

The Commonwealth of Massachusetts

DEPARTMENT OF PUBLIC UTILITIES

D.P.U. 25-75-A

February 13, 2026

Investigation of the Department of Public Utilities, on its own motion, instituting a rulemaking pursuant to G.L. c. 164, § 149; G.L. c. 30A, § 2; and 220 CMR 2.00, to establish requirements for Intervenor Support Grant Program, 220 CMR 34.00.

ORDER ADOPTING FINAL REGULATIONS

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I. INTRODUCTION AND PROCEDURAL HISTORY

On November 20, 2024, Governor Maura Healey signed into law Chapter 239 of the Acts of 2024, “An Act Promoting a Clean Energy Grid, Advancing Equity and Protecting Ratepayers” (“2024 Climate Act”). Among other provisions, the legislation established the Division of Public Participation (“Division”) within the Department of Public Utilities (“Department”) and charged it with assisting local governments, community organizations, and other entities participating in Department and Energy Facilities Siting Board (“Board”) proceedings. The 2024 Climate Act also established the Intervenor Support Grant Program (“Program”). The Program will provide assistance to eligible organizations, community groups, and certain Governmental Bodies who are presently or historically unable to participate in proceedings before the Department and Board because of financial hardship, inadequate resources, and/or lack of technical expertise. St. 2024, c. 239, § 82. The legislation requires the Department, in consultation with the Board, to promulgate Regulations to implement the Program no later than March 1, 2026. St. 2024, c. 239, § 133.

The 2024 Climate Act also outlines the appropriations, assessments, and other funds that the Department can credit to the Program and authorizes two separate assessments to fund the Program.¹ St. 2024, c. 239, §§ 10, 11. The 2024 Climate Act establishes minimum eligibility requirements to receive funding and authorizes the Department, in consultation with the Executive Office of Energy and Environmental Affairs Office of Environmental Justice and Equity (“OEJE”), to establish additional eligibility criteria. St. 2024, c. 239, § 82. The

¹ For the purpose of providing the Department with the funds for the Program, the Commission makes an assessment against each electric and gas company under the Department’s jurisdictional control based upon the intrastate operating revenues of the Companies. St. 2024, c. 239, § 11.

2024 Climate Act authorizes the Division to make funds available to Parties, whose petition to intervene was allowed by the Department or Board and establishes allowable Grant amounts per Grantee and per Proceeding. St. 2024, c. 239, § 82. The 2024 Climate Act also requires the Grant Applicant to complete a Grant Application and authorizes the Director of the Division ("Director") to make all decisions pertaining to the issuance of financial support, including Conditional Grant Awards. St. 2024, c. 239, § 82.

On April 11, 2025, the Department issued a Straw Proposal describing the proposed Program including the Grant Application process, eligibility criteria, funding levels, and the method and timeline for the disbursement of funds. Based on the comments received in response to the Straw Proposal,² the Department opened this rulemaking pursuant to G.L. c. 30A, § 2 and 220 CMR 2.00, establishing 220 CMR 34.00, Intervenor Support Grant Program, for the purpose of adopting uniform requirements to establish the Program, to manage Grant Applications, to determine eligibility and funding allocations, and to review Program outreach and maintenance. Investigation of the Department of Public Utilities, on its own motion, instituting a rulemaking pursuant to G.L. c. 164, § 149; G.L. c. 30A, § 2; and 220 CMR 2.00, to establish requirements for Intervenor Support Grant Program, 220 CMR 34.00, D.P.U. 25-75 (September 12, 2025).

Pursuant to the requirements of G.L. c. 30A, § 2, notice of this rulemaking was published in The Boston Globe on September 26, 2025. Initial comments on the proposed regulations were

² The Department received comments on the straw proposal from the following entities and individuals: Massachusetts Attorney General's Office ("AGO"); the AGO Stakeholder Working Group; Alternatives for Community and Environment; Danielle Spang; the Massachusetts Environmental Justice Table; Eversource; Franklin Regional County of Governments; Mass Audubon; Michael DeChiara; National Grid; Orsted; PowerOptions; and RENEW Northeast.

due to the Department on October 17, 2025.³ The Department held four public comment hearings on October 27, 2025, October 29, 2025,⁴ November 3, 2025,⁵ and November 5, 2025. Final written comments were due on November 7, 2025.⁶

II. SUMMARY OF COMMENTS

The Department received comments on all sections of the proposed regulations. Many commenters expressed support for the regulations. They observed that these regulations make substantial improvements in providing access and transparency in Department and Board proceedings. Commenters generally encouraged the Department to allow for more equitable access to the Program (CLF Initial Comments at 1; Environmental Defense Fund at 1; Acadia Center at 1). Several commenters provided suggested amendments, additional language, and redlines to the proposed regulations. The Department appreciates commenters for providing thoughtful oral and written comments on this important Program.

In response to these comments, and upon further consideration, we make certain changes to the proposed regulations and implement the final regulations as noted below. The

³ The following entities submitted initial written comments: Conservation Law Foundation (“CLF”) and Eversource and National Grid, jointly.

⁴ The following person spoke at the October 29th Public Hearing regarding Regulations for the Intervenor Support Grant Program: Janet Sinclair, Save Massachusetts Forests.

⁵ The following people spoke at the November 3rd Public Hearing regarding the Intervenor Support Grant Program: Jeff Weston, Shutesbury Planning Board; Ed Brolin, RWE Clean Energy; Sonya Jindal, Environmental Defense Fund; Hessann Farooqi, Boston Climate Action Network; Adam Reynolds, CLF; and Jessica Freedman, AGO.

