



The Commonwealth of Massachusetts

DEPARTMENT OF PUBLIC UTILITIES

D.P.U. 16-64-C

July 15, 2016

Investigation of the Department of Public Utilities, on its own Motion, Commencing a Rulemaking pursuant to G.L. c. 164, §§ 138 and 139; G.L. c. 30A, § 2; 220 C.M.R. § 2.00 et seq.; and Executive Order 562, to Amend 220 C.M.R. § 18.00 et seq.

ORDER ADOPTING FINAL REGULATIONS

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I. INTRODUCTION AND PROCEDURAL HISTORY

On April 11, 2016, Governor Baker signed into law Chapter 75 of the Acts of 2016, An Act Relative to Solar Energy (“Act”). Among other things, the Act requires that: (1) the Department of Public Utilities (“Department”) amend its rules and regulations implementing certain changes to the net metering provisions of G.L. c. 164, §§ 138-139; and (2) the Department of Energy Resources (“DOER”) determine and notify the Department that the “aggregate nameplate capacity of solar net metering facilities qualified under” G.L. c. 25A, § 11F(g), is equal to or greater than 1,600 megawatts direct current (“1,600 MW Threshold”). St. 2016, c. 75, §§ 3-9, 12. Upon receipt of DOER’s determination, the Act directs the Department to certify the date provided by DOER and establish a date of notification (“Notification Date”) that will trigger the implementation of market net metering credits for all new Class I, II, and III solar net metering facilities (“Market Net Metering Credits”). St. 2016, c. 75, § 4. G.L. c. 164, §§ 138, 139(b½).

On May 11, 2016, pursuant to G.L. c. 30A, § 2 and 220 C.M.R. § 2.00 et seq., the Department commenced a rulemaking and adopted Emergency Regulations amending 220 C.M.R. § 18.00 et seq. (“Emergency Net Metering Regulations”), to implement certain changes to the net metering provisions of G.L. c. 164, §§ 138-139. St. 2016, c. 75, §§ 3-9, 12. Order Adopting Emergency Regulations, D.P.U. 16-64 (May 11, 2016). Pursuant to the requirements of G.L. c. 30A, § 2, the Department published notice of the Emergency Net Metering Regulations in The Boston Globe and the Boston Herald on May 25, 2016, and in the Massachusetts Register on June 3, 2016.

On May 19, 2016, the Department issued an Order clarifying its interpretation of the Emergency Net Metering Regulations regarding the definition of Market Net Metering Credit and the solar net metering facilities that will generate such credits after the Notification Date. Net Metering Rulemaking, D.P.U. 16-64-A (May 19, 2016). On July 7, 2016, the Department issued an Order stating that DOER notified the Department on June 30, 2016, that the 1,600 MW Threshold has been met and the Department certified DOER's determination ("Threshold Certification Date"). Net Metering Rulemaking, D.P.U. 16-64-B (July 7, 2016). The D.P.U. 16-64-B Order declares that DOER's letter and determination is not the trigger for the transition to Market Net Metering Credits. D.P.U. 16-64-B at 2-3. Once the final net metering regulations are effective, the Department will promptly issue a separate Order that will announce the Notification Date, which will trigger the transition to Market Net Metering Credits. G.L. c. 164, § 139(b½).

The Department sought written comments on the amendments to 220 C.M.R. § 18.00 et seq., with an initial comment submission deadline of June 15, 2016, and a reply comment submission deadline of June 20, 2016.¹ The Department held a public hearing on

¹ The Department received comments from the following entities: Acadia Center; Attorney General Maura Healey ("Attorney General"); Ameresco Inc. ("Ameresco"); Berkshire PhotoVoltaic Services ("BPVS"); BlueWave Capital, LLC ("BlueWave"); Boston Community Capital Solar Energy Advantage, Inc. ("BCC"); Brightergy, LLC ("Brightergy"); Burns & Levinson LLP ("Burns & Levinson"); The Cadmus Group, Inc. ("Cadmus"); Cape Light Compact ("CLC"); Coalition for Community Solar Access ("CCSA"); Fitchburg Gas and Electric Light Company d/b/a Unitil, Massachusetts Electric Company and Nantucket Electric Company, each d/b/a National Grid, NSTAR Electric Company and Western Massachusetts Electric Company, each d/b/a Eversource (jointly "Distribution Companies"); DOER; Energy Freedom Coalition of America, LLC ("EFCA"); FTE Solar LLC ("FTE Solar"); IGS Energy;

June 15, 2016.² The Department appreciates the thoughtful comments and participations of the interested parties.

Following receipt of public comments and with this Order, the Department herein adopts final regulations contained in 220 C.M.R. § 18.00 et seq., which will become effective July 29, 2016 (“Final Net Metering Regulations”)³. By this Order, and pursuant to G.L. c. 30A, § 2, and 220 C.M.R. § 2.00 et seq., the Department amends 220 C.M.R. § 18.00 et seq. to implement certain changes to the net metering provisions of G.L. c. 164, §§ 138-139. St. 2016, c. 75, §§ 3-9, 12.⁴

It is established policy of the Commonwealth to provide, forthwith, renewable and alternative energy for the immediate preservation of the public convenience. See e.g., An Act

Kearsarge Energy; Kleiman Energy & Environment, LLC (“Kleiman”); MassSolar; New England Clean Energy Council, Inc. (“NECEC”); Partners Healthcare System, Inc. (“Partners”); Pope Energy; Solar Energy Business Association of New England (“SEBANE”); Solar Energy Industries Association (“SEIA”); SolarFlair Energy, Inc. (“SolarFlair”); Sunrun, Inc. (“Sunrun”); Senator Benjamin Downing and Representative Thomas Golden, Jr. on behalf of the Commonwealth of Massachusetts’ Joint Committee on Telecommunications, Utilities, and Energy (“TUE”); Vote Solar; and Zero Point Development, Inc. (“Zero Point”). The Department has considered all of these comments in promulgating the Final Net Metering Regulations.

² On July 12, 2016, the Department received the late-filed comments of the Massachusetts Municipal Association (“MMA”). The MMA has not demonstrated good cause for the late filing, thus, the Department does not consider these comments in promulgating the Final Net Metering Regulations.

³ We refer to 220 C.M.R. § 18.00 et seq. as Net Metering Regulations.

⁴ Attached hereto as Appendix A are the Final Net Metering Regulations at 220 C.M.R. § 18.00 et seq., marked to show the changes incorporated herein as compared with the Emergency Net Metering Regulations. Attached hereto as Appendix B is a clean copy of the Final Net Metering Regulations.

Relative to Green Communities, St. 2008, c. 169 (“GCA”). Since the GCA’s enactment, net metering has become increasingly important to the development of a robust and stable market for renewable energy projects in the private and the public sectors.⁵ To maintain the stability of this market and to foster continued growth of net metering projects by the public and private sectors, the Department finds that implementation of the Final Net Metering Regulations, will allow for expansion of net metering services with direct benefits and value realized by electric distribution customers, consistent with the Legislature’s intent to transition to a stable and equitable solar energy market at a reasonable cost to ratepayers in the Commonwealth.

St. 2016, c. 75, Emergency Preamble. The Final Net Metering Regulations are designated as 220 C.M.R. § 18.00 et seq. and are effective on July 29, 2016, when published in the Massachusetts Register.⁶

⁵ Net metering has separate limits for public and private projects, which are respectively referred to as the public cap and the private cap. The public and private caps were established pursuant to Chapter 359 of the Acts of 2010, An Act Making Appropriations for the Fiscal Years 2010 and 2011 to Provide for Supplementing Certain Existing Appropriations and for Certain Other Activities and Projects, and most recently amended by St. 2016, c. 75, §§ 5-6. G.L. c. 164, § 139(f); See also Net Metering, D.P.U. 11-10-A at 2 (2012); Net Metering, D.P.U. 14-104-A at 2 (2015).

⁶ Legislative authority for the establishment of the Net Metering Regulations can be found at: “An Act Relative to Green Communities,” St. 2008, c. 169, § 78; “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,” St. 2010, c. 359, §§ 25 through 30; “An Act Relative to Competitively Priced Electricity in the Commonwealth,” St. 2012, c. 209, §§ 23 through 30.

II. ADOPTION OF FINAL NET METERING REGULATIONS

A. Introduction

The Department finds that adoption of the Final Net Metering Regulations is in the public interest and is necessary for the public convenience. To implement all changes to the net metering provisions of the Act, the Department promulgates these Final Net Metering Regulations.⁷ Below, we discuss the public comments submitted to the Department and how such comments influenced the promulgation of the Final Net Metering Regulations pursuant to G.L. c. 164, §§ 138-139.

B. Transition to Market Net Metering Credits

1. Introduction

The Department received many comments regarding the transition to Market Net Metering Credits. The Department views the transition to Market Net Metering Credits as a two-step process. First, the Department must consider the triggering actions that will determine whether a solar net metering facility generates net metering credits as calculated by Distribution Companies prior to the Act (“old regime”), or generates the Market Net Metering Credit (“new regime”). Second, the Department must consider the triggering date that will

⁷ Net metering is available in the Commonwealth pursuant to:
(1) 220 C.M.R. § 8.00 et seq., Sales of Electricity by Qualifying Facilities and On-site Generating Facilities to Distribution Companies, and Sales of Electricity by Distribution Companies to Qualifying Facilities and On-site Generating Facilities;
(2) 220 C.M.R. § 11.00 et seq., Rules Governing the Restructuring of the Electric Industry; and (3) 220 C.M.R. § 18.00 et seq. For additional procedural history on net metering regulations, see Net Metering Rulemaking, D.P.U. 08-75, at 1-2 (2009) and Net Metering Rulemaking, D.P.U. 11-10, at 1 (2011); Net Metering Rulemaking, D.P.U. 11-10, at 1 (2011).

determine when a solar net metering facility generates net metering credits under the old regime or the new regime. The Department received comments on: (1) the triggering actions that should be used to delineate which solar net metering facilities should generate Market Net Metering Credits; and (2) the timeline for the transition to Market Net Metering Credits.

2. Triggering Actions Summary of Comments

The majority of commenters argue that the Department should use the submission date of an application for a cap allocation (“ACA”) with the Massachusetts System of Assurance of Net Metering Eligibility (“System of Assurance”)⁸ as the triggering action to determine whether a solar net metering facility should generate net metering credits under the old or new regime (Acadia Center Comments at 3; Ameresco Comments at 3; Attorney General Comments at 5-6; BlueWave Comments at 1; BCC Comments at 10; Brightergy Comments at 2-4; Cadmus Comments at 2; CCSA Comments at 3; FTE Solar Comments at 1-2; Kearsarge Energy Comments May 27, 2016, at 1; Kleiman Comments at 1; NECEC Comments June 15, 2016, at 2-3; NECEC Reply Comments at 1; Partners Comments at 2; Pope Energy Comments at 1; SEIA Comments June 15, 2016 at 3; SEIA/NECEC Comments at 2; Sunrun Comments at 2; TUE Comments at 2; Zero-Point Reply Comments at 2). The commenters assert that all solar net metering facilities that submit ACAs prior to the Notification Date and that are subsequently deemed complete by the facilitator of the System of

⁸ The Massachusetts System of Assurance of Net Metering Eligibility was established by the Department pursuant to M.G.L. c. 164, § 139(g) and is set forth in Appendix A to Net Metering, D.P.U. 11-11-A (2012).

