inclusion in Table 1; and (3) the Host Customer's name for all proposed Net Metering facilities except for Exception 4, which requires a Host Customer name for all Net Metering facilities.

b. Parcel Size and Reporting Facility Capacity

Several commenters recommend an exemption from the reporting of facilities' capacity for smaller parcels. Commenters recommend that parcels of five acres or less be exempt based

on a representation of a general industry planning standard of five acres of land to support one MW of solar capacity.

The Department finds that it is reasonable to apply a parcel-size threshold in setting a reporting requirement for Net Metering facilities' capacity as part of the Self-Certification Process. The Department finds support for this five acres/one MW planning ratio in the following report by the New York State Energy Research and Development Authority: "Solar Installations on Agricultural Lands," § 1, at 133 ("Ground mounted solar installations typically occupy 4-8 acres per megawatt") (2023), available at <https://www.nyserda.ny.gov/All-Programs/Clean-Energy-Siting-Resources/Solar-Guidebook>. While a study published in the IEEE Journal of Photovoltaics found that technological improvements are enabling more solar power generation on smaller parcels of land,<sup>48</sup> the Department finds the proposed one MW per five acres of land approximation represents an appropriate ratio to apply for setting a reporting threshold.

Therefore, consistent with the Revised Staff Proposal, the Department applies this ratio and requires Host Customers seeking a Statutory Exception with a two MW aggregate limit per parcel<sup>49</sup> to report capacity information on existing facilities only where the parcel is larger than ten acres. Additionally, the Department extends this standard so that Host Customers seeking a

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<sup>48</sup> Land Use Requirements for Utility Scale PV: An Empirical Update on Power and Energy Density (March 2022), available at <https://ieeexplore.ieee.org/stamp/stamp.jsp?tp=&arnumber=9676427>.

<sup>49</sup> Applicable to Statutory Exception 3 and Statutory Exception 5. G.L. c. 164, § 139(I)(iii) and (v).

Statutory Exception with a ten MW aggregate limit per parcel<sup>50</sup> to report capacity information on existing facilities only where the parcel is greater than 50 acres. The Form appended as Attachment B contains these threshold capacity reporting provisions. As the efficiency of solar generation technology increases, it may be necessary for the Department to revise this threshold. However, the Department clarifies that this acreage threshold is not intended to supplant the collection of facility capacity data, but rather provides a means for projects to proceed with development if, despite the Host Customers' best efforts, they are unable to obtain such capacity data. The Department is concerned about tracking facility compliance over time and concludes that having a robust database of Net Metering facilities operating under Statutory Exceptions will enable it to efficiently maintain the integrity of the Net Metering Program. Therefore, we revise the Revised Staff Proposal Form to require Host Customers that avail themselves of this reporting exception to submit documentation demonstrating that they undertook reasonable efforts to obtain the capacity information, but nonetheless could not.<sup>51</sup> Such documentation could include a description of steps taken to provide such information and reasons why the information could not be obtained.

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<sup>50</sup> Applicable to Statutory Exception 1, Statutory Exception 2, and Statutory Exception 4. G.L. c. 164, § 139(D)(i), (ii) and (iv).

<sup>51</sup> As stated in the Initial Staff Proposal and during the August 12 Technical Conference, the Department envisions a public database where certain information from accepted Forms, including the capacity of facilities, will be available (Initial Staff Proposal Memo at 5. The Department expects that Host Customers could utilize this database to obtain capacity information for existing facilities, where such facilities were previously granted a Statutory Exception.

c. Miscellaneous Information Requirements

Several commenters offered recommendations on discrete information requirements within the Revised Staff Proposal Form. The Distribution Companies identified a scrivener's error; thus, the Department has revised the Form to note that account numbers for proposed facilities may not be known at the time of application (Distribution Company Revised Staff Proposal Comments at 4). SEBANE recommends that deed information not be required with the Form. The Department notes that parcels are determined based on boundaries recorded at the relevant Registry of Deeds. See, e.g., D.P.U. 11-11-C at 22. Further, the Department considers a deed on file with the Registry of Deeds to be the primary evidence of ownership interest and parcel description for purposes of ruling on a request for exception to the Single Parcel Rule. D.P.U. 17-22-A at 59. Therefore, we conclude that the deed information required by the Revised Staff Proposal is necessary to cross check and validate important eligibility requirements, and we establish that requirement as provided on the Form set forth in Attachment B.

