

WEST BOYLSTON MUNICIPAL LIGHTING PLANT

4 Crescent Street, West Boylston, Massachusetts 01583
Telephone (508) 835-3681

September 18, 2024 (via email)

Department of Energy Resources
Lyn Huckabee
100 Cambridge Street, 9th Floor
Boston, MA 02114

Subject: Large Building Energy Reporting Comments

Dear Ms. Huckabee,

Thank you for the opportunity to submit comments related to the Massachusetts Department of Energy Resources (DOER) draft regulation, 225 CMR 27 Building Energy Reporting. WBMLP appreciates the Commonwealth's electrification and greenhouse gas reduction goals and respectfully submits the following comments.

Massachusetts General Law Chapter 25A, Section 20, created by The Acts of 2022, does not provide DOER the authority to impose a building energy reporting regulation on municipal light plants (MLP). The text in MGL Chapter 25A, Section 20 never mentions MLPs. The legislation only requires each "electric, gas and steam distribution company" to report. The lack of any reference to MLPs clearly demonstrates the legislation does not apply to MLPs. The law should be given its plain meaning wherever possible and presumption may not be used in determining a statute. Subjecting municipal light plants to this regulation clearly exceeds DOER's authority.

The regulation should require large building owners to report their own energy usage and costs. Requiring large building owners to report makes them better consumers of energy, provides owners information about their energy costs and consumption patterns, and helps owners make their own energy and electrification decisions.

MLPs will meet our net-zero GHG emission goal by 2050. What is the public benefit and purpose of reporting electricity use and cost if the Commonwealth expects all building owners and consumers to electrify their building and transportation systems by 2050? This reporting will only result in higher consumer electricity rates. WBMLP recommends DOER focus on owner reporting of oil, propane, and natural gas consumption. These are the delivered fuels the Commonwealth expects to electrify by 2050. Thank you for the opportunity to submit comments.

Sincerely,

Jonathan Fitch
General Manager

**STATEMENT OF THE GREATER BOSTON REAL ESTATE BOARD REGARDING
BUILDING ENERGY REPORTING DRAFT REGULATION 225 CMR 27.00**

September 20, 2024

On behalf of the 13,000 members of the Greater Boston Real Estate Board (GBREB) we are pleased to submit the following comments regarding Building Energy Reporting, Draft Regulation 225 CMR 27.00 or Large Building Energy Reporting (LBER).

GBREB supports policies and programs aimed at conserving energy and protecting the environment. Understanding a building's energy use is the first step in measuring improvements and implementing cost effective ways to improve building performance. But those policies must not arbitrarily intervene with market forces, assign market value to buildings, stigmatize property, or otherwise interfere with transactions.

We appreciate DOER's sensitivity to those concerns and their continued outreach to the community, particularly considering the current challenges facing the commercial real estate market and the need to increase the production of multifamily housing. Variables such as occupancy rates, debt burden, complex refinancing, and increased pressure on operating expenses have forced owners to do more with less. High upfront costs, capital costs, prolonged payback periods and split incentives remain significant barriers to energy efficiency.

DOER appears to have addressed several major concerns GBREB raised in proceedings related to municipal adoption of similar programs. However, we also have several suggestions for your consideration.

Utility Participation

GBREB strongly supports the recognition by DOER that the utilities are best equipped to compile and provide building wide utility information to DOER. It is impractical to expect owners to obtain usage information from individually metered tenants.

Ease of Uploading and Sharing Information

Utilities should be required to do more than simply provide the building owner with building-wide aggregate energy usage information. For commercial customers DOER should require utilities to upload the building energy usage information into Energy Star Portfolio Manager for the owner. Energy Star is an industry standard that many buildings already use for tracking purposes and this approach would make it easier for building owners to comply with the regulation and, for those buildings not already using the portal, this requirement would promote using this portal for ongoing energy consumption review.

However, unlike commercial buildings, residential buildings pose unique challenges when using Energy Star which should be considered. Energy Star Portfolio Manager generates what is known as an “operational” rating for a building. Residential buildings often have high energy usage per square foot and poor performance on an “operational” rating scheme, even if it is an intrinsically energy-efficient building. For instance, energy usage can be impacted by buildings which have many residents per square foot (i.e., a building having many small apartments occupied by large families), high “plug loads” (i.e., large electricity draws for many appliances, electronics, washer/dryers, and TVs), or old or very young residents who are often at home during the day, keeping the heat, air conditioning and lights on.

In considering energy usage comparisons between multifamily buildings, it is also important to compare the factors that reflect differences in building uses rather than differences in building efficiencies. For example, two otherwise identical multifamily apartment buildings would have significantly different energy usage if one building included several washers and dryers and the other building had none. The fact that one building includes washers and dryers and the other does not is not a difference in energy efficiency between the two; instead, it represents a difference in the nature of the services the two buildings provide.

There is also a great deal of variation among residential buildings. Apartments, boarding houses, mixed-use residential, convents and monasteries, dormitories, non-transient hotels, condominiums, time-share properties, residential treatment facilities, nursing homes, and others all have different energy profiles.

27.02 Personally Identifiable Information

GBREB supports DOER’s focus on privacy concerns. We appreciate the inclusion of a definition of personally identifiable information which includes any combination of information that could be used to identify a tenant. As these regulations are implemented, we encourage DOER to maintain a focus on this important issue.

27.03 (2) New Buildings

GBREB supports the exemption for newly constructed buildings. While it may be worthwhile to consider a slightly longer exemption for these buildings – perhaps two years instead of one - we appreciate the acknowledgement that new buildings should not immediately be subject to this regulation.

27.04 Exemptions for Energy Usage from an Unresponsive Lessee

GBREB supports DOER’s position not to penalize the building owner for unresponsive lessees. Just as residential building owners could not realistically be expected to obtain usage information from individually metered units within their buildings, it is unfair to hold building owners accountable for unresponsive tenants.

27.06 Building Ownership Changes and Building Ownership Designations

We recommend that the responsibility for notifying DOER of any ownership changes be the sole responsibility of the new owner, not the existing owner. As drafted, the regulation creates an unnecessary paperwork burden on the existing owner in what is often an already complex process. We believe the new owner is also in a better position to provide the information required under the regulation.

27.11 Enforcement and Penalties-Right to Cure

Under the proposed regulations, the building owner would only be granted 30 days from the issuance of written notification from DOER to provide energy usage information. This is far too short a period of time. Since the owner is reliant on obtaining the information from the Distribution Companies or Municipal Utilities, we recommend that owners be granted a 90 day right to cure.

Municipal Overlap & Non-Compliance with Future Decarbonization Requirements

GBREB is concerned with the overlap of these proposed regulations with municipal requirements, particularly those currently being implemented in the Cities of Cambridge and Boston. To utilize scarce building resources efficiently we urge DOER to work with municipal partners to ensure that all regulations have consistent requirements, following DOER's lead whenever possible.

Of particular concern are uncoordinated enforcement actions (notices of noncompliance, fines, etc.) particularly as other municipalities implement similar ordinances or existing ordinances change, creating confusion for regulated entities. Alignment with DOER will prevent confusion.

Robust Public Outreach & Compliance Assistance Programs

We encourage DOER to implement extensive outreach and compliance assistance programs for building owners including drop-in help centers, help lines, workshops, how-to guides, web pages, outreach, and mandated no-cost assistance from utilities to owners, etc. Compliance and data quality may be adversely affected without a robust public outreach program.

Cost and Complexity

Despite resources to assist building owners in assembling and reporting their energy usage, many owners required to report have employed consultants to prepare the submittals rather than doing it themselves. If the initial reporting step in the program is found by building owners to be so difficult or complex that owners cannot prepare their own submittals, building owners may not understand the information and its implications sufficiently to motivate owners to subsequently pursue energy-saving investments.



Finally, despite the improvements in reporting, GBREB still remains concerned whether the information these programs generate will be useful to make building owners and tenants increase their investment in cost-effective energy efficiency upgrades. We urge DOER to continually monitor this program to understand its success.

Thank you for your consideration of our comments. Our members are available to provide more detailed feedback on the regulations. Please do not hesitate to contact Patricia Baumer, Director of Government Affairs at pbaumer@gbreb.com or 617-399-7585 if you have any questions.





Massachusetts
Housing
Partnership

160 Federal Street
Boston, Massachusetts 02110
Tel: 617-330-9955
Fax: 617-330-1919

www.mhp.net

September 24, 2024

Ms. Lyn Huckabee
Regulatory and Innovation Manager, Energy Efficiency Division
Department of Energy Resources
100 Cambridge St.
9th Floor
Boston, MA 02114

Re: BER Public Comment

Dear Ms. Huckabee:

Thank you for the opportunity to provide public comment on the draft Building Energy Reporting (BER) regulation. We appreciate the Department's focus on soliciting feedback from interested stakeholders early in the regulation generation process, and we hope that our comments are helpful as the details of the regulation are considered and determined.

Massachusetts Housing Partnership (MHP) is a public, nonprofit lender that has financed more than 28,000 multifamily rental units in the Commonwealth since 1990, with over 75% affordable to low-income households. We are committed to addressing climate change through the construction and renovation of sustainable, climate-friendly, and resilient affordable housing. In 2019, we launched our Green & Healthy Housing (G&HH) programs and have since committed or closed on financing for over 2,900 G&HH units in new construction and rehabilitation projects achieving substantial reductions in energy use and carbon emissions.

MHP currently manages a multifamily rental housing portfolio that consists of 352 developments, including 1159 discrete buildings and 17,623 units of rental housing. Almost all of these buildings are over 20,000 square feet and would therefore be covered by the Building Energy Reporting regulation.

Over half of our portfolio is owned and operated by non-profit affordable housing owners, and these are capacity and capital-limited organizations. Many want to better understand their building energy consumption and emissions profiles, but they need a streamlined, efficient, and consistent way to access information that does not add workload to an already overburdened asset and property management staff. In this spirit we offer the following recommendations as DOER continues to refine this regulation and develop its associated implementation program.

Recommendation #1: Require Distribution Company and Municipal Utilities' Provision of Data

We recommend that the regulation be drafted in a way that sets clear expectation that any distribution company or municipal utility that provides energy to a building on the covered parcel list is the responsible entity and expected to report whole building energy consumption and cost data, request exemptions (when applicable), and provide appropriate data quality assurance/control. We recommend removing the language in Section 27.04:(3) (a) that indicates that a building owner is responsible for reporting energy usage for buildings on a covered parcel if a distribution company or municipal utility does not meet their obligation to report. Instead, we recommend focusing attention on setting and enforcing stringent non-compliance penalties that will ensure that these responsible entities meet their obligations under this regulation (Per Section 27.11: Enforcement and Penalties).

Recommendation #2: Codify Provision of Data in a Format Conducive to Import into the EPA Portfolio Manager Tool.

Jurisdictions with building energy reporting requirements and performance standards across the country have coalesced around using EPA's Portfolio Manager tool to track and report building energy use. To maximize the benefits of the data being reported directly by distribution companies and municipal utilities, we highly recommend that they be required to report whole building energy consumption and cost information in a format specifically designed for easy upload/import to the Portfolio Manager tool. Furthermore, we recommend that DOER design and implement a database system for storage and management of the data reported by distribution companies/municipal utilities to enable direct import into an owner's Portfolio Manager account (with no need for data download and upload assuming appropriate connections and permissions are provided).

We believe that the two provisions outlined above have the potential to significantly reduce/eliminate many of the barriers that have impeded progress associated with large building energy consumption information access/analysis. This will create a greater opportunity to incorporate this data into portfolio-wide benchmarking and emissions reduction activities for building owners and stakeholder entities, such as lenders like MHP.

Recommendation #3: Data Verification Responsibility Clarification

Section 27.08: Data Verification requires building owners to provide third-party verification of submitted data. As most of the data being provided under this regulation will be from distribution companies or municipal utilities, this section should be revised to include appropriate QA/QC requirements for these regulated entities, minimizing the cost and burden associated with third-party data verification for building owners. This approach should also govern edits to Section 27.11: Enforcement and Penalties (3)(b) and (c).

Recommendation #4: Facilitate Communication with Covered Parcel Building Owners

We recommend that DOER implement a process by which building owners with covered parcels receive direct outreach that notifies them of coverage by this regulation and helps them understand who the regulated entities for their covered parcel are. Any information that the Department needs from the building owner should be requested via an easy-to-use form or web page, and the building owner should be able to access/change/update information about their covered parcel via secure login.

The Building Energy Reporting regulation has the potential to become a mechanism by which multifamily lenders, such as MHP, and affordable housing owners and managers can easily access whole building energy consumption, cost, and emissions information. We expect this data to enable our organization to work more proactively with the owners in our portfolio to create and implement plans that reduce energy use and cost, facilitating progress towards the Commonwealth's emission reduction goals and promoting greater financial stability for these important affordable housing resources.

Thank you very much for your consideration of our feedback on the draft regulation, and please do not hesitate to reach out if further detail or discussion is helpful.

Sincerely,

A handwritten signature in dark ink, appearing to read 'LB' with a stylized flourish.

Lauren Baumann
Director of Sustainability and Climate Initiatives
Massachusetts Housing Partnership



240 Route 10 West
P.O. Box 206
Whippany, NJ 07981-0206
www.suburbanpropane.com

Paul M. Rozenberg
Senior Manager
Government Affairs & Corporate Communications

prozenberg@suburbanpropane.com
(p) 973.503.9915
(c) 862.217.9643

September 24, 2024

VIA ELECTRONIC MAIL

Lyn Huckabee
Energy Efficiency Division
Massachusetts Department of Energy Resources
100 Cambridge Street, 9th Floor
Boston, MA 02114

RE: BER Public Comment

Dear Ms. Huckabee:

Suburban Propane writes in regards to the Draft Regulation for Large Building Energy Reporting (“Draft Regulation”). We have concerns regarding certain provisions in the Draft Regulation and urge the Department of Energy Resources (“DOER”) to make the following changes:

- Include language clarifying that parcels with multiple small buildings will not be included in the Covered Parcels List;
- Remove the “associated cost information” reporting requirement, or include a definition of “associated cost information” in 225 CMR 27.02 and language providing that associates cost information is confidential and exempt from public disclosure; and
- Add an express 15-day timeline to 225 CMR 27.12(1) for reporting entities to comply with a document inspection.

