



The Commonwealth of Massachusetts

DEPARTMENT OF PUBLIC UTILITIES

D.P.U. 17-34

August 30, 2017

Petition of C.H. Yates Rubber Corp. for an Exception to the Net Metering Regulations pursuant to 220 CMR 18.00 and the System of Assurance Rules.

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Petitioner

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Intervenor

I. INTRODUCTION

This matter concerns application of the calculation used to convert direct current (“DC”) to alternating current (“AC”) to determine eligibility for net metering services. The capacity of a “Solar Net Metering Facility” is defined as “80 per cent of the facility’s direct current rating at standard test conditions [(“STC”)]” for purposes of determining a cap allocation (“80-Percent Rule”). G.L. c. 164, § 139(f); 220 CMR 18.07(4)(a); Net Metering and Interconnection of Distributed Generation, D.P.U. 11-11-D, Appendix, § 5(B) (2012).

The 80-Percent Rule was first introduced by the Legislature in 2008 through enactment of An Act Relative to Green Communities, St. 2008, c. 169, § 78, and codified at G.L. c. 164, § 139(f). The Department of Public Utilities (“Department”) implemented the 80-Percent Rule through its regulations at 220 CMR 18.07(4)(a). Net Metering Rulemaking, D.P.U. 08-75-A, App. A (2009).

On May 7, 2012, the Department issued Net Metering and Interconnection of Distributed Generation, D.P.U. 11-11-A (2012) setting forth the initial rules for the system of assurance of net metering eligibility (“System of Assurance”). On October 25, 2012, the Department established the final System of Assurance, D.P.U. 11-11-D, App. A (2012) (“System of Assurance Rules”). The System of Assurance provides prospective net metering host customers with an assurance that they will be eligible to receive net metering services under 220 CMR 18.00 when they interconnect their net metering facility to the electric grid.¹

¹ A “Host Customer” means “a Customer with a Class I Net Metering Facility, Class II Net Metering Facility, or Class III Net Metering Facility that generates electricity on the Customer’s side of the meter.” 220 CMR 18.02.

To guarantee receipt of net metering services, renewable energy generating facilities that have a nameplate capacity rating equal to or greater than ten kilowatts (“kW”) on a single-phase circuit or 25 kW on a three-phase circuit must apply for a cap allocation from the System of Assurance. As part of the application process, the Host Customer (or another entity on its behalf) must provide the size of the proposed net metering facility in AC and DC, to determine the capacity of the requested cap allocation. The System of Assurance Rules incorporate the 80-Percent Rule at Section 5(B). System of Assurance Rules, § 5(B).

On February 12, 2017, C.H. Yates Rubber Corp. (“Yates Rubber” or “Petitioner”) filed a petition (“Petition”) with the Department seeking an exception from the net metering regulations pursuant to 220 CMR 18.00, under 220 CMR 18.09(7). Specifically, the Petitioner seeks an exception to the 80-Percent Rule for the purpose of determining a cap allocation (Petition at 2). The Petitioner seeks this exception in connection with a rooftop solar net metering facility located at 222 Sykes Road, Fall River, Massachusetts (“Solar Facility”) (Petition at 3).

The Department docketed this matter as D.P.U. 17-34, and on February 24, 2017, directed Yates Rubber to issue a notice of filing and request for comments to the electronic service list in Net Metering and Interconnection of Distributed Generation,

D.P.U. 11-11 (2011). Yates Rubber timely filed a return of service certifying that it complied with the notice requirements. The Department received comments from the following entities: City of Fall River; Fall River Industrial Park Association (“FRIPA”); Fall River Office of Economic Development (“FROED”); Massachusetts Electric Company

and Nantucket Electric Company, each d/b/a National Grid (“National Grid”); State Senator Michael Rodrigues of the First Bristol and Plymouth District (“Senator Rodrigues”); and State Representative Carole Fiola of the Sixth Bristol District (“Representative Fiola”).

Yates Rubber submitted reply comments on March 24, 2017. National Grid filed a Petition for Leave to Intervene in this matter on March 17, 2017 and the Department granted the Petition on March 31, 2017. Yates Rubber responded to one set of information requests issued by the Department.