C. Reporting Changes to Facilities on the Parcel

1. Revised Staff Proposal

In response to the Initial Staff Proposal, the Distribution Companies requested clarification on the impact of changes to a Host Customer, facility, and/or parcel of land from an accepted Form, as well as any associated reporting requirements to the Reviewer (Distribution Company Initial Staff Proposal Comments at 3). At the August 12 Technical Conference, Department staff proposed that a Form must be resubmitted to the Reviewer within 30 days if there is a new Host Customer, an expansion of solar Net Metering capacity, and/or a change to the parcel. Stakeholders raised concerns about these requirements. Specifically, stakeholders

explained that new homeowners may not be aware of the 30-day reporting requirement, and the Distribution Companies discussed the potential administrative burden of enforcing such requirements (Revised Staff Proposal Memo at 11-12). In recognition of these difficulties and concerns, Department staff proposed the following reporting requirements in the event of certain project changes. Specifically, if any of the following events occur, the Host Customer would be required to resubmit a single Form within 90 days of any of the following triggering events for any of its facilities that are affected:

- (1) If a Host Customer increases the capacity of an existing facility;
- (2) If the parcel size decreases;
- (3) If a facility is added to the parcel, (the Form must be resubmitted for the newly proposed facility); or
- (4) For Statutory Exception 4, if there is a change in the Host Customer (the new Host Customer must resubmit a Form for the facility subject to the change).

(Revised Staff Proposal Memo at 12-13). Further, if any of the following events occur, the Host Customer must provide written notice to the Reviewer within 90 days of the triggering event:

- (1) If a Host Customer decreases the capacity of an existing facility;
- (2) If the parcel size increases and there are no changes to the number of facilities; or
- (3) For Statutory Exceptions 1, 2, 3, and 5, if there is a change in the Host Customer.

(Revised Staff Proposal Memo at 13).

Department staff requested comment on this guidance regarding reporting changes to the Reviewer (Revised Staff Proposal Memo at 14). In addition, Department staff requested comment from the Distribution Companies on: (1) the actions necessary for the Distribution

Companies to include a notification to report the change in Host Customer to the Reviewer in their process of commencing service to a new Host Customer; and (2) identification of any costs associated with implementing that notification process (Revised Staff Proposal Memo at 17).

## 2. Summary of Comments

SEBANE contends that a change in Host Customer should simply require a notification to the Reviewer, and not a resubmission of the Form (SEBANE Revised Staff Proposal Comments at 3). Cadmus states that the Department should clarify the following points: (1) whether facilities on parcels smaller than ten acres would be required to resubmit a Form when increasing or decreasing facility capacity; (2) whether all Host Customers must resubmit a Form reflecting the same parcel change in the event of a decrease in parcel size; and (3) the mechanism by which Host Customers will notify the Reviewer, as distinct from resubmission of the Form, and whether such notifications would trigger a fee (Cadmus Revised Staff Proposal Comments at 3).

The Distribution Companies propose to use email provide notice to new Host Customers of the obligation to notify the Reviewer of changes, and they explain that they have not identified any additional costs associated with this means of notification (Distribution Company Revised Staff Proposal Comments at 4). The Distribution Companies state that they can meet this requirement with revisions to Schedule Z<sup>52</sup> (Distribution Company Revised Staff Proposal

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<sup>52</sup> Each Distribution Company has a Department-approved Standards of Distributed Generation Interconnection tariff (“DG Interconnection Tariff”). The currently effective DG Interconnection Tariffs for each Distribution Company are: Unital, M.D.P.U. No. 375; NSTAR Electric, M.D.P.U. No. 55A; and National Grid, M.D.P.U. No. 1468. This Tariff describes the process and requirements for an interconnecting customer to connect a power-generating facility to the Distribution

Comments at 3). SEBANE questions why the Distribution Companies' proposed process requires use of Schedule Z (SEBANE Revised Staff Proposal Reply Comments at 3). SEBANE contends that existing processes for updating the Distribution Companies when there is a change to a Host Customer should be utilized and that no additional process should be required if applicants are put on notice that any change in Host Customer needs to be submitted to the Reviewer (SEBANE Revised Staff Proposal Reply Comments at 3).

### 3. Analysis and Findings

The Revised Staff Proposal contemplated specific changes to facilities that would require the Host Customer either to resubmit the Form or to notify the Reviewer (Revised Staff Proposal Memo at 12-13). The Department recognizes Cadmus's concerns regarding the distinction between resubmittal and notification. The Department determines that, at this time, it is premature to delineate distinct processes for reporting changes. As the Department works with the Reviewer on the details of handling the Form and gains a clearer understanding of the technical aspects for reviewing and recording such changes, we will determine whether resubmission or notification is required.

