

The Commonwealth of Massachusetts

DEPARTMENT OF PUBLIC UTILITIES

D.P.U. 21-48

May 24, 2024

Petition of the Town of Amesbury for approval by the Department of Public Utilities of a municipal aggregation plan pursuant to G.L. c. 164, § 134.

D.P.U. 22-27

Petition of the Town of Upton for approval by the Department of Public Utilities of a municipal aggregation plan pursuant to G.L. c. 164, § 134.

D.P.U. 22-28

Petition of the Town of Windsor for approval by the Department of Public Utilities of a municipal aggregation plan pursuant to G.L. c. 164, § 134.

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CITY OF AMESBURY, AND TOWNS OF
UPTON AND WINDSOR
Petitioners

TABLE OF CONTENTS

- I. INTRODUCTION AND PROCEDURAL HISTORY 1
- II. SUMMARY OF PROPOSED PLANS 2
- III. STANDARD OF REVIEW 7
- IV. ANALYSIS AND FINDINGS 10
 - A. Consistency with G.L. c. 164, § 134 10
 - 1. Procedural Requirements 10
 - 2. Substantive Requirements 15
 - a. Introduction 15
 - b. Universal Access 16
 - c. Reliability 17
 - d. Equitable Treatment of All Customer Classes 17
 - e. Customer Education and Notices 19
 - i. Introduction 19
 - ii. Education Strategies and Ongoing Education 19
 - iii. Opt-Out Documents and Customer Notification Requirements 23
 - iv. Conclusion 29
 - f. Identification of Program Charges and Basic Service Rate 30
 - g. Savings Disclaimers 32
 - h. Other Issues 33
 - i. Plan Conflict with Supply Agreement 33
 - ii. Reporting of Program Supply Procurement Efforts 33
 - 3. Conclusion 34
 - B. Waiver from Department Regulations Regarding Information Disclosure 34
- V. OTHER REQUIREMENTS 35
- VI. CONCLUSION 36
- VII. ORDER 36

I. INTRODUCTION AND PROCEDURAL HISTORY

On April 23, 2021, the City of Amesbury and on March 24, 2022, the Towns of Upton and Windsor (“Municipality” or together, “Municipalities”), through their agent Colonial Power Group, Inc. (“Colonial”), each filed with the Department of Public Utilities (“Department”) a petition for approval of a municipal aggregation plan (“Plan” or together “Plans”) pursuant to G.L. c. 164, § 134.¹ Under the proposed Plans, each of the Municipalities will establish a municipal aggregation program (“Program” or together, “Programs”) to aggregate the electric load of eligible customers located within its municipal borders to procure electric supply for Program participants. Eligible customers will be automatically enrolled in the Program unless they choose to opt out. G.L. c. 164, § 134(a).

On June 8, 2021, for the City of Amesbury, and October 26, 2022, for the Towns of Upton and Windsor, the Department issued a Notice of Public Hearing and Request for Comments in each docket. The Department conducted public hearings on July 20, 2021, for the City of Amesbury and on November 22, 2022, for the Towns of Upton and Windsor. On April 12, 2024, each Municipality submitted a revised filing.² Each revised filing

¹ The Department docketed these matters as follows: (1) City of Amesbury, D.P.U. 21-48; (2) Town of Upton, D.P.U. 22-27; and (3) Town of Windsor, D.P.U. 22-28. These cases are not consolidated and remain separate proceedings.

² On March 7, 2024, the hearing officer assigned to these dockets issued a memorandum in all pending municipal aggregation dockets with Colonial as the consultant outlining the deficiencies in the various filings that precluded approval of said Plans. In response to the memorandum, each Municipality complied with the directive to provide updated Plans intended to cure the enumerated deficiencies.

includes: (1) a Plan; (2) an education and outreach plan (“Education Plan”); (3) notification documents, including opt-out documents (“Opt-Out Notice” and collectively “Notification Documents”); (4) an exemplar electric service agreement (“ESA”); and (5) language access document translation certificate.

II. SUMMARY OF PROPOSED PLANS

Under the Plans, each Municipality will provide residents and businesses within its municipal borders an optional electric supply service through the competitive electric supply market. As discussed below, the electric supply options offered by each Municipality may include more renewable energy content than required by the Massachusetts Renewable Portfolio Standard (“RPS”).³ Each Municipality will use the services of a municipal aggregation consultant to assist it in implementing and managing its Program (Exhs. Plans at § 2.2.4).⁴ The Mayor and City Council of Amesbury and the Select Boards and Town Managers for the Towns of Upton and Windsor will be responsible for making decisions and overseeing the administration of their respective Programs, with the assistance of an aggregation consultant (Exhs. Plans at §§ 2.2.1, 2.2.4). In addition, the Mayor of Amesbury and the Select Boards and Town Managers of Upton and Windsor will be authorized to enter

³ The RPS requires retail electricity suppliers (both regulated distribution utilities and competitive suppliers) to obtain a percentage of the electricity they serve to their customers from qualifying renewable energy facilities. G.L. c. 25A § 11F(a); 225 CMR 14.00.

⁴ Each Municipality has retained Colonial as its municipal aggregation consultant for an initial term (Exhs. Plans at § IV.a.).

into a contract for electric supply for each Program, under parameters specified by these entities (Exhs. Plans at § 3).

Under the Plans, each Municipality will issue a request for proposals to solicit bids from competitive suppliers for firm, all-requirements electric power supply (Exhs. Plans at § 2). Prices, as well as certain terms and conditions, for electric supply may vary among customer classes (Exhs. Plans at § 7.1). The Program classes will be the same as the customer classes of the relevant electric distribution company (Exhs. Plans at § 7.1).⁵

Each Municipality intends to offer a standard product and optional products (Exhs. Plans at § 3). The Towns of Upton and Windsor's standard (opt-out) products will provide the same level of RECs as basic service offered by the municipality's local electric distribution company (D.P.U. 22-27 and D.P.U. 22-28, Exhs. Plans at 3). The goal of these products is to provide a standard product that is less expensive than the optional products (D.P.U. 22-27 and D.P.U. 22-28, Exhs. Plans at § 3). The City of Amesbury's standard product will provide between five and 50 percent more RECs than the minimum RPS requirements, with a goal of offering an attractive price while still incorporating additional RECs (D.P.U. 21-48, Exh. Plan at § 3).