II. YATES RUBBER’S PETITION²

A. Background

Yates Rubber seeks an exception to the net metering regulations, 220 CMR 18.00 (Petition at 2). Specifically, Yates Rubber seeks an exception to the 80-Percent Rule and a Department determination that its Solar Facility has a capacity of 972 kW AC, instead of 1,088 kW AC (Petition at 2).³ Yates Rubber is a family-owned and operated Massachusetts corporation that was founded in 1972 and manufactures molded rubber and plastic products in the Fall River Industrial Park (Petition at 2-3). On or around April 23, 2015, Yates Rubber

² Yates Rubber’s filing consists of a petition, including ten supporting exhibits (A through J). The Department, on its own motion, moves into the record Yates Rubber’s filing and the Petitioner’s responses to the Department’s information requests DPU 1-1 through DPU 1-8. The Department notes that the Petitioner’s responses to information requests include affidavits as required by 220 CMR 1.10(4). Based on Yates Rubber’s representations and its affidavit, the Department accepts that the material facts presented are complete and accurate.

³ In accordance with the 80-Percent Rule, a Solar Net Metering Facility with a generating capacity of 1,360 kW DC is considered to have a generating capacity of 1,088 kW AC. 220 CMR 18.07(4)(a). This capacity was derived by the following calculation: 1,360 kW DC * 80% = 1,088 kW AC.

submitted an interconnection application to National Grid for the Solar Facility, listing the facility's generating capacity as 966 kW AC and 1,259.84 kW DC (Petition at 3, 5). Also, on or around January 27, 2016, Yates Rubber executed an interconnection service agreement ("ISA") for 1,000 kW AC (Petition at 4).⁴ On January 28, 2016, the Petitioner submitted an application for a cap allocation ("ACA") with the System of Assurance for 1,000 kW AC and 1259.84 kW DC (Petition at 4; Exh. E). On May 20, 2016, space became available in National Grid's private net metering cap and the Petitioner paid a reservation fee of \$3,150 for its cap allocation of 1,000 kW AC (Yates Rubber Petition at 4). On June 6, 2016, Yates Rubber and Dynamic Energy Solutions, LLC ("Dynamic")⁵ executed a contract for a project size of 972 kW AC and 1,360 kW DC (Petition at 5). On December 1, 2016, Yates Rubber submitted information to the Administrator of the System of Assurance ("Administrator") that the Solar Facility received authorization to interconnect and uploaded documentation to the Administrator showing the as-built capacity of 972 kW AC and 1,360 kW DC (Petition at 6). However, in accordance with the 80-Percent Rule, the Solar Facility's as-built AC capacity for cap allocation purposes was actually 1,088 kW AC.⁶ On January 18, 2017, the Administrator notified Yates Rubber that the Solar Facility's DC capacity would need to be reduced because the Solar Facility's capacity exceeded its cap allocation and additional cap

⁴ The Petitioner argues that there was no reference made to the DC capacity (Petition at 4).

⁵ The Petitioner states that the Solar Facility was designed and installed by Dynamic (Petition at 3).

⁶ Refer to footnote 3 for the 1,088 kW AC calculation.

space was not available in National Grid's private cap (Petition at 6). On February 8, 2017, Yates Rubber shut down two inverters of its Solar Facility, removing 103.68 kW DC to be in compliance with its cap allocation (Comments at 6; Exh. DPU 1-5). The Petitioner seeks an exception to reactivate the two inverters totaling a capacity of 103.68 kW DC and to continue to net meter under its existing 1,000 kW AC cap allocation.

B. Legal Argument

The Petitioner argues that it did not try to circumvent the net metering regulations (Petition at 9). Yates Rubber contends that the 80-Percent Rule was not obvious in the guidance materials it reviewed and that it was not made aware of the 80-Percent Rule until January 18, 2017, when it was contacted by the Administrator to discuss compliance with its cap allocation (Petition at 5-6, 9). Yates Rubber maintains that the 80-Percent Rule is not mentioned in the guidance materials that it reviewed, including the Department's frequently asked questions and the System of Assurance's document titled "MassACA.org User Help" (Petition at 5, 9 and DPU 1-8).⁷ Yates Rubber argues that it relied on National Grid's capacity reference in the ISA and the Administrator's requirement to match that reference to the Petitioner's ACA (Petition at 9).