While we do not prescribe a specific reporting mechanism at this time, the Department has identified certain project changes that will need to be reported to maintain a Statutory Exception, once a reporting mechanism is operational. Consistent with the Revised Staff

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Company's electric power system, including discussion of technical and operating requirements, metering and billing options, and other matters. Schedule Z to the DG Interconnection Tariff, which is completed by or on behalf of a Host Customer, contains information regarding the Host Customer and the interconnecting generating facility necessary to receive Net Metering services from the Distribution Company.

Proposal, the Department finds that requiring the following change information is appropriate for the systematic and organized management of the Self-Certification process. Thus, Host Customers shall report on the following changes to the Reviewer within 90 days of the triggering event:

- (1) An increase or decrease in the capacity of an existing facility;
- (2) A material change to the parcel (e.g., parcel mergers, size increases, or decreases);  
or
- (3) A change in the Host Customer.<sup>53</sup>

The Department finds that the Distribution Companies' proposed process for notifying new Host Customers of their responsibility to report a change in Host Customer is appropriate. The Department finds that the Distribution Companies' proposal provides clear and direct notification to new Host Customers about reporting obligations and would not impose an undue burden on Host Customers. Therefore, we direct each Distribution Company to modify Schedule Z to its respective Distributed Generation Interconnection Tariff to: (1) include a check box for the Host Customer to indicate if the Form is being submitted with a new Host Customer as the initial Schedule Z on the account; and (2) modify the Host Customer details section to include an email line for contact purposes.

D. Department Audit

1. Revised Staff Proposal

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<sup>53</sup> The Revised Staff Proposal also mentioned the addition of a new facility as requiring the resubmittal of a Form (Revised Staff Proposal Memo at 13). The Department clarifies that this event would require an initial submission of a Form covering the Host Customer's additional facility.



The Initial Staff Proposal provided that, “for a period of 90 days from the Reviewer’s determination for a Form as ‘accepted,’ the Department could audit the Form.” (Revised Staff Proposal Memo at 8). In consideration of both written stakeholder comments and feedback at the August 12 Technical Conference, the Revised Staff Proposal does not include this audit provision (Revised Staff Proposal Memo at 8). Department Staff recognize that this audit contingency could adversely affect a Net Metering project’s viability, timeline, and budget (Revised Staff Proposal Memo at 8). Under the Revised Staff Proposal, the Self-Certification Process and the Form provide the necessary notification to the Host Customer that the Department may investigate a Host Customer’s eligibility for a Statutory Exception if the Department becomes aware of information that conflicts with information presented in the Host Customer’s Form (Revised Staff Proposal Memo at 8).

## 2. Summary of Comments

The Department did not receive any written comments specifically addressing the Revised Staff Proposal to remove the Department audit.

## 3. Analysis and Findings

The Department has reviewed the Initial Staff Proposal and the Revised Staff Proposal, and we find that, consistent with Revised Staff Proposal Memo, the audit contingency provided in the Revised Staff Proposal Memo likely would adversely affect a Net Metering project’s viability, timeline, and budget. We find that such a condition is an unreasonable limitation on access to Net Metering services. Therefore, the Department will not implement an audit process. The Department does not include an audit provision in the Self-Certification Process set forth in Attachment A, and the Self-Certification Form set forth in Attachment B does not reference an

audit process. As a measure of oversight of the Self-Certification Process, the Form includes information for a Host Customer that the Department may investigate a Host Customer's eligibility for a Statutory Exception if the Department becomes aware of information that conflicts with information presented in the Host Customer's Form.

## VI. THE FORM

### A. Introduction

In this section, the Department addresses issues that affect submission of the Form as well as suggested changes to the Form. Commenters provided suggestions in response to the Initial Staff Proposal and the Revised Staff Proposal.

### B. Identifying the Exceptions

The Initial Staff Proposal Memo allowed for only one Statutory Exception type to be in effect for all Solar Net Metering Facilities on a parcel (Initial Staff Proposal Memo at 6). In consideration of both written stakeholder comments and feedback at the August 12 Technical Conference, the Revised Staff Proposal states that a Host Customer could identify on the Form all Statutory Exceptions for which it is eligible, with the aggregate capacity limit of the parcel set at the largest of the Statutory Exceptions (Revised Staff Proposal Memo at 6). Department staff further stated that all facilities must meet eligibility requirements for each Statutory Exception applied for, and that allowing facilities to apply for multiple Statutory Exceptions per parcel is not inconsistent with the statute (Revised Staff Proposal Memo at 6).

The Department did not receive comments opposing the approach set forth in the Revised Staff Proposal related to allowing a Host Customer to identify multiple Statutory Exceptions.