The Towns of Upton and Windsor intend to offer two optional (opt-in) products, "X% Renewable Product," which will have between five and 50 percent additional RECs above

⁵ The City of Amesbury and the Town of Upton's electric distribution company is Massachusetts Electric Company, d/b/a National Grid ("National Grid"), and the Town of Windsor's electric distribution company is NSTAR Electric Company, d/b/a Eversource Energy ("Eversource") (Exhs. Plans at § 2.2.1).

state minimum requirements, and “Y% Renewable Product” which will include additional RECs in an amount higher than “X% Renewable Product,” (D.P.U. 22-27 and D.P.U. 22-28, Exhs. Plans at § 3). The goal of “X% Renewable Product” is to offer a product with additional RECs but still at an affordable price, while the goal of “Y% Renewable Product” is to offer a product that is attractive to participating consumers who place a high priority on a product’s renewable energy content (D.P.U. 22-27 and D.P.U. 22-28, Exhs. Plans at § 3). The City of Amesbury intends to offer an optional (opt-in) product that will provide the same level of Class I RECs as basic service offered by the local electric distribution company (i.e., no additional RECs above the RPS requirements) with a goal of offering a product less expensive than its standard product, as well as a second optional product with more voluntary RECs than its standard product, with a goal of offering a product that is attractive to participating consumers who place a high priority on a product’s renewable energy content (D.P.U. 21-48, Exh. Plan at § 3). The City of Amesbury’s Mayor, with input from City stakeholders and Colonial, will make final decisions on Product offerings, including the amount of RECs for those products with additional RECs (D.P.U. 21-48, Exh. Plan at § 3). The Towns of Upton and Windsor’s Town Managers will make final decisions about product offerings, including the level of RECs for those products with additional RECs, with input from Town stakeholders and Colonial (D.P.U. 22-27, D.P.U. 22-28, Exhs. Plans at § 3). Finally, for each Product with additional RECs, each Municipality may include Class I Recs, other types of RECs or a combination of both (Exhs. Plans at § 3).

After executing a contract for electric supply, each Municipality will notify eligible customers⁶ about Program initiation, automatic enrollment, and customers' ability to opt out (Exhs. Plans at § 5.1.4). The notification process will include newspaper notices, public service announcements, and posting on the Municipalities' websites and social media accounts (Exhs. Plans at § 5.1.4).

Each Municipality's notification process will also include a Department-approved Opt-Out Notice with a reply card to be sent to eligible customers on each Municipality's behalf by the competitive supplier (Exhs. Education Plans at § 1.2.1). Each Municipality will require the competitive supplier to include a return-addressed envelope so that customers who sign the reply card can protect their signature from exposure (Exhs. Education Plans at § 1.2.1). The Plans provide that, after enrollment, participants will have the right to opt out of the Program (i.e., the standard or optional products) at any time and return to basic service at no charge (Exhs. Plans at § 5.1.6; Education Plans at § 1.2.1).

⁶ Pursuant to Municipal Aggregation Programs, D.P.U. 16-10, at 19 (2017), the following are eligible customers: (1) basic service customers; (2) basic service customers who have informed the electric distribution company they do not want their contact information shared with competitive suppliers for marketing purposes; and (3) customers receiving basic service plus an optional "green power" product that allows concurrent enrollment in either basic service or competitive supply. The following are not eligible customers: (1) basic service customers who have asked the electric distribution company to not enroll them in competitive supply; (2) basic service customers enrolled in a "green power" product program that prohibits switching to a competitive supplier; and (3) customers receiving competitive supply. D.P.U. 16-10, at 19.

Program participants in each Municipality will receive one bill from their electric distribution company, which will include each Program's supply charge (the standard or optional product price) and the electric distribution company's delivery charge (Exhs. Plans at § 7). Each Municipality proposes to include a fixed \$0.001 per kilowatt-hour ("kWh") administrative adder in the supply charge payable to the aggregation consultant for the development and implementation of the Program, and the provision of ongoing services (Exhs. Plans at § 7.2). Each Municipality states that it may also establish an energy manager position (or assign additional municipal staff) to support the operation of their Programs, and fund this by charging an operational adder of up to \$0.001 per kWh (Exhs. Plans at § 7.2). The energy manager (or other municipal staff) would support the Program by performing tasks or activities that are in addition to or that would otherwise enhance the services provided by the Municipality's consultant and the competitive supplier (Exhs. Plans at § 7.2). If established, the energy manager (or municipal staff) would perform tasks at the direction of the Mayor and City Council for Amesbury, and the Town Administrator or Select Board of Upton and Windsor (Exhs. Plans at § 7.2). These tasks may include acting as the primary point of contact for ongoing program operations, providing enhanced responses to customer inquiries, enhanced public education and consumer outreach activities, and product development (Exhs. Plans at § 7.2). The Municipalities all state that any activities to be funded through the operational adder shall be directly related to the operations of the Program and not duplicative of services provided to the Program by other parties (Exhs. Plans at § 7.2). The Mayor and City Council for Amesbury, and the Town

Administrators for Upton and Windsor, will determine whether to establish an operational adder based on the incremental value that the Municipality could create for Program participants through the use of the operational adder funds (Exhs. Plans at § 7.2).

Finally, each Municipality requests waivers, on its behalf and on behalf of its competitive supplier. Each Municipality requests a waiver from the information disclosure requirements contained at 220 CMR 11.06 that oblige competitive suppliers to mail information disclosure labels directly to customers on a quarterly basis (Exhs. Plans at § 11).⁷ As good cause for the waiver, each Municipality maintains that it can provide this information as effectively or more effectively and at a lower cost using alternate means, which will include placement on bulletin boards located at local municipal buildings, the Municipality's website and the Municipality's official social media pages, and postings on the Program website (Exhs. Plans at § 11; Petitions at 3-4).

III. STANDARD OF REVIEW

General Laws c. 164, § 134(a) authorizes any municipality or group of municipalities to aggregate the electrical load of interested customers within its boundaries, provided that the load is not served by a municipal light plant. Upon approval by the local governing entity or entities, a municipality or group of municipalities may develop a municipal aggregation plan, in consultation with the Department of Energy Resources ("DOER") and for review by the public, providing detailed information to customers on the process and

⁷ The disclosure label provides information regarding a competitive supplier's fuel sources, emission characteristics, and labor characteristics. 220 CMR 11.06.

consequences of aggregation. G.L. c. 164, § 134(a). A municipal aggregation plan must provide for universal access, reliability, and equitable treatment of all classes of customers and meet any requirements established by law or the Department concerning aggregated service. G.L. c. 164, § 134(a).

A plan must include the following: (1) the organizational structure of the program, its operations, and its funding; (2) details on rate setting and other costs to its participants; (3) the method of entering and terminating agreements with other entities; (4) the rights and responsibilities of program participants; and (5) the procedure for termination of the program. G.L. c. 164, § 134(a). Municipal aggregation plans must be submitted to the Department for review and approval. G.L. c. 164, § 134(a).

Participation in a municipal aggregation plan is voluntary and a retail electric customer has the right to opt out of plan participation. G.L. c. 164, § 134(a). Municipalities must inform eligible customers of: (1) automatic plan enrollment; (2) the right to opt out; and (3) other pertinent information about the plan. G.L. c. 164, § 134(a); Municipal Aggregation Programs, D.P.U. 16-10, at 19 (2017).