Yates Rubber argues that a balancing of the interests supports granting the Petition (Petition at 10). The Petitioner contends that reducing the Solar Facility's DC capacity would cause it severe economic harm, resulting in a loss of more than \$200,000 in as-built

⁷ The MassACA.org User Help document is available on the System of Assurance website at <http://www.massaca.org/pdf/UserHelp.pdf>.

construction costs (Petition at 8, 11). Furthermore, Yates Rubber argues that denying its Petition will reduce the amount of green energy generated to meet the Commonwealth's environmental goals by more than 100,000 kilowatt hours per year (Petition at 8).

The Petitioner argues that no other parties would be negatively impacted by the grant of the Petition (Petition at 11). Yates Rubber maintains that there would be no negative impact to the electric grid because National Grid is only concerned with the Solar Facility's actual AC capacity (Petition at 11). The Petitioner further maintains that no other party would be able to use the 100 kW AC of reserved cap allocation that would be left idle (Petition at 8, 10-11). Yates Rubber alleges that the System of Assurance would not be affected because no more actual energy would be net metered than the Solar Facility's reserved cap allocation of 1,000 kW AC (Petition at 8, 11).

Yates Rubber asserts that granting an exception to the 80-Percent Rule in this situation would not undermine regulatory certainty or permit manipulation of the net metering system (Petition at 12). The Petitioner contends that the Solar Facility was constructed in good faith to remain within its cap allocation (Petition at 12). Yates Rubber further argues that granting this exception would not cause the amount of energy net metered to exceed legislative restrictions (Petition at 12).

III. SUMMARY OF COMMENTS

A. Initial Comments

Several commenters support Yates Rubber's Petition and argue that Yates Rubber developed the Solar Facility in good faith (City of Fall River Comments at 1; FRIPA

Comments at 2; FROED Comments at 1; Representative Fiola Comments at 2; Senator Rodrigues Comments at 2). Several of these commenters argue that the 80-Percent Rule was not clearly communicated to the Petitioner and, as such, the Petitioner deserves an exception from the Department (FRIPA Comments at 1-2; Representative Fiola Comments at 2; Senator Rodrigues Comments at 2).

National Grid opposes the Petition (National Grid Comments at 2). National Grid asserts that it is the net metering applicant's responsibility to ensure compliance with the Massachusetts net metering laws (National Grid Comments at 2 citing Direct Energy Solar, D.P.U. 15-74, at 16 (2015)). National Grid contends that the Petitioner's change to the Solar Facility's capacity requires, by law, a recalculation of its cap allocation and to the remaining net metering capacity available under National Grid's private cap (National Grid Comments at 4). Furthermore, National Grid argues that the 80-Percent Rule and the net metering caps are established by the Legislature, not the Department, through the Commonwealth's net metering statute G.L. c. 164, §§ 138-139 (National Grid Comments at 2-4). Therefore, National Grid maintains that Yates Rubber is requesting relief that cannot be granted by the Department (National Grid Comments at 5).

B. Reply Comments

Yates Rubber argues that the Solar Facility was designed in good faith to comply with regulations and that the Administrator, the Department, and National Grid did not provide adequate guidance and communication regarding the 80-Percent Rule (Yates Rubber Reply Comments at 1, 3-4). Yates Rubber maintains that National Grid knew the Solar Facility's

capacity and could have informed the Petitioner about the cap allocation size at any point in time, but failed to do so (Yates Rubber Reply Comments at 4-5). Yates Rubber also contends that allowing the Solar Facility to net meter 972 kW AC under its existing cap allocation will not result in excess kW being able to net meter above the private cap nor contravene the statute (Yates Rubber Reply Comments at 5-6). Lastly, Yates Rubber represents that, except during the peak summer months, Yates Rubber will consume all the electricity produced by the Solar Facility (Yates Rubber Reply Comments at 6).