The Department has reviewed the Initial Staff Proposal and the Revised Staff Proposal, and we find the approach set forth in the Revised Staff Proposal is reasonable and it is not inconsistent with the statute. Specifically, a Host Customer may identify on the Form more than one Statutory Exception for which the Net Metering facilities located on a single parcel of land are eligible, provided that Host Customers cannot seek Statutory Exception 5 in combination with any other Statutory Exception. We clarify that all Net Metering facilities on the parcel of land must meet eligibility requirements for each Statutory Exception for which a Host Customer applied. Based on the provisions of the statute and on our analysis above on statutory construction, the Department expects that Host Customers seeking to apply for multiple Statutory Exceptions at one time would identify a combination of Statutory Exceptions 1, 2, 3, or 4.<sup>54</sup> If a Host Customer identifies multiple Statutory Exceptions for which it is eligible, the aggregate capacity limit of the parcel shall be the largest of the Statutory Exceptions (i.e., if one Statutory Exception has a two MW aggregate capacity limit and a different Statutory Exception has a ten MW aggregate capacity limit, the aggregate capacity limit on the parcel of land is ten MW). See Section III.F above.

C. Providing a Copy of the ISA or Conditional Approval

The Distribution Companies and DOER state that the Initial Staff Proposal Memo identified that an ISA or conditional approval must be included with the Form, but that requirement is not included under the header “What You Need to Proceed” in the Initial Staff Proposal Form (Distribution Company Initial Staff Proposal Comments at 2 n.4; DOER Initial

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<sup>54</sup> As discussed in Section III.F., above, Statutory Exception 5 cannot be combined with other exceptions.

Staff Proposal Reply Comments at 3). The Department appreciates that the Distribution Companies and DOER identified this omission. The Department finds that requiring these submissions is reasonable and the Form set forth in Attachment B includes them in the section, “What You Need to Proceed.”

D. Ten Business Day Curative Period

SEBANE requests that the Department add the following language to page 6 of the Form: “If during review, the Reviewer finds missing, incomplete, or incorrect information on the Form, the Host Customer must be allowed a ten business day curative period following notification from the Reviewer” on page 6 of the Form (SEBANE Revised Staff Proposal Reply Comments at 2). This language addresses a similar concern raised by WinnCompanies in its earlier comments that the immediate disqualification of projects with incomplete Forms would unfairly disadvantage otherwise eligible projects (WinnCompanies Initial Staff Proposal Comments at 2). The Department agrees with SEBANE and WinnCompanies that that a “notice and opportunity to cure” provision is appropriate for the Self-Certification Process. Under that process, upon notification by the Reviewer to the Host Customers of deficiencies in the submitted Form, the Host Customer would have a specified period to cure the deficiencies. While such a provision would facilitate problem resolution and promote an orderly review process, the Department at this time cannot determine an appropriate and reasonable cure period and therefore does not include a notice and opportunity to cure provision in the Self-Certification Process. In subsequent process, the Department will take stakeholder comment on an appropriate and reasonable cure period. See Section VII below for discussion on subsequent process.

E. Adding a Definition Section

The Distribution Companies recommend that the Department add a definition section to the Form, the Interconnection Application, and/or Schedule Z (as applicable) for terms used but not defined in the Net Metering Tariff<sup>55</sup> or in the DG Interconnection Tariffs (Distribution Company Initial Staff Proposal Comments at 2). The Distribution Companies present the term “parcel” as an example of a term to be included in a definition section (Distribution Companies Initial Staff Proposal Comments at 2). The Department agrees that providing clear definitions for certain terms not otherwise defined in existing regulatory documents is important to ensure clarity, consistency, and accuracy in applying for a Statutory Exception. Accordingly, the Department seeks input from the stakeholders and the Reviewer on the terms to be included and their definitions. See Section VII below for additional discussion.

F. Where to Collect Certain Information in the Form

Cadmus notes that, in the Revised Staff Proposal Form, some of the required data points for the applying facility have been moved from Part 2: Applying Solar Net Metering Information to the Table 1 under “Capacity of Proposed and Existing Solar Facilities on Parcel” (Cadmus Revised Staff Proposal Comments at 2). Cadmus also notes that Table 1 may be useful when the Host Customer is submitting multiple facilities at the same time or when Host Customers are required to provide information about an existing facility (Cadmus Revised Staff

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<sup>55</sup> Each Distribution Company provides Net Metering service to eligible Customers under tariffs, which must be approved by the Department. 220 CMR 18.03, 18.09(2) and 18.09(3); Net Metering, Schedule NM, M.D.P.U. No. 441 (Unitil); Net Metering, M.D.P.U. No. 68K (NSTAR Electric); Net Metering Provision, M.D.P.U. No. 1572 (National Grid) (collectively “Net Metering Tariffs”).