⁶ The following entities and individuals submitted final written comments: AGO; Alternatives for Community & Environment (“ACE”); Acadia Center; Berkshire Environmental Action Team (“BEAT”); Environmental Defense Fund (“EDF”); Environmental League of Massachusetts (“ELM”); CLF; City of Boston; National Consumer Law Center (“NCLC”); and Mr. Jungwoo Chun, MIT Department of Urban Studies and Planning.

Department's overarching goal with these regulations is to support meaningful participation in energy-related decision-making and to ensure that diverse perspectives are considered as we transition to an equitable and clean energy future. Though we do not address every comment received in this Order, we have addressed areas where we received significant comments or made substantive changes. We describe the changes to the proposed regulations in further detail below. Capitalized terms reflect defined terms in the Definitions section of 220 CMR 34.02.

III. CHANGES TO INTERVENOR SUPPORT GRANT PROGRAM FINAL REGULATIONS

A. 220 CMR 34.01: Purpose and Scope

1. Comments

The Department received comments and proposals to better describe the purpose of these regulations. The AGO proposes changes that better comport with the text of G.L. c. 164, § 149. Specifically, the AGO suggests rephrasing the purpose statement to include providing financial assistance to “eligible organizations, entities (including tribal entities) and governmental bodies.” The AGO also recommends striking the word “meaningfully” in describing the level of participation (AGO Comments at 4, Appendix A at 1). Mr. Jungwoo Chun proposes that the purpose be rephrased as offering “financial help to eligible groups, community organizations, and local governments that lack the resources to participate effectively” in the Board and Department's proceedings (Chun Comments at 1).

The AGO proposes to strike “participation” from the scope and replace it with the terms “intervening and participating” (AGO Comments at 4, Appendix A at 1). Mr. Chun proposes expanding the scope to apply to all Grant Applicants seeking a Grant through the Program for the purpose of seeking community-wide consensus or participating in any Proceeding before the Department or the Board (Chun Comments at 1). EDF, ELM, and the AGO recommend the

Department expand the scope and interpret “Proceeding” broadly beyond adjudicatory proceedings (EDF Comments at 2; ELM Comments at 2; AGO Comments at 6, Appendix A at 3).

BEAT, the City of Boston, and EDF suggest the regulations need to clarify the role of the Division (BEAT Comments at 1; City of Boston Comments at 1; EDF Comments at 2). They specifically inquire as to what kind of information and assistance (besides legal advice) the Division can provide for stakeholders seeking to navigate Board and Department proceedings. They suggest that the Department needs to offer general guidance, administrative support, and technical assistance to anyone applying to the Program (BEAT Comments at 1; City of Boston Comments at 1; EDF Comments at 2). The AGO proposes adding language to specify the Division’s responsibilities (AGO Comments at 4, Appendix A at 1). EDF and ELM suggest the regulations should explicitly reference educational and capacity-building activities as part of the Division's purpose rather than general reference to “conduct[ing] Program outreach” (EDF Comments at 2; ELM Comments at 3).

The AGO also asks the Department to clarify which staff may communicate with Parties and the nature of that communication (AGO Comments at 4-5, Appendix A at 1). Eversource and National Grid suggest adding clarifying language around ex parte communications (Eversource and National Grid Comments at 4). They specifically ask for clarification on whether ex parte rules apply after a Grant Application is approved (Eversource and National Grid Comments at 4).

2. Analysis and Findings

The Department accepts certain suggestions from the AGO to clarify the purpose of the regulations, specifically who may receive financial assistance through the Program and adds reference to federally-recognized, state-acknowledged or state-recognized Tribes. The

Department declines to adopt other changes to the purpose, as the current definition encompasses the suggestions. The Department also declines to remove the phrase “meaningfully participate” though the Department agrees with adding the phrase “intervene and” before “meaningfully participate” since the title of the Program includes the term “Intervenor” and it requires participation by a Grantee as an Intervenor. The Department finds that the intent of the legislation is to support the Parties to a Proceeding in their active participation in Board and Department cases, including by sponsoring testimony and submitting legal briefing. Providing evidence and briefing are essential to successful advocacy in Board and Department adjudicatory proceedings. The Board and Department already allow for participation through public hearings and comment periods, which are activities that fall short of the level of participation the Legislature intended to support through the Program.

The Department declines to adopt any changes to the proposed scope section in 220 CMR 34.01(2). Although the Department appreciates that several commenters seek to expand the scope of these regulations, the Department notes that the statute limits the Program to supporting participation in Proceedings. We address the definition of Proceeding in greater detail in Section III.A.2. We decline to amend the definition of Proceeding to expand beyond an adjudicatory proceeding as defined in G.L. c. 30A, § 1(1). We also note these regulations do not change or otherwise affect the intervention standards outlined in 220 CMR 1.00 and 980 CMR 1.05. Those regulations and criteria are separate and distinct from those outlined in this regulation. Therefore, we decline to include the word intervention in 220 CMR 34.01(2). Therefore, the Department adopts the language as proposed. Final Regulations, 220 CMR 34.01(2).

The Department agrees with commenters that further guidance is required to clearly define the role of the Division. After publication of these regulations, the Division will develop additional Program guidance and templates to assist with Program implementation and to offer administrative support and technical assistance to potential Grant Applicants and Grantees. The Division will post Division contacts, Program resources, and educational materials on the Department's website. The Department agrees that the Division has a responsibility to assist with Program education and outreach and has adopted the language proposed by the AGO (i.e., "Conduct Program reporting, education, and outreach") to better align the regulation with the statutory intent. Final Regulations, 220 CMR 34.01(3)(a)(4).