IV. ANALYSIS AND FINDINGS⁸

A. Standard of Review

As an initial matter, the Department puts on notice any petitioner seeking an exception from the Department's rules, regulations, Orders, or other directives governing net metering services that any such petition must include specific information consistent with the Department's previously issued guidance materials and Procedural Rules. Jonathan Bracken, D.P.U. 16-36, Hearing Officer Memorandum (March 30, 2016); See also 220 CMR 1.00;

⁸ The Department finds that the evidentiary record and comments and submissions in D.P.U. 17-34 provide an adequate basis to address the issues raised by Yates Rubber's filing without the need for an adjudicatory hearing. Where the Department finds that an adjudicatory hearing is not necessary, the petitioner still bears the burden of setting forth sufficient information with particularity for the Department to determine whether some recognized legal theory exists on which the requested relief could be granted.

Powerhead LLC, D.P.U. 16-157, Notice of Deficient Petition for an Exception from the Net Metering Regulations (September 27, 2016); Sun Edison LLC, D.P.U. 15-124 at 8 (2016).⁹

Pursuant to the Department's net metering regulations, "[t]he Department may, where appropriate, grant an exception from any provision of 220 CMR 18.00." 220 CMR 18.09(7). The Department often applies a good cause standard in considering exceptions or waivers from our regulations.¹⁰ We find it appropriate to apply the good cause standard when considering an exception from 220 CMR 18.00. In determining what constitutes good cause, the Department has stated:

Good cause is a relative term and it depends on the circumstances of an individual case. Good cause is determined in the context of any underlying statutory or regulatory requirements, and is based on a balancing of the public interest, the interest of the party seeking an exception and the interests of any other affected party.

Boston Edison Company, D.P.U. 90-335-A at 4 (1992).

⁹ In response to several petitions seeking exceptions from the net metering regulations that omitted important information required for the Department's review, the Department has issued multiple Notices of Deficient Petitions with information about how to remedy the deficiency and submit a supplemental filing. See e.g., Rayah Solar, Notice of Deficient Petition for an Exception from the Net Metering Regulations D.P.U. 17-01 (January 25, 2017).

¹⁰ For example: 220 CMR 1.01(4) (exception from Procedural Rules); 220 CMR 11.08 (exception from Rules Governing the Restructuring of the Electric Industry); 220 CMR 14.07 (exception from regulations governing The Unbundling of Services Related to the Provision of Natural Gas); 220 CMR 17.09 (exception from the regulations governing Long-Term Contracts for Renewable Energy); 220 CMR 19.06 (exception from the regulations governing Standards for Emergency Preparedness and Restoration of Service for Electric Distribution and Gas Companies); 220 CMR 20.18 (exception from the regulations governing Steam Distribution Companies).

When considering petitions for exceptions to the net metering regulations, the Department considers whether the requested exception would be contrary to the Departments' goals of promoting regulatory certainty and preventing manipulation of the net metering system. D.P.U. 11-11-C at 19, 22.

B. 80-Percent Rule - Statutory Requirement

A Department determination that the Solar Facility has a capacity of 972 kW AC, instead of 1,088 kW AC, as the Petitioner proposes, would violate the 80-Percent Rule. As noted above, the 80-Percent Rule is codified in statute and implemented through Department regulations and Orders. G.L. c. 164, § 139(f); 220 CMR 18.07(4)(a); Net Metering and Interconnection of Distributed Generation, D.P.U. 11-11-D, Appendix A at § 5(B) (2012); Net Metering Rulemaking, D.P.U. 11-10-A at 31 (2012).¹¹ Where the language of a statute is plain and unambiguous, it must be given its ordinary meaning. Commonwealth v. Brown, 431 Mass. 772, 775-776 (2000). In promulgating regulations, the Department defers first to the plain language of the statute. See Welch v. Sudbury Youth Soccer Assoc., Inc., 453 Mass. 352, 354-355 (2009), quoting Sullivan v. Brookline, 435 Mass. 353, 360 (2001); see also Chevron, U.S.A., Inc. v. Nat. Res. Def. Council, Inc., 467 U.S. 837, 842-43 (1984) (“If the intent of Congress is clear, that is the end of the matter . . . the agency, must give effect to the unambiguously expressed intent of Congress.”).