Assurance (“Administrator”) should generate net metering credits under the old regime, and all solar net metering facilities with ACAs submitted to the Administrator after the Notification Date should generate net metering credits under the new regime (Acadia Center Comments at 3; Ameresco Comments at 3; Attorney General Comments at 5-6; BlueWave Comments at 1; BCC Comments at 10; Brightergy Comments at 2-4; Cadmus Comments at 2; CCSA Comments at 3; FTE Solar Comments at 1-2; Kearsarge Energy Comments May 27, 2016, at 1; Kleiman Comments at 1; NECEC Comments June 15, 2016, at 2-3; Partners Comments at 2; Pope Energy Comments at 1; SEIA Comments June 15, 2016 at 3; SEIA/NECEC Comments at 2; Sunrun Comments at 2; TUE Comments at 2; Zero-Point Reply Comments at 2).⁹

The Distribution Companies argue that the Department should create a certification date to delineate between solar net metering facilities that will generate Market Net Metering Credits and those that will generate the full retail rate under the old regime (Distribution Companies Comments at 3). The Distribution Companies maintain that the certification date should be based on DOER’s determination that the 1,600 MW Threshold has been met, which would be consistent with the Legislature’s intent to reduce the costs associated with solar net metering (Distribution Companies Comments at 3). The Distribution Companies further contend that if the Department creates a certification date to determine which solar net

⁹ However, pursuant to the Act, cap exempt solar facilities and solar net metering facilities that are net metering facilities of a municipality or other governmental entity, as defined in 220 C.M.R. § 18.02, would still be eligible to generate Market Net Metering Credits at the full retail rate under the new regime, even if they submit an ACA after the Notification Date. St. 2016, c. 75, § 3.

metering facilities will generate Market Net Metering Credits in the future, the Department's Notification Date should establish when the new projects will begin to generate the Market Net Metering Credit (Distribution Companies Comments at 4). The Distribution Companies explain their need for sufficient time to reprogram information technology and billing systems to implement net metering credit changes and that it may be most efficient to coordinate the implementation of Market Net Metering Credits with reasonably contemporaneous rate changes (Distribution Companies Comments at 17).

DOER recommends using receipt of a cap allocation as the transition standard (DOER Comments May 18, 2016, at 2 and June 15, 2016, at 2). Vote Solar supports not using the interconnection standard to transition to Market Net Metering Credits and recommends using the System of Assurance to help make the determination (Vote Solar Comments at 2-3). IGS Energy explains that even though the Emergency Net Metering Regulations are subject to change with the issuance of final regulations, IGS Energy cautions the Department against adopting the interconnection standard in lieu of receipt of a cap allocation because such an interpretation would jeopardize investments, cause confusion, and undermine investor confidence in the market (IGS Energy Comments at 1).

NECEC recommends against using the certification date as the criterion to distinguish the net metering facilities that will generate Market Net Metering Credits and argues that the Distribution Companies' recommendation runs counter to the plain language and broad understanding of the intention of the Legislature in charging the Department with determining a Notification Date (NECEC Reply Comments at 2). NECEC argues that it would not be

possible for projects to transition smoothly since projects would only know when the 1,600 MW Threshold is met when DOER makes the announcement, without advance notice (NECEC Reply Comments at 2). NECEC also recommends against using the benchmark of receipt of a cap allocation because it would draw an arbitrary line between those applications that have been reviewed and granted a cap allocation and those that have not (NECEC Reply Comments at 2).

3. Triggering Actions Analysis and Findings

In its Emergency Net Metering Regulations, the Department defined the triggering action for transition to the Market Net Metering Credit as interconnection to a Distribution Company after the Notification Date. The Department received comments that uniformly indicated the interconnection standard was inappropriate to mark the transition to the Market Net Metering Credit. Moreover, the Department received multiple comments supporting a clarification of definitions to distinguish existing projects from new projects (Kearsarge Comments May 27, 2016, at 1; Distribution Companies at 2).

The Department is persuaded by commenters' broad support that use of the submission of an ACA as the action to trigger the transition to the Market Net Metering Credit is appropriate. The TUE indicated that the best public policy would be adoption of the submission of an ACA (TUE Letter, May 18, 2016). The Department agrees with Acadia Center, Ameresco, the Attorney General, BlueWave, BCC, Brightergy, Cadmus, CCSA, FTE Solar, Kearsarge, Kleiman, NECEC, Partners, Pope Energy, SEIA, Sunrun, the TUE Committee, and Zero-Point that the submission of an ACA action is an appropriate action to

use as the triggering action. The Department finds that submission of an ACA is entirely within the control of an applicant, which places the responsibility on the applicant to determine which net metering credit regime will apply to its solar net metering facility. Therefore, the Department states that the first criterion for determining eligibility for receiving net metering credits under the old regime is the submission of an ACA before the Notification Date.

The process to obtain a cap allocation involves multiple steps. Net Metering, D.P.U. 11-11-A, App. A, §§ 4-5 (2012). Applicants must submit an ACA electronically to the System of Assurance. System of Assurance, § 4(B). The Administrator then prioritizes ACAs on a first-come, first-served basis according to the ACA submission date and time, and reviews an application within 15 business days to determine whether it is complete. System of Assurance, § 5(C). If the Administrator determines that an ACA is complete, then the Administrator notifies the applicant of a grant of a cap allocation or a position on the waiting list. System of Assurance, § 5(C). If the Administrator determines that an ACA is incomplete, then the Administrator would notify the applicant of the deficiency and the opportunity for the applicant to resubmit the ACA, which would be deemed a new ACA. System of Assurance, § 5(C). Applicants then have 15 business days to submit a non-refundable reservation fee to the Administrator to secure a cap allocation. System of Assurance, § 5(E). The Department agrees with Cadmus that the Act does not require the creation of a new cap allocation application procedure and that current procedures are sufficient to determine eligibility for net metering credits (see Cadmus Comments at 3).

The Department finds it necessary to require two additional criteria for determining eligibility for net metering credits under the old regime. The second criterion involves determination of a complete ACA. As Cadmus notes in its comments, not all ACAs are complete when first submitted to the System of Assurance (Cadmus Comments at 4-5). The Department finds that ACAs submitted before the Notification Date also must be deemed complete by the Administrator of the System of Assurance to meet the second criterion. The Administrator's review of the ACA may occur after the Notification Date. If an ACA is submitted on or before the Notification Date and the Administrator subsequently deems it complete, the applicant will have met the second criterion for determining eligibility for net metering credits under the old regime. The burden to submit a complete ACA lies with the applicant. Thus, the transition to the Market Net Metering Credit depends on variables that are knowable and largely controllable for the applicant.

The third criterion involves receipt of a cap allocation. The Department acknowledges that the private cap in National Grid's service territory is filled and has a waiting list.¹⁰ The Attorney General argues that the Department must balance the costs of the net metering program to ratepayers with the interest of fairness to those net metering applicants that had solar net metering facilities in advanced stages of planning before passage of the Act (Attorney General Comments at 5). In adopting its Final Net Metering Regulations, the Department is providing solar facilities in an advanced stage of development, that planned and financed their projects under the assumption that they would be eligible for net metering credits under the old

¹⁰ See <https://app.massaca.org/allocationreport/report.aspx> (July 15, 2016).

regime, with the opportunity to generate such net metering credits. The Department understands that all solar facilities that are currently on the National Grid private cap waiting list submitted an ACA after the Act's passage. Therefore, the host customers of such facilities were on notice that they were not guaranteed to generate net metering credits under the old regime.¹¹ To facilitate a smooth transition to the new regime, host customers of solar net metering facilities that are in advanced stages of planning and obtained financing, have the opportunity to generate net metering credits under the old regime, if they meet the three criteria required by the Department. As further discussed below, the Department requires receipt of a cap allocation by January 8, 2017, as the third criterion to generate net metering credits under the old regime. The Department acknowledges that there are some solar facilities that are currently on the National Grid private cap waiting list that have submitted an ACA before the Notification Date, which has subsequently been deemed complete by the Administrator, but may not obtain a cap allocation by January 8, 2017. Host customers that find themselves in this situation were already put on notice by the passage of the Act that their solar facilities may not generate net metering credits under the old regime.

The Department finds that three criteria must be met to obtain net metering credits under the old regime: (1) submit an ACA before the Notification Date; (2) receive notification from the Administrator that the ACA is complete; and (3) obtain a cap allocation by January 8, 2017. The Department further finds that these three criteria are reasonable because

¹¹ 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 C.M.R. § 18.02.

they allow for the maximum amount of control by an applicant and will result in a smooth transition to a stable and equitable solar net metering market at a reasonable cost to ratepayers. Consequently, the Department's Final Net Metering Regulations include a new definition for a New Solar Net Metering Facility that is an entity "that submits an application for a Cap Allocation to the System of Assurance after the Notification Date for the entire capacity of the Solar Net Metering Facility." 220 C.M.R. § 18.02.

4. Triggering Date Summary of Comments

Commenters were divided on the timeline that should be adopted for the transition to Market Net Metering Credits.¹² Some commenters recommend that the transition begin as soon as practicable or a month after DOER determines that the Commonwealth has reached the 1,600 MW Threshold (Attorney General at 16; Brightergy Comments at 10; Distribution Companies Comments at 3-4; IGS Comments at 3; SEIA Comments June 15, 2016 at 5). IGS Energy and SEIA maintain that the Notification Date should be 30 days after the effective date of the Final Net Metering Regulations, assuming that the 1,600 MW Threshold has been met by that time (IGS Energy Comments at 3; SEIA Comments June 15, 2016 at 5). CCSA argues that a Notification Date that is no earlier than 30 days after July 29, 2016, the anticipated effective date of the Final Net Metering Regulations, would provide solar developers a short, but reasonable period of time to inform customers of any impacts of the proposed regulatory change (CCSA Comments at 5). The Distribution Companies recommend that the Department

¹² Many commenters' recommendations with regard to the triggering date were contingent upon their recommendations with regard to the associated triggering actions.

establish a certification date based on the 1,600 MW Threshold and that any solar net metering facility that did not have a cap allocation by that date would generate net metering credits under the new regime (Distribution Companies Comments at 3-4). The Distribution Companies recommend having a shorter transition to minimize the costs for electricity customers, which they contend was the Legislature's intent of decreasing the value of the net metering credits (Distribution Companies Comments at 3-4). NECEC supports as one recommended option a slightly longer transition period with a Notification Date of 60 days after the effective date of the Final Net Metering Regulations (NECEC Comments June 15, 2016 at 2). Acadia Center suggests having the Notification Date tied to DOER's determination under G.L. c. 164 § 139(b½) (Acadia Center Comments at 3).

Many commenters recommend using a Notification Date that aligns with DOER's current Solar Renewable Energy Certificate ("SREC") II program or DOER's promulgation of the program that will follow the SREC II program, with many comments specifically referencing January 8, 2017 (BlueWave Comments at 3; BCC Comments at 9; Kearsarge Energy Comments June 15, 2016, at 2; Kleiman Comments at 1; MassSolar Comments at 1; NECEC Comments June 15, 2016, at 2; Partners Comments at 2; Pope Energy Comments at 8; SEBANE Comments at 8; Sunrun Comments at 2-3; Vote Solar Comments at 3).¹³

¹³ DOER promulgated final regulations to extend the SREC II program, which are effective as of July 1, 2016. 225 C.M.R. § 14.00. DOER's final regulations allow for all projects that can demonstrate 50 percent of construction costs have been spent by January 8, 2017, to receive a four month extension to their construction deadline through May 8, 2017. 225 C.M.R. § 14.05(9)(s)(4)(a).

EFCA does not object to using January 1, 2017 as the Notification Date, provided that it is not synonymous with the certification date (EFCA Reply Comments at 6).

Two commenters recommend extending the January 8, 2017, date for a one-time four-month extension if using the interconnected standard (Brightergy Comments at 10-11, Pope Energy Comments at 8-9). Brightergy and Pope Energy maintain that there are severe labor and equipment supply constraints and that even though some projects may not be mechanically complete by January 8, 2017, these projects have already committed significant investments and are likely to be completed (Brightergy Comments at 10-11; Pope Energy Comments at 8-9).¹⁴ Brightergy suggests allowing projects that have expended at least 50 percent of their total construction costs by January 8, 2017, to obtain a four month extension to receive authorization to interconnect (Brightergy Comments at 10-11).