The Department also clarifies that the Director and other non-adjudicatory Division staff may communicate with Parties and potential Grant Applicants prior to intervention status being granted and during the Proceeding, on non-substantive issues. Final Regulation, 220 CMR 34.01(3)(c). Substantive discussions with Parties are for the purpose of identifying opportunities for Grantees to collaborate on procedural or legal issues for the purposes of sharing funds among Grantees representing similar positions, as detailed in 220 CMR 34.06(6) and does not include discussion on the merits of the petition, the strength of any party's position, or other legal matters relating to an open Proceeding. Final Regulations, 220 CMR 34.01(3)(c)(1).

B. 220 CMR 34.02: Definitions

1. Comments

The Department received many comments on the definitions section of the regulations. This section will address the comments we received for each definition.

CLF, ACE, and ELM recommend revising the definition of Community Experts to specify how community members will demonstrate their experience and expertise and how their compensation will be evaluated (ACE Comments at 2; CLF Initial Comments at 3; CLF Final

Comments at 3; ELM Comments at 4). CLF further adds that examples of community experts include those who have organized community meetings, led campaigns, or residents with relevant lived experience(s) regarding environmental harm in a proposed project area (CLF Final Comments at 3).

EDF states that adding a plain language definition of "Evidentiary Record" referenced in 220 CMR 34.03(1)(c) will help applicants understand what constitutes a substantial contribution to the proceeding (EDF Comments at 3). EDF suggests the definition include "the testimony, exhibits, data, and other materials formally entered into the proceeding and may be relied upon by the Department [and Board] in its decision" (EDF Comments at 3).

The AGO suggests revising the definition of Expert Witness Fees to "Reasonable, itemized, recorded or billed costs incurred by an Intervenor for the services of an expert witness and/or a Community Expert participating in a Proceeding" (AGO Comments Appendix A at 2). The AGO also suggests removing "as defined in M.G.L. c. 164, § 149" from the end of the definition of Governmental Body (AGO Comments Appendix A at 2).

The AGO further recommends revising the definition of Grant Applicant to include a new definition of "Organization or Entity" (AGO Comments at 5-6, Appendix A at 3). The AGO argues that the Department should include a definition of "Organization or Entity" to avoid any narrowing of eligibility intended from M.G.L. c. 164, § 149 (AGO Comments at 5-6, Appendix A at 3). The AGO requests the Department consider adding a definition for "pre-filing engagement meetings" mentioned in 220 CMR 34.04(1)(d) (AGO Comments Appendix A at 5).

Both the AGO and CLF suggest revising the definition of Grantee (AGO Comments at 5-6, Appendix A at 3; CLF Initial Comments at 4; CLF Final Comments at 3). The AGO suggests language that includes its new definition of Organization or Entity (AGO Comments at 5-6,

Appendix A at 3). CLF suggests this definition needs further clarification of what defines a group. It proposes that a group should consist of three or more members (CLF Initial Comments at 4; CLF Final Comments at 3). ACE also recommends that a threshold of three members be added to the definition of a group (ACE Comments at 2).

EDF suggests the Department include a full definition of a Limited Participant rather than citing to another regulation, to improve clarity and user-friendliness for applicants trying to understand whether they meet the criteria to apply for a Grant (EDF Comments at 3).

Several commenters proposed expanding the definition of Proceeding to include non-adjudicatory matters before the Department. Specifically, this includes a request to expand funding to Notices of Inquiry or Rulemaking dockets (AGO Comments at 6, Appendix A at 3; EDF Comments at 2,7; ELM Comments at 2; Tr. 3, at 10). Commenters state that limiting the availability of Grants to adjudicatory proceedings will deter participation in the many other significant dockets before the Board and the Department.

Several commenters urged more clarity regarding the definition of Significant Financial Hardship and specificity on documentation required. CLF, EDF, ELM, and ACE all suggest a need for objective criteria to ensure that the definition is applied consistently (CLF Initial Comments at 2-3; CLF Final Comments at 3; EDF Comments at 3; ELM Comments at 3; ACE Comments at 1). CLF recommends documents that offer objective evidence of financial hardship, including tax returns, bank statements, annual budgets, or other financial documents demonstrating an applicant's financial status (CLF Final Comments at 3). CLF and ELM suggest the Department add a definition of "unique perspective" to ensure underrepresented voices (e.g., Indigenous communities sharing traditional knowledge) are eligible for Grants, without requiring legal and technical expertise to be considered "unique" (ELM Comments at 2).

CLF proposes that the Department define “unique perspective” to include the applicant’s lived experience, local knowledge, or direct experience as stated in formal expert testimony (CLF Final Comments at 3-4).

2. Analysis and Findings

The Department appreciates the comments and detailed suggestions offered on these definitions. The Department agrees clarity is important to ensure consistent application of the regulations. Clear definitions and guidance also ensure the Division can create the least burdensome path for the public to engage with the Program. To promote inclusion and lower barriers to participation, the Department incorporates amendments to the regulations as described below.

The Department agrees with CLF that the definition of Community Experts should specify how community members will demonstrate experience. To better articulate this the Department has revised this definition to reflect that community experts are those with “knowledge or lived experience relevant to the Proceeding.” These community members can demonstrate their experience and expertise through a variety of methods including by providing personal stories and insights into community issues, pointing to their participation in community organizing, and providing details on the type and duration of work done. This definition reflects the importance of local knowledge. Final Regulations, 220 CMR 34.02.

The Department also agrees with EDF that adding a plain language definition of Evidentiary Record will help applicants understand what constitutes a substantial contribution to the proceeding. The Department has added a definition of Evidentiary Record to the Final Regulations. Final Regulations, 220 CMR 34.02. Similarly, the Department adopts the AGO’s proposed amendments to the definition of Expert Witness Fees. Expert Witness Fees are intended to include fees for Community Experts, and we adopt this language in the final

regulations accordingly. Final Regulations, 220 CMR 34.02. We also adopt the AGO's proposal to remove the statutory citation from the definition of Government Body. Final Regulations, 220 CMR 34.02.