¹¹ “For the purpose of calculating the aggregate capacity, the capacity of a solar net metering facility shall be 80 per cent of the facility’s direct current rating at standard test conditions . . .” G.L. c. 164, § 139(f).

Here, the Department has found that the plain language of G.L. c. 164, § 139(f) is clear and unambiguous. Furthermore, since the 80-Percent Rule was established, the Legislature has made several amendments to the net metering rules, but it has not modified or discontinued the 80-Percent Rule.¹² Since the 80-Percent Rule is clearly defined in statute, the Department is limited in its authority to grant a good cause exception.¹³

1. ISA and ACA Capacity Must Match

Yates Rubber claims that it did not know of the existence of the 80-Percent Rule when it sought to increase the Solar Facility's generating capacity and therefore good cause exists for it to obtain an exception to the 80-Percent Rule (Petition at 9). The System of Assurance Rules state that an ACA must include supporting documentation establishing that the Host Customer has an executed ISA and that the generating capacity listed on a net metering facility's ISA must match the generating capacity submitted in its ACA. System of Assurance Rules, § 4(B)(i); see also User Help at 14, <http://www.massaca.org/pdf/UserHelp.pdf> (last visited August 29, 2017). While the System of Assurance provides prospective net metering Host Customers with an assurance that they

¹² 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 at §30; Chapter 209 of the Acts of 2012, An Act Relative to Competitively Priced Electricity, at §§ 27-28; Chapter 251 of the Acts of 2014, An Act Relative to Credit for Thermal Energy Generated with Renewable Fuels, at §§ 5-6; and Chapter 75 of the Acts of 2016, An Act Relative to Solar Energy, at §§ 5-6; Chapter 188 of the Acts of 2016, An Act to Promote Energy Diversity, at § 10.

¹³ The Petitioner does not claim that the statutory language of G.L. c. 164, § 139(f) is unclear or ambiguous in its request for a good cause exception.

will be eligible to receive net metering services when they interconnect their net metering facility, that assurance is contingent upon the Host Customer's providing accurate information on its ACA. The System of Assurance Rules clearly set forth permissible and impermissible changes to an ACA or cap allocation after submission. System of Assurance Rules, § 8(B)(v). An increase in the amount of capacity included in an ACA or cap allocation is a permissible change only when there is available capacity under the applicable cap. Id.

Since January 6, 2014 the System of Assurance further provides that:

“if your proposed facility increased in size beyond the complete Application for Cap Allocation, and you did not seek and receive approval for the increase from the Administrator of the System of Assurance of Net Metering Eligibility, and there is no capacity available under the Caps, you must do one of the following: (1) reduce the as-built capacity (KW DC-STC) to meet the capacity approved through the Application for Cap Allocation, or (2) elect to forgo Net Metering Services, and relinquish the Cap Allocation.”

Maintaining a Cap Allocation at 1, <http://www.massaca.org/pdf/CapAllocation.pdf> (last visited August 29, 2017).¹⁴

As such, the Department finds that Yates Rubber was put on notice that any requested change in the Solar Facility's generating capacity required approval from the Administrator which could have resulted in the need to reduce the Solar Facility's as-built capacity.

2. Available Guidance on the 80-Percent Rule

Yates Rubber claims that its “mistake of law” was due to the fact that it was not provided with sufficient access to guidance concerning the 80-Percent Rule (Petition at 5, 9).

¹⁴ The Administrator has made guidance documents available to the public via its website since 2013.