Suburban Propane has been serving customers for 96 years and is the nation’s third-largest propane retailer with operations in 42 states. In Massachusetts, we have 38 employees at 8 locations serving more than 14,300 customers.

Covered Parcels

225 CMR 27.03 directs DOER to publish a “Covered Parcels List” that will include all parcels in the Commonwealth containing large buildings, which is defined 225 CMR 27.02 as “[o]ne or more Buildings located on a Parcel with a combined Gross Floor Area equal to or greater than 20,000 square feet.”



Pursuant to 225 CMR 27.04(1), distribution companies would be required to report all energy usage and associated cost information “for all [b]uildings contained on a Covered Parcel that have an account with the Distribution Company for the previous calendar year.”

The definition of a Covered Parcel in the Draft Regulation is vague. It is unclear whether parcels with multiple non-large and unconnected buildings would qualify as a covered parcel. No building on the parcel qualifies as a large building, but collectively they may have a gross floor area of 20,000 square feet. For example, Suburban Propane delivers fuel to campgrounds that each have cabins, showers, and laundry facilities. Each building is small, but there is more than 20,000 square feet of gross floor area across all buildings.

As stated in 225 CMR 27.01, the purpose of the Draft Regulation is to establish a process for covered entities to report the energy usage of large buildings. However, based on 225 CMR 27.02, it is possible these separate structures could be considered one large building, making a campground a Covered Parcel and requiring us to report the campground’s energy usage, even though no building itself comes close to the definition of a large building. We urge DOER to amend the definition of “Large Building” under 225 CMR 27.02 to read “A Building located on a parcel with a combined Gross Floor Area equal to or greater than 20,000 square feet.

Associated Cost Information

As previously mentioned, 225 CMR 27.04(1) requires distribution companies to report all energy usage for a Covered Parcel and associated cost information. It is unclear why the disclosure of associated cost information is needed. Reporting the amount of energy delivered to Covered Parcels is sufficient to achieve the purpose laid out in 225 CMR 27.01. In addition, associated cost information is not defined anywhere in the Draft Regulation. This could be interpreted in several different ways: cost of the product itself; our sales price to the customer; the total cost to the customer including labor and delivery; etc... Further, we have concerns regarding the reporting of such information. Product costs and sales price to customers is proprietary information. If publicly disclosed, it can be used by business competitors to undercut current energy providers.

In order to streamline compliance without infringing on the intent and purpose of the Draft Regulation, we recommend that covered entities only be required to report energy usage and any reference to associated cost information be removed from the Draft Regulation. However, if DOER insists on including this information, a narrowly tailored definition of associated cost information should be added in 225 CMR 27.02 to include only product costs. Also, if associated cost information is required to be reported, we ask that additional language be included providing that such information is confidential and not subject to public disclosure.



Document Inspections

225 CMR 27.12(1) permits DOER to audit the accuracy of information provided and request and obtain information from distribution companies, municipal utilities, and building owners it deems necessary to monitor compliance with and enforcement of the Draft Regulation. However, no timeframe is given as to how long these reporting entities have to comply with a document request. Including some timeline in 225 CMR 27.12(1) will help reporting entities implement the necessary actions in collecting all relevant documentation DOER is looking for. An express 15-day period to respond to any information or document request from DOER would be sufficient for covered entities to comply and allows us to tailor the appropriate compliance procedures. We ask that such a provision be included in 225 CMR 27.12(1).

Based on the foregoing, we urge DOER to amend the Draft Regulation with the aforementioned changes. Please let me know if you have any questions or need additional information. If you would like, we would be happy to set up a meeting to discuss this. Thank you for your consideration.

Sincerely,

/s/ Paul M. Rozenberg

Paul M. Rozenberg
Sr. Manager, Government Affairs &
Corporate Communications
Suburban Propane



September 24, 2024

To Whom it May Concern,

We appreciate this opportunity to comment on the Large Building Energy Reporting (LBER) Draft Regulation. We strongly support the state-wide energy reporting requirements going into effect in 2025.

As a sustainability consulting company, RPM has prepared and submitted data for BERDO, BEUDO and other municipal mandates on behalf of our clients. In that light, we would like to submit the following questions related to the state draft regulation:

1. Based on our reading of paragraphs *27.04 Reporting Requirements and Process* and *27.08 Data Verification*:
 - It appears that the Distribution Companies have the responsibility to report usage and cost for all covered parcels but the owner is required to self-certify that data?
 - The level of data QC the distribution company is required to provide prior to submission?
 - Timely notifications confirming data reporting activities from the Distribution Company to the owner?
 - Whether the owner will have the opportunity to QC/correct data reported on their behalf?
2. Regarding paragraph *27.04*, is it possible to coordinate state-level and municipal-level reporting from a timing perspective and perhaps leveraging the same upload template? Synchronizing timing and/or minimizing data manipulation of data downloaded from Portfolio Manager would significantly reduce the burden on owners. Many of our clients already report under BERDO and BEUDO as well as voluntary programs like DOE's Better Building and Better Climate Challenges.

Thank you for making Massachusetts a national leader energy and decarbonization policy. And for opportunity to comment in this draft regulation. Please let us know if any clarification or any additional information would be helpful.

Respectfully Submitted,

Ilene Mason, CEO
Rethinking Power Management LLC
imason@rpmpowerllc.com; 508-259-5030



Administration

52 Chauncy Street, 11th Floor
Boston, Massachusetts 02111

P 617.988.4130 F 617.988.4133
TTY 800.545.1833 x420
www.bostonhousing.org

September 25, 2024

Lyn Huckabee
Department of Energy Resources
100 Cambridge Street, 9th Floor
Boston, MA 02114

Via email to doer.ber@mass.gov

Dear Ms. Huckabee:

The Boston Housing Authority (BHA) is a large building owner and public housing authority presently subject to energy reporting and disclosure pursuant to a municipal building performance standard. BHA appreciates the opportunity to provide feedback on Building Energy Reporting Draft Regulation 225 CMR 27.00. BHA offers the following comments:

27.02: Definitions

- **Definition of Building Owner:** DOER defines “Building Owner” as “The person, persons, entity, or entities listed as the owner of a Parcel on the Covered Parcels List.” The BHA is a ground lessor to numerous private entities that own and operate redeveloped public housing. While this approach should work and allow for correction, the BHA requests the Covered Parcel list take into account the actual building ownership as opposed to simply the land/Parcel ownership as the BHA would be unable to report on building energy use for third-party owned, redeveloped properties.

27.04: Reporting Requirements and Process

- **Distribution Company Requirement to Report:** The Boston Housing Authority urges the state to require distribution companies to provide regulated buildings with a copy of the disclosed report. Alternatively, DOER may make such data readily available to owners or to all parties. The BHA further urges the deadline of Distribution Company reporting be 30-60 days in

advance of the property owner report.

The BHA has experienced difficulty in obtaining timely and accurate utility data. In some cases, accounts in other municipalities have been erroneously tagged to BHA-affiliated utility reports, while in other cases, BHA has been billed for accounts in buildings that are no longer standing or for energy use of buildings which it no longer owns. As such, BHA strongly encourages providing building owners a copy of reports to ensure accuracy, and because such owners have a right to this data.

27.08: Data Verification

- **Verification by Third Party:** In municipalities already requiring verification by third party, BHA requests the DOER allow third-party verification to be performed simultaneously for both local and state requirements. If the DOER's first year of state reporting does not synchronize with a municipality's verification requirement, BHA requests the state verification requirement be deferred until the subsequent municipally required verification.

General Notices for Requirements and Reporting:

- To ensure receipt of all notices, the BHA requests the ability to register a one or more contact methods such as a centralized office address and email address. For building owners with numerous properties, response may be deferred if notices are sent to each covered property in lieu of the owner's office address.

Thank you for the opportunity to comment on the proposed regulation, Building Energy Reporting Draft Regulation 225 CMR 27.00.

Regards,

A handwritten signature in black ink that reads "Joel Wool". The signature is written in a cursive, flowing style.

Joel Wool
Deputy Administrator
Boston Housing Authority

An equal opportunity employer.

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September 25, 2024

Lyn Huckabee
Department of Energy Resources
100 Cambridge St., 9th Floor
Boston, MA 02114

Via: DOER.BER@mass.gov

RE: Large Building Energy Reporting (LBER) Draft Regulations

Dear Ms. Huckabee,

Thank you for the opportunity to provide feedback on the Department of Energy Resources' (DOER) Large Building Energy Reporting (LBER) draft regulations.

We support DOER's commitment to provide residents across the Commonwealth access to building energy performance data, thereby promoting energy efficiency improvements and the decarbonization of large buildings in Massachusetts.

The City of Boston was an early adopter of building energy reporting requirements, passing the Building Energy Reporting and Disclosure Ordinance in 2013. In 2021, we became one of the first jurisdictions in the U.S. to adopt a Building Performance Standard. Boston's Building Emissions Reduction and Disclosure Ordinance (BERDO) now requires owners of large existing buildings to (i) annually report their energy and water use data, (ii) verify their reported data through a third-party on a regular basis, and (iii) reduce their greenhouse gas emissions over time until reaching net-zero emissions by 2050.

Even though it is our expectation that LBER will not apply to large buildings in Boston, we feel that our experience can be instructive for how to develop a strong and successful building energy reporting program. Below, we offer feedback and recommendations based on our extensive experience managing building energy data reporting and the implementation of BERDO.

At a high level, our comments focus on (1) clarifying applicability to Boston, (2) planning for utility data challenges, (3) creating clear and fair procedures for reporting and third-party verification, (4) protecting residential tenants of large buildings covered by LBER, (5) creating

clear definitions, and (6) aligning greenhouse gas emissions calculations with the existing Building Performance Standard in Boston.

1. Applicability to Boston

- M.G.L. ch. 25A §20(i) provides that “nothing in this section shall prohibit the enforcement of large building reporting requirements previously established by the city of Boston or the city of Cambridge and further amendments or improvement thereto that exceed those reporting requirements established pursuant to this section.”
 - The Regulations should clarify how LBER intends to apply to large Buildings in Boston. We respectfully ask DOER to consider explicitly exempting Buildings located in the City of Boston in the regulations to further clarify the applicability of this clause.
 - In Boston, residential buildings with 15 or more units, non-residential buildings that are 20,000 sq. ft. or larger, and parcels with multiple buildings that collectively sum up to at least 20,000 sq. ft. or 15 residential buildings are already required by BERDO to comply with (i) annual energy and water reporting, (ii) regular third-party verification of reported data, and (iii) emissions reduction requirements. The City of Boston also discloses energy and emissions data from covered Buildings to the public, achieving the same goals of LBER for our residents and building owners. Requiring these same building owners in Boston to complete two separate reporting and third-party verification processes would impose additional administrative and cost burdens for large buildings in Boston. Many of the buildings covered by the size thresholds of BERDO and LBER will lack staff capacity and resources to comply with two separate processes. Furthermore, slight differences between the requirements of LBER and BERDO will confuse Boston building owners and detract from the overall goal of promoting the transition to energy efficient and low-carbon buildings.
 - We will share data collected through BERDO with DOER to enable the inclusion of Boston buildings in statewide reporting on building energy usage. We look forward to understanding DOER’s approach to data management and disclosure to inform opportunities for data sharing between Boston and DOER. Furthermore, we are open to discussing opportunities to streamline utility data reporting processes between DOER’s program and BERDO where feasible.

2. Planning for utility data challenges

- LBER requires utilities to provide data for buildings in parcels included in the Covered Parcels List. Parcel address data is often different from service

addresses used by utility companies, and often there are several service addresses serving a single parcel. Furthermore, the requirement to report by building, not parcel, will likely further complicate this matching exercise. DOER should anticipate the need to create a procedure to match parcel, building, and service addresses.

- In municipalities with separate utilities for electric and gas services, DOER should anticipate the need to create procedures to ensure not only that utilities are able to provide data at the building level, but that said building-level data provided aligns between the two separate utilities.
- DOER should anticipate challenges and discrepancies in solar energy data across Eversource regions and solar arrangements (e.g., on-site, off-site, behind-the-meter, in-front-of-the-meter, etc.). Solar energy generation is not always accounted for in utility billing data. In some cases, reporting by the building owner may be needed to accurately account for solar energy generation and consumption. DOER should anticipate the need to create specific reporting procedures for solar energy reporting.

3. Creating clear and fair procedures for reporting and third-party verification

- The draft regulations propose that “a newly constructed building shall be included on the Covered Parcels List the first full calendar year following the issuance of a Temporary Certificate of Occupancy for the building or Certificate of Occupancy for the building, whichever is earlier.”
 - Does this mean a covered Building will be first required to report **after** the first full calendar year that the building was occupied, or **on** the first calendar year after the Temporary Certificate of Occupancy or Certificate of Occupancy was issued?
 - Under BERDO, newly-constructed Buildings are added to the BERDO Covered Buildings List **after** the first full calendar year following the issuance of a Temporary Certificate of Occupancy for the Building or Certificate of Occupancy for the Building, whichever is earlier. For example, if a Building receives its Certificate of Occupancy in October 2029, the Building would be added to the BERDO Covered Buildings List in 2031. The Building would thus be required to report 2030 data by May 15, 2031.
 - Certificates of Occupancy in Boston are issued by Inspectional Services and are tracked in a separate system than the Assessing database. In Boston, we separately check Certificate of Occupancy data annually to add new buildings to the covered building list This is a step that could prove complicated and time intensive to implement across municipalities.

We recommend investigating how Certificate of Occupancy data will be obtained by DOER prior to finalizing these regulations.