The Department's review will ensure that the plan meets the requirements of G.L. c. 164, § 134, and any other statutory or Department requirements concerning aggregated service. In addition, the Department will determine whether a plan is consistent with provisions in the Department's regulations that apply to competitive suppliers and electricity brokers. See 220 CMR 11.00, et seq. Although the Department's regulations exempt municipal aggregators from certain provisions contained therein, the regulations

provide no such exemption for the competitive suppliers that are selected to serve a municipal aggregation load. See 220 CMR 11.01(2).

A municipal aggregator is exempt from two requirements included in the Department's regulations concerning competitive supply. First, a municipal aggregator is not required to obtain a license as an electricity broker from the Department under 220 CMR 11.05(2) to proceed with an aggregation plan. City of Marlborough, D.T.E. 06-102, at 16 (2007). Second, a municipal aggregator is not required to obtain customer authorization to enroll customers in the program pursuant to G.L. c. 164, § 1F(8)(a) and 220 CMR 11.05(4). D.T.E. 06-102, at 16. The opt-out provision applicable to municipal aggregators replaces the authorization requirements in the Department's regulations. D.T.E. 06-102, at 16.

A competitive supplier chosen by a municipal aggregator is not exempt from other applicable Department regulations. D.T.E. 06-102, at 16. To the extent that a municipal aggregation plan includes provisions that are inconsistent with Department regulations, the Department will review these provisions on a case-by-case basis. D.T.E. 06-102, at 16.

If a municipality operates or offers products/services in a manner inconsistent with its plan, the Department will revoke its approval of the plan and order the termination of the program. Finally, any new product a municipality seeks to make available to its municipal aggregation program participants is subject to Department approval. Town of Becket, et al., D.P.U. 18-133 through D.P.U. 18-146, at 18-19 (2020); Town of Milton, D.P.U. 19-84, at 10 & n.16 (2020).

IV. ANALYSIS AND FINDINGS

A. Consistency with G.L. c. 164, § 134

1. Procedural Requirements

General Laws c. 164, § 134(a) establishes several procedural requirements for a municipal aggregation plan. First, a municipality must obtain authorization from certain local governing entities prior to initiating the process to develop an aggregation plan.⁸

G.L. c. 164, § 134(a). Each Municipality provided evidence demonstrating local approval to initiate the process of aggregation, through affirmative votes at an Amesbury City Council meeting and Upton and Windsor Town meetings before initiating the process of aggregation (Exhs. 3, Atts. A). Therefore, the Department finds that each Municipality has satisfied the requirement regarding local governmental approval.

Second, a municipality must consult with DOER in developing its municipal aggregation plan. G.L. c. 164, § 134(a). Each Municipality provided a letter from DOER confirming that it completed this required consultation (Petitions at 2; Exhs. 3, Atts. B). Therefore, the Department finds that each Municipality has satisfied the requirement to consult with DOER.

Third, a municipality must allow “for review by its citizens” of the plan.

G.L. c. 164, § 134(a). General Laws c. 164, § 134(a) is silent on the process a municipality

⁸ A town may initiate a process to aggregate electrical load upon authorization by a majority vote of town meeting or town council. A city may initiate a process to authorize aggregation by a majority vote of the city council, with the approval of the mayor or, where applicable, the city manager. G.L. c. 164, § 134(a).

must use to satisfy this requirement for a municipal aggregation plan. The Department, however, requires municipalities to allow sufficient opportunity for the public to provide comments on a proposed plan prior to the municipality filing its plan with the Department.

Cape Light Compact, D.P.U. 14-69, at 42 (2015); Town of Ashby,

D.P.U. 12-94, at 27 (2014).

Each Municipality made a draft of its Plan (including its (1) Education Plan; (2) exemplar ESA; and (3) Notification Documents), and a model Opt-Out Notice, reply card, and reply envelope, available for public review on its website and at municipal buildings for a period of approximately four weeks (Petitions at 1-2; Exhs. 3, Atts. D). Based on prior precedent, the Department finds that each Municipality has satisfied the minimum requirement regarding public review.⁹ See, e.g., D.P.U. 14-69, at 42; D.P.U. 12-94, at 27. Each Municipality shall maintain the most recent version of its Department-approved Plan and supporting documents on its Program website with a prominent link to the Program website from the Municipality's website. D.P.U. 19-19, at 8, n.8.

⁹ The Department has determined that municipal aggregation plans made available for public review must include all known charges (including adders) to Program participants pursuant to G.L. c. 164, § 134(a). Town of Lincoln, D.P.U. 19-19, at 9 n.9 (2020). To the extent a draft plan is amended to include a new charge to program participants or where there is a material change in the proposed definition or scope of such costs, the municipality must demonstrate that the plan revision was made available for public review.

Finally, a municipal aggregation plan filed with the Department must include a full and accurate description of the following: (1) the organizational structure of the program, its operations,¹⁰ and its funding; (2) details on rate setting and other costs to its participants; (3) the method of entering and terminating agreements with other entities; (4) the rights and responsibilities of program participants; and (5) the procedure for terminating the program. G.L. c. 164, § 134(a); D.P.U. 14-69, at 42-43.

Under its Plan, the City of Amesbury will offer a standard (opt-out) product that will include higher renewable energy content than basic service (D.P.U. 21-48, Exh. Plan at § 3). The Towns of Upton and Windsor will offer a standard (opt-out) product that will have no additional RECs (D.P.U. 22-27, D.P.U. 22-28, Exhs. Plan at § 3). The Department has previously found that for all products containing higher renewable energy content than basic service, each municipality must specify the level of RECs above the RPS, or provide an estimated range. See, e.g., Town of Burlington et al., D.P.U. 19-56/D.P.U. 19-63/D.P.U. 19-111, at 15-16 (2023); Town of Weston et al., D.P.U. 20-99/D.P.U. 21-27/D.P.U. 21-36/D.P.U. 21-55, at 18 (2023). If the municipality provides a range for RECs, the municipality must describe how it will determine the percentage level of RECs above the RPS. D.P.U. 19-56/D.P.U. 19-63/D.P.U. 19-111, at 15-16; D.P.U. 20-99/D.P.U. 21-27/D.P.U. 21-36/D.P.U. 21-55, at 18. In addition, the

¹⁰ Municipalities must include a full description of the standard product and each optional product it anticipates offering through its municipal aggregation program. D.P.U. 18-133 through D.P.U. 18-146, at 11.

municipalities must specify what type of RECs the products will contain, or otherwise describe the decision-making factors the Municipality will use when choosing the percentage and type of additional RECs for standard and optional products, and explain how it will disclose the composition of additional REC types to customers.

D.P.U. 19-56/D.P.U. 19-63/D.P.U. 19-111, at 15-16;

D.P.U. 20-99/D.P.U. 21-27/D.P.U. 21-36/D.P.U. 21-55, at 18.

With respect to type of RECs, the Municipalities state that they will solicit bids for power supply from competitive suppliers that provide additional Class I RECs, other RECs, or a combination, from a variety of renewable resources (Exhs. Plans at § 3). Therefore, the Department finds that each Municipality has sufficiently identified what type of RECs the products will contain.