Proposal Comments at 2). Cadmus recommends that the format and required fields outlined in Table 1 be added to Part 2 so that all the information associated with the facility is in the same section (Cadmus Revised Staff Proposal Comments at 2). Additionally, Cadmus states that there is an important distinction between the applying facility and existing facilities, which is not clear in the Revised Staff Proposal Form (Cadmus Revised Staff Proposal Comments at 2). Cadmus contends that this distinction can be made clearer, and that the fields required for each type of facility can be more explicit (Cadmus Revised Staff Proposal Comments at 2).

We appreciate Cadmus's feedback regarding where and how to collect certain information in the Form. The Department agrees that the Form should be clear regarding separate information requirements for the applying facilities and the existing facilities. Therefore, the Form set forth in Attachment B provides for the collection of the Host Customer's account number and its interconnection application number fields only for applying facilities, and not for proposed facilities. The Form set forth as Attachment B to this Order is the Department's best attempt to date at identifying the type of information to collect; we will continue to work with the Reviewer to ensure that the Form is clear and straightforward for Host Customers to complete and for the Reviewer to process. It is important to note that the Department may make changes to the Form as unforeseen implementation issues and efficiency opportunities arise (Revised Staff Proposal Memo at 13).

G. Certification, Acknowledgments, and Signature

1. Revised Staff Proposal

In the Revised Staff Proposal, Department staff reiterated that by signing the Form, the Host Customer: (a) confirms it has examined the Form and accompanying documentation;

(b) certifies, to the best of its knowledge and belief, that the Form is true, correct, and complete; and (c) acknowledges specifically enumerated obligations, consequences, representations, and conditions applicable to the Self-Certification Process (Initial Staff Proposal Supplement at 7).

Further, in signing the Form, the Host Customer accepts that submitting incorrect or incomplete information on the Form, or failing to comply with applicable rules, regulations, and tariffs, may result in rejection or revocation of eligibility for a Statutory Exception, a revocation of a Cap Allocation, a loss of a placement on the System of Assurance waiting list, and/or termination of Net Metering services, should facts regarding the accuracy or veracity of information provided on the Form come to light (Initial Staff Proposal Supplement at 7).

The Revised Staff Proposal also provides that, after appropriate process, the Department may direct the relevant Distribution Company to terminate Net Metering services if a Host Customer fails to comply with the pertinent Net Metering rules and regulations applicable to the Statutory Exception(s) (Initial Staff Proposal Supplement at 7). The Host Customer is responsible for complying with all applicable federal, state, and municipal rules and regulations, including zoning and building codes (Initial Staff Proposal Supplement at 7).

## 2. Summary of Comments

The Department did not receive comments on this issue.

## 3. Analysis and Findings

The Department has reviewed the Initial Staff Proposal, the Initial Staff Proposal Supplement, and the Revised Staff Proposal, and we find that the comprehensive provisions stated above are important not only to support the authenticity and accuracy of the information on the Form but also to establish accountability by the Host Customer. Therefore, the Form as

set forth in Attachment B contains these provisions. Specifically, by signing the Form, the Host Customer confirms that it has examined the Form and accompanying documentation.

Furthermore, the Host Customer certifies, to the best of its knowledge and belief, that the Form is true, correct, and complete. Lastly, the Host Customer acknowledges that failing to comply with applicable laws, orders, rules, regulations, and tariffs may result in a denial or revocation of a Statutory Exception, revocation of a Net Metering Cap Allocation, loss of a placement on the System of Assurance waiting list, and/or termination of Net Metering services.

## VII. CADMUS AS REVIEWER

### A. Reviewer of Self-Certification Forms

#### 1. Revised Staff Proposal

In the Initial Staff Proposal, Department staff expressed a preference that the Administrator<sup>56</sup> act as the Reviewer (Initial Staff Proposal Memo at 2, 5 n.10). Cadmus, in its capacity as Reviewer, would receive a submitted Form, examine the Form for completeness, and confirm certain information (Initial Staff Proposal Memo at 5). In the Revised Staff Proposal, Department staff maintained their proposal for Cadmus to serve as the Reviewer (Revised Staff Proposal Memo at 2-3). Department staff directed specific questions regarding implementation of the Form to Cadmus as the proposed Reviewer (Initial Staff Proposal Memo at 15-16; Revised Staff Proposal Memo at 16).

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<sup>56</sup> The current Administrator for the System of Assurance is Cadmus. Order on Proposed Candidate for the Administrator, D.P.U. 11-11-D at 10 (2012).