- The draft regulations propose that “the Department will determine a process for acquiring the information required to identify Parcels containing Large Buildings and generate the Covered Parcels List. The Department will utilize information sources that may include but are not limited to, municipal assessor databases, MassGIS assessor data, and other state or municipal sources of property data.”
 - We recommend using a uniform data source to identify Covered Parcels. Alternatively, the regulations should clarify what would happen if there are discrepancies between different data sources.
- Regulations should clarify how reporting will work for buildings that share energy systems and/or energy metering. Would reporting be allowed at a campus level? Would there be a possibility to consolidate multiple buildings into a single reporting entity?
 - This is particularly common with colleges and university buildings, affordable housing complexes, and hospitals. In BERDO we allow for campus reporting through Energy Star Portfolio Manager in specific cases. We recommend that DOER create similar reporting options and related guidance.
- Regulations and/or future guidance should clarify the type(s) of cost information that must be provided by utilities and building owners. For example, where there is a third-party supplier, cost data may be missing or incomplete from utility data.
- On [LBER's website](#), it is stated that LBER “requires covered building owners to report usage for delivered fuels such as oil, propane, and wood.” The regulations further state that “annually by June 30, Building Owners shall provide all Energy Usage and the associated cost information that is not provided by a Distribution Company or Municipal Utility for all Buildings contained on Covered Parcels where they are listed as the Building Owner.”
 - We recommend incorporating the explicit language from the website into the regulations and clarifying that the Owner is only responsible for reporting Energy Usage and cost for Energy that is not otherwise provided by a Distribution Company.
 - Furthermore, the regulations should clarify what information the Owner is required to report through Energy Star Portfolio Manager. The draft regulations imply that Owners of buildings with delivered fuels would be responsible for creating Energy Star Portfolio Manager accounts and populating their building level data, but those with only energy provided by distribution companies would not have such a requirement. This

inconsistency will likely lead to confusion for Owners on what reporting they are responsible for and what Distribution Companies are responsible for. In addition, we anticipate that this will make data management challenging. In BERDO, we rely on Portfolio Manager for every covered building and find it to be an essential tool for collecting and managing building data and energy data. We recommend clarifying how the dual reporting between Owner and Distribution Company will work in the regulations.

- In cases where building owners are required to report usage for delivered fuels, how will DOER notify owners of this responsibility? How will DOER identify which Buildings need to report delivered fuels? How will this responsibility be enforced if the Buildings cannot be identified by DOER?
- The draft regulations propose that “in the event that a Distribution Company or Municipal Utility does not report the Energy Usage for a Building on a Covered Parcel pursuant to 225 CMR 27.04(1)-(2), the Department may issue a written notice requiring the Building Owner to report such Energy Usage by a date to be determined by the Department.”
 - In cases where utilities fail to provide data for a Building, the Building Owner may still need to rely on utilities to acquire aggregate energy data for their Building. This is particularly important for Buildings with residential tenants. In these cases, would Building Owners still be responsible for any penalties and fines for non-compliance?
- The draft regulations propose that “Energy Usage derived from electric vehicle charging stations located on a Covered Parcel but not contained within a Building shall not be reported pursuant to 225 CMR 27.04 unless the Energy Usage is measured by a Building’s meter.”
 - This proposal places additional burdens for building owners that have incorporated EV charging into their existing utility accounts because their energy usage will be reported as higher. We recommend adding an option for building owners with EV charging to be able to separately report their EV energy use that is on a building meter so it can be subtracted from the Building's total energy use. Including EV charging in building energy data will inflate the total energy usage.
 - The proposal also misses an opportunity for DOER to collect data about energy usage associated with EV charging. Such data may be useful to understand the impacts of EV charging in the Commonwealth’s energy demand, as well as for future grid and infrastructure planning.

- The draft regulations propose that “a Building Owner seeking to designate a third-party as Building Owner for purposes of compliance with 225 CMR 27.00 shall submit notice to the Department by April 30th of the compliance year”.
 - It would be helpful to clarify in which scenarios this would be allowed. Is this intended to allow Owners to shift responsibility to long-term tenants or property management companies?
 - Furthermore, we recommend clarifying whether reporting by a third-party would be permissible and whether the compliance obligations in those situations would stay with the Owner or transfer to the third-party. Many BERDO Building Owners hire third-parties to manage their BERDO reporting responsibilities. This service is particularly helpful for Owners with large portfolios. We recommend that DOER allow third-party reporting, but clarify that the compliance obligations remain with the Building Owner.
- The draft regulations propose that “all Building Owners shall be required to self-certify all Energy Usage data submitted pursuant to 225 CMR 27.04(3).”
 - This regulation references data reported by the Building Owner, would self-certification also apply to aggregate data provided by Distribution Companies to the Building Owner?
- The draft regulations propose requiring Building Owners to provide third-party verification of their data, however the specifics of this requirement are not clear. Regulations and/or future guidance should clarify how third-party verification will be proven to DOER.
 - We recommend clarifying if third-party verification will be required for all Energy Usage reported on only for Energy Usage reported by a Building Owner and not by a Distribution Company.
 - In our experience, third-party verification has improved the quality of data reported through BERDO, but also adds complexity and cost to the reporting process for Building Owners. We recommend that DOER carefully consider this requirement.
 - Furthermore, we recommend that DOER pursue the use of automatic data quality flags through its data management platform as another method to improve data accuracy. We have found data quality flags to be a useful tool for improving data accuracy in BERDO.
- The draft regulations propose that “annually by June 30, Steam Distribution Companies shall also provide the volume of steam produced by each generation source for the previous calendar year”. DOER should clarify whether Steam Distribution Companies need to provide the volume of steam produced by each

generation source used by each covered building or the total volume of steam produced by the facility.

- The regulations propose reviewing and granting extensions on a case-by-case basis. We strongly encourage DOER to consider enabling a more streamlined approach for extensions. We have had to manage hundreds of extension requests in BERDO.

4. Protecting residential tenants of large buildings covered by LBER

- The draft regulations propose that “a Building Owner shall not be penalized for failing to report any Energy ordered, delivered and charged directly to a lessee if the owner sends a written request for Energy Usage information to the lessee not later than April 30 of the same year, does not receive a response from the lessee by June 25 of the same year and provides evidence of the request to the Department.”
 - Is this creating a pathway for Building Owners to demand information from residential tenants? We advise against providing Building Owners a right to access residential tenants’ account information and individual energy use data. This may create perverse incentives to penalize tenants for energy used to maintain their thermal comfort and quality of life.
- The draft regulations propose that “a Building Owner may not pass through a fine assessed pursuant to 225 CMR 27.11(3)(a)2. to a lessee of a unit within a Building on a Covered Parcel that comprises less than 5 percent of the total Gross Floor Area of the Building.” Moreover, the draft regulations lay out an enforcement mechanism for the case where “a lessee that comprises greater than 5% of the total gross floor area of a Building on a Covered Parcel fails to respond within 30 days to a written request for Energy Usage information submitted by a Building Owner pursuant to 225 CMR 27.04(3)(b)”
 - We are concerned about the impacts of this provision on residential tenants. This may create a perverse mechanism for Building Owners to penalize residential tenants. We recommend updating this requirement to exclude residential tenants.
 - Under BERDO, building owners with tenants must request aggregate building data from utilities. In cases where there are less than 4 tenants per property or where a single tenant usage exceeds 50% of the property’s annual energy usage, building owners are also required to complete a [Tenant Authorization Form to Release Energy Information](#) to receive building level energy usage. These requirements were determined in conjunction with the utilities to manage data privacy concerns.

- For disputing inclusion in a Covered Parcel List, the draft regulations specify that the Owner must submit a letter to DOER detailing their concerns. The regulations do not detail what happens after a letter is submitted and how decisions will be made on whether a property is removed from the Covered Parcel List. In our experience, we receive numerous requests for removal from the BERDO Covered Building List and each case requires detailed research and coordination with our Assessing Department to review and potentially update records. We recommend that the regulations clarify this process and specify whether a property under review is still subject to comply.

5. Creating clear definitions

- The draft regulations define *Building* as “an energy consuming structure located within a Parcel or a single, continuous energy-consuming structure that spans multiple Parcels”.
 - This definition is broad and may cover unintended buildings, including but not limited to, energy generation facilities, sports field lighting, garages, and open warehouses. We recommend reviewing a sample of parcels that would be included using this definition to determine if further refinements should be made based on the goals of LBER.
- The draft regulations define *Distribution Company* as “a distribution company, gas company, or steam distribution company as those terms are defined in M.G.L. 164, § 1, provided, however, a Distribution Company shall not include a Municipal Utility”.
 - We recommend explicitly including electricity distribution companies in this definition.
 - We also recommend that DOER consider a broader definition for district energy systems beyond just steam to capture generation facilities that may distribute steam, chilled water, hot water, and/or electricity to multiple buildings and to allow for flexibility as new district energy systems arise, including but not limited to, networked geothermal and distributed hot water systems.
- The draft regulations define *Energy Usage* as “the amount of Energy sold by a Distribution Company, Municipal Utility, renewable energy generated on the Building site or off-site, or other sources, consumed for any Building. The definition includes Energy sold to individual lessees and common areas of a Building in aggregate.”
 - We recommend that future LBER guidance clarifies how leased rooftop solar will be treated. We recommend that energy produced by leased rooftop solar is allocated to the buildings *buying* the solar energy and/or associated generation credits.

- We recommend adding Combined Heat and Power (CHP) plants owned and operated by Building Owners in this definition. While this may be covered in “other sources”, explicit inclusion of CHP plants will provide more clarity for building owners.
- The draft regulations propose that the Buildings that were vacant for a full calendar year, “shall not need to have their Energy Usage reported pursuant to 225 CMR 27.04 and shall not have their Gross Floor Area included in the calculation of whether a Parcel contains a Large Building:”
 - Regulations should clearly define what a vacant building is. Future guidance should also clarify how DOER anticipates building owners to provide evidence or proof of vacancy, as this information is often not readily available in Assessing records.
- The draft regulations define “Gross Floor Area” but other sections of the regulations reference “square footage.” We recommend that “Gross Floor Area” be used consistently throughout the regulations to provide clarity. Furthermore, we recommend that DOER confirm all data sources used for the Covered Parcels List use the same definition of Gross Floor Area.
- The draft regulations detail the creation of a Covered Parcel List yet require reporting at the *building* level. BERDO operates similarly and we have determined that the creation of a Covered *Buildings* List that includes unique identifiers for each building that is required to report. We recommend DOER further clarify how individual buildings on covered parcels will be identified and notified of their reporting requirements.

6. Aligning greenhouse gas emissions calculations with the existing Building Performance Standard in Boston

- The draft regulations propose that “annually by October 31, the Department shall make available on its website energy use information and the associated greenhouse gas emissions for the previous calendar year for each Building on a Covered Parcel.”
 - Regulations and/or future guidance should clarify which Emissions Factors shall be used for greenhouse gas emissions calculations. We urge DOER to align greenhouse gas emissions calculations to the Emissions Factors and procedures used by the City of Boston under BERDO, including for grid emissions factors and products from District Energy Systems. Given that official Emissions Factors from ISO New England and Mass DEP are often published with a lag of one to two years, the City of Boston produces annual grid Emissions Factors for the electric grid. BERDO also requires operators of District Energy Systems to annually

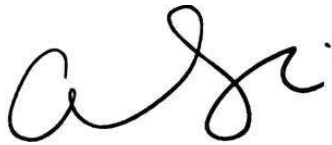
report Emissions Factors for each of their products (i.e., steam, chilled water, etc.) using the World Resources Institute's efficiency methodology.

- For your reference, BERDO Emissions Factors can be found [here](#).
- BERDO Requirements for Emissions Factors can be found on [Section VIII of the BERDO Regulations](#).

Thank you for your consideration of our comments. We are excited to see the Commonwealth taking this important step in managing building energy use and emissions and want LBER to be a success. Based on our experience, we believe that clear and comprehensive regulations are necessary to stand up a robust and impactful building energy reporting program. We recommend taking the time needed to clarify these regulations and to establish clear reporting and data management protocols before requiring building owners to report. We look forward to collaborating with you to develop clear, equitable, and successful LBER regulations.

Should you have any questions, please contact Hannah Payne, Director of Carbon Neutrality (hannah.payne@boston.gov; 617-635-1385).

Sincerely,

A handwritten signature in black ink, appearing to read 'O. Sellers-Garcia'.

Oliver Sellers-Garcia

Green New Deal Director, Office of Mayor Michelle Wu;
Commissioner of the Environment Department, City of Boston

**TOWN OF WELLESLEY**

TOWN HALL • 525 WASHINGTON STREET • WELLESLEY, MA 02482-5992

Dear Department of Energy Resources Building Energy Reporting Program Manager,

Town of Wellesley municipal staff have reviewed the Building Energy Reporting Draft Regulation 225 CMR 27.00 and have the following comments.

- In section 27.02, DOER should clarify whether the definition of Energy includes fuel delivered to a building for use in emergency electrical generators.
- Regarding section 27.04, DOER should clarify how the Department defines “associated cost information,” especially under section 27.04(2) as the Town of Wellesley’s Municipal Light Plant would be subject to this regulation.
- In section 27.05(2), DOER proposes that separately metered electric vehicle (EV) charging stations will not be reported, but separately metered EV charging stations within the building would be reported. DOER should consider extending the exemption to separately metered EV charging stations inside of the building. The goal of this program is to track building energy use, so it is not clear why energy use that is directly attributable to mobility would be included if it is easily separated out, regardless of if the plug is within a building, likely in an unconditioned garage, or outside.
- In implementing this program, 27.04(3)(b), DOER should provide a form letter for owners to notify lessees of the request for Energy Usage so it is clear the request is made according to state regulation.
- In section 27.08(1), DOER should consider requiring annual self-certification by the Building Owner of all Energy Usage data pursuant to 225 CMR 27.04(1-3). Requiring the Building Owner to self-certify Energy Usage data provided by Distribution Companies and Municipal Utilities would provide Building Owners an opportunity to check for and bring any errors in data submitted by the utilities to the attention of DOER.
- Regarding section 27.08(2)(a-b), DOER should consider exempting Building Owners from Third Party Data Verification requirements associated with renewable energy generation such as solar photovoltaic arrays.

Thank you for your consideration.