The Department reminds the Municipalities that they cannot offer products other than those described in a Department-approved Plan. D.P.U. 18-133 through D.P.U. 18-146, at 18-19; D.P.U. 19-84, at 10 & n.16. Therefore, if the Municipalities have not yet determined the specific level of RECs to be offered in the standard product, they should provide an estimated range of RECs. D.P.U. 19-56/D.P.U. 19-63/D.P.U. 19-111, at 15-16; D.P.U. 20-99/D.P.U. 21-27/D.P.U. 21-36/D.P.U. 21-55, at 18. If the Municipalities opt to provide a range of RECs, they must sufficiently (1) explain their decision-making factors or criteria in evaluating bids and selecting the standard product, (2) identify the person responsible for exercising the discretion of determining the final renewable energy content, and (3) explain whether the level of renewable energy content in excess of the Massachusetts

RPS and/or the type of RECs will vary after the establishment of the standard product.

D.P.U. 19-56/D.P.U. 19-63/D.P.U. 19-111, at 15-16;

D.P.U. 20-99/D.P.U. 21-27/D.P.U. 21-36/D.P.U. 21-55, at 18.

While the Department supports municipalities maintaining a level of flexibility to offer a standard product with additional renewable energy content, the municipality must provide a full and complete explanation of how it intends to enter into contracts and set rates, and how the municipality will educate customers. D.P.U. 19-56/D.P.U. 19-63/D.P.U. 19-111, at 23. Since customers are automatically enrolled in a municipal aggregation's standard product without their prior affirmative consent, it is imperative that each municipality provide a clear explanation of how it intends to determine the characteristics of the standard product.

D.P.U. 19-56/D.P.U. 19-63/D.P.U. 19-111, at 23.

Further, in the past, municipalities have terminated prior municipal aggregation programs because they were unable to obtain satisfactory bids for energy supply. See, e.g., D.P.U. 19-56/D.P.U. 19-63/D.P.U. 19-111, at 23. In considering whether a municipality's plan will provide reliable service, the Department looks at how each municipality intends to solicit bids and select products to ensure the programs are not prematurely terminated. The City of Amesbury will offer a standard (opt-out) product with additional RECs above basic service (Exhs. Plans at § 3). The City of Amesbury's Mayor will determine the appropriate level of RECs to be included in the standard (opt-out) product based on the Mayor's assessment of market conditions and what the Mayor determines to be in the best interest of retail electric customers at the time of bidding (D.P.U. 21-48, Exh. Plan at § 3).

The Towns of Upton and Windsor state that they intend to offer two optional (opt-in) products, both of which will provide additional RECs above the standard product (D.P.U. 22-27, D.P.U. 22-28, Exhs. Plans at § 3). The City of Amesbury states that it intends to offer two optional (opt-in) products, one equivalent to basic service and one with RECs at a level higher than the City's standard product (D.P.U. 21-48, Exh. Plan at § 3). The Towns of Upton and Windsor state that the Town Manager, and the City of Amesbury states that its Mayor, will determine the appropriate amount of Class I RECs, other RECs, or a combination of both, to be included with the optional products with RECs above the RPS minimum when soliciting bids (Exhs. Plans at § 3). The Municipalities also state that the Mayor or Town Manager will make these determinations based on their assessment of market conditions and what they determine to be in the best interest of retail electric customers at the time of bidding (Exhs. Plans at § 3).

Further, the Municipalities have specified a set level of RECs, or otherwise provided a specific description of the level of RECs, for each optional product (Exhs. Plans at § 3). For the reasons stated above, the Department finds that each Municipality has satisfied all procedural requirements of G.L. c. 164, § 134(a).

2. Substantive Requirements

a. Introduction

Municipal aggregation plans must provide for universal access, reliability, and equitable treatment of all classes of customers, and meet any requirements established by law or the Department. G.L. c. 164, § 134(a). In addition, municipalities must inform all

eligible customers prior to enrollment of their right to opt out of the program and disclose other pertinent information regarding the municipal aggregation plan.¹¹

G.L. c. 164, § 134(a); D.P.U. 16-10, at 19.

b. Universal Access

The Department has found that the universal access requirement is satisfied when a municipal aggregation program is available to all customers within the municipality. City of Lowell, D.P.U. 12-124, at 44-46 (2013); D.T.E. 06-102, at 19; Cape Light Compact, D.T.E. 00-47, at 24 (2000). Under the Plans, all eligible customers will be enrolled in the Program unless they affirmatively opt out (Exhs. Plans at § 5.1.4). Consistent with Town of Lexington, D.P.U. 16-152, at 17 (2017), new eligible customers moving to each Municipality after Program initiation will (1) initially be placed on basic service and (2) subsequently receive a notice informing them that they will be automatically enrolled in the Program unless they opt out (Exhs. Plans at § 5.1.4). Finally, pursuant to G.L. c. 164, § 134(a), each Plan provides that Program participants may opt out at any time with no charge (Exhs. Plans at § 5.1.4). Accordingly, the Department finds that each Municipality has satisfied the requirements regarding universal access.

¹¹ The municipal disclosures must: (1) prominently identify all rates and charges under the municipal aggregation plan; (2) provide the basic service rate; (3) describe how to access the basic service rate; and (4) disclose that a customer may choose the basic service rate without penalty. G.L. c. 164, § 134(a).

c. Reliability

A municipal aggregation plan must provide for reliability. G.L. c. 164, § 134(a). Each Municipality will enter into a contract with a competitive supplier that will commit the competitive supplier to provide an all-requirements power supply, make all necessary arrangements for power supply, and use proper standards for management and operations (Exhs. Plans at § 2). In addition, during an initial term, each Municipality will use the services of Colonial, a Massachusetts licensed electricity broker, to ensure that each Municipality has the technical expertise necessary to operate the Program (Exhs. Plans at § 2.2.4). Finally, the Department found above that each Municipality satisfied all of the procedural requirements of G.L. c. 164, § 134(a), including the requirement to sufficiently describe how it intends to solicit bids and select products so that the Programs will not be prematurely terminated. The Department finds that each Municipality has satisfied the requirements of G.L. c. 164, § 134(a) regarding reliability. D.P.U. 14-69, at 45; Town of Natick, D.P.U. 13-131, at 20-21 (2014); D.P.U. 12-124, at 46.

d. Equitable Treatment of All Customer Classes

A municipal aggregation plan must provide for equitable treatment of all customer classes. G.L. c. 164, § 134(a). Equitable treatment of all customer classes does not mean that all customer classes must be treated equally; rather, customer classes that are similarly situated must be treated equitably. D.P.U. 14-69, at 10-16, 45-47; D.T.E. 06-102, at 20. Here, the Plans allow for varied pricing among customer classes, which will be the same as the customer classes as the electric distribution company (i.e., residential, small business, and

medium and large business) (Exhs. Plans at § 7.1).¹² This Plan design feature appropriately considers the different characteristics of each customer class. D.P.U. 13-131, at 22-25; D.P.U. 12-94, at 32; D.P.U. 12-124, at 47; Town of Greenfield, D.P.U. 13-183, at 23 (2014); Town of Natick & Town of Greenfield, D.P.U. 13-131-A/D.P.U. 13-183-A at 10 (2014).