2. Summary of Comments

The Distribution Companies strongly support the Department's proposal for the Administrator as the Reviewer of the Forms (Distribution Company Initial Staff Proposal Comments at 2). No commenter objected to the Administrator serving as the Reviewer.

3. Analysis and Findings

As discussed above, consistent with legislative directive, the Department established the System of Assurance to provide regulatory certainty to Host Customers seeking a Cap Allocation, given the statewide cap on Net Metering capacity. G.L. c. 164, § 139(f); D.P.U. 11-11-A at 1, citing St. 2010, c. 359, §§ 25-30.<sup>57</sup> The Department previously found that a third-party Administrator was best suited to evaluate ACAs, and outlined the Administrators duties and obligations under the Net Metering Program. D.P.U. 11-11-A at 19-22; 24; App. A § 5. The Department approved Cadmus as the Administrator, finding that it demonstrated its ability to receive and process applications while assisting applicants with related questions. D.P.U. 11-11-D at 10. Cadmus has served in that role for the past twelve years.

The System of Assurance and the Single Parcel Rule are essential elements for the systematic and orderly management of the Net Metering Program in the public interest and in support of the Commonwealth's climate and energy policies. Based on our experience, we find that Cadmus has demonstrated impartiality, transparency, careful judgement, diligence, and adherence to its required obligation in its performance as Administrator. While the System of Assurance and the Self-Certification Process established by the Department to implement the

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<sup>57</sup> See Section I.A.

Statutory Exceptions serve different purposes, they both involve many of the same elements; Host Customers, interconnection of Net Metering facilities to a Distribution Company's EPS, Distribution Companies' approval of underlying forms, consideration of the importance of the development of solar energy, and careful management of processes. By appointing Cadmus as the Reviewer, the Department anticipates administrative efficiencies by Cadmus extending its expertise to this expanded role. Importantly, expanding Cadmus's current role to include reviewing applications for a Statutory Exception under the Self-Certification Process would result in an expeditious start to the processing of Forms, which is a priority for the Department.<sup>58</sup> Finally, no stakeholder objected to the Department's stated preference that Cadmus act as the Reviewer. Based on our favorable experience with Cadmus as Administrator, the interlocking connections between the System of Assurance and the Self-Certification Process, and the importance of an impartial third party to superintend the implementation of the Statutory Exceptions, the Department appoints Cadmus as Reviewer.

B. Costs and Application Fees

1. Revised Staff Proposal

In the Initial Staff Proposal, Department staff asked Cadmus, as the preferred Reviewer, whether there should be a filing fee for Host Customers that submit a Form to offset the Reviewer's costs, and to provide an estimate of such a fee (Initial Staff Proposal Memo at 15-16). In response, Cadmus stated that, while it does not recommend placing an additional

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<sup>58</sup> In its reply comments, Cadmus stated that it may be ready to begin receiving Forms in four to six weeks from the date it receives formal authorization to proceed (Cadmus September 30 Comments at 2).

fee burden on individual Host Customers, there is a cost to compiling and tracking the provided information and, therefore, it proposed to work with the Department and other stakeholders to determine how the costs are recovered (Cadmus Initial Staff Proposal Comments at 2). On July 8, 2024, the Department issued a Hearing Officer Memorandum that, among other things, requested Cadmus to provide a filing fee proposal to offset costs associated with the review process (Hearing Officer Memorandum at 2 (July 8, 2024)). On August 2, 2024, Cadmus submitted a proposed fee structure consistent with the existing System of Assurance fee structure, which is designed to recover all costs associated with reviewing the Form except those associated with the information technology development of a potential application portal (Cadmus Initial Cost Comments at 2). These comments also presented cost scenarios and time estimates for a standalone Self-Certification portal, as well as a portal integrated with the existing System of Assurance (Cadmus Initial Cost Comments at 2).

In the Revised Staff Proposal, the Department asked Cadmus to provide an updated scope of filing fee proposal to process Statutory Exceptions, Multiple Technologies Exceptions, and ACAs that captures in detail all costs that the Reviewer will incur, including information technology development costs (Revised Staff Proposal Memo at 16). In response, Cadmus describes the following two ways to develop the Form and the associated fees: (1) use of Formstack,<sup>59</sup> or a similar online platform for the submission of the Form, or (2) the development of a new, standalone portal (Cadmus Revised Cost Comments at 4-5). Both scenarios included

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<sup>59</sup> Formstack is an online form building platform that allows organizations to collect information from a wide range of users and integrate that information into existing systems. See <https://www.formstack.com/>.

various assumptions regarding the number of applications Cadmus expects to receive, in addition to a cost proposal for processing ACAs versus the Self-Certification Forms (Cadmus September Revised Cost at 4-5).