Sincerely,

Marybeth Martello
Sustainability Director

Janet Mosley
Sustainability Analyst



Ruthanne Fuller
Mayor

City of Newton, Massachusetts Office of the Mayor

Telephone
(617) 796-1100
Fax
(617) 796-1113
TDD/TTY
(617) 796-1089
Email
rfuller@newtonma.gov

To: DOER LBER Program staff
Subject: BER Public Comment
From: William H. Ferguson
Co-Director of Sustainability, City of Newton
Date: September 24, 2024

Sent by email to: DOER.BER@mass.gov

Thank you for the opportunity to comment on draft regulation 225 CMR 27.00, BUILDING ENERGY REPORTING. Below are my comments.

The City of Newton is in the process of passing a Building Emissions Reduction and Disclosure Ordinance (BERDO) that includes mandatory emissions reduction standards for buildings greater or equal to 20,000 square feet. The reports provided by the LBER program could be very helpful to Newton and its building owners who are subject to Newton's BERDO.

Some of my comments are provided with the objective to help with the alignment of LBER and the data needed under Newton's BERDO to determine compliance with our emissions standards. I would be happy to discuss my comments with you. Please don't hesitate to contact me at wferguson@newtonma.gov.

1. Report energy use and cost data for each individual building on a covered parcel.
2. Report energy use and cost separately for emergency or back-up generation if served by a separate utility meter or use a delivered fuel.
3. List the use and cost data for each utility account separately. List the last four digits of the utility account number for each entry or the entire account number if allowed.
4. Provide monthly utility use and cost data and annual total use and cost for each building in the report.
5. Provide the address of the building owner in the report from the assessor's data base.
6. List the parcel ID and Building ID from the assessor's data base for each building. The City of Newton can provide DOER an updated list of buildings greater than or equal to 20,000 square feet compiled from the assessor's data base with this information. Please contact me for this information.
7. Include a separate emissions rating in the report for each building (in kgCO₂e/SF) for fossil fuels and electricity.
8. Require utilities to enter use and cost data into Energy Star Portfolio Manager (ESPM) for building owners if requested by the municipality or the customer.
9. If using ESPM, include a field for building owners to share report with the local government.
10. DOER should coordinate with local communities with building reporting requirements before granting extensions to utility reporting deadlines.
11. Indicate in the regulations what emissions factors are being used for each energy type.
12. Provide a field for each building in the report for the community or the building owner to enter a unique building ID.

13. Require data verification in the second year of reporting instead of the first year to give building owners time to acclimate to ESPM reporting and to hire a qualified verifier.
14. Provide a methodology in the regulations describing how DOER will review energy use and cost data for completeness and accuracy and a process for any needed corrections.



September 25th, 2024

Commissioner Elizabeth Mahony,
Massachusetts Department of Energy Resources
100 Cambridge St, 9th Floor
Boston, MA 02114

Re: Building Energy Reporting Draft Regulation 225 CMR 27.00

Dear Commissioner Mahony,

Thank you for the opportunity to comment on these regulations on building energy reporting. While Green Energy Consumers Alliance broadly supports the proposed regulations and applauds the work that DOER has been doing to reduce building emissions, we do have reservations about the current language of Section 27.05 (2), which covers separately metered electric vehicle charging stations.

Under the regulations as currently proposed, the energy used by electric vehicle chargers would count as part of a building's energy use, unless the chargers are outside of the building and separately metered. Our concern is that if the data being collected here is later used for local, or a statewide, building performance standards, then these rules could disincentivize the installation or use of chargers in some circumstances. For instance, these rules could favor placing EV chargers outside of a building when installing chargers in a building's garage would be easier or slow down some EV installations by requiring the installation of a separate (and costly) meter.

One solution to this problem would be to allow building owners to use smart charger data to report how much of their building's energy use ultimately went to EVs. While this would create an extra step for affected building owners, it would protect them from the possibility that a future building performance standard would harm them because they installed EV chargers.

Thank you for the opportunity to comment. Please reach out with further questions.

Anna Vanderspek
Electric Vehicle Program Director, Green Energy Consumers Alliance
anna@greenenergyconsumers.org

Carrie Katan
Policy Advocate, Green Energy Consumers Alliance
carrie@greenenergyconsumers.org

greenenergyconsumers.org

Boston: 284 Amory Street, Boston, MA 02130 | Phone: 800-287-3950
Providence: 2 Regency Plaza, Suite 8, Providence, RI 02903 | Phone: 401-861-6111



September 25, 2024

Lyn Huckabee MA DOER
Massachusetts Department of Energy Resources
100 Cambridge Street, 9th floor
Boston, Massachusetts 02114

RE: BER Public Comment (Building Energy Reporting Draft Regulation 225 CMR 27.00)

Dear Ms. Huckabee:

The Northeast Chapter of the Combined Heat and Power Alliance (“NE Chapter”) welcomes this opportunity to provide comments regarding the Building Energy Reporting Draft Regulation as presented in August 2024. The NE Chapter is the successor organization to the Northeast Clean Heat and Power Initiative.

The NE Chapter is a group of manufacturers, system developers, engineers, and end-user representatives with the purpose of reducing energy costs and carbon emissions using the highly efficient technology of Combined Heat and Power (“CHP”). The NE Chapter and its member organizations fully support the innovative and extensive objectives that are the foundation of the Massachusetts decarbonization goals and believe that CHP technology will play a critical role in facilitating the state’s mission.

As noted in the Building Energy Reporting Draft Regulation 225 CMR 27.00 (“Draft Regulation”), the purpose of 225 CMR 27.00 is to establish a process for Distribution Companies, Municipal Utilities, and Building Owners to report the Energy Usage of Large Buildings to the Department for publication on the Department’s website.¹

Ostensibly, this Draft Regulation is to be the basis of subsequent building emissions program for large facilities in Massachusetts. This reliance on building area and on energy inputs fails to capture the efficiency of how a building uses its energy and thus may lead to incorrect conclusions and policy.

Firstly, the metric of square footage is technically incorrect if we are to compare buildings’ energy consumption. Cubic feet is the correct metric. We don’t heat and cool area, we heat and cool volume.

Secondly, the proposed input-based approach discriminates against facilities with a need for on-

¹ <https://www.mass.gov/doc/225-cmr-27-draft-regulation-for-large-building-energy-reporting-for-public-comment/download>



site energy generation by not accounting for specific on-site technologies with proven capability to avoid electric sector emissions, such as CHP. By focusing solely on fuel inputs, the proposed rule fails to account for more efficient power generation paired with thermal production, such as those that result from CHP. Massachusetts should encourage the adoption and use of technology that currently helps the Commonwealth meet its decarbonization goals and should adopt a standard that accounts for the benefits that energy efficient CHP facilities provide in reducing overall GHG emissions *today*.² CHP and other distributed generation technologies such as fuel cells are utilized by a variety of critical facilities in Massachusetts including our largest hospitals, universities, telecommunications and public service buildings.

When comparing any type of emissions, the US EPA recommends the use of an output-based methodology, which compares the CHP unit to marginal grid emissions in the region. It has been EPA's longstanding view that output-based standards offer the advantage of considering efficiency, demonstrated by EPA's 2014 ([Output-Based Regulations: A Handbook for Air Regulators](https://www.epa.gov/sites/default/files/2015-07/documents/output-based_regulations_a_handbook_for_air_regulators.pdf))³ and EPA's 2012 ([Output-Based Regulations A Demonstration of CHP's Benefits in Added Power Production and Emissions Reduction](https://www.epa.gov/sites/production/files/2015-07/documents/output-based_regulations_a_demonstration_of_chps_benefits_in_added_power_production_and_emissions_reduction.pdf)).⁴

As noted earlier, the NE Chapter and its members strongly support the Commonwealth's efforts to decarbonize its large building stock. We believe that there is a better way to account for the efficiency of how the building employs its energy inputs and ask that consideration be given to alternative methods such as output based measurements. In fact, as we write, the NYC Department of Buildings is preparing to release its proposals for crediting CHP within its LL97 framework, which is very similar to BERDO in Boston. The NYC DOB fully comprehends the value of CHP in reducing carbon emissions *NOW* and therefore is looking to correct the error of solely looking at energy inputs as a way to evaluate building carbon intensity.

MA DOER has the opportunity to design its new plan taking into consideration the value of CHP when evaluating a building's energy, and eventually carbon, intensity. It should not waste this opportunity to incorporate the emissions benefits of onsite energy generation.

Sincerely,

Diane Molokotos

² https://chpalliance.org/wp-content/uploads/2019/08/Sec-45Y-and-48E-Comments_Combined-Heat-and-Power-Alliance_08.02.2024.pdf

³ https://www.epa.gov/sites/default/files/2015-07/documents/output-based_regulations_a_handbook_for_air_regulators.pdf

⁴ https://www.epa.gov/sites/production/files/2015-07/documents/output-based_regulations_a_demonstration_of_chps_benefits_in_added_power_production_and_emissions_reduction.pdf



Ms. Lyn Huckabee
Department of Energy Resources
100 Cambridge Street, 9th Floor, Boston, MA 02114
RE: Comments of Energy New England, LLC on Draft Large Building Energy Reporting
Regulation 225 C.M.R. 27.00

September 25, 2024

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF ENERGY RESOURCES

**COMMENTS OF ENERGY NEW ENGLAND, LLC ON DRAFT LARGE BUILDING
ENERGY REPORTING REGULATION 225 C.M.R. 27.00**

INTRODUCTION

ENE Strategies, a wholly-owned subsidiary of Energy New England, LLC, a municipal light plant cooperative formed pursuant to M.G.L. c. 164, § 47C (“ENE Strategies”), hereby submits its comments regarding the Draft Large Building Energy Reporting Regulation at 225 CMR 27.00 *et. seq.* (“Draft Regulation”), proposed by the Department of Energy Resources (“DOER”) pursuant to the authority given to DOER by the Legislature St.2022 c.179, § 41, codified at M.G.L. c. 25A, § 6. ENE Strategies, established in 2015, provides local and state government relations and lobbying services to select energy, telecommunications, gas, water and wastewater clients, including thirty (30) municipal light plants (“MLPs”).

ENE Strategies submits that the DOER should not include MLPs in the applicability of the Draft Regulation for the reasons set forth below. MLPs are not specifically listed in Chapter 25A as subject to the DOER’s authority regarding reporting for “large building energy” or LBE usage.
5 Hampshire Street – Suite 100 - Mansfield, MA 02048

ENE Strategies would welcome the opportunity to work with DOER and other stakeholders to develop voluntary reporting standards for those MLPs that decide to participate, consistent with the defining principle of “local control” behind all MLPs. We appreciate the opportunity to submit these comments and hope to continue a productive dialogue with DOER in the future.

I. APPLICABILITY OF 225 CMR 27.00 TO MLPs IS NOT SUPPORTED BY CHAPTER 25A

MLPs are not specifically listed in Chapter 25A as subject to the DOER’s authority regarding reporting for “large building energy” or LBE usage. M.G.L. c. 25A, § 20. Where the Legislature has intended to include MLPs in the coverage of a DOER statute or program (or any other statute), it has specifically mentioned them, as in M.G.L. c. 25A, § 11F^{3/4}. Since the time of the Restructuring Act of 1997, MLPs have not been included in the definition of “distribution company,” “electric company,” or “gas company.” M.G.L. c. 164, § 1. MLPs have been excluded-- unless they decide to permit competitive supply within their service territories-- from the coverage of the portfolio standards requirements implemented by DOER.

The LBE usage statute uses the specific phrase “electric, gas and steam distribution company” and the term “distribution company.” M.G.L. c 25A, § 20(c). MLPs have not previously been considered “distribution companies” and only have been treated as such by the DOER when specifically called out as being covered by an enabling statute. Basic statutory interpretation principles hold that failure to include MLPs would be interpreted as the Legislature’s intention to exclude them. Further, where any statute provides for civil penalties, especially to be assessed against a public entity (assuming they can be), it will be stringently construed. Finally, the concern expressed by the Legislature that customer information be kept confidential by the DOER and not be considered a “public record” under M.G.L. c. 4, § 7 cl. (26),

if applicable to MLPs, makes little sense. This would only be true with regard to records *received* by DOER from entities not covered by the public records laws, such as IOUs. Any document *made* (or received) by an MLP, which is a covered public entity, is a public record, unless it falls within one of the statutory exceptions. Therefore, this lends credence to the idea that the Legislature had no intention to include MLPs in the coverage of the LBE reporting statute.

Since the LBE usage statute is the source of authority for DOER to establish regulations for the reporting program, and it does not specifically include MLPs, ENE Strategies submits that 225 CMR 72.00's coverage should not extend to MLPs.

II. THE DRAFT REGULATION PRESENTS ADMINISTRATIVE AND FINANCIAL BURDENS FOR MLPs

Applying the Draft Regulation only to “distribution companies” is consistent with the statutory scheme governing distribution companies, whereas applying it to MLPs who possess their own ratemaking authority, is not. ENE Strategies believes a voluntary program with MLPs makes the most sense in light of the fact that for many MLPs, the Draft Regulation represents an administrative and financial burden that cannot be assumed without considerable resources and expenditures. Those costs will be passed on to ratepayers, and seems to have little to do with the MLPs obligation to set rates according to the “cost of service” under M.G.L. c. 164, §§ 57, 58. MLPs are not like investor-owned utilities (“IOUs”) who are subject to the ratemaking of the Department of Public Utilities (“DPU”), participate in Mass-Save, etc.

Further, it is unclear how MLPs, many of whom have extremely limited staff resources compared to IOUs, would be able to comply with the requirements of the Draft Regulation. Adding to the burden is that the list of large buildings will be published on March 30, and reporting is due June 30. As a matter of public policy, reporting on LBE usage where the goals of the Commonwealth are to improve energy efficiency, and therefore greenhouse gas emissions

related to large buildings, would be a responsibility best placed on the owners or lessees of such buildings themselves, who would be in the position to modify consumption and behavior and to adopt measures recommended by energy auditors (not to mention modifications that may be made to building codes in the future.) This is how the City of Boston's "BERDO" program works; building owners are responsible for reporting, through their EnergyStar portfolio manager and third-party professional verification.