The Department appreciates the AGO's suggestions to expand the definitions of Grant Applicant and Grantee to include a new defined term of "Organization or Entity." The Department declines to include this new defined term and incorporate it into these regulations. The Department finds that the definitions of Grant Applicant and Grantee are sufficiently narrow and align with the statutory language. The Department does find it necessary to amend the definition of Grant Applicant to clearly define what constitutes a group. The Department accepts CLF's recommendation to define a group as an unincorporated association of three or more individuals and has included this language in our final definitions of Grant Applicant and Grantee. Final Regulations, 220 CMR 34.02. Finally, the Department adds a definition of Pre-Filing Consultation and Engagement to better clarify Grant Application requirements, consistent with Board regulations at 980 CMR 16.00. Final Regulations, 220 CMR 34.02.

The Department declines to adopt EDF's suggestion to add a full definition of "Limited Participant" rather than citing the regulation. Where a term is defined in a separate regulation, a new definition is not necessary. Though the Department declines to adopt a change to this definition in the regulation, the Division will include a definition in its guidance document to improve clarity and help the public understand the distinction between a Limited Participant and Intervenor. The following information will be included in guidance. Intervention means that a person or entity has Party status, which provides an opportunity for extended involvement in the evidentiary proceeding and the right to appeal a final decision. A Limited Participant is not a Party to a Proceeding. An Intervenor may: issue information requests and receive responses;

present written testimony and witnesses; cross-examine witnesses during an evidentiary hearing; file a brief; and appeal an order or final decision. A Limited Participant may: file comments; receive copies of information requests and testimony in a proceeding; receive copies of responses to information requests; and file a brief.

As we noted above, several commenters proposed expanding the definition of Proceeding to include non-adjudicatory matters before the Department. G.L. c. 164, § 149 states the Department may make funds available to parties that have been granted intervenor status “pursuant to clause (4) of the second sentence of the first paragraph of section 10 of chapter 30A.” G.L. c. 164, § 149(b). G.L. c. 30A, § 10 specifically covers adjudicatory hearings and outlines the standards for full and fair hearings, with clause four allowing for participation by “a person showing that he may be substantially and specifically affected by the proceeding to intervene as a party in the whole or any portion of the proceeding, and allow any other interested person to participate by presentation of argument orally or in writing, or for any other limited purpose, as the agency may order.” G.L. c. 30A, § 10(4). Where the statutory framework limits participation to adjudicatory proceedings, the Department will not expand the definition of Proceeding.

The Department agrees with commenters that more clarity is needed around the definition of Significant Financial Hardship. The Department removed language, such as undue hardship, that commenters flagged as vague or unclear. Final Regulations, 220 CMR 34.02. In addition, the Department’s Grant Application includes objective criteria Grant Applicants must demonstrate such as the number of staff, the current fiscal year total budget, the number of months of operating reserve available, unallocated funds or grants that may be available for intervention, and Form 990 in case of a non-profit organization with federal tax-exempt status.

(Appendix B, Grant Application, at 3). The Department notes that even municipalities applying for Program funds will need to demonstrate a Significant Financial Hardship on the Grant Application, unless they have a population fewer than 7,500 in accordance with G.L. c. 164, § 149 and 220 CMR 34.03(2). Similarly, while the Department declines to adopt a definition of “unique perspective,” we find that this can include, but is not limited to, an applicant’s lived experience, local knowledge, or direct experience from an underrepresented perspective as stated in formal expert testimony.

C. 220 CMR 34.03: Eligibility

1. Comments

The Department received several comments on the eligibility requirements for Program funding. Commenters emphasized that the Program guidance must prioritize inclusion and lower barriers to participation. CLF, ACE, and ELM state that the requirement for applicants to demonstrate a “substantial contribution” to a proceeding does not provide sufficient clarity to the standard and may unfairly limit participation by community-based and equity-focused groups (CLF Initial Comments at 3; ACE Comments at 2; ELM Comments at 2). They state that the regulations should more clearly define “substantial contribution” and clarify what is relevant supporting evidence (CLF Initial Comments at 3; ACE Comments at 2; ELM Comments at 2). They also suggest the regulations include examples of the corresponding activity that will meet that threshold (CLF Initial Comments at 3; ACE Comments at 2; ELM Comments at 2). Finally, several commenters propose recognizing that Community Experts meet the threshold for substantial contribution while also acknowledging a learning curve for new intervenors (CLF Initial Comments at 3; ACE Comments at 2). The Acadia Center supports CLF’s recommendation to include example activities that will meet the substantial contribution threshold and agrees that community expertise should be recognized as a valid contribution to

the evidentiary record (Acadia Center Comments at 1). The AGO similarly suggests substantial contribution is a reporting requirement rather an application requirement (AGO Comments at 7-8, Appendix A at 4). The AGO suggests removing the language in favor of the term “participation” (AGO Comments at 7-8, Appendix A at 4). The AGO, National Grid, and Eversource also offer some redline edits for clarity to sections 220 CMR 34.03(1)(c), 220 CMR 34.03(1)(f), 220 CMR 34.03(1)(g), and 220 CMR 34.03(4) (AGO Comments at 8, Appendix A at 4; National Grid and Eversource Comments at 6, Attachment A at 4-5).

EDF and ELM propose expanding funding to individuals (EDF Comments at 4; ELM Comments at 4). They argue that allowing individual intervention may include perspectives not previously brought to the table (EDF Comments at 4; ELM Comments at 4). EDF also seeks clarification that Grant Applicants are not precluded from seeking a Grant in subsequent proceedings involving similar issues (EDF Comments at 7).