Reference to and guidance concerning the 80-Percent Rule is available to the public in the following locations:

- G.L. c. 164, § 139(f);¹⁵
- 220 CMR § 18.07(4)(a);¹⁶
- System of Assurance Rules, § 5(B);¹⁷
- System of Assurance Guidance Materials,¹⁸ specifically:
 - Maintaining a Cap Allocation at 1;¹⁹
 - System of Assurance of Net Metering Eligibility, D.P.U. 11-11-A, Appendix A (October 25, 2012).²⁰

In addition, the System of Assurance guidance materials make clear that the kW capacity of a net metering facility must be provided in DC, specifically, in its initial ACA, quarterly reports, and any request for a change in capacity.²¹ Furthermore, Department and

¹⁵ <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXXII/Chapter164/Section139> (last visited August 29, 2017).

¹⁶ <http://www.mass.gov/eea/docs/dpu/cmr/220cmr1800.pdf> (last visited August 29, 2017).

¹⁷ <http://web1.env.state.ma.us/DPU/Fileroom/dockets/bynumber> (insert docket number 11-11).

¹⁸ <http://www.massaca.org/help.asp>

¹⁹ <http://www.massaca.org/pdf/CapAllocation.pdf> (last visited August 29, 2017).

²⁰ http://www.massaca.org/pdf/DPU%20Order%20App%20A_102512.pdf (last visited August 29, 2017).

²¹ User Help at 25, <http://www.massaca.org/pdf/UserHelp.pdf> (last visited August 29, 2017); Reservation Period Guidance at 1,

System of Assurance staff are available via telephone and e-mail to answer questions from the public concerning net metering.²² Considering the abundance of resources available relating to the 80-Percent Rule, the Department does not find the Petitioner's assertion of a lack of available information to be a sufficient reason in this situation for a good cause exception to the net metering rules and regulations.

3. Customer's Responsibility to Understand the Law

Yates Rubber maintains that National Grid, the Department, and the Administrator did not inform the Petitioner of the 80-Percent Rule and, thus, good cause exists to grant a good cause exception (Yates Rubber Reply Comments at 1, 3-4). Customers seeking to net meter in the Commonwealth have a responsibility to ensure that they are fully compliant with all of the Department's rules, regulations, Orders, and other directives governing net metering services. D.P.U. 15-74, at 16.²³ Net metering applicants themselves, not the incumbent

<http://www.massaca.org/pdf/ReservationPeriod.pdf> (last visited August 29, 2017); Waiting List Guidance at 1, <http://www.massaca.org/pdf/WaitingList.pdf> (last visited August 29, 2017); Quarterly Report Guidance at 2, <http://www.massaca.org/pdf/QuarterlyReports.pdf> (last visited August 29, 2017).

²² Contact information for the Administrator and Department staff is posted on the System of Assurance website at <http://www.massaca.org/>.

²³ Specifically, prospective net metering customers should be familiar, at a minimum, with all of the following resources: (1) G.L. c. 164, § 139(f); (2) 220 CMR 18.07; (3) Net Metering, 11-11-D, Appendix A (2012); (4) other Department Orders including, but not limited to, D.P.U. 11-11-C, D.P.U. 11-11-E, D.P.U. 16-64-C, D.P.U. 16-64-D, and subsequent orders in D.P.U. 17-22; (5) the documents on the System of Assurance's "User Help and Guidance" webpage; and (6) each distribution company's net metering tariff. Furthermore, any individual or entity may contact the Department and request to be added to a net metering distribution list so that they will

distribution companies in the service territories in which they seek to interconnect, are responsible for familiarizing themselves with and ensuring that their proposed facilities comply with all applicable net metering rules and regulations. D.P.U. 15-74, at 16;BCC Solar Energy Advantage Inc., D.P.U. 14-149, at 10-11 (2015).