III. ADOPTING A VOLUNTARY REPORTING MODEL FOR MLPs IS
CONSISTENT WITH CHAPTER 164

The operation and management of MLPs fully vested embodies the concept of "local control." Many MLPs have elected boards, M.G.L. c. 164, § 55, while others have boards appointed by select boards, or select boards serve as the MLP board, all of whom are elected) and are governed by Chapter 164. MLP rates are based on the straightforward formula provided in M.G.L. c. 164, § 57 which establishes the "expense of plant." If ratepayers dislike the direction the operation and management of the plant is taking, they can elect new board members. The ratepayers dictate which policies and programs they wish their respective MLPs to adopt by participating in board meetings, by calling and writing MLP managers and through the election process, among other things. Allowing each MLP to decide whether to participate in the LBE usage reporting program and whether that works for their municipality is the most consistent with Chapter 164's system of local control of municipal utilities.

Respectfully submitted,

John G. Tzimorangas

John Tzimorangas, President and
Chief Executive Officer
Energy New England, LLC
5 Hampshire Street, Suite 100
Mansfield, MA 02028



Department of Energy Resources (DOER),

I am writing on behalf of PowerOptions, a nonprofit energy-buying consortium and trusted advisor to nonprofits and the public sector in Massachusetts as well as across New England. With over 500 Members, both large and small, our collective strength yields optimal energy pricing and stability for our entire membership. We are mission-driven with a primary focus on reducing the cost, carbon, and complexity of energy for our Members with programming such as energy procurement, clean transportation, solar and storage, as well as energy sustainability planning and analytics. In 2024, alone, PowerOptions has supported 34 of its Members in meeting their respective Building Performance Standards, including reporting for over 200 buildings.

Building decarbonization is a top priority for our Membership, particularly as local governments implement Building Performance Standards such as the City of Boston and Cambridge. Our organization, serving as a third-party verifier with Qualified Energy Professionals on staff, plays a critical role in helping our Members comply with these municipal regulations and advance their decarbonization goals, directly supporting the State's climate objectives. As advocates for nonprofits, public entities, and disadvantaged communities—who often lack the resources to meet regulatory requirements independently—we greatly value the opportunity to provide feedback on the proposed regulation, 225 CMR 27.00 (“the proposed regulation”), under the 2022 Clean Energy Act (*An Act Driving Clean Energy and Offshore Wind*). We respectfully request the DOER to consider the following recommendations and clarifications:

Preeminently, a key concern we have with the proposed regulation is the ambiguity around whether third-party verifiers, like our organization, can also serve as data submitters for Large Building Owners (“building owners”) through the Energy Star Portfolio Manager (ESPM) platform. Currently, we assist our Members by automating the submission of utility data via our white-labeled energy reporting platform (Energy Intelligence Suite (EIS) into ESPM, streamlining the reporting process and reducing compliance costs. In Boston's Building Emissions Reduction Disclosure Ordinance (BERDO), we are permitted to fulfill both roles of data submitter and third-party verifier so long as different staff members manage the reporting and verification tasks. We strongly urge the DOER to include explicit language in the proposed regulation allowing third-party verifiers to also serve as data submitters on behalf of building owners. This clarification would alleviate compliance burdens for resource-constrained organizations, such as ones we represent, especially when dealing with fuel types not automatically reported or when a Distribution Company or Municipal Utility fails to submit their delivered fuels data for the covered parcel. We also recommend that the DOER consider allowing a wider range of certification types for third-party verifiers, like the flexibility permitted by BERDO, including Certified Energy Managers. Limiting these verification types is restrictive and costly to entities unnecessarily.

129 South Street, 6th floor, Boston, MA 02111 | 617.865.5233 | www.poweroptions.org

Secondly, we recommend that the DOER streamline its reporting requirements for building owners who already comply with municipal data reporting ordinances, such as BERDO or Cambridge's Building Energy Use Disclosure Ordinance (BEUDO). These building owners should be allowed to leverage the energy data they have already submitted and verified for these local regulations to meet the State's requirements. This approach would minimize redundant reporting, enabling building owners to focus their limited resources on compliance rather than duplicating efforts for the State's regulation.

Additionally, the proposed regulation states, "In the event that a Distribution Company or Municipal Utility does not report the Energy Usage for a Building on a Covered Parcel pursuant to 225 CMR 27.04(1)-(2), the Department may issue a written notice requiring the building owner to report such Energy Usage by a date to be determined by the Department" (draft 225 CMR 27.04 (1)(a)). Given that the proposed regulation is designed to be utility-reported, it is unreasonable to penalize building owners for a utility's failure to submit data. Since utilities are responsible for providing energy usage information through invoices, building owners should not be expected to report data that is under the utility's control. The responsibility for reporting, data verification, and any associated penalties should rest with the utility for the energy sources they supply, and this should be clearly reflected in the proposed regulation. We also ask that building owners be granted access to the data utilities submit on their behalf. In cases where the data does not align with their records, there should be a formal appeals process to resolve discrepancies and ensure accurate reporting. Should the DOER maintain its current position of expecting building owners to submit data on behalf of utilities if they fail to do so, there remains a lack of clarity regarding the timeframe for submission. We respectfully request that, in this case, building owners be granted a minimum of three months, or more, from the time they receive the notice to comply with this requirement. This extended period is crucial, especially for nonprofit organizations, public entities, and disadvantaged communities, as they may face significant challenges in gathering and reporting the necessary information within a shorter timeframe.

Lastly, the proposed regulation defines "energy" and "energy usage" as follows:

Energy. Electricity, natural gas, steam, hot or chilled water, heating oil, propane or other products that are used for heating, cooling, lighting, industrial and manufacturing processes, water heating, cooking, clothes drying, or other purposes.

Energy Usage. The amount of Energy sold by a Distribution Company, Municipal Utility, renewable energy generated on-site or off-site, or other sources, consumed for any Building. The definition includes Energy sold to individual lessees and common areas of a Building in aggregate" (draft 225 CMR 27.02).



Given the use of "other purposes" and "other sources" in the definitions, we ask the DOER to clarify what these terms encompass. Specifically, we seek confirmation on whether backup or emergency fuel usage will be included in the reporting requirements for building owners, as this typically represents a negligible portion of a building's annual energy consumption. Currently, BERDO does not mandate reporting of this data until 2026, and BEUDO does not require it at all. We recommend that the DOER align its proposed regulations with the guidelines set by Boston and Cambridge.

PowerOptions commends the DOER for its commitment to addressing stakeholder feedback in this proposal process. We are eager to collaborate in developing effective solutions that will continue to benefit Massachusetts non-profits and advancing toward a more equitable and sustainable energy future for our communities.

Thank you for considering our input on this important matter.

Sincerely,

Sophia Gosselin-Smoske
Regulatory and Policy Analyst
PowerOptions
sgosselinsmoske@poweroptions.org



September 25, 2024

Lyn Huckabee
MA Department of Energy Resources
100 Cambridge St., 9th Floor
Boston, MA 02114

Re: Large Building Energy Reporting Comments

Dear Ms. Huckabee:

Massachusetts Municipal Wholesale Electric Company (MMWEC), the Commonwealth's designated joint action agency for municipal utilities, welcomes the opportunity to comment on DOER's Large Building Energy Reporting draft regulation.

MMWEC appreciates DOER's goals to gather information on statewide energy usage in an effort to mitigate climate change impacts and encourage electrification and decarbonization. However, we do have some concerns and questions on this draft regulation on how it will be implemented.

First and foremost, Chapter 25A, Section 20 (Large building energy usage; reporting requirements; publication of energy usage data; penalties for noncompliance) references distribution companies, NOT municipal light plants (MLPs). As such, the legislature did not intend to include MLPs in this mandate, and DOER should therefore not include them. Please see comments submitted by the Municipal Electric Association of Massachusetts (MEAM) for a more expansive explanation of the MLPs' position that DOER does not have the authority to impose this regulation on MLPs. MMWEC concurs with these comments.

While we do not believe the law was intended to apply to MLPs, the regulation is problematic for other reasons.

The individual, locally controlled light boards have the independent decision-making authority to set their own rates. However, this requirement creates an unfunded mandate, the costs of which will be passed on to MLP customers.

In addition, the MLPs are not in the practice of disclosing private meter data to the public. Because the regulation would also have the building owners reporting their delivered fuel usage, it would make more sense if DOER also obtained permission and requested electricity usage data from those same building owners. MLPs would ensure that large building owners required to report under this regulation have the data they need to comply. This tactic would further appropriately place the cost of this endeavor on the large buildings in question, and not the end use customer. To protect private customer data, we might suggest aggregating the data in the publicly-accessible database.

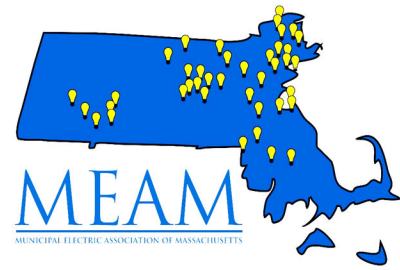
MMWEC supports the state's goals to decarbonize and electrify the building and transportation sectors. We believe the MLPs are doing their part and will continue to align with these targets without additional mandates.

Sincerely,

Kathryn M. Roy, Dir. Communications & External Affairs

Municipal Electric Association of Massachusetts
c/o Jane Parenteau, Secretary/Treasurer

sec.treas@meam.org



TO: Massachusetts Department of Energy Resources (“DOER”)

FROM: Municipal Electric Association of Massachusetts

DATE: September 25, 2024

RE: Comments—Large Building Energy Reporting Draft Regulation

The Municipal Electric Association of Massachusetts (“MEAM”) appreciates the opportunity to submit its comments regarding the Large Building Energy Reporting Draft Regulation (“reporting requirements”) promulgated pursuant to St.2022 c.179, Sec.41. MEAM is a statewide organization comprised of all 40 municipal light plants (“MLPs”) in Massachusetts and collectively provide 14% of the electric consumption in the Commonwealth. MLPs are committed to providing safe, clean and reliable electricity to its customers.

DOER does NOT have the authority to impose the proposed reporting requirements on MLPs as MLPs are NOT “distribution companies” referenced in St. 2022, c.179,Sec.41 and G.L. c. 25A. MEAM has been steadfast in this position from the outset and has articulated this position to DOER in previous discussions.

DOER has suggested that its regulatory and statutory authority to promulgate such Energy Reporting Regulations derive from St. 2022, c.179,Sec.41. MEAM offers to provide a comprehensive legal analysis, if necessary, in this regard and would request an opportunity to further meet with Mass DOER to discuss the issue of applicability to MLPs. In order to focus such discussion, perhaps Mass DOER could provide its analysis regarding the statutory application of the proposed Large Building Reporting Requirements to MLPs.

CURRENT LAW REGARDING APPLICABILITY OF VARIOUS STATE PROGRAM TO MLPs

The Renewable Energy Portfolio (RPS), the Alternative Portfolio Standard (APS), the Clean Portfolio Standard (CPS) and the Clean Energy Standard (CES) do not apply to MLPs.

The most succinct overview of this conclusion is provided in the November 28, 2023 release of the Massachusetts 2021 Annual Compliance Report by the **Massachusetts Department of Energy Resources**. At page 2 of the Executive summary paragraph 6:

“The RPS, APS, CPS and CES regulations require Massachusetts retail electricity suppliers to obtain each year, a certain percentage of their retail customers’ electricity supply from resources qualified under each portfolio standard. **The RPS, APS, CPS and CES requirements do not apply to municipal light plants.**” (emphasis added)

As the DOER is aware, the MLPs have their own separate statutory reporting requirements to DOER created by the Greenhouse Gas Emission Program specifically promulgated by statute G.L. c. 25A, Sec.11F3/4. In addition G.L. c. 21N Sec. 2 specifically applies to MLPs with respect to reporting requirements to Mass DEP. In the face of clear statutory requirements, why does the DOER believe that it has such authority to include the MLPs in the reporting requirements without a statutory mandate?

The juxtaposition of these statutory exclusions against the legislation giving rise to the DOER’s intent to include MLPs in the reporting requirements alone clearly illustrate the consistent legislative intent to specify when and if certain terms of legislation apply to MLPs.

St. 2022, c. 179, Sec. 41 DOES NOT APPLY TO MLPs

MLPs have never been included in the definition of “distribution companies”. A careful review of c. 164 of the General Laws unambiguously shows that the definitions of “distribution companies” and “electric companies” make no mention of MLPs. Rather, MLPs are separately established in Section 34 of said chapter. In addition, Sec. 2 of c.164 specifically identifies those sections which are applicable to MLPs.

Moreover, the relevant language contained in the omnibus Utility Restructuring Act c. 779 of the Acts of 1997 regarding competitive choice is not applicable to MLPs. In fact, the Legislature acknowledged the distinction between MLPs and distribution companies by specifically authorizing the MLPs to determine their respective participation in allowing competition in their respective service territories. Stated differently, when the Legislature had an opportunity to include MLPs into the definitions of “distribution companies” and “electric companies” it chose not to do so.

When one interprets the plain meaning and legislative intent of the statute in this instance, one must look to the Legislature’s consistent exclusion and separation of MLPs from distribution companies.

The *numerous* statutory distinctions between the **formation and operation** of public MLPs and distribution companies (i.e. investor owned utilities and other entities) are contained throughout the General Laws.

A regulatory determination that distribution companies (without a specific change in the underlying statute), include MLPs would undermine years of statutory interpretation and implementation.

DOER DOES NOT HAVE THE AUTHORITY TO MANDATE THESE REPORTING REQUIREMENTS ON MLPs. DOER’s DRAFT REGULATIONS ACKNOWLEDGE THAT MLPs ARE NOT “ DISTRIBUTION COMPANIES.” THE REGULATIONS HOWEVER THEN PROCEED TO MANDATE THE IDENTICAL REPORTING REQUIREMENTS ON MLPs AS THOSE OF A DISTRIBUTION COMPANY.