Several commenters suggest linking the Notification Date to a specific criterion. Brightergy argues that the Notification Date should be: (1) as soon as possible if the Department utilizes the submission date of an ACA to transition; or (2) no earlier than January 8, 2017, if the Department utilizes the interconnected standard (Brightergy Comments at 10). EFCA asserts that the Notification Date should allow a period of: (1) 90 days from DOER's 1,600 MW announcement to the Notification Date if the Department uses a submitted ACA as the standard; (2) 120 days from DOER's 1,600 MW announcement to the Notification Date if the Department uses receipt of a cap allocation as the standard; and (3) no less than six

¹⁴ Brightergy claims that it has made this recommendation in DOER's emergency rulemaking for SREC II (Brightergy Comments at 11).

months from DOER's 1,600 MW announcement to the Notification Date if the Department uses the interconnected standard (EFCA Comments at 8-9).

Vote Solar recommends that the Department specify a future date for the Notification Date (Vote Solar Comments at 3-4; Vote Solar Reply Comments at 2). Cadmus further argues that the Department should specify a notification time, such as 2:00 p.m., so that the Administrator of the System of Assurance is available to resolve any issues related to the anticipated heavier than normal application levels (Cadmus Comments at 2). Cadmus also suggests that in the eventuality that an applicant is not able to submit an ACA before the Notification Date solely due to a technical issue(s) arising from the System of Assurance and outside of the control of the applicant, the Administrator should have the discretion, upon finding that the applicant made a good faith effort, to establish the time-stamp of the application as that when the application submittal was attempted (Cadmus Comments at 2).

The Distribution Companies argue that the Department should issue a certification date after which all solar net metering facilities would generate Market Net Metering Credits (Distribution Companies Comments at 3, 16). However, the Distribution Companies argue that the Department should make the Notification Date January 1, 2017 in order to allow enough time for the Distribution Companies to: (1) file revised tariffs; and (2) reprogram the information technology and billing systems in order to prepare for and implement the rate changes (Distribution Companies Comments at 17). The Distribution Companies explain that the Notification Date also would be the date that the New Solar Net Metering Facilities would generate Market Net Metering Credits; until the billing system has been reprogrammed, the

Distribution Companies propose providing all solar net metering facilities with the full credit value on an interim basis (Distribution Companies Comments at 4-5, 16).

EFCA, CCSA, SEIA, and Vote Solar disagree with the Distribution Companies' comments regarding using the certification date as the date after which the Market Net Metering Credit would apply (EFCA Reply Comments at 1; CCSA and SEIA Reply Comments at 1-2; Vote Solar Reply Comments at 2-4). SEIA, CCSA, and Vote Solar argue that the statute clearly distinguishes between the certification date and the Notification Date to provide a more orderly transition to the new net metering compensation structure (CCSA and SEIA Reply Comments at 2; Vote Solar Reply Comments at 2-4).

The Distribution Companies argue that the Notification Date should not accommodate customers who "planned" to generate net metering credits at the full retail value and financed their projects accordingly because: (1) customers and solar developers should have been well aware of the contingencies associated in planning and financing projects with oversubscribed net metering caps and a rapidly filling solar carve-out program, and (2) until April 10, 2016, projects subject to the caps without a net metering cap allocation could not have reasonably planned to generate net metering credits under the old regime (Distribution Companies Reply Comments at 3).

5. Triggering Date Analysis and Findings

The Department agrees with Vote Solar that we should announce the Notification Date, set as a future date. D.P.U. 16-64-B at 3. The Final Net Metering Regulations retains the same definition of Notification Date as the Emergency Net Metering Regulations. Once the

Final Net Metering Regulations are effective on July 29, 2016, the Department will promptly issue a separate Order that will announce the Notification Date set as a future date. The Notification Date will be used to delineate a timeline for when the Distribution Companies will begin to calculate Market Net Metering Credits for solar net metering facilities. To provide the public with certainty regarding the transition timeline to the Market Net Metering Credit, to permit solar facilities that are in an advanced stage of development to attempt to obtain net metering credits under 220 C.M.R. §§ 18.04(1) and (5), and to provide the Distribution Companies with time to amend their information technology and billing systems to permit the proper calculation of net metering credits under 220 C.M.R. §§ 18.04(3), (4), and (6), it is important to establish the Notification Date before such a date is determined effective. To that end, the Department continues to seek to implement a smooth transition to a stable and equitable solar net metering market at a reasonable cost to ratepayers.

6. Net Metering Facilities with Pending Petitions for Exceptions to the Net Metering Rules and Regulations Summary of Comments

FTE Solar, SolarFlair, Vote Solar, and Zero-Point argue that solar facilities with a pending petition before the Department prior to the Notification Date, that is subsequently granted by the Department, should be eligible for net metering credits under the old regime (FTE Solar Comments at 2-3; SolarFlair Comments at 1; Vote Solar Comments at 3; Zero-Point Reply Comments at 2-3).¹⁵ These commenters argue that they should not be

¹⁵ An eligible net metering facility is defined as “the energy generating equipment associated with a single parcel of land, interconnected with the electric distribution system at a single point, behind a single meter” (herein referred to as the “Single Parcel Rule”). Net Metering and Interconnection of Distributed Generation, D.P.U. 11-11-C

penalized for their need of additional process (FTE Solar Comments at 2-3; SolarFlair Comments at 1; Vote Solar Comments at 3; Zero-Point Reply Comments at 3).

7. Net Metering Facilities with Pending Petitions for Exceptions to the Net Metering Rules and Regulations Analysis and Findings

The Department may, where appropriate, grant an exception from any provision of the Net Metering Regulations. 220 C.M.R. § 18.09(7). The Department considers petitions for exceptions to the net metering rules and regulations on a case-by-case basis. Net Metering and Interconnection of Distribution Generation, D.P.U. 11-11-E at 14 (2013).¹⁶ When considering these petitions, the Department must determine whether the requested exception would be contrary to the Department's stated goals of promoting regulatory certainty and preventing manipulation of the net metering system. Net Metering and Interconnection of Distributed Generation, D.P.U. 11-11-C at 19, 22 (2012).

at 23 (2012). Several of the pending petitions seek an exception to the Single Parcel Rule (see D.P.U. 16-23; D.P.U. 16-25; D.P.U. 16-36; D.P.U. 16-55; D.P.U. 16-70; D.P.U. 16-93; D.P.U. 16-117).

¹⁶ In D.P.U. 11-11-E, the Department articulated that Distribution Companies may grant exceptions to the Department's requirements for metering and interconnection points on the basis of optimal interconnection. D.P.U. 11-11-E at 15-16. Thus, customers with one net metering facility on a single parcel of land that seek relief from the single interconnection point and/or from the single meter requirements must address their requests to distribution companies. D.P.U. 11-11-E at 16 n.11. A net metering facility should only be granted an exception to the requirements for metering and interconnection points when there is a sound technical or engineering reason to do so, as determined by a Distribution Company. D.P.U. 11-11-E at 8.

As of the date of this Order, there are multiple pending petitions before the Department seeking exceptions to the various net metering rules and regulations.¹⁷ The Department will employ its discretion in each case to grant or deny the petition. If the Department grants the petition, it will also determine whether the solar facilities that are the subject of the petition are eligible to generate net metering credits under the old regime or the new regime. In its Emergency Net Metering Regulations, the Department did not address how pending petitions would be treated in terms of eligibility for net metering credits under the old regime. In its Final Net Metering Regulations, the Department added language in 220 C.M.R. § 18.04(1), that allows the Department to grant approval to solar facilities on a case-by-case basis to be eligible for net metering credits under the old regime, even if the facilities do not submit an ACA prior to the Notification Date. All pending petitions submitted to the Department as of the date of this Order may be eligible to generate net metering credits under the old regime, if the Department grants the petition and the petitioner meets the specific terms outlined in each Order. The Department added language in Section 18.04(1) of its Final Net Metering Regulations permitting a solar net metering facility “that receives approval by Department order” to generate net metering credits under the old regime. The Department intends for this language to apply only to current pending petitions seeking net metering exceptions. The Department does not intend to grant many exceptions, and will exercise its discretion on a case-by-case by granting exceptions to petitions filed after the date of this Order only if there is

¹⁷ The pending dockets include: D.P.U. 15-174; D.P.U. 15-182; D.P.U. 16-23; D.P.U. 16-25; D.P.U. 16-36; D.P.U. 16-55; D.P.U. 16-70; D.P.U. 16-93; D.P.U. 16-116; and D.P.U. 16-117.

a distinct exogenous event that occurs and was outside of a solar developer's or host customer's control during the transition between the old regime and the new regime.¹⁸

8. Net Metering Facilities That Seek to Expand Summary of Comments

a. Introduction

Commenters are divided on how net metering credits should be calculated for facilities that are interconnected prior to the Notification Date and seek to expand such facilities (i.e., submit an ACA to the System of Assurance) after the Notification Date.

b. Facilities That Expand After the Notification Date Should Generate Market Net Metering Credits For the Expanded Portion

The Attorney General and BPVS suggest as one of their recommendations that the Department should require the Distribution Companies to estimate the amount of credits that result from the expanded capacity, with the Market Net Metering Credit applicable to the expanded capacity (Attorney General Comments at 9-10; BPVS Comments at 1-2). SEBANE supports this recommendation if its other preferred recommendations are not adopted (SEBANE Reply Comments at 2). BPVS claims that it is wasteful to install multiple meters for a single facility when the only reason to have a second meter would be to apply a discounted rate of 40 percent (BPVS Comments at 1). BPVS avers that it has brought up this issue previously with DOER when determining the SREC programs (BPVS Comments at 1). However, BPVS maintains that its comments were ignored, and as a result, some of their

¹⁸ Exogenous events should be self-evident (e.g., a wide-scale unforeseeable technological issue).

facilities have three meters where one measures renewable energy credits (“RECs”), one measures SRECs, and the third measures SRECs II (BPVS Comments at 1).

The Attorney General, BlueWave, EFCA, IGS Energy, Kearsarge Energy, and SEIA argue that all new eligible capacity added after the Notification Date should generate Market Net Metering Credits, presumably by separately metering such portions, in order to meter the net metering facility expansion at a different rate than the original portion of the facility (Attorney General Comments at 9-10; BlueWave Comments at 1; EFCA Comments at 2; IGS Energy Comments at 2; Kearsarge Energy Comments June 15, 2016, at 1; SEIA Comments June 15, 2016 at 3). However, the Attorney General acknowledges that a second meter would violate the Single Parcel Rule, which would likely create an influx of petitions, and therefore recommends a simplified exception process in these limited circumstances (Attorney General Comments at 10).

c. Exceptions Where Facilities That Expand After the Notification Date Would Not Generate Market Net Metering Credits

EFCA and SEBANE recommend a limited number of exceptions where net metering facilities that expand after the Notification Date would be able to generate net metering credits under the old regime (EFCA Comments at 2; EFCA Reply Comments at 3; (SEBANE Comments at 3, SEBANE Reply Comments at 1-2). EFCA suggests that an incremental expansion of an existing solar net metering facility that does not exceed ten percent of the existing facility should be able to generate net metering credits for the entire facility under the old regime (EFCA Comments at 2; EFCA Reply Comments at 3). EFCA asserts that this idea is not uncommon in federal environmental regulation that generally permits some modifications

to be deemed as part of the original project, but some modifications to be deemed outside the scope, thereby warranting that they undergo a new process (EFCA Reply Comments at 3). SEBANE recommends allowing facilities that expand by no more than 50 percent of the original facilities' capacity to be eligible to generate net metering credits under the old regime, but facilities that expand more than 50 percent of the original capacity would generate net metering credits under the new regime for the expanded portion (SEBANE Reply Comments at 2). SEBANE also argues that a facility that expands after the Notification Date and that has already expended a significant investment should be entitled to net metering credits under the old regime (SEBANE Comments at 3, SEBANE Reply Comments at 1).

d. The Net Metering Credits of the Entire Facility Should Be Calculated in the Same Manner

The Distribution Companies claim that to the extent that a customer expands a net metering facility after the Notification Date and the customer's nameplate capacity exceeds the allowable limits of G.L. c. 164, § 139(i), then the entire facility should generate Market Net Metering Credits because: (1) there would otherwise be a regulatory "loophole;" and (2) the intent of the Act was to reduce the associated costs of solar net metering (Distribution Companies Comments at 7-8). Brightergy disagrees with the Distribution Companies and argues that facilities that expand after the Notification Date should generate net metering credits for the entire facility under the old regime (Brightergy Comments at 5).