2. Analysis and Findings

The Department agrees that further clarity is needed in terms of what activities constitute a substantial contribution to a Proceeding as outlined in 220 CMR 34.03(c). The Department agrees with the AGO that the term “participation” rather than “contribute” better reflects the Department’s expectation of Grant Applicants in demonstrating eligibility. The Department adopts “participation” but retains the use of the term “substantially” to require a Grant Applicant to describe how it “proposes to substantially participate in the Proceeding.” Final Regulations, 220 CMR 34.03(1)(c). It is important that Grant Applicants demonstrate that they will substantially participate in the proceeding with the funds provided by the Program. There are several activities that demonstrate substantial participation. These activities must offer material development of the record or contribute to the final decision in a meaningful way. For example, presenting testimony, filing briefs, and providing evidence of lived experience and expertise of

community members demonstrates substantial participation by material development of a record. Grant Applicants must state a sound, feasible, and clear plan for participating in the Proceeding. We also clarify that Grant Applicants are not precluded from seeking a Grant in subsequent proceedings involving similar issues. The Division will continue to provide guidance on these individual requirements as the regulations are implemented.

The Department declines to allow Program funding for individuals. G.L. c. 164, § 149 explicitly states that to receive funding a party must be an organization, entity, or government body. G.L. c. 164, § 149(b). Based on the statutory framework, the Department is unable to provide funding to individuals. Individuals who are impacted by a Department or Board Proceeding that share similar interests may work together with other individuals and apply as an unincorporated association of three or more individuals. Final Regulations, 220 CMR 34.02.

The Department adopts the suggestions of the AGO, National Grid, and Eversource to sections 220 CMR 34.03(1)(c), 220 CMR 34.03(1)(f), 220 CMR 34.03(1)(g), and 220 CMR 34.03(4). Final Regulations, 220 CMR 220 CMR 34.03(1)(c), 220 CMR 34.03(1)(f), 220 CMR 34.03(1)(g), and 220 CMR 34.04. These revisions clarify the Final Regulations.

D. 220 CMR 34.04: Grant Application

1. Comments

Acadia Center, ACE, Boston Climate Action Network, and CLF request that the Department add more flexibility to the Grant Application Form as to the level of documentation required (Acadia Center Comments at 1-2; ACE Comments at 2; Tr. 3, at 11; CLF Initial Comments at 4-5). They suggest that information required in the Grant Application may be overly burdensome for small grassroots organizations or unincorporated groups with limited administrative capacity (ACE Comments at 2; CLF Initial Comments at 4-5, Tr. 3, at 11). They also note that it is important the Department retain flexibility in the Grant Application process,

particularly for new or first-time intervenors (Acadia Center Comments at 1-2; ACE Comments at 2).

Several commenters also cite concerns regarding the confidentiality of the Grant Application. They suggest that needing to provide names and addresses of all members in an unincorporated group raises significant privacy concerns, particularly for communities that have experienced marginalization or environmental harm (ACE Comments at 2; CLF Initial Comments at 4). CLF states that the Department should remove the requirement that names of all members of an unincorporated group be disclosed as this raises significant privacy concerns (Tr. 3, at 12). The AGO further argues that requiring the documentation outlined in 220 CMR 34.04(h) could lead to serious privacy concerns (AGO Comments at 9). The AGO proposes new language to mitigate the privacy concerns (AGO Comments Appendix A at 5-6). EDF recommends the Department explicitly provide for confidential treatment of such sensitive materials submitted with a Grant Application (EDF Comments at 5). The AGO and CLF both raise concerns that requiring Grant Applicants to detail their position in a Proceeding may result in premature disclosure of their arguments and litigation strategy (AGO Comments at 9, Appendix A at 5; CLF Final Comments at 4). They ask the Department to allow Grant Applicants to file this information confidentially if it is necessary (AGO Comments at 9; CLF Final Comments at 4).

National Grid and Eversource recommend modifying language to include a brief description of the Grant Applicant's *financial* position (National Grid and Eversource Comments at 6-7, Attachment A at 5). They also suggest that in addition to docket numbers, case captions, and participation descriptions for past proceedings, the Grant Application include names of third parties (i.e., consultants or experts) to ensure that the third parties do not have a history of

misusing funds or causing delays (National Grid and Eversource Comments at 7, Attachment A at 5).

The AGO also suggests adding language allowing the Division to request any additional information reasonably requested to process the Grant Application (AGO Comments, Appendix A at 6).

2. Analysis and Findings

The Department appreciates that preparing complete Grant Applications may pose an administrative burden to some small organizations and entities. The Department must balance this administrative burden with the Division's responsibility to ensure proper due diligence in approving and dispersing funds. In addition, much of this documentation is required by G.L. c. 164, § 149. The Department adopts certain changes to align the language with changes made in prior sections. The Department declines to remove the information requirements for the Grant Application prescribed by statute. This information is necessary to determine how the Grant Applicants will participate in the Proceedings. The Division will use completed Grant Applications and supporting information provided to make decisions on Grant Applications.

The Department also acknowledges concerns regarding the confidentiality of some information provided by Grant Applicants in a Grant Application. The Division will not post Grant Applicants or supporting materials to the Department's website. In the case of Grant Applications by an unincorporated association of three individuals or more, the Division shall communicate with and publicly list only the name of the designated point of contact on the Division webpage. Applicants may file a motion for protective treatment of information, if appropriate. The Division's Program guidance will include information about content that is necessary to include in a motion for protective treatment. Although the Division will not proactively post the information described above, the Department notes that Grant Applications

and supporting materials remain subject to the Massachusetts Public Records Law. G.L. c. 4, § 7(26); G.L. c. 66, § 1; 950 CMR 32.00.