In addition, terms and conditions may vary between customer groups in certain scenarios specified in the Plans (Exhs. Plans at § 8). For example, the Plans include a description of the “opt-out” enrollment and pricing procedures for eligible customers at Program initiation and new eligible customers moving into the Municipality after Program initiation (Exhs. Plans at § 8). In addition, each Plan includes enrollment and pricing procedures for each customer class in the following “opt-in” scenarios: (1) eligible customers who opt out and subsequently wish to enroll in the Program; and (2) competitive supply customers at Program initiation who wish to enroll in the Program after their competitive supply contract ends (Exhs. Plans at § 8). Consistent with the Department’s directives in D.P.U. 19-84, at 15, each Municipality’s Plan includes the necessary information regarding the various enrollment and pricing procedures in chart form (Exhs. Plans at § 8). After review, the Department finds that each Municipality has satisfied the requirements of G.L. c. 164, § 134(a) regarding equitable treatment of all customer classes.

¹² Each Municipality will solicit separate pricing for each customer class used by the relevant electric distribution company for basic service pricing (Exhs. Plans at § 7.1).

e. Customer Education and Notices

i. Introduction

General Laws c. 164, § 134(a) provides that it is the duty of the municipality to fully inform eligible customers that they will be automatically enrolled in the aggregation program and that they have the right to opt out. It is critical that municipalities appropriately inform and educate all eligible customers about municipal aggregation plans and the right to opt out of aggregation programs, especially considering the automatic enrollment provisions afforded to these plans. D.T.E. 06-102, at 21; City of Newton, D.P.U. 18-36, at 10 (2018). To this end, the Department carefully reviews a municipality's education plan, including the form and content of its customer notifications. Each education plan must include detailed outreach strategies that are appropriately customized for the municipality's demographics. City of Boston, D.P.U. 19-65, at 16 (2020); D.P.U. 18-133 through D.P.U. 18-146, at 27-28. Further, as discussed below, each Municipality must comply with all current and future customer notification requirements for the competitive electric supply market. See, e.g., Initiatives to Protect Consumer Interests in the Retail Electric Competitive Supply Market, D.P.U. 19-07 (2019); Initiatives to Protect Consumer Interests in the Retail Electric Competitive Supply Market, D.P.U. 19-07-A (2020); City of Fitchburg, D.P.U. 20-117, at 15 (2022).

ii. Education Strategies and Ongoing Education

A municipal aggregation plan must include detailed education and outreach strategies that are appropriately customized for the municipality's individual needs. D.P.U. 18-133

through D.P.U. 18-146, at 27-28. To comply with the statutory duty to fully inform customers about automatic enrollment and the right to opt out of a municipal aggregation program, municipalities must fully address in their plans how they will provide adequate notice and education (including ongoing education) to customers with limited English proficiency. City of Worcester, D.P.U. 19-41, at 17-18 (2019). In addition, municipalities must address how they will provide adequate notice and education to customers who require visual or audial assistance. D.P.U. 19-41, at 17-18.

Each Municipality's education efforts further describe how it will inform eligible customers about the Program and their right to opt out (Exhs. Plans at § 5.1.6; Education Plans at § 1.2.1). Each Municipality's planned educational efforts will include the following: (1) announcements and public postings introducing the Program and competitive supplier in local newspapers and municipal buildings, and on each Municipality's website, social media platforms, and the local cable television access network; (2) a dedicated Program website¹³ explaining the details of the Program; (3) a customer support hotline to answer questions

¹³ Consistent with D.P.U. 18-133 through D.P.U. 18-146, at n.26, each Municipality's Plan and Education Plan specify that it will provide basic information about the Plan in a prominent location on its municipal website with appropriate links to the dedicated Program website (Exhs. Plans at § 5.1.4; Education Plans at § 1.1.5). In addition, consistent with Town of Sharon, D.P.U. 19-32, at 23 (2020), each Municipality's Education Plan specifies that all Plan documents (including the Department-approved Plan, Education Plan, and Opt-Out Documents) and education materials will remain available and updated on the Program website (Exhs. Education Plans at § 1.B). Each Municipality shall also ensure that its Program and municipal websites contain updated contact information for the appropriate municipal officials as well as the consultant.

regarding the Program; and (4) community-wide and community group-specific presentations regarding the Program (Exhs. Education Plans at § 1.1). In addition, each Municipality's Education Plan: (1) provides a timeline for these education efforts; (2) identifies the print and broadcast media outlets each Municipality will employ; and (3) identifies the community groups with which each Municipality will partner to support the education process (Exhs. Education Plans at § 1.1).

Further, each Municipality's Education Plan also describes how it will inform residents with limited English proficiency and residents who require visual or aural assistance about the Program and their right to opt out (Exhs. Education Plans at §§ 1.1.6, 1.1.8). Regarding language access, each Municipality will provide a language access document along with the Notification Documents to each eligible customer. The required language access document translates the following text into 26 languages that, according to U.S. Census Bureau data, are the languages spoken by the majority of Massachusetts residents with limited English proficiency:¹⁴

Important notice enclosed from [Municipality] about your electricity service. Translate the notice immediately. Call the number or visit the website, above, for help.

¹⁴ The English-language Opt-Out Notice plus the text translated into 26 languages in the Language Access Document will reach more than 97 percent of the population in Massachusetts. See 2018 American Community Survey 5-Year Estimates, Language Spoken at Home by Ability to Speak English for the Population 5 Years and Over (Table B16001) for Massachusetts, available at: <https://data.census.gov/table/ACSDT5Y2018.B16001?q=B16&d=ACS+5-Year+Estimates+Detailed+Tables&g=040XX00US25&vintage=2018&hidePreview=false&t=Language+Spoken+at+Home> (last visited May 16, 2024).

To ensure adequate access to Program information for residents with limited English proficiency, in addition to the language access document, each Municipality's Program website will have the capability to translate all information regarding the Program into more than 100 languages (Exhs. Education Plans at § 1.1.6).

Regarding the provision of visual and auidial assistance, each Municipality's proposed Education Plan provides that the Program website will allow content to be read out loud by computer assistive technology (Exhs. Education Plans at § 1.1.8). In addition, each Municipality proposes to conduct outreach in print and audio formats (Exhs. Education Plans at §§ 1.1, 1.1.10).

While G.L. c. 164, § 134(a) is silent regarding education after a customer is enrolled in a municipal aggregation program, each Municipality must continue to provide customers with information regarding the ongoing operations of the Program. D.P.U. 14-69, at 48; Town of Dalton, D.P.U. 13-136, at 23 (2014). In this regard, each Municipality states that it will provide ongoing education through the dedicated Program website linked to each Municipality's website (Exhs. Education Plans at § 1.1.10). In addition, each Municipality states that it will maintain a toll-free customer information and support hotline to provide ongoing education for the duration of its Program (Exhs. Education Plans at § 1.1.10). As discussed above, each Municipality must also comply with any customer education or notification requirements applicable to the competitive electric supply market.