The Distribution Companies raise an issue with allowing a limited increase in capacity (e.g., EFCA's suggested ten percent increase) because this allowance would:

(1) disproportionately benefit larger facilities that often bear a lower kilowatt ("kW")

installation cost; (2) result in an additional cost burden to all customers; and (3) be contrary to the Act requiring the transition to Market Net Metering Credits (Distribution Companies Reply Comments at 7-8). In response to the Distribution Companies' argument that most net metering facilities that seek to expand should generate Market Net Metering Credits for the entire facility, NECEC and SEBANE strongly recommend that facility expansions should not have an impact on the calculation of net metering credits for the portion of the facility that was entitled to generate net metering credits under the old regime (NECEC Reply Comments at 2; SEBANE Reply Comments at 2).

e. Net Metering Facilities Should Not Be Able to Expand

Vote Solar argues that if the net metering facility does not meet the criteria to generate net metering credits under the old regime, the Department should not allow the facility to expand because such an outcome would be inconsistent with the language of the Act (Vote Solar Comments at 6). Vote Solar recommends that facilities that want to expand after the Notification Date would need to proceed with a clearly distinct and separate facility that is separately metered on the same parcel of land (Vote Solar Comments at 6). Vote Solar acknowledges that installing two facilities on one parcel of land would violate the Single Parcel Rule, thereby requiring customers to file an exception with the Department (Vote Solar Comments at 6). Therefore, Vote Solar recommends that a host customer seeking to expand its net metering facility be exempt from the unit and facility rules established in D.P.U. 11-11-C (Vote Solar Comments at 6).

9. Net Metering Facilities That Seek to Expand Analysis and Findings

The Emergency Net Metering Regulations did not address the process for Distribution Companies to calculate net metering credits for facilities that generate credits under the old regime and seek to expand such facilities after the Notification Date. Following receipt of public comments, the Department adopts a hybrid approach.

The Act's emergency preamble discusses the Legislature's intent to transition to a stable and equitable solar market at a reasonable cost to ratepayers. St. 2016, c. 75. The Act permits existing solar net metering facilities to continue generating net metering credits as otherwise provided by G.L. c. 164, § 139, for 25 years from the date upon which the facility was authorized to interconnect to the electric distribution system. G.L. c. 164, § 139(k). These existing facilities were developed and financed prior to the Act. Presumably, the Legislature exempted existing solar net metering facilities from the Market Net Metering Credit in the interest of fairness. Facilities that have been planned and financed following passage of the Act, including expanded portions of existing facilities, have notice of the potential requirement to generate Market Net Metering Credits. The potential for manipulation of a regulatory loophole that allows for unfettered expansion of existing facilities under the old regime is great and would have an associated cost burden on ratepayers, which is contrary to the Legislature's intent (Distribution Companies Comments at 8). Therefore, the Department finds that the Legislature intended for the Market Net Metering Credit to be calculated for all solar generation capacity after the Notification Date.

However, if, as the Attorney General suggests, the Department required the newly expanded portion of a solar net metering facility to generate Market Net Metering Credits and the remaining portion to continue to generate net metering credits under 220 C.M.R. §§ 18.04(1) and 18.04(5), then the solar facility would require a second meter to adequately measure the excess generation from each portion of the facility or a Distribution Company to estimate or calculate an average of the two different net metering credit values (see Attorney General Comments at 9-10, Distribution Company Reply Comments at 9). BPVS points out that the transition between the various REC incentive programs resulted in a requirement for the installation of multiple meters on a single solar facility (BPVS Comments at 1). Requiring multiple meters would result in additional, unnecessary costs to be borne by ratepayers or host customers. Requiring Distribution Companies to estimate net metering credits generated by different portions of a facility but measured by a single meter would result in unnecessary complexity and possible billing inaccuracies (see Distribution Company Reply Comments at 9). Therefore, the Department finds that an expanded facility should generate the same net metering credit for the entire capacity instead of different net metering credit values for certain portions of each solar net metering facility.

The Department finds that an existing solar net metering facility that expands after the Notification Date will generate Market Net Metering Credits for the entire facility (i.e., for the initial capacity and the expanded capacity), if it is a Class II Net Metering Facility or a

Class III Net Metering Facility.¹⁹ For example, if a private host customer submitted an ACA for a 55 kW facility on May 11, 2016, and obtains a cap allocation on or before January 8, 2017, the facility would qualify as a Class I Net Metering Facility generating net metering credits under 220 C.M.R. § 18.04(1). If a host customer sought to expand this 55 kW facility at some time in 2018 by adding an additional ten kW of capacity, the generating capacity of the entire facility, including the ten kW expansion, would be 65 kW therefore making it a Class II Net Metering Facility. Once the expanded portion of the facility was electrified,²⁰ the entire facility would generate Market Net Metering Credits under 220 C.M.R. § 18.04(3).

The Department adopts a narrow exception. Existing solar net metering facilities that expand after the Notification Date will generate net metering credits under 220 C.M.R. § 18.04(1), if the entire facility, including the expanded generation capacity remains a Class I Net Metering Facility (i.e., less than or equal to 60 kW). For example, if a private host customer submitted an ACA for a ten kW facility on May 11, 2016, and obtains a cap allocation on or before January 8, 2017, the facility would qualify as a Class I Net Metering Facility generating net metering credits under 220 C.M.R. § 18.04(1). If the host customer sought to expand at some time in 2018 or beyond by adding an additional 20 kW of capacity, the generating capacity of the entire facility, including the 20 kW expansion, would

¹⁹ This requirement would apply to all net solar net metering facilities that are greater than 60.00 kW.

²⁰ For the purposes of net metering regulation, the Department considers electrified to mean that a facility is interconnected to the electric distribution system.

be 30 kW, maintaining its status as a Class I Net Metering Facility. Such a facility would continue generating net metering credits under the old regime, 220 C.M.R. § 18.04(1).²¹ The Department's narrow exception is to allow residential and small commercial and industrial customers the opportunity to expand their systems to serve additional load while avoiding negative impacts to the electric distribution system.

The Final Net Metering Regulations address the Department's findings by including in its definition of a New Solar Net Metering Facility that is an entity:

that submits an application for a Cap Allocation to the System of Assurance before the Notification Date, is subsequently deemed complete by the Administrator and receives a Cap Allocation before or on January 8, 2017, but that seeks to expand the generating capacity at a later date after the Notification Date such that the entire facility, including the expanded generating capacity, is a Class II Net Metering Facility or Class III Net Metering Facility.

220 C.M.R. § 18.02. Expanded facilities that are or become through expansion a Class II Net Metering Facility or Class III Net Metering Facility will generate net metering credits under the new regime. Expanded facilities that remain a Class I Net Metering Facility are considered

²¹ Similarly, if the expansion was increased from ten kW by 50.01 kW to a total of 60.01 kW, then the entire facility would no longer generate net metering credits under the old regime and instead would generate market net metering credits under the new regime. If any dynamic leads to an expansion resulting in more than 60 kW, then the entire facility would no longer generate net metering credits under the old regime and instead would generate Market Net Metering Credits under the new regime.

to be under the old regime and will continue generating net metering credits under 220 C.M.R. § 18.04(1).

C. Calculation of Net Metering Credits

1. Other Governmental Entity As Part of Market Net Metering Credit Definition Comments

Commenters who addressed the interpretation of the term “government entity” agreed that this term, as used in the Act, Section 3, should be interpreted to have the same meaning as “other governmental entity” as used in G.L. c. 164, § 139 (BlueWave Comments at 2; BCC Comments at 5; Brightergy Comments at 6; CLC Comments at 3; Distribution Companies Comments at 11; EFCA Comments at 2; IGS Energy Comments at 2; Kearsarge Energy Comments June 15, 2016, at 1; Pope Energy Comments at 3; SEBANE Comments at 4; SEIA Comments June 15, 2016 at 4). BCC further recommended that the Department expand its definition of “other governmental entity” to include public affordable housing that is not only public owned but publicly assisted (BCC Comments at 5-6).

2. Other Governmental Entity As Part of Market Net Metering Credit Definition Analysis and Findings

The Department agrees with commenters that the term “government entity” as used in the Act, Section 3, which states that “credits shall only be allocated to an account of a municipality or government entity,” should be interpreted to have the same meaning as “other governmental entity” as used in G.L. c. 164, § 139. Therefore, in its Final Net Metering Regulations, the Department’s definition of Market Net Metering Credit in Section 18.02 includes the language “other governmental entity.” The Department reviews applications for

classification as a municipality or other governmental entity for net metering on a case-by-case basis and will continue to do so. D.P.U. 11-11-E at 14 (2013). The Department is not persuaded to permanently expand its definition of “other governmental entity” but, we will review applications from entities providing public affordable housing that is not only publicly owned but publicly assisted on a case-by-case basis.

3. Use of Basic Service in Net Metering Credit Calculation Comments

Several commenters recommend replacing the term “default service” with “basic service” in defining the process for calculating net metering credits in 220 C.M.R. § 18.04, because it is the prevailing terminology in the Commonwealth (BlueWave Comments at 4; Brightergy Comments at 11-12; Distribution Companies Comments at 17; Pope Energy Comments at 9; SEBANE Comments at 8).

4. Use of Basic Service in Net Metering Credit Calculation Analysis and Findings

Basic service means default generation service provided on or after March 1, 2005, by an electric distribution company to a customer who is not receiving generation service from a competitive supplier. G.L. c. 164, § 1. 220 C.M.R. § 11.02. Procurement of Default Service Power Supply, D.T.E. 04-115-A at 6-7 (2005). Electric restructuring gives customers the choice to receive the supply component of their electric service from their electric distribution company or from a third-party competitive supplier.²² Investigation to Improve the Retail Electric Competitive Supply Market, D.P.U. 14-140, at 2 (2014).

²² The electric utility industry involves three general components: generation, transmission, and distribution. Northeast Energy Partners, LLC v. Mahar Regional

In its Emergency Net Metering Regulations, the Department retained the term “default service” throughout Section 18.04.²³ The Department agrees with commenters that in defining the process for calculating net metering credits in 220 C.M.R. § 18.04, it is appropriate to use the term “basic service” rather than the term “default service.” Therefore, in its Final Net Metering Regulations, the calculation of net metering credits includes the term “basic service” in place of “default service.”

5. Payment to Class III New Solar Net Metering Facilities Receiving Market Net Metering Credits Comments

Many commenters recommend that the Distribution Companies should be allowed to provide payment to Class III New Solar Net Metering Facilities receiving Market Net Metering Credits in lieu of a net metering credit on an electric bill (Attorney General Comments at 10-11; BlueWave Comments at 2; BCC Comments at 4; Brightergy Comments at 5; CLC Comments at 2-3; CCSA Comments at 4; Distribution Companies Comments at 10; EFCA

School Dist., 462 Mass. 687, 695-696 (2012) citing Shea v. Boston Edison Co., 431 Mass. 251, 253 (2000).