The Department declines to adopt National Grid's and Eversource's suggestion to require Parties to describe their financial position. The Department's requirements in 220 CMR 34.04(b) and 220 CMR 34.04(f) will elicit adequate information regarding the nature of a Grant Applicant's financial position. The Department also declines to adopt a requirement to include names of third parties such as consultants and experts used in past proceedings in the Grant Application. The Department adds language to clarify that Grant Applicants must provide docket number(s) and case caption(s) of previous Department and Board Proceedings in which the Grant Applicant has participated as an intervenor. Final Regulations, 220 CMR 34.04(g).

E. 220 CMR 34.05: Grant Application Process

1. Comments

Several commenters request clarification on certain elements of the Grant Application Process. CLF seeks clarification on what makes a Grant Application complete (CLF Initial Comments at 5). It suggests the Department provide a checklist or guidance to ensure Grant Applicants are aware when they have completed the application (CLF Final Comments at 4). The AGO supports this suggestion (AGO Comments at 9-10, 13). CLF also seeks clarification on any avenues for reconsideration if intervention is denied (CLF Initial Comments at 5). Several commenters request clarification whether the Grant Applicant will have sufficient time to correct minor errors in their Grant Application if a completeness review takes a full ten days (CLF Initial Comments at 5; ELM Comments at 4). They suggest allowing a standardized correction period or an opportunity to supplement an application (Acadia Center Comments at 2; ACE Comments at 2; CLF Initial Comments at 5; ELM Comments at 4). CLF also seeks clarification on when a conditional Grant becomes a full Grant (CLF Initial Comments at 5).

National Grid and Eversource request an opportunity to review and comment on pending Grant Applications. They suggest adding language requiring the Grant Applicant to provide a copy of the Grant Application to the petitioner concurrent with a filing to the Board or the Department (National Grid and Eversource Comments at 7, Attachment A at 6). They also request an opportunity to review and comment on the Grant Application (National Grid and Eversource Comments at 7, Attachment A at 6).

2. Analysis and Findings

The Department finds that the Grant Application is complete when all information requested in the Grant Application form is provided by the Grant Applicant. If the Division has concerns about any deficiencies, the Division will notify the Grant Applicant of these deficiencies by email and indicate a date by which they must be addressed as specified in the Final Regulations. Final Regulations, 220 CMR 34.05(2). The Grant Applicant shall correct any deficiencies by the end of the Grant Application window or by the date indicated by the Director.

The Department also clarifies that a Conditional Grant Award becomes a full Grant when the Grant Applicant is granted Intervenor status by a Department Hearing Officer ruling or Commission decision or by a Board Presiding Officer. If a Grant Applicant does not receive Intervenor status, they will not receive Grant funding. If the Grant Applicant is denied Intervenor status in a Department Proceeding, it has opportunities established by Department regulations, 220 CMR 1.06(5)(d). The status of a Conditional Grant Award will be communicated only to the Grant Applicant and not to any hearing officer or presiding officer in the open Department or Board Proceeding. The Division does not participate in the decisions regarding whether to grant Intervenor status in a Proceeding.

The Department declines to adopt the changes suggested by National Grid and Eversource. There is no statutory requirement to provide copies of the Grant Application to

Parties in a Proceeding or make them part of the evidentiary record. As such, the Department declines to require the provision of Grant Applications to a Petitioner or other Parties and declines opportunities for Petitioners to comment on Grant Applications.⁷

F. 220 CMR 34.06: Allocation and Payment of Funds

1. Comments

Overall, commenters support Grant Applicants receiving funding prior to costs being incurred and flexibility in increasing the grant amount awarded to a Party for good cause (Chun Comments at 2; EDF Comments at 6; ELM Comments at 5, Tr., 3 at 11). Commenters requested greater clarity and specificity on how funding decisions will be made. ELM seeks more clarity around how funding and allocation decisions will be made. ELM says the regulations are unclear whether the total funding per Proceeding is intended to be the sum of all grant requests subject to a \$500,000 cap or if total funding per Proceeding is established before the Grant requests are received, with this amount divided among a number of applicants (ELM Comments at 4-5). ELM also states that the regulations should describe how the Division will allocate funds among Intervenors if total requests are greater than the established amount (ELM Comments at 5). CLF raises concerns that the requirement for tax identification and registration may present challenges for some community groups in receiving funds (CLF Initial Comments at 5-6). Finally, the AGO recommends that the regulations include a non-inclusive list of factors the Division may consider when determining whether a Proceeding presents a novel or complex issue requiring the Director to exceed funding caps (AGO Comments at 10, Appendix A at 6).

⁷ We note that parties to a proceeding may review and file a response to any petition for intervention.(220 CMR 1:03(1)).

Several commenters support giving the largest permissible amount of grant funding prior to incurring costs based on the Grant Application (EDF Comments at 6; ELM Comments at 5). EDF and ELM suggest allowing more than ten percent of grant funds before costs are incurred, as greater access to advance funding can be critical for meaningful participation in the Proceeding (EDF Comments at 6; ELM Comments at 5). With any disbursement, the Acadia Center suggests clarifying language outlining how a 30-day payment timeline interacts with actual payments incurred (Acadia Center Comments at 2). They suggest it is unclear whether distribution of Grant funding will occur after the costs are incurred at any time during the Proceeding, or after the Proceeding (Acadia Center Comments at 2).

The AGO supports the Division identifying areas of collaboration between Grant Applicants. The AGO recognizes this will maximize effectiveness and minimize Program costs on ratepayers (AGO Comments at 10-11, Appendix A at 7). They suggest the Division clarify it will proactively work with Grantees to identify these areas (AGO Comments at 11, Appendix A at 7). EDF argues that the regulations should include explicit language that Grant Applicants may decline the Division's suggestion to collaborate (EDF Comments at 6).