MEAM acknowledges DOER’s recognition of MLPs as separate and distinct from “distribution companies” (see definition of “Distribution Company” in Draft Regulation section 225 CMR 27.02). However, DOER then proceeds to mandate identical reporting requirements as if MLPs were distribution companies.

Where then does the DOER derive its authority to **mandate** the identical requirements on MLPs as it does for distribution companies? Certainly not from St. 2022, c.179, Sec. 41.

THE DRAFT REGULATION WOULD MANDATE COSTS WHICH MUST BE PASSED ONTO RATEPAYERS WHICH IS TANTAMOUNT TO RATEMAKING.

MLPs are locally controlled by Municipal Light Boards which set rates for all customers. As DOER is aware, those rates must reflect costs of providing safe and reliable power to the MLPs' customers. MLPs are extremely diverse in the size of their respective customer base. Unlike investor owned utilities, MLPs cannot choose to have stockholders absorb the cost. MLPs are statutorily obligated to charge its costs to its ratepayers. Additionally, small MLPs may not have the inherent administrative capacity required to implement the same program requirements. The resulting increased costs must be absorbed by rate increases HENCE EFFECTIVELY TRANSFERRING RATEMAKING AUTHORITY FROM MUNICIPAL LIGHT BOARDS TO THE DOER! Perhaps another reason why the legislature has been so careful in not including MLPs within the definition of "distribution companies".

MLP PRIVACY CONCERNS

MLPs have a uniquely different relationship with its customers than investor owned companies. MLPs provide various programs to their customers as the respective MLP Boards deem appropriate for their respective customers . This local control is the very essence of MLPs. MLPs' customers expect a high level of confidentiality regarding the applicability of billing information and other program information. Consequently, MLPs as public entities are extremely sensitive to providing customer billing information to a third party without specific approval from the account holder. The proposed regulation would not require such customer consent and DOER does not have the authority over MLPs to mandate same. Perhaps, of course DOER could require such electric usage information directly from large building owners in MLP territories as it has for other energy usage.

CONCLUSION

As MEAM has indicated in previous discussions with DOER, MEAM will work with DOER to assist in accomplishing DOER's large building reporting goals . However, if DOER's goal is to gather large building usage information from large buildings located in MLP service territories it must respect the **statutory** independence of MLPs.

Many MLPs are small and may have fewer buildings which would actually come within the large building reporting requirement. Unlike investor owned companies MLPs are extremely diverse both in size and number of large buildings which may come within the DOER's mandate. MEAM would suggest that MLPs simply provide energy usage information to those large building account holders who may be required to report. This would avoid any privacy concerns and be consistent with the strong bond between MLPs and their customers without impinging upon the consistent statutory distinction between municipal light plants and distribution companies.

Contacts:

Jane Parenteau Sec./Treasurer MEAM
Sec.treas@meam.org

Robert Rodophele/ Ferriter Scobbo & Rodophele PC
125 High Street Boston MA 02210
rrodophele@ferriterscobbo.com



Submitted Electronically

September 25, 2024

Massachusetts Department of Energy Resources
Attn: Lyn Huckabee, Regulatory and Innovation Manager, Energy Efficiency Division
100 Cambridge St., 9th Floor
Boston, MA 02114
DOER.BER@mass.gov

Subject: BER Public Comment

Dear Lyn Huckabee,

Calico Energy sincerely appreciates the opportunity to provide our comments in response to the Building Energy Reporting Draft currently under development by the Department of Energy Resources (DOER). With extensive expertise in building benchmarking programs and building energy performance standards, as well as a strong understanding of the process's utilities use to provide whole-building consumption data, we are well-positioned to contribute meaningful insights.

As a leading provider of data access tools for utilities and their stakeholders, Calico Energy supports a wide range of data access use cases, including benchmarking. Our products and services are specifically designed to assist utilities and their partners, with a strong focus on delivering the best possible whole-building benchmarking experience for all stakeholders who engage with our application.

Having a deep understanding of utility operations, data structures, and the application of this data, we are acutely aware of the limitations inherent in current utility data systems, which are typically organized around accounts and meters rather than buildings. As of 2024, our Utilibridge™ solution has been successfully implemented by multiple utilities across North America, serving over 13 million customers.

We understand that DOER is seeking public feedback on the Building Energy Reporting draft regulation, and we are pleased to outline our comments below.

1. **27.04 -1** We recommend that DOER explicitly state what usage is to be included as usage in the building. From Calico's experience this would need to include usage from current and past tenants as well as revert to landlord arrangements. We recommend that the Utility not include consumption not specific to the building such as cell towers etc. From our experience, it is very difficult for utilities to determine what constitutes a building with absent involvement from the building owner / manager, therefore best practice calls for the building owner to confirm the spaces / tenants that constitute a building. This can be done online without significant rework. The improvement in accuracy typically outweighs the effort. We have also seen this done with

meter numbers, we do not recommend this based on accuracy and difficulty in confirming meter numbers. It would be helpful for DOER to explicitly indicate what cost information is when different accounts within a building can be on different rates / contracts.

2. **27-04 -2** See above
3. **27-04 -3** It would be helpful if DOER clarified that this applies to energy not delivered by a distribution company and that it is not the building owners' responsibility to know if the distribution company delivered usage data to DOER.
4. **27-04 -3 (a)** In the event that a building is not solely owner occupied and DOER directs the owner to supply data, how does the owner gather that data from tenants in a manner that doesn't violate confidentiality or expose the tenants PII to the owner?
5. **27-04 -3 (b)** Given that data usage could cover multiple past and present tenants, moving the burden to the building owner seems onerous. Calico Energy has seen the process where the utility compiles this data, and the building owner approves it. This process yields greater accuracy, compliance and customer satisfaction.
6. **27-05 -1 (b)** Is the utility best placed to determine if these conditions were met? For example, a building might be vacant but still supplied with service.
7. **27-05 -2** Is there any guidance on how to modify consumption in EV chargers on the main meter? Also, a similar construct to removing separately metered EV consumption applied to end uses such as cellular towers.
8. **27-06 -2** Is moving full responsibilities to third parties likely to ensure greater compliance than allowing existing owners, agents, and property managers to act on the owner's behalf whilst still holding owners accountable?
9. **27-08 -1** From Calico's experience more detail should be provided as to how owners ensure data access while still maintaining tenant privacy. It is not uncommon for buildings to have many individually metered spaces, and the utility bills sent to accounts payable departments outside of the preview of the occupying tenant.
10. **27-08 -2** As above, how do third parties certify consumption while maintaining tenant privacy?

Calico Energy looks forward to continuing to support DOER in this important initiative and remain available for any further discussions or clarifications that may be required.

Thank you for considering our input.

Sincerely,



Rich Huntley

September 25, 2024

By Electronic Mail

Jerrylyn Huckabee
Department of Energy Resources
100 Cambridge Street, 9th Floor
Boston, MA 02114

Re: Comments on 225 CMR 27.00 – Draft Regulation for Large Building Energy Reporting Requirements

I. INTRODUCTION

An Act Driving Clean Energy and Offshore Wind (St. 2022 c.179, § 41) created G.L. c. 25A §20 to require the reporting of energy use data for buildings over 20,000 square feet. The law went into effect on July 1, 2024 and the first usage reports are required to be made in 2025. On August 26, 2024, the Department of Energy Resources (“DOER”) released a draft regulation proposing how it will implement the Large Building Energy Reporting requirements created by G.L. c. 25A §20. The DOER requested comments on the draft regulation by September 25, 2024. Fitchburg Gas and Electric Light Company d/b/a Unitil (“Unitil”), Boston Gas Company, Massachusetts Electric Company, and Nantucket Electric Company, each d/b/a National Grid (“National Grid”), NSTAR Electric Company, NSTAR Gas Company and Eversource Gas Company of Massachusetts, each d/b/a Eversource Energy (“Eversource”), Liberty Utilities (New England Natural Gas Company) Corp. (“Liberty”), and The Berkshire Gas Company (“Berkshire”) (collectively the “Distribution Companies”) appreciate the opportunity to submit these comments for DOER’s consideration.

II. COMMENTS ON PROPOSED REGULATION

A. 220 CMR 27.02 Definitions

Proposed Regulation 27.02 defines Energy Usage as:

The amount of Energy sold by a Distribution Company, Municipal Utility, renewable energy generated on the Building site or off-site, or other sources, consumed for any Building. The definition includes Energy sold to individual lessees and common areas of a Building in aggregate.

The Distribution Companies note that the definition of Energy Usage is framed, in part, as “[e]nergy sold by a Distribution Company...” This is not accurate. The Distribution Companies deliver energy and where they procure commodity on behalf of customers, it is a pass-through charge at market costs. Electric and natural gas distribution companies do not derive a profit from or earn a return on providing basic (electricity or natural gas) service to customers. Therefore, the Companies recommend that this language be refined for accuracy, and suggest that it be changed to: “The amount of Energy measured by a Distribution Company’s meter.”

The Distribution Companies further note that, on the electric side, they can provide only net energy usage data as measured by its revenue meters. So, too, for Unitil, National Grid, Eversource, Berkshire, and Liberty with respect to natural gas customers. The Distribution Companies generally do not have direct access to data from renewable energy generated on-site, off-site, or by other sources, including generators, for a building. Accordingly, that additional energy usage information required by the regulation must be provided by the Building Owner. Because the current definition of Energy Usage blends information that will be provided by the Distribution Companies with information that must be provided by Building Owners, it should be revised to more clearly delineate who

will be responsible for each component of the reportable data. The Distribution Companies recommend the following definition:

Energy Usage. means (a) as to a Distribution Company, the amount of Energy measured by a Distribution Company's meter; (b) as to a Municipal Utility, the amount of Energy measured by a Municipal Utility's meter; and (c) as to the Building Owner, all other energy usage that is not provided by a Distribution Company or Municipal Utility, including any renewable energy generated on the Building site or offsite, or other sources, consumed for any Building.

B. 220 CMR 27.04 Reporting Requirements and Process

Proposed Regulation 27.04(1) provides that:

Annually by June 30, Distribution Companies shall report to the Department all Energy Usage provided by the Distribution Companies and the associated cost information for all Buildings contained on a Covered Parcel that have an account with the Distribution Company for the previous calendar year.

For the purpose of clarity, the Distribution Companies recommend that the language in this subsection be modified as follows: "Annually by June 30, Distribution Companies shall report to the Department all Energy Usage **required to be** provided by the Distribution Companies..."¹ That proposed edit in red typeface, in combination with the revised definition of Energy Usage suggested above, makes clear which entity is accountable for providing each component of Energy Usage data under the regulation.

The Distribution Companies also note that 27.04(1), as drafted, requires the Distribution Companies to provide "cost information" associated with Energy Usage. Cost information is not within the scope of G.L. c. 25A §20 and therefore this should be removed from the DOER's regulation. Another consideration in support of removal is that adding cost information to the reporting increases complexity and may increase the cost to develop and produce the report.

¹ The same/similar edit would need to be applied to 27.04(2) and 27.04(3).

C. 220 CMR 27.05 Reporting Exemptions

Proposed Regulation 27.05(1)(b) provides:

If a Building meets one or more of the criteria listed in 225 CMR 27.05(1)(a)1.-5., the Distribution Company, Municipal Utility, or Building Owner shall submit a letter to the Department by June 30 of the compliance year stating which criteria the Building meets and providing any applicable documentation.

As drafted, 27.05(1)(b) creates an affirmative obligation (i.e., “shall submit”) for the Distribution Companies to notify DOER if one or more of the criteria listed in this section are met. However, the criteria listed in this section are all specific to the Building and/or Building Owner, and in some cases the Distribution Companies may not be privy to the information necessary to determine whether the criteria are met. For these reasons, this requirement should be permissive (i.e., “may” instead of “shall”) for the Distribution Companies and mandatory for Building Owners.

D. 220 CMR 27.09 Personally Identifying Building Owner and Lessee Information

The citation in this section should be updated to M.G.L. c. 4, § 7, clause twenty-sixth.

E. 220 CMR 27.12 Inspection

Under section 27.12, DOER may audit the information provided pursuant to this regulation and inspect records related to that information. The Distribution Companies suggest that DOER identify with more specificity the documentation that will be subject to auditing and address any possible data privacy concerns with sharing that documentation. All Distribution Companies have a duty to protect personally identifying information, which includes customer energy usage information. See D.P.U. 12-76-B, at 36 (“Customer-specific data cannot be shared without customer authorization.”); G.L. c. 164,

§ 1F(7) (requiring confidentiality of customer records held by a distribution company). The Distribution Companies recognize that there may be instances where multiple utility accounts are aggregated to provide Building-level data. The Distribution Companies further note that an audit could require granular information that may reveal protected energy usage information from individual account holders. As such, the Distribution Companies respectfully request that the DOER provide further detail about the audit process and consider how the disclosure of protected customer information will be avoided.

In addition, the Distribution Companies' note that revenue meters measure individual customer consumption, and the Distribution Companies need to track the location of the meter for energy delivery and revenue gathering purposes. Historically, some Distribution Companies have not tracked the relationship between meters and buildings, and service addresses do not always match the address associated with the tax parcel. Therefore, collectively, the Distribution Companies warrant only that the energy delivered to the meter is correct, and while they will provide aggregation of data from building meters to the best of their abilities, they cannot warrant that the aggregations will be correct in all cases.

Lastly, this regulation, as drafted, does not provide a time limit on the DOER's right to audit. In order to balance the opportunity for DOER to audit information and a reasonable timeframe for the scope of that audit and record retention, the Distribution Companies recommend that document inspection be limited to a five-year look back period.

III. CONCLUSION

The Companies appreciate the opportunity to provide comments on DOER's draft regulation. Thank you for your consideration of these comments.

Respectfully submitted by:

**FITCHBURG GAS AND ELECTRIC
LIGHT COMPANY d/b/a UNITIL**

/s/ Matthew C. Campbell

Matthew C. Campbell, Esq.

Unitil Service Corp.