²³ The Electric Restructuring Act uses the term “default service” rather than “basic service.” St. 1997, c. 164, § 187. In Default Service Procurement, D.T.E. 04-115-A (2005), the Department determined that the term “default service” was confusing some customers because of its unintended suggestion of nonfeasance. D.T.E. 04-115-A at 4. The Department found that the term “basic service” appropriately defines the nature of the service being provided by distribution companies without being confusing, misleading, or anticompetitive. Thus, the Department directed distribution companies to refer to the service provided by it after March 1, 2005 as “basic service.” Subsequent legislation added the definition of basic service. See St. 2008, c. 169, § 57; G.L. c. 164, § 1. For the purposes of net metering rules and regulations, the Department finds it appropriate to adopt the use of the term basic service rather than default service.

Comments at 2; Pope Energy Comments at 2; SEBANE Comments at 4; SEIA Comments June 15, 2016, at 4). BCC, CCSA, EFCA, and SEIA further argue that the Distribution Companies should only be able to give a payment in lieu of a credit upon consent of the host customer because there are potential issues that could arise out of a cash payment, especially as it relates to low-income customers (BCC Comments at 4; CCSA Comments at 4; EFCA Comments at 2; SEIA Comments June 15, 2016, at 4).

The Distribution Companies disagree with the commenters that seek to be able to elect whether they can receive checks in lieu of net metering credits (Distribution Companies Reply Comments at 10). The Distribution Companies state that the language in G.L. c. 164, § 139(b)(1) unambiguously grants sole discretion to the Distribution Companies for making this election (Distribution Companies Reply Comments at 10).

6. Payment to Class III New Solar Net Metering Facilities Receiving Market Net Metering Credits Analysis and Findings

The Department agrees with commenters that the Distribution Companies should be allowed to provide payment to Class III New Solar Net Metering Facilities receiving Market Net Metering Credits in lieu of a net metering credit on an electric bill. Therefore, in its Final Net Metering Regulations, the Department added the language to explicitly allow for Distribution Companies to be able to offer payment in lieu of credit to existing Class III Net Metering Facilities and New Solar Net Metering Facilities that are Class III Net Metering Facilities. 220 C.M.R. § 18.05(4). If a net metering facility has a capacity of more than 1 MW making it a Class III facility, the Distribution Companies may decide to pay the host customer for the value of some or all of its net metering credits from excess generation, instead

of applying the credits to its account(s). Under G.L. c. 164, § 139(b)(1), this decision is left entirely up to the Distribution Companies, but the Distribution Companies must decide whether it will cash out and notify the host customer accordingly before the facility becomes operational. 220 C.M.R. § 18.05(4).

7. Calculating Market Net Metering Credits for Class III Solar Net Metering Facilities With Private Host Customer Analysis and Findings

The Department did not receive comments regarding the calculation of Market Net Metering Credits for Class III Net Metering Facilities. By statute, an existing Class III Net Metering Facility, that is a facility that is greater than or equal to 1 MW, generates a Class III Net Metering Credit that includes the excess kilowatt-hours (“kWh”) multiplied by the sum of three Distribution Company charges: (1) basic service kWh charge; (2) transmission kWh charge; and (3) transition kWh charge. St. 2008, c. 169, § 78. G.L. c. 164, § 138. The Class III Net Metering Credit excludes a fourth charge, the distribution kWh charge, which is different from Class I Net Metering Credits and Class II Net Metering Credits, which include the distribution charge. Under the Act, a New Solar Net Metering Facility, as defined in 220 C.M.R. § 18.02, will generate a Market Net Metering Credit which includes all four charges: (1) basic service kWh charge; (2) distribution kWh charge; (3) transmission kWh charge; and (4) transition kWh charge. St. 2016, c. 75, § 3. G.L. c. 164, § 138. Therefore, a Class III Net Metering Facility that is a New Solar Net Metering Facility will generate a net

metering credit that is 60 percent of the excess kWh multiplied by all four charges.

220 C.M.R. § 18.04(3).²⁴

8. Calculating Market Net Metering Credits for Neighborhood Net Metering Facilities Analysis and Findings

The Department did not receive comments regarding the calculation of Market Net Metering Credits for Neighborhood Net Metering Facilities. By statute, an existing Neighborhood Net Metering Facility, which is a facility that is a Class I, II, or III Net Metering Facility that is owned by, and serves the energy needs of, a group of ten or more residential customers that resides in a single neighborhood and is served by a single distribution company and located in such neighborhood, generates a net metering credit that includes the excess kWh multiplied by the sum of three Distribution Company charges: (1) basic service kWh charge; (2) transmission kWh charge; and (3) transition kWh charge. St. 2008, c. 169, § 78. G.L. c. 164, § 138. The Neighborhood Net Metering Credit excludes a fourth charge, the distribution kWh charge. Under the Act, a New Solar Net Metering Facility, as defined in 220 C.M.R. § 18.02, will generate a Market Net Metering Credit which includes all four charges: (1) basic service kWh charge; (2) distribution kWh charge; (3) transmission kWh charge; and (4) transition kWh charge. St. 2016, c. 75.

²⁴ The Department notes that these solar facilities will not experience a significant change in the value of their net metering credits generated under the new regime since the distribution charge being added under the new regime can be approximately 40 percent of the total bill. As such, the Department seeks to better understand the revenue this type of facility receives and its relative contributions compared to other public and private facilities during a future monthly minimum reliability contribution requirement proceeding.

G.L. c. 164, § 138. The Act is silent regarding the net metering credit calculation specific to Neighborhood Net Metering Facilities. The Department finds that the Legislature intended for additional generation capacity after the Notification Date to generate a lower value net metering credit, regardless of the type of capacity being generated. Therefore, a Neighborhood Net Metering Facility that is a New Solar Net Metering Facility will generate a net metering credit that is 60 percent of the excess kWh multiplied by the following three charges: (1) basic service kWh charge; (2) transmission kWh charge; and (3) transition kWh charge. 220 C.M.R. § 18.04(6).

D. Monthly Minimum Reliability Contribution

1. Timeline to Consider Proposals Comments

Acadia Center, the Attorney General, Brightergy, the Distribution Companies, NECEC assert that a monthly minimum reliability contribution (“MMRC”) cannot be approved until 1,600 MW of solar facilities are in operation or interconnected in the Commonwealth (Acadia Center Comments at 4, Attorney General Comments at 11-12, Brightergy Comments at 7, Distribution Comments at 13; NECEC Comments June 15, 2016, at 2). Acadia Center and the Distribution Companies maintain that 220 C.M.R. §18.10(2) should be revised to allow consideration of a MMRC proposal prior to reaching 1,600 MW (Acadia Center Comments at 4; Distribution Companies Comments at 13; Distribution Companies Reply Comments at 11-12). The Distribution Companies state that each Distribution Company should be able to determine when they deem it appropriate to file an MMRC proposal (Distribution Companies Comments at 12; Distribution Companies Reply Comments at 12). Burns & Levinson suggests

that the Department require MMRC proposals to be submitted to the Department no later than May 31, 2017, in order to allow for sufficient time for meaningful regulatory review prior to the December 31, 2018, statutory deadline (Burns & Levinson Comments at 2).

2. Timeline to Consider Proposals Analysis and Findings

The purpose of the MMRC is for all Distribution Company customers to contribute to the fixed costs that ensure the reliability, proper maintenance, and safety of the electric distribution system. G.L. c. 164, § 139(j). St. 2016, c. 75, § 9. The Act states that the Department “may only approve a proposal for a monthly minimum reliability contribution after the aggregate nameplate capacity of installed solar generating facilities in the [C]ommonwealth is equal to or greater than 1,600 megawatts.” G.L. c. 164, § 139(j) (“MMRC Date”). In a previous Order, the Department held that the MMRC Date is separate and distinct from the Threshold Certification Date of June 30, 2016, and therefore need not be set as the same date. Net Metering, D.P.U. 16-64-B at 4 (July 7, 2016). Compare G.L. c. 164, § 139(b½) (“aggregate nameplate capacity of solar net metering facilities qualified under subsection (g) of section 11F of chapter 25A, is equal to or greater than 1,600 megawatts direct current”), and G.L. c. 164, § 139(j) (“installed solar generating facilities in the [C]ommonwealth is equal to or greater than 1,600 megawatts”). The Department is still considering issues associated with establishing the MMRC Date, and rather than establishing the MMRC Date at this time, the Department intends to convene a Technical Conference on **Tuesday, August 23, 2016, at 10:00 a.m.** to further discuss the timeline for the MMRC and the implementation issues.

3. Process to Consider MMRC Comments

A number of commenters assert that the statute makes clear that the MMRC should be implemented in a distribution company base distribution rate proceeding or in a revenue neutral rate design filing, which are full adjudicatory proceedings (Acadia Comments at 4; Attorney General Comments at 14; BlueWave Comments at 2; BCC Comments at 6; Brightergy Comments at 9; Burns & Levinson Comments at 2; CCSA Comments at 5; IGS Energy Comments at 2; MassSolar Comments at 3; NECEC Comments June 15, 2016, at 1-2; Pope Energy Comments at 4; SEBANE Comments at 5; SEIA Comments at 4-5). Acadia Center recommends that an MMRC proposal should not be considered in a separate proceeding concurrently with a general rate case for Distribution Companies with a pending rate case because of administrative efficiency and policy alignment (Acadia Comments at 4). EFCA argues that proposals for an MMRC should be filed as part of a base rate case, not as a revenue neutral rate design filing, because the proposal should be considered holistically, in the context of other policies and rate designs (EFCA Comments at 5; EFCA Reply Comments at 4).

CLC supports considering the MMRC through a process where the Distribution Companies would submit proposals to the Department, which the Department would consider and in turn present a uniform straw proposal and formula for stakeholder consideration and comment (CLC Comments at 4). CLC adds that the Department would then undertake an adjudicated review for each Distribution Company proposal, as required by the Act (CLC Comments at 4). The Attorney General and Acadia Center argue that the MMRC should be

discussed in a large group of stakeholders so that a framework can be created and that each Distribution Company would subsequently file a specific proposal with the Department based on a model template, consistent with the Act (Attorney General Comments at 13-14; Acadia Center Reply Comments at 1). The Attorney General states that this process was used with the Net Metering and Solar Task Force, which was created pursuant to St. 2014, c. 251, § 7 (Attorney General Comments at 13-14). The Distribution Companies disagree with requiring a model MMRC and state that this would be inconsistent with the statute and Department precedent (Distribution Companies Reply Comments at 12).

The Distribution Companies argue that National Grid's proposal for an access fee in its pending base distribution rate proceeding is tantamount to an MMRC (Distribution Companies Comments at 12-13). Conversely, CCSA argues that no proposal to date in Massachusetts has met the MMRC requirements (CCSA Comments at 5). EFCA and Zero-Point agree with CCSA and maintain that the access fee is not tantamount to an MMRC because National Grid does not meet the requirements set forth in the Act, such as having at least one public hearing to provide input (EFCA Reply Comments at 4; Zero-Point Reply Comments at 4).

The Department received other comments on the MMRC discussing: (1) whether low-income ratepayers should be exempt (Acadia Center Comments at 5; BlueWave Comments at 3; EFCA Comments at 6; EFCA Reply Comments at 5; Kearsarge Energy Comments June 15, 2016, at 1; MassSolar Comments at 3-4; NECEC Comments June 15, 2016, at 2; Pope Energy Comments at 7; SEBANE Comments at 7; SEIA Comments June 15, 2016, at 7); (2) whether any class or sub-class of net metering facilities should be exempt (BlueWave

Comments at 3; BCC Solar Comments at 7; CLC Comments at 4-5; EFCA Comments at 6; Kearsarge Energy Comments June 15, 2016, at 1; MassSolar Comments at 4; NECEC Comments June 15, 2016, at 2; Pope Energy Comments at 7-8; SEBANE Comments at 7); (3) what should be included in the Distribution Companies' MMRC proposal (EFCA Comments at 3-5); (4) the need for a public and transparent process (Acadia Reply Comments at 1; Burns & Levinson Comments at 1-2; CLC Comments at 4); (5) the need for a cost and benefits or value of solar study associated with distributed resources in order to design an MMRC (BlueWave Comments at 2; BCC Solar Comments at 7; Kearsarge Energy Comments June 15, 2016, at 1; MassSolar Comments at 3; Pope Energy Comments at 4; SEBANE Comments at 5-6); and (6) that an MMRC should not be approved (Kearsarge Energy Comments June 15, 2016, at 1).