After review, the Department finds that each proposed Plan includes a sufficiently detailed education and outreach strategy that is customized for each Municipality's individual needs.

iii. Opt-Out Documents and Customer Notification Requirements

(A) Postmark Deadline

The Department has found that the date by which customers are required to postmark the reply card must appear in a prominent location and color at the top of the first page of the Opt-Out Notice, as well as on the reply card, and must inform eligible customers that they will be automatically enrolled in the Program unless they return the postmarked reply card by the identified date. Town of Orange, D.P.U. 17-14, at 12 (2017). The Department has found that, where the Opt-Out Notice and reply card will be printed entirely in black and white, a municipality may include the language in bold black type in the specified locations instead of in color. If, however, the Opt-Out Notice and reply card include any color text, this language must be in color. Town of Shirley, D.P.U. 17-21, at 12 n.11 (2017), citing D.P.U. 17-14, at 12. After review, the Department finds that this essential language:

(1) appropriately appears at the top of the model Opt-Out Notice; and (2) is sufficiently set apart from the other text in a separate, outlined text box. Further, the Department finds that this language is sufficiently prominent as each Municipality has presented the language in the text box in bold black type with the postmark deadline in a bold color type. D.P.U. 20-117, at 31.

(B) Envelope

Consistent with D.P.U. 13-131, at 26-27, each Municipality's Opt-Out Notice and reply card will be sent in a clearly marked municipal envelope that identifies it contains important information regarding customers' participation in the Program. In addition, each Municipality will include a return-addressed, postage-paid reply envelope to protect customers' signatures from exposure (Exhs. Plans at § 5.1.4; Notification Documents at 3).

(C) Savings Disclaimer

Each Municipality's proposed model Opt-Out Notice contains the required disclaimer that savings are not guaranteed as compared to the local distribution company's basic service rate (Exhs. Notification Documents at 1). The Department finds that this language is sufficiently prominent, as it appears in bold font and is separate from any unrelated text.

D.P.U. 20-117, at 32.

(D) Disclosure of Charges

Pursuant to G.L. c. 164, § 134(a), each Municipality must prominently identify all Program charges and fully disclose the basic service rate. Consistent with this requirement, each Municipality's proposed model Opt-Out Notice appropriately discloses the basic service rate and identifies all Program charges, including an explanation that: (1) customers may leave the Program at any time after enrollment with no fee; (2) Program prices include an administrative adder; (3) Program prices could increase as a result of change in law; (4) Program prices include applicable taxes; and (5) certain large business customers may be

subject to a bill recalculation when they leave basic service and enroll in the Program (Exhs. Notification Documents. D.P.U. 19-41, at 23).

With respect to a change in Program price related to a change in law,¹⁵ each Municipality's proposed Plan and model Opt-Out Notice appropriately disclose potential additional costs that could be charged to Program participants, including a change in Program price as a result of a change in law due to a regulatory event or new taxes (Exhs. Plans at § 7.1; Notification Documents at 1).

The Department has found that to ensure customers receive adequate notice of price changes related to a change in law, particularly participants who are hard to reach and/or may not routinely access the Program and Municipality websites, such notification shall include a direct mail notice. D.P.U. 20-117 at 23-24; D.P.U. 19-07-A, at 39-52; D.P.U. 19-07, at 10-11. Consistent with the Department's requirements, each Municipality's Plan and Education Plan state that it will announce any change in Program price related to a change in law through postings on the Program and Municipality websites, media releases, social media, a physical posting in municipal buildings, and a direct mail notice (Exhs. Education Plans at § 1.1.10). Such notice will be received no later than 30 days prior to the effective date of the price change (Exhs. Plans at § 7.1; Education Plans at § 1.1.10).

¹⁵ A change in law may include creation of new clean energy standards that electric suppliers must meet. For example, in 2020, DOER adopted a new Clean Peak Standard Minimum Standard requiring competitive suppliers to purchase a higher percentage of electrical energy sales with Clean Peak Certificates. See G.L. c. 25A, § 17(a); 225 CMR 21.

In addition, such notice will inform participants that they may opt out of the Program at any time and return to basic service at no charge (Exhs. Plans at § 7.1; Education Plans at § 1.1.10).

Consistent with City of Melrose, D.P.U. 18-59, at 13 n.9 (2019), each Plan provides that the Municipality will notify the Department's Consumer Division prior to the implementation of any change in Program price related to a change in law, such notice to occur no less than ten business days prior to the customer notification (Exhs. Education Plans at § 1.1.10).¹⁶

(E) Renewable Energy Content

Massachusetts requires that all electric supply products contain a minimum percentage of renewable energy resources that increases each year. G.L. c. 25A § 11F(a); 225 CMR 14.00. The Education Plan and Opt-Out Documents must comply with the Department directives for communicating minimum renewable energy content requirements. Each Municipality proposed an Opt-Out Notice consistent with the Department's directives that includes this information (Exhs. Notification Documents at 1-2).

(F) New Contract Disclosures and Notice

As discussed above, the Department has recently set forth requirements for providing notice to customers of a price change related to a change in law. The Department has also

¹⁶ If any change in law results in a new Program price that is above the then-applicable basic service rate, the Department may require additional notification to Program participants. D.P.U. 18-133 through D.P.U. 18-146, at n.38.

set forth requirements for municipalities to provide notification to customers of price and REC changes, as well as requirements for automatic enrollment of customers, at the start of a new supply terms. D.P.U. 20-117, at 20-21; D.P.U. 20-117-B at 23-24; D.P.U. 19-07-A.

With respect to a change in Program price and REC content at the start of a new supply contract term, each Municipality's Plan and Education Plan state that it will announce any of these changes prior to the start of the new supply contract term through a direct mail notice to Program participants (Exhs. Plans at § 7.1; Education Plans at § 1.2.1). Such notice will be received no later than 30 days prior to the effective date of the price change (Exhs. Plans at § 7.1; Education Plans at § 1.2.1). In addition to the new Program price, term, fees, and renewable energy content, such notice will contain the applicable basic service rate and inform participants that they may opt out of the Program at any time and return to basic service at no charge (Exhs. Plans at § 7.1; Education Plans at § 1.2.1).¹⁷

If a Municipality seeks to change the voluntary renewable energy content for any product in a subsequent electricity supply contract term, customers enrolled in an optional opt-in product must affirmatively re-enroll in the new optional product (or affirmatively enroll in the standard product or other optional product) or they will be returned to basic service. Customers enrolled in the standard opt-out product shall be notified that they will be re-enrolled in the new standard product unless they opt out. If a Municipality seeks to

¹⁷ The Department expects that the form and content of the automatic renewal price change notice will be substantially similar to the model Opt-Out Notice and comply with any requirements set forth by the Department, including the requirements set forth in D.P.U. 19-07 and D.P.U. 19-07-A.

change only the price and/or term in a subsequent electricity supply contract for either the standard opt-out product or any optional opt-in products, program participants may be re-enrolled (or automatically enrolled) in the new standard or optional product in which they were originally enrolled unless they affirmatively opt out (or affirmatively opt in to a different product). D.P.U. 20-117-B at 23-24 n.10; D.P.U. 20-117, at 20-21, 24-25.