## 2. Analysis and Findings

The Department found that the costs of the System of Assurance should be borne by its participants. D.P.U. 11-11, at 14-15; D.P.U. 11-11-A at 33-34; D.P.U. 11-11-D at 8. Given that participants in the Self-Certification Process will benefit therefrom, the Department finds it similarly appropriate and reasonable that applicant fees fund the underlying development and review costs associated with the Self-Certification Forms.

The Department further finds it necessary for Cadmus to file an updated proposal and fee estimate considering the directives in this Order, and to solicit public comments thereon. Thus, the Department directs Cadmus to provide by December 9, 2024 a scope of filing fee proposal or filing fee structure to process Statutory Exceptions, Multiple Technologies Exceptions, and ACAs<sup>60</sup> that: (1) captures all the costs that the Reviewer will incur; and (2) is funded solely by the applicants submitting the Form or other appropriate application materials. The Department directs Cadmus to minimize the cost of applying for the exceptions while ensuring that: (1) the Form is straightforward for applicants to complete and submit; (2) the process established is efficient for Cadmus to review the applications; (3) the process provides the additional functionality described in the Initial Staff Proposal and Revised Staff Proposal (e.g., publishing

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<sup>60</sup> Due to the opportunities for administrative efficiencies in expanding Cadmus's role as Administrator to include Reviewer, we further find it reasonable and appropriate to consider the costs of administering both programs in a scope of filing fee proposal or filing fee structure.

relevant information about the applicants to a website);<sup>61</sup> and (4) Cadmus can accept and process the Forms as soon as possible. See Section VII.C below for implementation timing.

C. Implementation Timing

Cadmus states that developing a digital Form through the Formstack platform may take four to six weeks (Cadmus Revised Cost Comments at 2). While the Department understands that stakeholders seek to avail themselves of the Statutory Exceptions as soon as possible, there are important additional steps necessary to implement the Self-Certification Process. As discussed above, there is a cost to acting as the Reviewer, and the associated fees have yet to be determined. Further, the Department finds that a guidance document is necessary to facilitate the Reviewer's role and to clarify the rules and requirements of the Self-Certification Process to applicants. We envision that this guidance document will function as a common reference point, similar to the System of Assurance. D.P.U. 15-32-A, App. A (2020). The Department recognizes the need to finalize the fees and the guidance document as expeditiously as possible. Therefore, we find that it is appropriate to require the Reviewer to begin accepting submitted Forms for review no later than March 14, 2025.<sup>62,63</sup> The Department determines that this date

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<sup>61</sup> The Department envisions a webpage similar to this: <https://app.massaca.org/allocationreport/report.aspx> (last visited November 13, 2024). Note that to see the details of each ACA application, you must click on a specific Distribution Company in the public cap or private cap.

<sup>62</sup> Cadmus represents that it will be ready to begin receiving the Forms through Formstack within four to six weeks of the date it is given the formal authorization to proceed (Cadmus Revised Cost Comments at 2).

<sup>63</sup> The Department determines this date is appropriate for Cadmus to begin reviewing the Multiple Technologies Exception as well. Department staff will work with the Reviewer to establish the appropriate process.

appropriately balances the need to begin applying for Statutory Exceptions with the concomitant necessity for time and coordinated efforts to establish the key details, such as fees, a guidance document, and the buildout of the digital Form. The Department notes that this will include an opportunity for stakeholders to comment on the fees and guidance document.

### VIII. SUBDIVISION RULE

#### A. Revised Staff Proposal

The Initial Staff Proposal eliminates the Subdivision Rule, which the Department established in connection with the Single Parcel Rule to protect against the subdivision of a parcel solely for the purposes of Net Metering (Initial Staff Proposal Memo at 11).

D.P.U. 11-11-C at 21-22. Department staff explained that the Subdivision Rule, established in connection with the Single Parcel Rule, is no longer warranted because in our experience overseeing the administration of the Net Metering Program, we have not seen enough subdivisions of parcels with the intent to game the rules to justify the impediments to solar development created by the rule (Initial Staff Proposal Memo at 11). D.P.U. 11-11-C at 21-22. The Revised Staff Proposal included the same proposal to eliminate the Subdivision Rule (Revised Staff Proposal Memo at 11).