2. Analysis and Findings

The Department appreciates the comments in support of providing the Grant prior to costs being incurred by a Grantee. The Department agrees that there is room for further clarity on the allocation of funds. As a preliminary matter, in the event the initial request for funding in a specific Proceeding is greater than the \$500,000 cap per Proceeding, the Division will review how Grant Applicants plan to substantially participate in the Proceeding, the potential for Grantees to collaborate where positions align, the availability of funds, and whether good cause exists to exceed \$500,000. The Division may reduce funding available per Grantee and prioritize applicants from Government Bodies, historically marginalized or overburdened and underserved

communities, or residents of Burdened Areas. As stated in G.L c. 164, § 149 (f), the Director has discretion to provide funding exceeding \$500,000 for any individual Proceeding upon a finding of good cause.

The Department also makes several other changes in response to the comments received. We adopt the AGO's suggestion that the regulation should list factors the Division may consider when determining whether a Proceeding presents a novel or complex issue requiring the Director to exceed funding caps. We have added such criteria to the Final Regulations, including but not limited to: whether the Grant Applicant is offering testimony and analysis on several issues; whether the Proceeding is phased; the number of evidentiary hearing days; and whether the scope of a Proceeding is substantially expanded beyond what was reasonably anticipated at the time of the original Grant Award. Final Regulations, 220 CMR 34.06(1)(a). We reiterate that the Division may disburse funds throughout the Proceeding, not only at the end of the Proceeding. Final Regulations, 220 CMR 34.06(4). We also added additional language to better articulate how the 30-day payment timelines will align with expenditure by Grant Applicants. The Department finds that the Division shall pay approved advance payments or reimburse approved, incurred expenses within 30 calendar days of the submittal of a Grant Payment Request and required supporting documentation. Final Regulations, 220 CMR 34.06(5). Groups without tax identification will be able to work with a fiscal sponsor if their Grant Application is approved by the Division. The Division will work with stakeholders to develop a list of organizations that can serve as fiscal sponsors. Finally, the Department agrees with commenters that increasing the percentage of the total Grant that can be disbursed before the Grant Applicant incurs costs may help alleviate some of the barriers related to financial constraints. Accordingly, the Final Regulations provide that the Division may award up to 20 percent (rather than ten

percent) of the total Grant before the Grant Applicant incurs costs. Final Regulations, 220 CMR 34.06(3)(a).

In light of these clarifications and changes, the Department declines to make changes as to the Division's discretion in identifying where funds may be shared among Grantees representing similar positions⁸

G. 220 CMR 34.07: Use of Intervenor Compensation Grant Funding

1. Comments

The Department received comments asking for clarity around administrative costs and requesting further guidance from the Department. The AGO suggests adding redlines to better align the regulation with the language of G.L. c. 164, § 149(g) (AGO Comments Appendix A at 7). Acadia Center proposes the regulations provide additional information and examples on what non-legal, non-expert, and non-consultant administrative costs entail (Acadia Center Comments at 2). They request that the Department provide guidance on how staff and volunteer time spent on applying and managing an intervention would be categorized (Acadia Center Comments at 2). The City of Boston also requested the Department clarify what type of guidance and support it will provide (City of Boston Comments at 1). CLF, ACE, and ELM argue that guidance is needed to clarify administrative costs and how they are distinct from consultant or expert fees (CLF Initial Comments at 6; CLF Final Comments at 4; ACE Comments at 2-3; ELM Comments at 5-6). CLF recommends raising reimbursement allowance

⁸ While we do not add language to the Final Regulations about whether Grant Applicants may decline the Division's suggestion to collaborate, the Department acknowledges that Grant Applicants may decline to accept Grant Funding if they are unwilling to engage in collaborative efforts when the Director makes a shared funding decision.

for third-party assistance to ten percent because some applicants may need more external help than others (CLF Final Comments at 4).

Commenters also made suggestions regarding the ineligible use of funds. CLF reiterates that guidance on permissible forms of outreach and community engagement activities would be helpful (CLF Initial Comments at 6). ACE argues that some of the prohibited activity outlined in 220 CMR 34.07(2)(c) would restrict a community organization's ability to print out flyers advertising a community gathering hosted by residents expressing concerns about a project/proceeding and that intervenors should be able to use funding for involving and educating other community members (ACE Comments at 3). EDF argues that the regulations should explicitly allow reasonable community engagement costs as eligible uses of Intervenor Funding—e.g., hosting meetings, conducting surveys, or facilitating focus groups—which are critical for ensuring organizations can meaningfully involve the communities they represent in Department or Board proceedings (EDF Comments at 6). Boston Climate Action Network similarly advocates for clarity on what constitutes advertising (Tr. 3, at 11).

National Grid and Eversource suggest adding clarification on ineligible uses of funds and forms of equipment referenced (National Grid and Eversource Comments at 8). They also propose changing the use of the word Applicant to Grantee in 220 CMR 34.07(2)(c) (National Grid and Eversource Comments at 8, Attachment A at 7). They suggest adding a sentence to clarify that any funds spent on ineligible uses shall be refunded to the Division no later than 30 days after any such finding by the Director (National Grid and Eversource Comments at 9, Attachment A at 7).

2. Analysis and Findings

The Department reiterates its intent for the Division to provide administrative and technical support to Grant Applicants throughout the process. This includes issuing Program

guidance and educational materials on the Department’s website, conducting Program outreach, and working with stakeholders to identify additional resources that may be valuable to stakeholders. As part of this support, the Department allows up to ten percent (or a greater percentage at the Division’s discretion) of the Grant award to go towards administrative costs. Final Regulations, 220 CMR 34.07(1). These administrative costs may include, but not be limited to, reasonable costs for communication and office operations (e.g., photocopying, calls), travel, meals directly related to participating in the Proceeding, reasonable community engagement costs, and costs associated with drafting a Grant Application, where a third party was hired for the purpose of contributing to the Grant Application..