In each of the price and REC content change scenarios addressed above, each Municipality must comply with all other language access and design requirements specified by the Department.¹⁸ In addition, each Municipality shall publicize all price changes using its other educational vehicles (i.e., Program and Municipality websites, media releases, social media posts, physical posting in Municipality buildings, etc.).

In addition, municipal aggregations must provide a Contract Summary Form to its customers consistent with D.P.U. 19-07-A. D.P.U. 20-117, at 19 and Town of Westwood, D.P.U. 20-24-A, at 3-4 (2022). The Contract Summary Form information for the standard product must be included within the Opt-Out Notice.¹⁹ Where a product contains automatic

¹⁸ For example, all notices must be sent in a clearly marked envelope that identifies it contains important information from the Municipality regarding customers' participation in the Program.

¹⁹ The Department has determined that in the interest of equitable treatment for all customer classes, direct mail will help ensure that all customers receive notices of a change in program price. D.P.U. 20-117-B at 25; D.P.U. 20-117, at 24. Such direct notice shall be in the form of an Opt-Out Notice and Contract Summary Form, and mailed to customers, since that is the method in which customers originally received their initial enrollment information. D.P.U. 20-117-B at 25. The Department emphasizes that all municipal aggregations should also continue to notify customers of

renewal provisions, the Department has prescribed disclosure language that competitive suppliers must include in their Contract Summary Forms.²⁰ D.P.U. 19-07-A at 67-68; see also D.P.U. 19-07-A, Atts. E.1, F.1. In addition, the Municipalities must ensure that each customer receives the required disclosures for any optional products, and those disclosures must be sent in accordance with D.P.U. 19-07-A after the customer elects to enroll in the optional product.

Finally, each Municipality proposed an alternative strategy for the disclosure of information required by 220 CMR 11.06. The Department addresses these changes in Section IV.B, below.

iv. Conclusion

The Department has reviewed each Municipality's proposed Education Plan, including the form and content of its proposed customer notifications and Opt-Out Documents (Exhs. Education Plans; Notification Documents). The Department finds that these materials are appropriately designed to facilitate the achievement of each Municipality's obligation

program changes through their website, media outlets, and other means.
D.P.U. 20-117-B at 25 n.12.

²⁰ For the standard (opt-out) product, the disclosure shall state:

You will be automatically enrolled in at a new price at the end of the contract term unless you inform the [City/Town] otherwise. The new price may be higher or lower than the existing price. The [City/Town] will contact you no later than 30 days before each automatic renewal to notify you of your supply options.

under G.L. c. 164, § 134(a) to fully inform eligible customers about automatic enrollment in the Program and the right to opt out.

f. Identification of Program Charges and Basic Service Rate

Pursuant to G.L. c. 164, § 134(a), each Municipality must prominently identify all Program charges and include a full disclosure of the basic service rate. In this regard, the proposed Plans describe how the Program supply charges will be established. In addition, the proposed Plans and model Opt-Out Notices identify the Program supply charges, including a proposed fixed administrative adder, which the Municipalities refer to as “Consultant Fees,” of \$0.001 per kWh payable to the aggregation consultant (Exhs. Plans at § 7.2). Each Municipality may also include an operational adder of up to \$0.001 per kWh, which would fund an energy manager position or existing municipal employees to perform tasks or activities that are in addition to or that would otherwise enhance the services provided by the aggregation consultant and competitive supplier (Exhs. Plans at § 7.2). The proposed Plans and model Opt-Out Notices also reference or disclose, respectively, the basic service rate (Exhs. Notification Documents at 1-2). The Department does not review program rates (i.e., supply rate, adders) for the purpose of determining whether they are just and reasonable. D.P.U. 19-65, at 30; D.P.U. 18-133 through D.P.U. 18-146, at 28-29, citing D.P.U. 12-94, at 14; D.P.U. 12-124, at 25-29. Each municipality proposing to charge an adder, however, bears the burden of fully describing the intended use of such funds and demonstrating a sufficient nexus with how such use is consistent with the aggregation of electricity supply authorized under G.L. c. 164, § 134(a). D.P.U. 18-133 through

D.P.U. 18-146, at 29. In addition, the Department will review the plan to determine whether any proposed adder includes sufficient detail on costs to program participants as required by G.L. c. 164, § 134(a). D.P.U. 18-133 through D.P.U. 18-146, at 29. In this regard, the Department has found that identification of a fixed or maximum adder is consistent with the requirement of G.L. c. 164, § 134(a) that a plan include details on costs to participants. D.P.U. 18-133 through D.P.U. 18-146, at 29; D.P.U. 19-65, at 33.

Here, the Department finds that each Municipality's proposed use of a fixed administrative adder of \$0.001 per kWh to compensate the aggregation consultant for the development of the Plan and management of the Program is directly related to the operation of the Program under G.L. c. 164, § 134(a). Town of Abington, D.P.U. 19-51 and Town of Stoughton, D.P.U. 19-52, at 29-30 (2020). Further, the Department finds that each Municipality has met its burden to show that the proposed adder includes sufficient detail on costs to Program participants as required by G.L. c. 164, § 134(a) (Exhs. Plans at § 7.2). The Department also finds that the operational adder that each Municipality may charge to fund municipal aggregation-related costs that each Municipality will incur is directly related to the operation of the Program. G.L. c. 164, § 134(a). Town of Abington, D.P.U. 19-51 and Town of Stoughton, D.P.U. 19-52, at 29-30 (2020). The Mayor of Amesbury and the Town Managers of Upton and Windsor will decide whether to establish the energy manager position and fund such position through the operational adder (Exhs. Plans at § 7.2). The criteria these entities will use to make such a decision will be the incremental value that the

Municipality could create for Program participants through the use of the operational adder funds (Exhs. Plans at § 7.2).