Yates Rubber and its solar developer failed to avail themselves of the rules and regulations associated with net metering before building the Solar Facility. As noted above, the 80-Percent Rule was established by the Legislature, codified in the Massachusetts General Laws, and implemented through the Department's regulations in 2008. St. 2008, c. 169; G.L. c. 164, § 139(f); 220 CMR 18.07(4)(a). In addition, reference to and guidance concerning the 80-Percent Rule is available to the public through Department Order and in several locations on the System of Assurance website. System of Assurance Rules, § 5(B); MassACA User Help & Guidance, <http://www.massaca.org/help.asp> (last visited August 29, 2017). The public has the opportunity to seek guidance from Department and System of Assurance staff via telephone and e-mail. Even though all of the above-referenced resources were available to the Petitioner, Yates Rubber and its developer relied solely upon National Grid, the Department's Frequently Asked Questions and Answers, and the System of Assurance's User Help document for an understanding of the net metering program (Petition at 5, 9). The Department notes that Petitioner does not explain why it relied solely on two select guidance materials for an understanding of the net metering program, instead of taking

automatically be notified when the Department opens any new dockets related to net metering.

advantage of the prevailing statutory and regulatory authorities and abundance of other guidance materials available to the general public.

Therefore, the Department finds that it is the Petitioner's responsibility to ensure compliance with the rules and regulations associated with net metering before investing in a net metering facility;²⁴ and it is not sufficient for the Petitioner to attempt to shift its burden by relying solely upon other parties and select guidance materials for an understanding of the net metering program and its associated rules. As such, the Department finds, in this instance, that mistake and ignorance of the law are not sufficient reasons for a good cause exception to the net metering rules and regulations.²⁵ Accordingly, the Petitioner cannot re-

²⁴ The Department recognizes that net metering projects are expensive to construct and often require complex financing arrangements. However, the Department has taken care to avoid granting exceptions that could potentially encourage developers to proceed with projects that violate the net metering rules and seek an exception after significant resources have been expended. See D.P.U. 15-124, at 15; D.P.U. 14-149, at 16.

²⁵ It has long been held in the Commonwealth that "ignorance of the law is no defense." Commonwealth v. Everson, 140 Mass. 292, 295 (1885); Franklin Office Park Realty Corp. v. Comm'r of Dep't of Env'tl. Prot., 466 Mass. 454, 464, 995 N.E.2d 785, 793 (2013) (citing Inhabitants of Sturbridge v. Winslow, 38 Mass. 83, 21 Pick. 83, 86 (1838) ("every man is supposed to know the law ... [and] he who does an act, which is a plain violation of law, must be presumed to have done it wilfully, and this maxim is necessary to prevent obvious evasions of the law, under a pretense of ignorance or innocent purpose"); Sides v. Thompson Coburn LLP, 2007 WL 4958787, (Essex Superior Court, November 19, 2007) ("ignorance of the law is not good cause); In Re: Michael W. Burnbaum, Board of Bar Overseers Office of the Bar Counsel, 2012 WL 6827351, at *4 (December 7, 2012) (citing long-standing doctrine).

activate the two inverters to generate 1,360 kW DC (which is equivalent to 1,088 kW AC) under its current 1,000 kW AC cap allocation.²⁶

V. CONCLUSION

Were the Department to grant an exception to the 80Percent Rule in this instance, it would directly contravene the plain language of G.L. c. 164, § 139(f), create regulatory uncertainty, and allow for manipulation of the regulatory system because the Petitioner seeks an exception from the net metering rules and regulations solely based upon mistake and ignorance of the law. As such, The Department finds that there is not good cause to grant an exception to the 80-Percent Rule.

²⁶ The Department notes that the Petitioner has the option to apply to be placed on the waiting list for an expanded cap allocation. The Petitioner also has the option to opt out of the net metering program and operate the Solar Facility as a qualifying facility with a generating capacity greater than its current cap allocation.

V. ORDER

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

ORDERED: That the petition of C.H. Yates Rubber Corp. for an exception to the net metering regulations, 220 CMR 18.00 as they relate to the 80-Percent Rule established in G.L. c. 164, § 139(f); 220 CMR 18.07(4)(a); Net Metering and Interconnection of Distributed Generation, D.P.U. 11-11-D, Appendix A at § 5(B) (2012), for the proposed solar net metering facility located at 222 Sykes Road, Fall River, Massachusetts be and hereby is DENIED.

By Order of the Department,

/s/
Angela M. O'Connor, Chairman

/s/
Robert E. Hayden, Commissioner

/s/
Cecile M. Fraser, 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.