4. Process to Consider MMRC Analysis and Findings

As noted above, the Department finds that additional process is necessary to outline the next steps regarding the MMRC. While mindful of the thoughtful comments already provided in this docket, the Department will convene a Technical Conference on Tuesday, August 23, 2016, at 10:00 a.m. to further explore these implementation issues. An agenda will be forthcoming and will be circulated to the electronic service lists in D.P.U. 16-64.

5. Changes to MMRC Regulations Comments

Ameresco, SEIA, and Vote Solar argue that it is premature for the Department to amend the net metering regulations to include an MMRC (Ameresco Comments at 4; SEIA Comments June 15, 2016, at 4; Vote Solar Comments at 4). SEIA suggests ordering an update

of the appropriate regulations after soliciting public comment, carefully considering the proposal, and approving an MMRC in the context of a general rate filing or a revenue adjustment (SEIA Comments June 15, 2016, at 4-5). Vote Solar agrees with SEIA for two reasons: (1) the Distribution Companies are not required to propose an MMRC, so any presumption in regulations will be premature; and (2) not including the implementation details of the MMRC would parallel the same process that was previously used to handle the net metering recovery surcharge in the regulations (Vote Solar Comments at 4). The Distribution Companies argue that the Emergency Net Metering Regulations should be amended to substitute “approve” for “consider” in 220 C.M.R. § 18.10(2) (Distribution Companies Reply Comments at 13). EFCA disagrees that it would be appropriate to substitute “approve” for “consider” since this change would imply that an MMRC is needed or that the Department should unilaterally consider an MMRC for solar net metered facilities, whether or not a Distribution Company has sought such contribution (EFCA Reply Comments at 5).

6. Changes to MMRC Regulations Analysis and Findings

The Department finds that it is appropriate to streamline its regulations in Section 18.10 by removing unnecessary duplication of the language of the Act in Section 18.10 of its Final Net Metering Regulations. Therefore, the Department removed four of the five subsections of Section 18.10 in its Final Net Metering Regulations.

E. Net Metering Definitions

1. Net Metering Facility Definition Comments

Commenters were divided on whether the definitions of Class I Net Metering Facility, Class II Net Metering Facility, and Class III Net Metering Facility should include the phrase “is not a transmission facility.” BlueWave states that it does not have an opinion on this language but maintains that Class II Net Metering Facilities and Class III Net Metering Facilities are clearly not transmission facilities (BlueWave Comments at 2). Pope Energy agrees with BlueWave’s interpretation (Pope Energy Comments at 3). Brightergy maintains that this language could be omitted from the regulations because a generation facility interconnected to a distribution company would never fall within the definition of a transmission facility (Brightergy Comments at 6-7). Brightergy argues that the language is redundant or should be interpreted to be included within the definition (Brightergy Comments at 6-7).

The Distribution Companies disagree with the other commenters and argue that it is appropriate to include the phrase “is not a transmission facility” in the definition of a Class I Net Metering Facility because the phrase is contained in the statutory definition (Distribution Companies Comments at 12). The Distribution Companies recommend including the language in the definition of a Class II Net Metering Facility and Class III Net Metering Facility (Distribution Companies Comments at 12).

The Attorney General and Distribution Companies suggest removing the definitions for a Class I, Class II, and Class III Solar Net Metering Facility because they are redundant and

may create unintended consequences (Attorney General Comments at 6; Distribution Companies Comments at 22). The Attorney General further argues that these additional repetitive and confusing definitions contradict Executive Order 562, which states that agencies should ensure that their regulations are “clear, concise, and written in plain and readily understandable language” (Attorney General Comments at 6).

The Attorney General and Distribution Companies argue that by statute net metering facilities of a municipality or other governmental entity do not include Class I facilities and that this class should be removed from the definitions from Section 18.04(4) (Attorney General Comments at 7; Distribution Companies Comments at 21).

The Distribution Companies argue that the Department should remove the word “private” from the calculation of Market Net Metering Credits in 18.04(4) because the regulations should reflect that both public and private net metering facilities should transition to Market Net Metering Credits after 25 years (Distribution Companies Comments at 19-20). The Distribution Companies also recommend removing the added provision on a ten MW limit to its definition of Net Metering Facility (Distribution Companies Comments at 21). The Distribution Companies maintain that the inclusion of this provision within its definition of Class III Net Metering Facility appears to be inconsistent with G.L. c. 164, § 139(f) and 220 C.M.R. § 18.07(2) and (6) because it suggests that the ten MW limit applies to a single Class III Net Metering Facility rather than an aggregate amount of net metering generating capacity (Distribution Companies Comments at 21). The Distribution Companies also state that the provision was not included in the Class II Net Metering Facility definition therefore

suggesting that a municipality or other governmental entity would not be able to develop a ten MW facility made up of Class II units of up to one MW each (Distribution Companies Comments at 21). The Distribution Companies suggest defining “Class I Exempt Net Metering Facilities” (Distribution Companies Comments at 21).

Partners and Vote Solar recommend clarifying that a net metering credit is calculated based on the net excess generation at the end of the billing period, and not based on excess electricity (Partners Comments at 2, Vote Solar Comments at 5).

2. Net Metering Facility Definition Analysis and Findings

In its Emergency Net Metering Regulations, the Department retained the language “is not a transmission facility” and sought public comments on the issue. The Department finds that the language “is not a transmission facility” is unnecessary in the definition of Class I Net Metering Facility and removed the phrase from the definition in 220 C.M.R. § 18.02. The Department concurs with the Attorney General and Distribution Companies and removed the definitions for a Class I, Class II, and Class III Solar Net Metering Facility because they are redundant and may create unintended consequences. The Department agrees with Partners and Vote Solar that the net metering credit is calculated based on the net excess generation at the end of the billing period, and not based on excess electricity. Therefore, in its Final Net Metering Regulations, we added the term “net” in the net metering credit definition 220 C.M.R. § 18.02.

The Department disagrees with the Distribution Companies that the added provision on a ten MW limit to its definition of a Class III Net Metering Facility was improper (Distribution

Companies Comments at 21). However, for the sake of clarity, the Department added the same provision to the definition of a Class II Net Metering Facility since both a Class II Net Metering Facility and a Class III Net Metering Facility may be able to develop a ten MW facility made up of units of up to one MW each.

3. New Definitions

Based on the comments received and the need to fully define the terms to be relied upon in implementing the Act, the Department adds following definitions to Section 18:02:

- i. Administrator means the qualified entity selected by the Department to facilitate the System of Assurance.
- ii. Cap Allocation means an assurance from the Administrator that a host customer will receive Net Metering services upon a host customer's receipt from a Distribution Company of notice of authorization to interconnect.
- iii. Cap Exempt Facility means a Class I Net Metering Facility that is:
 - (a) a renewable energy generating facility; and
 - (b) has a nameplate capacity rating equal to or less than:
 - (i) Ten kilowatts on a single-phase circuit; or
 - (ii) 25 kilowatts on a three-phase circuit.
- iv. New Solar Net Metering Facility means:
 - (a) a Solar Net Metering Facility that submits an application for a Cap Allocation to the System of Assurance after the Notification Date for the entire capacity of the Solar Net Metering Facility; or
 - (b) a Solar Net Metering Facility that submits an application for a Cap Allocation to the System of Assurance before the Notification Date, but which is subsequently deemed complete by the Administrator and does not receive a Cap Allocation from the Administrator until after January 8, 2017; or
 - (c) a Solar Net Metering Facility that submits an application for a Cap Allocation to the System of Assurance before the Notification Date, is subsequently deemed complete by

the Administrator and receives a Cap Allocation before or on January 8, 2017, but that seeks to expand the generating capacity at a later date after the Notification Date such that the entire facility, including the expanded generating capacity, is a Class II Net Metering Facility or Class III Net Metering Facility.

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

The Department also received comments during this proceeding on issues associated with net metering credit calculations, increasing the exempt capacity, changes to the net metering recovery surcharge, the use of multiple technologies applying for credits behind a single meter, and issues with time varying rates. The Department finds these issues to be beyond the scope of this proceeding for the purpose of implementing the Final Net Metering Regulations.

III. RELEVANT ACTIONS AND NEXT STEPS

The Department will promptly issue an Order following the effective date of the Final Net Metering Regulations announcing the Notification Date and directing the Distribution Companies to file revised net metering tariffs. The Department will issue subsequent Orders to continue implementing the Act in this docket. Documents filed with the Department will be available for public inspection at its offices during business hours and through our website by looking up the docket by its number in the docket database at

<http://web1.env.state.ma.us/DPU/FileRoom/dockets/bynumber> (insert 16-64).

D.P.U. 16-64-C

Appendix A

Red-Lined Final Net Metering Regulations

Comparison to Emergency Net Metering Regulations

220 CMR 18.00: NET METERING

Section

18.01: Purpose and Scope

18.02: Definitions

18.03: Net Metering Services

18.04: Calculation of Net Metering Credits

18.05: Allocation of Net Metering Credits

18.06: Eligibility for Net Metering

18.07: Net Metering Capacity

18.08: Net Metering Reports

18.09: Miscellaneous

18.10: [Monthly](#) Minimum Reliability Contribution

18.01: Purpose and Scope

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

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

18.02: Definitions

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

[Administrator means the qualified entity selected by the Department to facilitate the System of Assurance.](#)

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

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Anaerobic Digestion Net Metering Facility means a facility that

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

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

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

Cap Exempt Facility means a Class I Net Metering Facility that is:

- (a) a renewable energy generating facility; and
- (b) has a nameplate capacity rating equal to or less than:
 - 1. ten kilowatts on a single-phase circuit; or
 - 2. 25 kilowatts on a three-phase circuit.

Class I Net Metering Facility means a plant or equipment that is used to produce, manufacture, or otherwise generate electricity ~~and that is not a transmission facility~~ and that has a design capacity of 60 kilowatts or less.

~~Class I Solar Net Metering Facility means a facility for the production of electrical energy that uses sunlight to generate electricity and that is not a transmission facility and with a design capacity of 60 kilowatts or less and is interconnected to a Distribution Company.~~

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

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~~Class II Solar Net Metering Facility means a facility for the production of electrical energy that uses sunlight to generate electricity with a generating capacity of more than 60 kilowatts but less than or equal to one megawatt and is interconnected to a Distribution Company; provided however, that a Solar Class II Net Metering Facility of a Municipality or Other Governmental Entity may have a generating capacity of more than 60 kilowatts but less than or equal to one megawatt per unit.~~

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

~~Class III Solar Net Metering Facility means a facility for the production of electrical energy that uses sunlight to generate electricity with a generating capacity of more than one megawatt but less than or equal to two megawatts and is interconnected to a Distribution Company; provided however, that a Solar Class III Net Metering Facility of a Municipality or Other Governmental Entity may have a generating capacity of more than one megawatt but less than or equal to two megawatts per unit and up to a total capacity of ten megawatts per Municipality or Other Governmental Entity.~~

Department means Department of Public Utilities.

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

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

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

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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.