#### B. Summary of Comments

Several stakeholders support the elimination of the Subdivision Rule. MassSolar, PV Squared, and SEBANE expressed concerns regarding the use in the Subdivision Rule of January 1, 2010 as the date to define parcel boundaries given that date is so far in the past (MassSolar Initial Staff Proposal Comments at 1; PV Squared Initial Staff Proposal Comments at 1-2; SEBANE Initial Staff Proposal Comments at 2). SEBANE suggests using parcel

boundaries as of the date that the new provisions are implemented, or the effective date of the 2022 Clean Energy Act (SEBANE Initial Staff Proposal Comments at 2). MassSolar and PV Squared raise concerns over establishing a rule that references a set of legal parcel boundaries at a given date, given that parcel maps constantly change and evolve (MassSolar Initial Staff Proposal Comments at 2; PV Squared Initial Staff Proposal Comments at 1-2).

The Department did not receive comments on the issue in response to the Revised Staff Proposal.

C. Analysis and Findings

In our experience overseeing the administration of the Net Metering Program, the costs associated with the impediments to solar development created by the Subdivision Rule outweigh the potential benefits of the rule. As such, the Department finds that due to changing circumstances and our experience overseeing the application of the Subdivision Rules, the Subdivision Rule is no longer warranted. Therefore, when a Host Customer seeks an exception to the Single Parcel Rule, the Host Customer should rely on the latest property boundaries recorded with the Registry of Deeds. D.P.U. 11-11-C at 22; D.P.U. 17-22-A at 27. The Department hereby notifies Host Customers that in the event they change their parcel boundaries, they must ensure continued compliance with the Single Parcel Rule or Statutory Exceptions. Further, Host Customers must properly report changes as set forth in Section V.C above. As indicated above, failure to comply with these requirements may result in a denial or revocation of a Statutory Exception, revocation of a Net Metering Cap Allocation, loss of a placement on the System of Assurance waiting list, and/or termination of Net Metering services.

IX. DIRECTIVES ESTABLISHED BY ORDER

A. Directives to the Distribution Companies

In this Order, the Department directs specific changes to the DG Interconnection Tariff and directs the Distribution Companies to make compliance filings in a subsequent docket for formal review of the proposed tariff changes. Within 45 days of the date of this Order, the directs that the Distribution Companies shall make a compliance filing of a Model DG Interconnection Tariff to modify Schedule Z, and that compliance filings shall be made in docket D.P.U. 24-182, which will modify Schedule Z. Consistent without our directive in in Section V.B., Schedule Z is to be modified to collect information for the Distribution Companies to notify new Host Customers of facilities operating with a Statutory Exception of their obligation to report Host Customer changes to the Reviewer. The Distribution Companies are reminded that they are encouraged to work together to create a uniform document as soon as practicable.

B. Directives to the Reviewer

Cadmus shall file a scope of filing fee proposal or filing fee structure to process Statutory Exceptions, Multiple Technologies Exceptions, and ACAs under the System of Assurance consistent with the directives of this Order no later than 5:00 p.m. on **December 9, 2024**. The Reviewer shall begin accepting submitted Forms for review no later than **March 14, 2025**.

X. SOLICITATION OF COMMENTS

Cadmus shall file a scope of filing fee proposal or filing fee structure to process Statutory Exceptions, Multiple Technologies Exceptions, and ACAs no later than 5:00 p.m. on



**December 9, 2024.** The Department seeks initial written comments on Cadmus's filing fee proposal no later than 5:00 p.m. **December 24, 2024.**

XI. ORDER

Accordingly, after notice, opportunity for comment, and due consideration, it is

ORDERED: That the Self-Certification Process set forth in Attachment A to this Order is established to implement the provisions of G.L. c. 164, § 139(l); and it is

FURTHER ORDERED: That the Self-Certification Form set forth in Attachment B to this Order is established to implement the provisions of G.L. c. 164, § 139(l); and it is

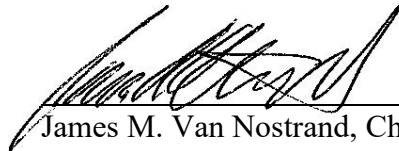
FURTHER ORDERED: That the Revised Staff Proposal in Attachment A to this Order, subject to the modifications made herein, is accepted; and it is

FURTHER ORDERED: That The Cadmus Group, Inc. is appointed as the Reviewer for the Self-Certification Forms as part of the Self-Certification Process; and it is


FURTHER ORDERED: That the Subdivision Rule as set forth in Net Metering and Distributed Generation, Definitions of Unit and Facility, D.P.U. 11-11-C (2012) is rescinded, effective as of the date of this Order; and it is

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

By Order of the Department,

  
James M. Van Nostrand, Chair

  
Cecile M. Fraser, Commissioner

  
Staci Rubin, Commissioner

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