6 Liberty Lane West

Hampton, NH 03842

**BOSTON GAS COMPANY,
MASSACHUSETTS ELECTRIC
COMPANY, and NANTUCKET
ELECTRIC COMPANY, each d/b/a
NATIONAL GRID**

/s/ Christopher R. Tuomala

Christopher R. Tuomala, Esq.

National Grid

170 Data Drive

Waltham, MA 02451

**LIBERTY UTILITIES (NEW ENGLAND
NATURAL GAS COMPANY) CORP.
D/B/A LIBERTY**

/s/ Ronald J. Ritchie

Ronald J. Ritchie, Esq.

Liberty Utilities

465 Sykes Road

Fall River, MA 02721

**NSTAR ELECTRIC COMPANY, NSTAR
GAS COMPANY AND EVERSOURCE
GAS COMPANY OF MASSACHUSETTS,
EACH D/B/A EVERSOURCE ENERGY**

/s/ Elizabeth N. Jones

Elizabeth N. Jones

Eversource Energy

247 Station Drive

Westwood, MA 02090

THE BERSKSHIRE GAS COMPANY

/s/ Alex E. Soter

Alex E. Soter, Esq.

The Berkshire Gas Company

180 Marsh Hill Road

Orange, CT 06477



ASSOCIATION OF INDEPENDENT COLLEGES
& UNIVERSITIES IN MASSACHUSETTS

September 25, 2024

Elizabeth Mahony
Commissioner
Massachusetts Department of Energy Resources
100 Cambridge Street, 9th floor
Boston MA 02114

Via: DOER.BER@mass.gov

CC: Lyn Huckabee, Department of Energy Resources

RE: **Comments on Building Energy Reporting Draft Regulations 225 CMR 27.00**

Dear Commissioner Mahony:

The Association of Independent Colleges and Universities in Massachusetts [AICUM] represents the public policy interests of 58 independent colleges and universities throughout the Commonwealth – institutions responsible for educating more than 290,000 students each year and employing more than 98,000 people. Our members include large, nationally and internationally renowned research universities, smaller, highly regarded liberal arts colleges, religiously affiliated institutions, and colleges with special missions focused on entrepreneurship or music or allied health services.

Our colleges and universities are committed to supporting policies and practices that reduce emissions, help solve for transitioning the Commonwealth to clean energy, support healthy communities, and help to stem the tide of climate change. These institutions have invested considerable resources in decarbonization efforts and are recognize the value of the Department of Energy Resources (DOER) developing a better understanding of building energy use in the Commonwealth as a component of its climate action plan.

However, as DOER prepares for implementation of the draft regulations, we want to share our feedback on specific policy areas that we believe can be improved. These comments have been kept at a higher level since there are critical issues to address in how this regulation is envisioned to be structured rather than the fine details of the language itself. Overall, the draft regulations underestimate the building sector's complexity and energy data, and it will be challenging to fully implement this endeavor within only nine months.

Coordination with existing local building energy reporting regulations

The regulation, as proposed, does not recognize existing building energy reporting ordinances in Municipalities as a compliance pathway for this legislation.

Recommendation: We strongly recommend that the DOER leverage existing processes on building energy reporting. In municipalities with existing building energy use reporting regulations, including but not limited to the Cities of Boston and Cambridge, compliance with proposed state reporting requirements should be met through compliance with municipal reporting regulations to avoid unnecessary dual reporting and duplication of effort by Building Owners and Public entities.

Timeline for implementation

We are very concerned with the timelines proposed for implementation of this highly complex regulation given it is in draft status and proposed implementation in only nine months. Based on experiences in the Cities of Boston and Cambridge, this process has taken years to draft and promulgate similar regulations. Cambridge and Boston have made and continue to make a significant effort to garner stakeholder feedback and provide a host of policies, procedures and guidance materials to help better articulate reporting requirements. The proposed regulations appear to ignore this vital process, given the timelines proposed.

Additionally, the proposed regulations allow DOER to issue a regulated building list as late as March 30, 2025. This would provide the regulated community and distribution companies with only three months to report, an unrealistic timeline given the scale and breadth of this draft regulation.

Recommendation: *We recommend the DOER establish a phased process over multiple years to on-board buildings based on building size, similar to the approach used by the City of Boston.*

Proposed process for reporting

There are two significant concerns with regard to how energy reporting is proposed in the regulation.

1. The regulation proposes that the responsibility is primarily on the distribution companies to report building-level energy use on behalf of the Owner. Distribution companies have currently failed to provide utility data related to the City of Boston's BERDO regulation requiring a BERDO reporting extension in 2024. Based on this experience, distribution companies have not demonstrated the capacity to acquire, handle, and report this data accurately in the City of Boston. We question the ability to do this statewide within nine months as proposed when they are not able to do it for the City of Boston.

Additionally, small businesses that commonly supply delivered fuels to buildings are expected to provide compliance quality data within 9 months. This, too, is an unreasonable expectation in such a short timeframe.

Recommendation: *We strongly recommend that DOER evaluate the quality and accuracy of distribution company data programs, the ability to and accuracy of reporting at a building (not meter account) level before relying on this as the primary means of energy reporting for this regulation.*

2. The regulation proposes that the responsibility is primarily on the distribution companies to report building level energy use on behalf of the Owner but appears to propose the responsibility for third-party data verification is on the Owner (27.08 Data Verification). We have concerns over the split responsibility proposed and timelines with which the Owner will be held to verify data reported by distribution companies.

Recommendation: *We strongly recommend that DOER reconsider its split approach to data verification, where one entity is reporting the data and another entity is responsible for verifying the accuracy of the data.*

Covered Buildings

The process for developing a covered parcels list is very unclear and appears to underestimate the complexity involved in developing such a list. The proposed regulations need to more clearly define how covered parcels and the buildings on large parcels are defined and what is - or is not - covered. We do not think the proposed regulations are intended to require reporting for small buildings on larger parcels

such as non-profits, school districts, municipal facilities, and institutional campuses. For example, there are many instances where there are very large parcels with upwards of 30 buildings.

Additionally, barns and similar uninhabited structures used for facility purposes, animal care, or agriculture, can drive whether a parcel is covered. These structures may have utilities, and a small campus inclusive of a barn, and multiple small wood frame residential structures that could unintentionally be pulled into the regulations.

District Energy System:

The regulation does not clearly define how utility companies and institutions should report energy consumption on campuses that are served by a district energy system (DES). It is not clear if those campuses are able to report energy consumption at the DES level or would be required to report at the individual building level.

Recommendation: Include a definition for district energy systems and campuses and define reporting requirements that recognize the dynamics of DES central plant-level reporting and individual building-level reporting. Provide for a compliance pathway for campuses with a district energy system that serves a portfolio of buildings that allows reporting be done in the aggregate at the central plant-level and not at the individual building-level. The owner should be able to comply with the requested reporting through the utility company and self-reporting for any additional delivered fuels in the aggregate: oil, biofuel, propane etc. This approach meets the original intent of the legislation where the distribution utility is responsible to report based on active accounts and would greatly simplify the reporting requirements of DES owners. This approach assumes the data quality and data service capabilities of utility companies can be resolved.

Utility cost/rate data:

The regulations would require the disclosure of utility cost/rate data, which was not included in the preceding legislation. This is problematic as it would publicly disclose private negotiated rates and rate structures among customers. This data should remain confidential between the utilities and customers, not publicly available for cross comparison between customer bases.

Recommendation: Remove the requirement for reporting cost/rate structure request as it was not within the original law and exposes private business/trade terms.

On behalf of our member colleges and universities, we thank you for your work to maintain Massachusetts' leadership on climate action. Please do not hesitate to reach out if you have any questions on the comments above.

Sincerely,



Rob McCarron
AICUM President and CEO



Building Energy Reporting Draft Regulation 225 CMR 27.00

ClearlyEnergy Public Comments

Stakeholder Contact Information and Expertise

Contact Information

Veronique Bugnion, CEO
ClearlyEnergy
vbugnion@clearlyenergy.com

Carolyn Sarno Goldthwaite, VP Customer Engagement
ClearlyEnergy
cgoldthwaite@clearlyenergy.com

Expertise

Established in 2012, ClearlyEnergy specializes in climate policy analysis, climate program management, and software development. ClearlyEnergy, an 80% women-owned certified small business, works at the nexus of public policy and software solutions using data-driven analytics and reporting to enable the energy transition. We are uniquely qualified to facilitate residential and commercial building energy programs through personalized policy development and implementation support. Our projects include benchmarking and building performance standards, carbon accounting and disclosure, energy-efficient mortgages, virtual residential audits, and automated energy modeling. ClearlyEnergy's suite of software solutions are designed to facilitate emissions reduction programs in a streamlined and equitable manner.

Draft Regulation Comments by Section

7.04: Reporting Requirements and Process

The proposed regulations create shared responsibility between the utilities and building owners for reporting energy consumption information to DOER. Because DOER does not know ex-ante which buildings require adjustments to the data provided by the utilities, it is imperative that building owners be required to provide a final signoff on the completeness and integrity of the data submitted to DOER. For example:

- Buildings may have a fossil fuel system that requires input by the building owner;



- Buildings on shared district systems such as district steam loops may not be identified by DOER;
- Buildings may need to adjust utility data for behind the meter generation;
- Neither DOER nor utilities can attest that a multi-metered building has been properly aggregated, this needs to be validated by the building owner;

These examples are not an exhaustive list and highlight why all buildings must have their data checked and validated by building ownership and management before being submitted to DOER. This also implies building owners should be the primary owners of the ENERGY STAR Portfolio Manager accounts prior to sharing data with MA DOER. These comments are also consistent with the obligation for building owners to self-certify the submission under 27.08(1). To ensure the integrity of the data, MA DOER should receive read-only access rights to the data submitted for MA benchmarking via ENERGY STAR Portfolio Manager and should not have the ability to modify the data saved in ENERGY STAR Portfolio Manager.

The MA DOER draft regulations also impose reporting requirements on distribution companies, including steam distribution companies, and municipal utilities: they are required to report building-level aggregated data for buildings identified on DOER's covered buildings list. This dual utility and owner reporting requirement can be solved by allowing utilities to push information into the building specific ENERGY STAR Portfolio Manager accounts as opposed to having it pulled by building owners. Utilities can track these data exchanges as a way of validating that their responsibility to provide information has been met and DOER can validate that a utility user updated meter level information in ENERGY STAR portfolio manager and when that information was last updated.

27.08: Data Verification

ClearlyEnergy recommends using the existing infrastructure in ENERGY STAR Portfolio Manager to track the third-party verifier qualifications, business, contact information, date of certification, and the year the data was certified for. We also recommend coordinating with EPA to ensure that the credentials approved by MA DOER are listed in the form provided by ENERGY STAR Portfolio Manager.



September 25, 2024

Elizabeth Mahony, Commissioner
Department of Energy Resources
100 Cambridge St., 9th Floor
Boston, MA 02133

Re: NAIOP Comments on Building Energy Reporting Draft Regulation 225 CMR 27.00

Dear Commissioner Mahony:

NAIOP Massachusetts, The Commercial Real Estate Development Association, **appreciates the opportunity to provide feedback on the Building Energy Reporting Draft Regulation 225 CMR 27.00.**

NAIOP represents the interests of companies involved with the development, ownership, management, and financing of commercial properties. NAIOP's 1800 members are involved with office, lab, industrial, mixed use, multifamily, retail, and institutional space across Massachusetts.

NAIOP worked closely with Senator Michael Barrett on the drafting and passage of MGL 25A Section 20, requiring the reporting of energy use data for buildings over 20,000 square feet. NAIOP was grateful for the legislature's collaboration with the development community to ensure a program that reflects "lessons learned" from the promulgation of similar programs in Boston and Cambridge.

NAIOP respectfully offers the below comments to the Department of Energy Resources (DOER) with the hope that their incorporation will create a clear, workable program that reflects legislative intent and real-world application.

I. Definitions

a. Building Owner

To ensure clarity and consistency, NAIOP urges the Department to amend the current definition found under 27.02 "Building Owner" to read:

*Building Owner. The person, persons, entity, or entities listed as the owner of a Parcel on the Covered Parcels List **or Designated Building Owner as further defined herein.***

b. Covered Parcel and Covered Buildings

Under 27.04(1), Distribution Companies are required to report to the Department Energy Usage for "all Buildings contained on a Covered Parcel". Further along, the same section requires Energy Usage to be provided for "each Building on the

Covered Parcels List.” NAIOP requests that the Department clarify if it intends reporting to occur for every building located on a Covered Parcel *or* only those buildings specifically identified on the Covered Parcel List.

Additionally, the definition of “Large Building” at 27.02 is “*One or more Buildings located on a Parcel with a combined GFA equal to or greater than 20,000 square feet.*” However, the definition does not specify “all” buildings located on such a parcel. NAIOP urges the Department to clarify that the Covered Parcels List will only require reporting for individual buildings of at least 20,000 square feet.

Finally, NAIOP urges the Department to adopt the following suggested language to the definition found under 27.02 “Covered Parcel” to read:

*Covered Parcel. A Parcel containing **one or more** ~~Large~~ Buildings that **are** ~~is~~ included on the Covered Parcels List.*

c. Energy Usage

To account for all energy provided by a distribution company, NAIOP respectfully offers the following amendment to 27.02 “Energy Usage”.

*Energy Usage. The amount of Energy **provided** ~~sold~~ by a Distribution Company, Municipal Utility, renewable energy generated on the Building site or off-site, or other sources, consumed for any Building. The definition includes Energy **provided** ~~sold~~ to individual lessees and common areas of a Building in aggregate.*

d. Qualified Building Energy Professional

NAIOP members are practiced in reviewing energy usage data provided by third-party providers, confirming the data, and reporting the energy use. NAIOP strongly believes that an individual does not need to hold official credentials to report energy use generated and/or consumed by any building. As such, NAIOP suggests the below edits in red to 27.02 Qualified Energy Professional to ensure that the regulations reflect already existing best practices within companies.