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

Market Net Metering Credit means a Net Metering Credit provided by a Distribution Company for the [net](#) excess electricity generated and fed back to the Distribution Company by a [Class I Solar Net Metering Facility](#), [Class II Solar Net Metering Facility](#), ~~[Class III New Solar Net Metering Facility](#)~~ ~~or [Solar Neighborhood Net Metering Facility](#) that~~ [and other Solar Net Metering Facilities that are not Cap Exempt Facilities after 25 years from the date that each Solar Net Metering Facility was first authorized to interconnect to the electric distribution system as provided by M.G.L. c. 164, § 139\(k\) is interconnected to a Distribution Company after the Notification Date.](#)

Municipality means a city or town.

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

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

Neighborhood Net Metering Facility means a Class I [Net Metering Facility](#), [Class II Net Metering Facility](#), or [Class III Net Metering Facility](#) that:

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

Net Metering means the process of measuring the difference between electricity delivered by a Distribution Company and electricity generated by a Class I Net Metering Facility, Class II Net Metering Facility, ~~Class or Class~~ III Net Metering Facility and fed back to the Distribution Company.

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

Net Metering Facility of a Municipality or Other Governmental Entity means a Class II Net Metering Facility or Class III Net Metering Facility:

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

New Solar Net Metering Facility means:

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

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Notification Date means the date established by Department ~~o~~Order after which all ~~new Class I Solar Net Metering Facilities, Class II Solar Net Metering Facilities, and Class III New~~ Solar Net Metering Facilities shall generate Market Net Metering Credits only as determined pursuant to M.G.L. c. 164, § 139(b½).

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

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

~~Solar Neighborhood Net Metering Facility means a Class I, II, or III Solar Net Metering Facility that:~~

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

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

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

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

18.03: Net Metering Services

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

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

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

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

18.04: Calculation of Net Metering Credits

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

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

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- (b) Except that a ~~private~~ Class I Net Metering Facility that is a Solar Net Metering Facility, ~~or Class II Net Metering Facility that is a Solar Net Metering Facility~~, or Class III Net Metering Facility that is a Solar Net Metering Facility interconnected to a Distribution Company before the Notification Date shall receive Market Net Metering Credits as provided in 220 CMR 18.04(3) or (4) after 25 years from the date on which the Solar Net Metering Facility was first authorized to interconnect to the distribution system, ~~as provided in 220 CMR 18.04(3)~~.
- (2) For a Class I Net Metering Facility other than a Class I Net Metering Facility that is a Wind Net Metering Facility, Class I Net Metering Facility that is an Agricultural Net Metering Facility, Class I Net Metering Facility that is an Anaerobic Digestion Net Metering Facility, or a Class I Net Metering Facility that is a Solar Net Metering Facility, each Distribution Company shall calculate a Net Metering Credit for each Billing Period as the product of the:
- (a) 100% of the net excess kilowatt-hours, by time-of-use, if applicable; and
 - (b) average monthly clearing price at the ISO-NE.
- (3) For a Class I Net Metering Facility that is a New Solar Net Metering Facility, Class II Net Metering Facility that is a New Solar Net Metering Facility, or Class III Net Metering Facility that is a New Solar Net Metering Facility interconnected to a Distribution Company after the Notification Date, except for those Solar Net Metering Facilities governed by 220 CMR 18.04(4)a Solar Net Metering Facility of a Municipality or Other Governmental Entity, each Distribution Company shall calculate for each Billing Period a Market Net Metering Credit equal to: ~~(a)~~ 60% of the net excess kilowatt-hours, by time-of-use, if applicable, multiplied by the sum of the Distribution Company's:
- ~~1.~~ (a) ~~default basic~~ service kilowatt-hour charge in the ISO-NE load zone where the Host Customer is located;
 - ~~2.~~ (b) distribution kilowatt-hour charge;
 - ~~3.~~ (c) transmission kilowatt-hour charge; and
 - ~~4.~~ (d) transition kilowatt-hour charge, ~~except:~~
- ~~(b) A Class I Solar Net Metering Facility that has a nameplate rating equal to or less than ten kilowatts on a single phase circuit or 25 kilowatts on a three phase circuit shall receive a Net Metering Credit equal to 100% of the excess kilowatt hours, by time of use, if applicable, multiplied by the sum of the Distribution Company's:~~
- ~~1.~~ ~~default service kilowatt hour charge in the ISO-NE load zone where the Host Customer is located;~~
 - ~~2.~~ ~~distribution kilowatt hour charge;~~
 - ~~3.~~ ~~transmission kilowatt hour charge; and~~
 - ~~4.~~ ~~transition kilowatt hour charge.~~

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- (4) For a New Solar Net Metering Facility that is a Cap Exempt Facility, or Class I Solar Net Metering Facility, Class II New Solar Net Metering Facility, and Class III Solar Net Metering Facility of which a the Municipality or Other Governmental Entity is the Host Customer and only allocates Net Metering Credits to the accounts of other customers that could also qualify as a Municipality or Other Governmental Entity interconnected to a Distribution Company after the Notification Date, each Distribution Company shall calculate for each Billing Period a Market Net Metering Credit equal to 100% of the net excess kilowatt-hours, by time-of-use, if applicable, multiplied by the sum of the Distribution Company's:
- (a) ~~default basic~~ service kilowatt-hour charge in the ISO-NE load zone where the Host Customer is located;
 - (b) distribution kilowatt-hour charge;
 - (c) transmission kilowatt-hour charge; and
 - (d) transition kilowatt-hour charge, ~~provided that Credits shall only be allocated to an account of a municipality or government entity.~~

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

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

(b) Except that a private Solar Net Metering Facility that is a Neighborhood Net Metering Facility or a Class III Solar Net Metering Facility, other than a Solar Net Metering Facility of a Municipality or Other Governmental Entity, interconnected to a Distribution Company before the Notification Date shall receive Market Net Metering Credits, as provided in 220 CMR 18.04(6), after 25 years from the date on which it was first authorized to interconnect to the distribution system shall receive Market Net Metering Credits after 25 years from the date on which the Solar Net Metering Facility was authorized to interconnect to the distribution system, as described in 220 CMR 18.04(3); and

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

(6) For a New Solar Net Metering Facility that is a Neighborhood Net Metering Facility or a Class III Solar Net Metering Facility other than a Solar Net Metering Facility of a Municipality or Other Governmental Entity, interconnected to a Distribution Company after the Notification Date, each Distribution Company shall calculate for each Billing Period a Market Net Metering Credit equal to 60% of the net excess kilowatt-hours, by time-of-use, if applicable, multiplied by the sum of the Distribution Company's:

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

(7) The calculation of Net Metering Credits under 220 CMR 18.04 shall not include the demand side management and renewable energy kilowatt-hour charges set forth in M.G.L. c. 25, §§ 19 through 20.

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

18.05: Allocation of Net Metering Credits

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

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

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

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

18.06: Eligibility for Net Metering

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

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

18.07: Net Metering Capacity

(1) Each Distribution Company shall make Net Metering services available to Host Customers such that the aggregate capacity of:

- (a) Net Metering ~~F~~facilities that are not Net Metering Facilities of a Municipality or Other Governmental Entity does not exceed 7% of the Distribution Company's highest historical peak load; and
- (b) Net Metering Facilities of a Municipality or Other Governmental Entity does not exceed 8% of the Distribution Company's highest historical peak load.

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

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

(4) For the purpose of calculating the aggregate capacity of Class I [Net Metering Facilities](#), [Class II Net Metering Facilities](#), and [Class III Net Metering Facilities](#), [including a New Solar Net Metering Facility](#), the capacity of a:

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- (a) Solar Net Metering Facility shall be 80% of the facility's direct current rating at standard test conditions; and
- (b) Wind Net Metering Facility, and all other non-solar ~~net-Net M~~metering facilities, shall be the nameplate rating.

(5) A ~~Class I Net Metering Facility-Cap Exempt Facility~~ shall be exempt from the calculation of the aggregate capacity of Net Metering facilities, ~~that are not Net Metering facilities of a Municipality or Other Governmental Entity if:~~

- ~~(a) it is a Renewable Energy generating facility; and~~
- ~~(b) its nameplate rating is equal to or less than~~
 - ~~1. ten kilowatts on a single phase circuit; or~~
 - ~~1. 25 kilowatts on a three phase circuit.~~

(6) A Municipality or Other Governmental Entity that is a member of a Governmental Cooperative may transfer any or all of the net metering generating capacity associated with one or more Class II or III Net Metering Facilities, including a Class II Net Metering Facility that is a New Solar Net Metering Facility or a Class III Net Metering Facility that is a New Solar Net Metering Facility, to said Governmental Cooperative by providing written assent to the Governmental Cooperative and obtaining approval from the Department.

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

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

- ~~(a) equal to or less than ten kilowatts on a single phase circuit; or~~
- ~~(b) equal to or less than 25 kilowatts on a three phase circuit.~~

18.08: Net Metering Reports

- (1) Each Distribution Company shall track at least the following:
 - (a) the size, generation type, Net Metering class, fuel type, and the Municipality within which each Net Metering facility receives Net Metering services;
 - (b) the size, generation type, fuel type, and the Municipality within which each Net Metering facility has requested interconnection with the Distribution Company; and
 - (c) the aggregate capacity of Net Metering facilities that have interconnected, and that have requested interconnection, to the Distribution Company.
- (2) Each Distribution Company shall file with the Department information regarding the provision of Net Metering services to its Customers, in a format and according to a schedule as determined by the Department.
- (3) Each Distribution Company shall post data to a publicly accessible website tracking the aggregate capacity of eligible Net Metering facilities that have connected, and that have requested interconnection, relative to the Net Metering capacity set forth in 220 CMR 18.07. The data shall be updated on a monthly basis.

18.09: Miscellaneous

- (1) The provision of Net Metering services does not entitle Distribution Companies to ownership of, or title to, the renewable energy or environmental attributes, including renewable energy certificates, associated with any electricity produced by a Net Metering facility.
- (2) Each Distribution Company shall implement its responsibilities and obligations regarding the provision of Net Metering services to Customers and Host Customers pursuant to a Department-approved tariff.
- (3) Each Distribution Company shall implement its responsibilities and obligations regarding the provision of interconnection services to Customers and Host Customers pursuant to a Department-approved tariff.
- (4) Each Distribution Company shall be allowed to recover the aggregate of the distribution portion of any Net Metering Credits and the Distribution Company delivery charges displaced by a Class I [Net Metering Facility](#), [Class II Net Metering Facility](#), or [Class III Net Metering Facility, including a New Solar Net Metering Facility](#), through a uniform per kilowatt-hour surcharge or surcharges billed to all of its Customers on an annual basis.

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

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

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

18.10: Monthly Minimum Reliability Contribution

~~(1) Distribution Companies may submit to the Department proposals for a monthly minimum reliability contribution to be included on electric bills for distribution utility accounts that receive Net Metering Credits. — provided that the Department receives a proposal from such Distribution Company and subsequently approves the monthly minimum reliability contribution pursuant to M.G.L. c. 164, § 139(j).~~

~~(2) The Department may only consider a proposal for a monthly minimum reliability contribution after the aggregate nameplate capacity of installed solar generating facilities in the Commonwealth is equal to or greater than 1,600 megawatts direct current and determines that such contributions meet the requirements set forth in M.G.L. c. 164, § 139(j).~~

~~(3) The Department shall conduct a full adjudicatory proceeding when reviewing proposals for a monthly minimum reliability contribution, which shall include at least one public hearing and an opportunity for public comment.~~

~~(4) The Department may exempt or modify any monthly minimum reliability contribution for low income ratepayers. The Department may also exempt, for any period through the year 2020, any class or sub-class of Class I, Class II, or Class III Net Metering Facilities that were in service not later than December 31, 2016 from any minimum reliability contribution.~~

~~(5) Minimum monthly reliability contributions shall take effect on such date designated by Department Order, provided that the date designated by the Department shall be not later than December 31, 2018.~~

REGULATORY AUTHORITY

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

D.P.U. 16-64-C

Appendix B

Clean Final Net Metering Regulations

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220 CMR 18.00: NET METERING

Section

- 18.01: Purpose and Scope
- 18.02: Definitions
- 18.03: Net Metering Services
- 18.04: Calculation of Net Metering Credits
- 18.05: Allocation of Net Metering Credits
- 18.06: Eligibility for Net Metering
- 18.07: Net Metering Capacity
- 18.08: Net Metering Reports
- 18.09: Miscellaneous
- 18:10: Monthly Minimum Reliability Contribution

18.01: Purpose and Scope

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

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

18.02: Definitions

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

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

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

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Anaerobic Digestion Net Metering Facility means a facility that

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

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

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

Cap Exempt Facility means a Class I Net Metering Facility that is:

- (a) a renewable energy generating facility; and
- (b) has a nameplate capacity rating equal to or less than:
 - 1. ten kilowatts on a single-phase circuit; or
 - 2. 25 kilowatts on a three-phase circuit.