The Department declines to further narrow the list of ineligible uses of Grant funds. The Department does amend the regulations to more accurately reflect that the prohibition on advertising or marketing costs to publicize the *Grantee’s* view on a Proceeding does not include reasonable community engagement costs that support meaningful participation, such as hosting community meetings, conducting surveys, or facilitating focus groups. Final Regulations, 220 CMR 34.07(1). We also adopt language requiring that the amount of any ineligible uses of Grant funds shall be refunded to the Department no later than 30 calendar days after notification from Director. Final Regulations, 220 CMR 34.07(4). The Department has also changed the word “Applicant” to “Grantee” in 220 CMR 34.07(2)(c).

H. 220 CMR 34.08: Denial of Grant Application

1. Comments

Commenters expressed concern with the scope of the Director’s discretion in denying Grant Applications. CLF and Acadia Center suggest the Department set forth clear and objective standards for its denial decisions and add a requirement that denials clearly set forth the reasons for denial (Acadia Center Comments at 2; CLF Initial Comments at 6). Acadia Center and CLF

request reconsideration of the appeals process (Acadia Center Comments at 2; CLF Initial Comments at 6). EDF and ELM strongly recommend that the regulation require the Director to provide a detailed and specific explanation of why a Grant is denied, including any particular deficiencies and guidance on how applicants might address these issues in future submissions (EDF Comments at 6; ELM Comments at 6). EDF also requests the Department include an explicit statement confirming that denial of a grant application does not bar an applicant from applying for a Grant in future Proceedings (EDF Comments at 6).

The AGO suggests adding language to 220 CMR 34.08(1) to clarify circumstances of bad faith (AGO Comments Appendix A at 8). CLF also requests more clarity on the terms “bad faith,” “fraud,” and “misuse” of funds. CLF suggests establishing procedural safeguards such as allowing Grant Applicants a reasonable amount of time to respond to the Director’s decision before termination of funds (CLF Initial Comments at 6).

2. Analysis and Findings

The Department appreciates that commenters seek to afford Grant Applicants and Grantees safeguards against the Director’s decision to deny funding. The statutory language is explicit that Grant Applicants have no legal right or privilege to funding and shall not be entitled to any further review if denied by the Director. G.L. c. 164, § 149(i). The Director shall consider each Grant Applicant’s eligibility and information provided in the Grant Application to approve or deny funding. The Department declines to make any amendments affording Grant Applicants additional procedural safeguards in circumvention of the statute. The Department does make edits to this section to clarify what activity may warrant denial of funds, including but not limited to: misusing Program resources or funds; inadequate accounting; or exhibiting a pattern of repeatedly delaying or obstructing or attempting to delay or obstruct Proceedings. Final Regulations, 220 CMR 34.08(2). As the regulations are implemented and the Division

processes Grant Applications, it will continue to continue to work with stakeholders to develop guidance and provide concrete examples of denials.

I. 220 CMR 34.09: Reporting Requirements

1. Comments

The AGO suggests adding the word “undue” in 220 CMR 34.09 (3) (AGO Comments Appendix A at 8). CLF suggests the reporting process should be streamlined for small organizations (CLF Initial Comments at 6-7). They also state the regulations should allow for flexible extensions and provide clear directions regarding reporting expectations (CLF Initial Comments at 6-7). Mr. Chun supports an extended reporting deadline in certain cases (Chun Comments at 2).

2. Analysis and Findings

The Department adopts the AGO suggestions and adds the word “undue” to indicate that the Department expects Grantees to contribute to efficient proceedings and prevent undue delays. Final Regulations, 220 CMR 34.09(3). The Department declines to adopt changes to the timing of the reporting requirements prescribed by statute. G.L. c. 164, § 149.

IV. ADDITIONAL GUIDANCE

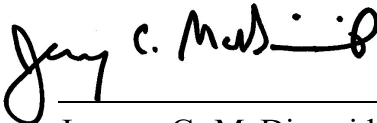
As the Department has indicated throughout this Order, through the Division, we are committed to guiding organizations, individuals, municipalities and any other prospective Grant Applicants through the Grant Application process. With the adoption of the Final Regulations, effective July 1, 2026, we will begin processing Grant Applications for Department and Board Proceedings. Proceedings initiated before July 1, 2026, are not eligible for grant funding through the Program. We will continue to work on providing guidance, resources, and clarity to ensure Grant Applicants are adequately informed and can submit high-quality Grant

Applications. Through the practical application of these regulations, we will develop additional guidance for stakeholders.

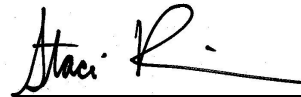
V. ADOPTION OF FINAL REGULATIONS

For the reasons stated above, the Department, by this Order, adopts the attached Final Regulations, 220 CMR 34.00, Intervenor Support Grant Program. The Department will file standard Regulations Filing Forms and the Final Regulations, 220 CMR 34.00, with the Office of the Secretary of the Commonwealth, State Publications and Regulations Division. The Final Regulations are effective upon publication in the Massachusetts Register.⁹

By Order of the Department,



Jeremy C. McDiarmid, Chair



Staci Rubin, Commissioner



Elizabeth A. Anderson, Commissioner

⁹ The Division will maintain an online version of the Grant Application and related guidance materials on the Department's website at: <https://www.mass.gov/info-details/intervenor-support-grant-program>.