The proposed Plans and model Opt-Out Notices appropriately disclose any additional costs that could be charged to Program participants, including a change in Program price as a result of a change in law due to a regulatory event or new taxes (Exhs. Plans at § 7.2).²¹ Finally, pursuant to Town of Bedford, D.P.U. 17-178, at 13-14 (2018), the proposed Plans and model Opt-Out Notices disclose that: (1) taxes will be billed as part of the Program's power supply charge; and (2) Program participants are responsible for identifying and requesting an exemption from the collection of any tax by providing appropriate documentation to the competitive supplier (Exhs. Plans at § 7.2)

g. Savings Disclaimers

Municipal aggregations may seek program supply charges that provide savings for participating customers as compared to basic service rates. Due to changes in market conditions and differences in contract terms, however, a municipal aggregation plan cannot guarantee savings compared to basic service over time. See D.P.U. 12-124, at 57-66. Each of the Municipality's proposed Plan and Education Plan appropriately recognize that "savings

²¹ Each of the Municipality's proposed Plans describe the circumstances under which it and its competitive supplier would negotiate a potential change in Program price related to a change in law (Exhs. Plans at § 7.2.). Each Municipality's proposed Plan and Education Plan include the applicable termination procedures in the event the Municipality or the competitive supplier terminate the supply contract as result of a change in law due to a regulatory event or new taxes (Exhs. Education Plans at § 1.1).

cannot be guaranteed” where price is referenced, regardless of whether the reference is to “savings,” “price stability,” or a like term.

h. Other Issues

i. Plan Conflict with Supply Agreement

Article 18.13 of each Municipality’s exemplar ESA requires the competitive supplier to acknowledge that it has been provided an opportunity to review the Department-approved Plan and has not discerned any conflicts between the Plan and ESA. The exemplar ESAs appropriately recognize that each Municipality shall not enter into an ESA with a competitive supplier unless it is fully consistent with its Department-approved Plan and Department directives; a failure in this regard will result in termination of the Program. D.P.U. 19-32, at 36; D.P.U. 19-19, at 37. Each Municipality’s proposed Plan recognizes this requirement (Exhs. Plans at § 5.1.2)

ii. Reporting of Program Supply Procurement Efforts

Within 21 days of the date of this Order, each Municipality shall provide the Department with a detailed report identifying all potential Program launch windows in 2024 as they relate to Eversource and National Grid’s basic service procurement schedules. Each Municipality shall discuss, in as much detail as possible, all factors that will affect the likelihood that it will launch its Program during each window and identify the window in which it is most likely to launch its Program. Thereafter, each Municipality shall report monthly on the status of its supply procurement efforts with reference to the status of all

procurement milestones (e.g., request for proposals, bid evaluation, contract negotiation).²²

Such reports shall continue through the date of Program launch.

3. Conclusion

Based on the findings above, the Department concludes each Municipality has satisfied all substantive requirements in G.L. c. 164, § 134(a).

B. Waiver from Department Regulations Regarding Information Disclosure

General Laws c. 164, § 134, requires that a municipal aggregation plan meet any requirements established by law or the Department concerning aggregated service. In this regard, each Municipality has requested a waiver (on behalf of itself and its competitive supplier) from the information disclosure requirements contained in 220 CMR 11.06(4)(c) (Petitions at 3-4). As good cause for the waiver, each Municipality maintains that the competitive supplier can provide the same information more effectively and at a lower cost through alternate means (Petitions at 3-4).²³

Rather than mail the disclosure label to every customer on a quarterly basis as required by 220 CMR 11.06, each Municipality proposed generally to provide the information through alternative means, including postings at municipal offices, the

²² In addition to these ongoing status reports, each Municipality, as soon as possible, shall notify the Department, the Attorney General, Eversource, and National Grid that it has accepted a bid from a competitive supplier. The first report shall be filed on or before one month after the date of this Order.

²³ The Department's regulations at 220 CMR 11.08 permit a waiver from these regulations for good cause shown.

Municipality's social media, and the Program websites (Exhs. Plans at § 11; Education Plans at § 1.1.9). Each Municipality's Plan and Education Plan address how, with this strategy, each Municipality and its competitive supplier would provide the required information to customers as effectively as quarterly mailings, including customers who are hard to reach and may not routinely access the Program and Municipality websites (Exhs. Plans at § 11; Education Plans at § 1.1.9).

The Department finds that each Municipality's proposed alternative disclosure strategy is designed to provide the required information to Program participants as effectively as the quarterly mailings required under 220 CMR 11.06(4)(c). Therefore, the Department grants each Municipality's request for a waiver of 220 CMR 11.06(4)(c) on behalf of itself and its competitive supplier. To maintain the allowed waiver, in its Annual Report to the Department, each Municipality will be required to demonstrate that it has fully executed its alternative disclosure strategy and has provided the same information to Program participants as effectively as the quarterly mailings required under 220 CMR 11.06(4)(c). Each Municipality and its competitive supplier will be required to adhere to all other applicable provisions of 220 CMR 11.00, et seq.

V. OTHER REQUIREMENTS

In addition to the requirements set forth in G.L. c. 164, § 134(a), as discussed above, each Municipality shall comply with all additional requirements for municipal aggregations as set by the Department. See, e.g., D.P.U. 14-69, at 29-30 (requirements for revising a municipal aggregation plan); D.P.U. 12-124, at 61-66 (prohibiting the practice of

suspension); Town of Lanesborough, D.P.U. 11-27, at 24 (2011) (notice requirements to local distribution company).

VI. CONCLUSION

Consistent with the discussion above, the Department finds that each Municipality's proposed Plan satisfies the procedural and substantive requirements contained in G.L. c. 164, § 134(a). In addition, the Department finds that each Municipality's proposed Plan meets the requirements established by the Department concerning aggregated service. Accordingly, the Department approves each Municipality's Plan. Failure of a Municipality to launch its Program within two years of the date of final Department approval of the Plan (i.e., Department approval of the compliance filing, if applicable) shall result in revocation of the approval of the Plan without further notice or other action by the Department.

Finally, unless specifically exempted, each Municipality shall comply with all current and future requirements governing the competitive electric supply market. Regardless of language included in each Municipality's Plan, if a Municipality fails to comply with the laws and Department requirements regarding municipal aggregation and the competitive electric supply market, the Department will revoke its approval of the Plan and order the termination of the Program.

VII. ORDER

Accordingly, after due notice, public hearing, and consideration, it is

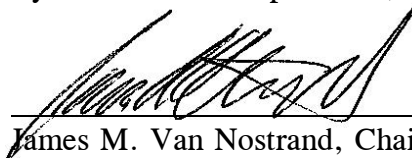
ORDERED: That the municipal aggregation plans filed by the City of Amesbury on April 23, 2021, the Town of Upton and the Town of Windsor on March 24, 2022, each

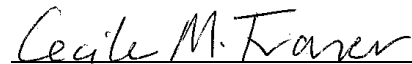
revised on April 12, 2024, are APPROVED; and it is

FURTHER ORDERED: That the failure of the City of Amesbury, the Town of Upton, and the Town of Windsor to implement the provision of electric supply pursuant to G.L. c. 164, § 134 within two years of final Department approval of its municipal aggregation plan shall result in revocation of the approval of its municipal aggregation plan without further notice or other action by the Department; and it is

FURTHER ORDERED: That the City of Amesbury, the Town of Upton, and the Town of Windsor shall comply with all other directives contained in this Order.

By Order of the Department,


James M. Van Nostrand, Chair


Cecile M. Fraser, Commissioner


Staci Rubin, Commissioner

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