Class I Net Metering Facility means a plant or equipment that is used to produce, manufacture, or otherwise generate electricity and that has a design capacity of 60 kilowatts or less.

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

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

Department means Department of Public Utilities.

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

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

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

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.

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

Market Net Metering Credit means a Net Metering Credit provided by a Distribution Company for the net excess electricity generated and fed back to the Distribution Company by a New Solar Net Metering Facility and other Solar Net Metering Facilities that are not Cap Exempt Facilities after 25 years from the date that each Solar Net Metering Facility was first authorized to interconnect to the electric distribution system

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as provided by M.G.L. c. 164, § 139(k).

Municipality means a city or town.

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

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

Neighborhood Net Metering Facility means a Class I Net Metering Facility, Class II Net Metering Facility, or Class III Net Metering Facility that:

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

Net Metering means the process of measuring the difference between electricity delivered by a Distribution Company and electricity generated by a Class I Net Metering Facility, Class II Net Metering Facility, or Class III Net Metering Facility and fed back to the Distribution Company.

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

Net Metering Facility of a Municipality or Other Governmental Entity means a Class II Net Metering Facility or Class III Net Metering Facility:

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

New Solar Net Metering Facility means:

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

Notification Date means the date established by Department order after which all New Solar Net Metering Facilities shall generate Market Net Metering Credits only as determined pursuant to M.G.L. c. 164, § 139(b¹/₂).

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

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

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

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

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

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18.03: Net Metering Services

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

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

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

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

18.04: Calculation of Net Metering Credits

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

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

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3. transmission kilowatt-hour charge; and
 4. transition kilowatt-hour charge;
- (b) Except that a Class I Net Metering Facility that is a Solar Net Metering Facility, Class II Net Metering Facility that is a Solar Net Metering Facility, or a Class III Net Metering Facility that is a Solar Net Metering Facility shall receive Market Net Metering Credits as provided in 220 CMR 18.04(3) or (4) after 25 years from the date on which the Solar Net Metering Facility was first authorized to interconnect to the distribution system.
- (2) For a Class I Net Metering Facility other than a Class I Net Metering Facility that is a Wind Net Metering Facility, Class I Net Metering Facility that is an Agricultural Net Metering Facility, Class I Net Metering Facility that is an Anaerobic Digestion Net Metering Facility, or a Class I Net Metering Facility that is a Solar Net Metering Facility, each Distribution Company shall calculate a Net Metering Credit for each Billing Period as the product of the:
- (a) 100% of the net excess kilowatt-hours, by time-of-use, if applicable; and
 - (b) average monthly clearing price at the ISO-NE.
- (3) For a Class I Net Metering Facility that is a New Solar Net Metering Facility, Class II Net Metering Facility that is a New Solar Net Metering Facility, or Class III Net Metering Facility that is a New Solar Net Metering Facility, except for those Solar Net Metering Facilities governed by 220 CMR 18.04(4), each Distribution Company shall calculate for each Billing Period a Market Net Metering Credit equal to 60% of the net excess kilowatt-hours, by time-of-use, if applicable, multiplied by the sum of the Distribution Company's:
- (a) basic service kilowatt-hour charge in the ISO-NE load zone where the Host Customer is located;
 - (b) distribution kilowatt-hour charge;
 - (c) transmission kilowatt-hour charge; and
 - (d) transition kilowatt-hour charge.
- (4) For a New Solar Net Metering Facility that is a Cap Exempt Facility, or New Solar Net Metering Facility, of which the Municipality or Other Governmental Entity is the Host Customer and only allocates Net Metering Credits to the accounts of other customers that could also qualify as a Municipality or Other Governmental Entity, each Distribution Company shall calculate for each Billing Period a Market Net Metering Credit equal to 100% of the net excess kilowatt-hours, by time-of-use, if applicable, multiplied by the sum of the Distribution Company's:

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- (a) basic service kilowatt-hour charge in the ISO-NE load zone where the Host Customer is located;
 - (b) distribution kilowatt-hour charge;
 - (c) transmission kilowatt-hour charge; and
 - (d) transition kilowatt-hour charge.
- (5) For a Neighborhood Net Metering Facility or a Class III Net Metering Facility other than a Net Metering Facility of a Municipality or Other Governmental Entity and those Solar Net Metering Facilities governed by 220 CMR 18.04(3) or (6), each Distribution Company shall calculate for each Billing Period a Net Metering Credit equal to:
- (a) 100% of the net excess kilowatt-hours, by time-of-use, if applicable, multiplied by the sum of the Distribution Company charges applicable to the rate class under which the Host Customer takes service:
 - 1. basic service kilowatt-hour charge in the ISO-NE load zone where the Host Customer is located;
 - 2. transmission kilowatt-hour charge; and
 - 3. transition kilowatt-hour charge;
 - (b) Except that a Solar Net Metering Facility that is a Neighborhood Net Metering Facility shall receive Market Net Metering Credits, as provided in 220 CMR 18.04(6), after 25 years from the date on which it was first authorized to interconnect to the distribution system; and
 - (c) Except those Class III Net Metering Facilities governed by 220 CMR 18.04(1)(b).
- (6) For a New Solar Net Metering Facility that is a Neighborhood Net Metering Facility, each Distribution Company shall calculate for each Billing Period a Market Net Metering Credit equal to 60% of the net excess kilowatt-hours, by time-of-use, if applicable, multiplied by the sum of the Distribution Company's:
- (a) basic service kilowatt-hour charge in the ISO-NE load zone where the Host Customer is located;
 - (b) transmission kilowatt-hour charge; and
 - (c) transition kilowatt-hour charge.
- (7) The calculation of Net Metering Credits under 220 CMR 18.04 shall not include the demand side management and renewable energy kilowatt-hour charges set forth in M.G.L. c. 25, §§ 19 through 20.
- (8) For any Billing Period for which a Distribution Company calculates a Net Metering Credit for a Host Customer, the Distribution Company shall apply the Net Metering Credit to the Host Customer's account for the subsequent Billing Period, unless the Host Customer provides otherwise pursuant to 220 CMR 18.05.

18.05: Allocation of Net Metering Credits

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- (1) For a Class I Net Metering Facility, Class II Net Metering Facility, or Class III Net Metering Facility, including a New Solar Net Metering Facility, each Distribution Company shall allocate Net Metering Credits, as designated in writing by the Host Customer, to other Customers who are in the Distribution Company's service territory and are located in the same ISO-NE load zone. The manner and form of credit designation shall be as specified in the Distribution Company's Net Metering Tariff pursuant to 220 CMR 18.09(2). Notwithstanding the foregoing, if the Host Customer is a Municipality or Other Governmental Entity, including a Governmental Cooperative, it may direct its Distribution Company to allocate Net Metering Credits only to other Customers that are Municipalities or Other Governmental Entities.
- (2) For a Neighborhood Net Metering Facility, the Distribution Company may only allocate Net Metering Credits to residential or other Customers who reside in the same Neighborhood in which the Neighborhood Net Metering Facility is located and have an ownership interest in, or are served by, the Neighborhood Net Metering Facility.
- (3) The Distribution Company shall carry forward, from Billing Period to Billing Period, any remaining Net Metering Credit balance.
- (4) For a Class III Net Metering Facility, including a Class III Net Metering Facility that is a New Solar Net Metering Facility, a Distribution Company may elect to pay to the Host Customer Net Metering Credits rather than allocating such credits pursuant to 220 CMR 18.05(1).

18.06: Eligibility for Net Metering

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

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18.07: Net Metering Capacity

- (1) Each Distribution Company shall make Net Metering services available to Host Customers such that the aggregate capacity of:
 - (a) Net Metering facilities that are not Net Metering Facilities of a Municipality or Other Governmental Entity does not exceed 7% of the Distribution Company's highest historical peak load; and
 - (b) Net Metering Facilities of a Municipality or Other Governmental Entity does not exceed 8% of the Distribution Company's highest historical peak load.

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

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

- (4) For the purpose of calculating the aggregate capacity of Class I Net Metering Facilities, Class II Net Metering Facilities, and Class III Net Metering Facilities, including a New Solar Net Metering Facility, the capacity of a:
 - (a) Solar Net Metering Facility shall be 80% of the facility's direct current rating at standard test conditions; and
 - (b) Wind Net Metering Facility, and all other non-solar Net Metering facilities, shall be the nameplate rating.

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

- (6) A Municipality or Other Governmental Entity that is a member of a Governmental Cooperative may transfer any or all of the net metering generating capacity associated with one or more Class II or III Net Metering Facilities, including a Class II Net Metering Facility that is a New Solar Net Metering Facility or a Class III Net Metering Facility that is a New Solar Net Metering Facility, to said Governmental Cooperative by providing written assent to the Governmental Cooperative and obtaining approval from the Department.

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

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

18.08: Net Metering Reports

- (1) Each Distribution Company shall track at least the following:
 - (a) the size, generation type, Net Metering class, fuel type, and the Municipality within which each Net Metering facility receives Net Metering services;
 - (b) the size, generation type, fuel type, and the Municipality within which each Net Metering facility has requested interconnection with the Distribution Company; and
 - (c) the aggregate capacity of Net Metering facilities that have interconnected, and that have requested interconnection, to the Distribution Company.
- (2) Each Distribution Company shall file with the Department information regarding the provision of Net Metering services to its Customers, in a format and according to a schedule as determined by the Department.
- (3) Each Distribution Company shall post data to a publicly accessible website tracking the aggregate capacity of eligible Net Metering facilities that have connected, and that have requested interconnection, relative to the Net Metering capacity set forth in 220 CMR 18.07. The data shall be updated on a monthly basis.

18.09: Miscellaneous

- (1) The provision of Net Metering services does not entitle Distribution Companies to ownership of, or title to, the renewable energy or environmental attributes, including renewable energy certificates, associated with any electricity produced by a Net Metering facility.
- (2) Each Distribution Company shall implement its responsibilities and obligations regarding the provision of Net Metering services to Customers and Host Customers pursuant to a Department-approved tariff.

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- (3) Each Distribution Company shall implement its responsibilities and obligations regarding the provision of interconnection services to Customers and Host Customers pursuant to a Department-approved tariff.
- (4) Each Distribution Company shall be allowed to recover the aggregate of the distribution portion of any Net Metering Credits and the Distribution Company delivery charges displaced by a Class I Net Metering Facility, Class II Net Metering Facility, or Class III Net Metering Facility, including a New Solar Net Metering Facility, through a uniform per kilowatt-hour surcharge or surcharges billed to all of its Customers on an annual basis.
- (5) Nothing in 220 CMR 18.00 is intended in any way to limit eligibility for Net Metering services based upon a third-party ownership or financing agreement related to a Net Metering facility, where Net Metering services would otherwise be available.
- (6) Unless otherwise indicated, all capacity and energy measurements referenced in 220 CMR 18.00 refer to alternating current.
- (7) The Department may, where appropriate, grant an exception from any provision of 220 CMR 18.00.

18.10: Monthly Minimum Reliability Contribution

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

REGULATORY AUTHORITY

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