*Qualified Energy **Reporting** Professional. An individual or individuals who hold an active qualification of at least one of the credentials listed in the Department’s Guideline on Building Energy Reporting **or a CFO, Controller, or other employee of the Building Owner or Designated Building Owner with expertise in accounting or facility management.** The Department may approve additional qualifications not listed in the Department’s Guideline on Building Energy Reporting on a case-by-case basis.*

II. Reporting Requirements and Process

a. Distribution Companies and Municipal Utilities

Distribution companies and municipal utilities cannot provide third-party “supply” costs when building owners contract for this service separately. Furthermore, NAIOP is unclear as to why cost information is required at all, given that units of measurement (i.e. kwh; therms; etc.) should satisfy the reporting requirements outlined in the legislation.

NAIOP suggests that the department strike "...and the associated cost information..." from both 27.04(1) and 27.04 (2) (below, in red).

1. *Distribution Companies. Annually by June 30, Distribution Companies shall report to the Department all Energy Usage provided by the Distribution Company ~~and the associated cost information~~ for all ~~Large~~ Buildings contained on a Covered Parcel that have an account with the Distribution Company for the previous calendar year.*
2. *Municipal Utilities. Annually by June 30, Municipal Utilities shall report to the Department all Energy Usage ~~and the associated cost information~~ provided by the Municipal Utilities for all ~~Large~~ Buildings contained on a Covered Parcel that have an account with the Municipal Utility for the previous calendar year.*

b. Building Owners

NAIOP members have seen over many years that utilities in the City of Boston have at times not provided data to building owners in a timely way that assures data quality.

Based on lessons learned from Boston and Cambridge's respective energy reporting programs, NAIOP was glad to see that the legislation holds the distribution company and municipal utilities responsible for the bulk of the energy reporting. However, NAIOP is disappointed to see that in the draft regulations, if the distribution company or municipal utility fails to comply with the regulations, the building owner becomes the responsible party. **NAIOP strongly urges the Department to strike 27.04 (3)(a) in its entirety, and instead rely upon the enforcement provisions of 27.11(1) to hold energy providers accountable for their responsibilities under these regulations.**

c. Deadlines and obligations

Under 27.04(3), Building Owners must provide the Energy Usage information by June 30 for all "Buildings contained on Covered Parcels" for which the information is not provided by a Distribution Company or a Municipal Utility. However, as written, the utilities and distribution companies have the same deadline (June 30) to provide the usage information under 27.04(1) and (2). **NAIOP suggests that the Department amend this section, as there is no way to guarantee that Building Owners will know, on the day the information is due, whether the information has been supplied by the utilities.**

III. Building Exemptions

a. Separately Metered Electric Vehicle Charging Stations

NAIOP respectfully puts forward the changes below in red to ensure the reporting of separately metered electric vehicle charging stations is accurate and clear for the regulated community.

Separately Metered Electric Vehicle Charging Stations. Energy Usage derived from electric vehicle charging stations located on a Covered Parcel ~~but not contained within a Building~~ shall not be reported pursuant to 225 CMR 27.04 unless the Energy Usage is measured by a Building's meter, in which case the Energy Usage shall be reported as a deduction from the Building meter total.

IV. Building Change in Ownership and Building Ownership Designations

a. Change in Ownership

As written, section 27.06 (1) obligates both the former and new building owner to notify the Department of ownership transfer and inexplicably allows the Department to keep compliance obligations on the former building owner.

Real estate transfers are publicly documented, so this additional reporting requirement is unnecessary and contradicts 27.03(3), which requires the Department to utilize publicly available information to create and maintain its list. Therefore, NAIOP strongly urges the Department to strike section 27.06 (1) before promulgation of the final regulations.

V. Third-Party Data Verification

In Cambridge and Boston, NAIOP members have consistently raised concerns related to the requirements for third-party data verification. Many concerns are related to the lack of qualified professionals who exist in the Commonwealth to provide this verification. California, which has a similar law in place, does not require this verification. Additionally, in 2015 the Massachusetts Department of Environmental Protection (MassDEP) solicited comments on the third-party verification of CMR 7.71 Reporting of Greenhouse Gas Emissions. MassDEP reviewed feedback and chose *not* to advance third-party verification in [their proposed amendments](#) for 310 CMR 7.71 and 310 CMR 7.75 in 2022.

Given this information, NAIOP respectfully offers the below amendments in red to 27.08(2):

~~Third-Party~~ Qualified Energy Reporting Professional Data Verification.

- (a) *The first year a Building Owner reports Energy Usage data to the Department pursuant to 225 CMR 27.04(3), the Building Owner shall additionally submit ~~a third-party~~ verification by a Qualified Energy Professional of their reported Energy Usage.*
- (b) *Every fifth year following the first year a Building Owner reports Energy Usage data to the Department pursuant to 225 CMR 27.04(3), the Building Owner shall additionally submit ~~third-party~~ a Qualified Energy Reporting Professional verification of that year's and the previous four years' Energy Usage data.*

NAIOP also requests that references throughout the regulations to "Third-Party Verification" be replaced with Qualified Energy Reporting Professional Verification.

VI. Enforcement and Penalties

a. Building Owners

NAIOP believes that it is punitive and onerous to classify discrepancies in data as a violation of these regulations.

NAIOP respectfully offers the below suggested amendments in red to Section 27.11(3) in order to (1) reflect edits made by earlier comments and (2) adjust the language surrounding discrepancies.

(b) If a Building Owner fails to submit ~~third-party~~ Qualified Energy Reporting Professional verification of its Energy Usage information pursuant to 225 CMR 27.08(2), the following enforcement measures will be taken:

- 1. The Department shall provide notice to the Building Owner of their failure to provide ~~third-party~~ verification by a Qualified Energy Reporting Professional of their Energy Usage data.*
- 2. ~~If, after 30 days from the issuance of a written notification pursuant to 225 CMR 27.11(3)(b)1., the Building Owner does not provide the missing third-party verification, the Department may issue a fine of up to \$150.00 per day that the third-party verification is not provided.~~*

(c) If a Building Owner's submission ~~or of third-party~~ verification by a Qualified Energy Reporting Professional pursuant to 225 CMR 27.08(2) identifies a discrepancy with the Building Owner's Energy Usage information submitted pursuant to 225 CMR 27.04(3), the following enforcement measures will be taken:

- 1. ~~For the first violation, a written warning may be issued; The Department shall provide written notice to the Building Owner of the discrepancy in the information provided.~~*
- 2. If, after 30 days from the issuance of a written notification pursuant to 225 CMR 27.11(3)(c)1., the discrepancy is not corrected, the Department may issue a fine of up to \$150.00 per day until the discrepancy is corrected. ~~For any subsequent violation, the Department may issue a fine of up to \$150.00 per day that Energy Usage is not provided.~~*

VII. Alignment of Timelines and Expectations with Existing Programs

Many NAIOP members are required to comply with the BERDO and/or BEUDO programs in existence in Boston and Cambridge, respectively. As such, NAIOP raises the below concerns and urges the Department to align the program deadlines and exemptions as much as possible.

a. Gross Floor Area

BERDO does not count standalone parking garages as covered buildings (regardless of size) and does not count parking square footage towards the 20,000 SF threshold (see guidance document [here](#)). We encourage the Department to provide an exception for parking square footage and structures.

BERDO regulations also provide for other exceptions, including for courtyards, balconies, loading docks, atria, etc. NAIOP requests that the Department add these exceptions.

Finally, NAIOP has been in contact with the Department's team since 2022 regarding a legislative drafting error found within the enacting legislation in the section relating to the statewide building energy reporting.

Subsection (d) of this language states *“(d) Annually, not later than June 30, owners of large buildings shall report to the department any energy used during the previous calendar year that is not covered by subsection (b);...”*

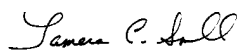
However, subsection (b) is the requirement that the Department publish a list of buildings that qualify as large buildings. Subsection (c) is the section that requires utilities to report energy usage of such buildings. Based on previous versions of this section found in earlier drafts of the legislation, and subsequent budget amendments filed by the language's author, Senator Michael Barrett, subsection (d)'s reference should read *“(d) Annually, not later than June 30, owners of large buildings shall report to the department any energy used during the previous calendar year that is not covered by subsection (c);...”*

In correspondence with the previous Commissioner and during the April 23, 2024 Building Energy Reporting Briefing for Owners, the Department has acknowledged that this is a legislative typo. **Due to concerns with implementation and future interpretations of this language, NAIOP strongly urges the Department to introduce corrective legislation to address this blatant drafting error.** NAIOP would be pleased to support such efforts.

NAIOP is grateful to the Department for the thoughtful drafting of the enacting regulations for this statewide building energy reporting and hopes that the above comments will be incorporated into the final regulations.

NAIOP looks forward to continuing our work with the Department and the Healey-Driscoll Administration to ensure that our shared priorities economic development, housing production, and climate are able to advance in alignment.

Sincerely,



Tamara C. Small
Chief Executive Officer
NAIOP Massachusetts, The Commercial Real Estate Development Association



September 25, 2024

Ms. Lyn Huckabee
Regulatory and Innovation Manager, Energy Efficiency Division
Department of Energy Resources
100 Cambridge St. 9th Floor Boston, MA 02114

Re: BER Public Comment

Dear Ms. Huckabee:

Thank you for the opportunity to provide public comment on the draft Building Energy Reporting (BER) regulation. We appreciate the Department's focus on soliciting feedback from interested stakeholders early in the regulation generation process, and we hope that our comments are helpful as the details of the regulation are considered and determined.

Local Initiatives Support Corporation (LISC) is a national nonprofit organization with a focus on community development. Since 2009, LISC Massachusetts's Green Homes Initiative has supported 90+ multifamily affordable housing owners statewide in decarbonizing their properties through education, technical assistance, investment, and advocacy.

LISC partners closely with Massachusetts Housing Partnership (MHP) and wishes to underscore our support for MHP's recommendations recently submitted on DOER's draft BER regulation as follows:

Recommendation #1: Require Distribution Company and Municipal Utilities' Provision of Data

We recommend that the regulation be drafted in a way that sets clear expectation that any distribution company or municipal utility that provides energy to a building on the covered parcel list is the responsible entity and expected to report whole building energy consumption and cost data, request exemptions (when applicable), and provide appropriate data quality assurance/control. We recommend removing the language in Section 27.04:(3) (a) that indicates that a building owner is responsible for reporting energy usage for buildings on a covered parcel if a distribution company or municipal utility does not meet their obligation to report. Instead, we recommend focusing attention on setting and enforcing stringent non-compliance penalties that will ensure that these responsible entities meet their obligations under this regulation (Per Section 27.11: Enforcement and Penalties).

Recommendation #2: Codify Provision of Data in a Format Conducive to Import into the EPA Portfolio Manager Tool.

Jurisdictions with building energy reporting requirements and performance standards across the country have coalesced around using EPA's Portfolio Manager tool to track and report building energy use. To maximize the benefits of the data being reported directly by distribution companies and municipal utilities, we highly recommend that they be required to report whole building energy consumption and cost information in a format specifically designed for easy upload/import to the Portfolio Manager tool. Furthermore, we recommend that DOER design and implement a database system for storage and management of the data reported by distribution companies/municipal

utilities to enable direct import into an owner's Portfolio Manager account (with no need for data download and upload assuming appropriate connections and permissions are provided).

We believe that the two provisions outlined above have the potential to significantly reduce/eliminate many of the barriers that have impeded progress associated with large building energy consumption information access/analysis. This will create a greater opportunity to incorporate this data into portfolio-wide benchmarking and emissions reduction activities for building owners and stakeholder entities.

Recommendation #3: Data Verification Responsibility Clarification

Section 27.08: Data Verification requires building owners to provide third-party verification of submitted data. As most of the data being provided under this regulation will be from distribution companies or municipal utilities, this section should be revised to include appropriate QA/QC requirements for these regulated entities, minimizing the cost and burden associated with third-party data verification for building owners. This approach should also govern edits to Section 27.11: Enforcement and Penalties (3)(b) and (c).

Recommendation #4: Facilitate Communication with Covered Parcel Building Owners

We recommend that DOER implement a process by which building owners with covered parcels receive direct outreach that notifies them of coverage by this regulation and helps them understand who the regulated entities for their covered parcel are. Any information that the Department needs from the building owner should be requested via an easy-to-use form or web page, and the building owner should be able to access/change/update information about their covered parcel via secure login.

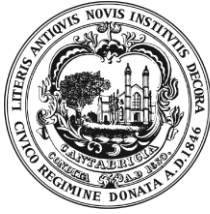
The Building Energy Reporting regulation has the potential to become a mechanism by which multifamily lenders and affordable housing owners and managers can easily access whole building energy consumption, cost, and emissions information. We expect this data to enable our organization to work more proactively with our affordable housing partners to create and implement plans that reduce energy use and cost, facilitating progress toward the Commonwealth's emission reduction goals and promoting greater financial stability for these important affordable housing resources.

Thank you very much for your consideration of our feedback on the draft regulation.

Sincerely,



Emily Jones
Deputy Director
LISC Massachusetts



CITY OF CAMBRIDGE

Office of Sustainability

September 25, 2024

Elizabeth Mahony, Commissioner
Massachusetts Department of Energy Resources
100 Cambridge Street, 9th Floor
Boston, MA 02114
Via email to DOER.BER@mass.gov

Dear Commissioner Mahony,

Thank you for the opportunity to provide comment on the draft regulation of the Large Building Energy Reporting (LBER) policy. The development of LBER is an exciting milestone in the implementation of a crucial climate policy for Massachusetts. Cambridge adopted the Building Energy Use Disclosure Ordinance (BEUDO) in 2014, requiring large buildings to track and report their energy use. The successful implementation of BEUDO and the insights we have gained from the reported data enabled us in 2023 to build on BEUDO and enact building performance standards for large nonresidential buildings, forming a critical part of how we reach our climate goals.

Based on Cambridge's experience with large building benchmarking, we wish to provide the following feedback on the draft LBER regulation.

Applicability to Cambridge

The statute ([M.G.L. ch. 25A §20\(i\)](#)) states that "Nothing in this section shall prohibit the enforcement of large building reporting requirements previously established by the city of Boston or the city of Cambridge and further amendments or improvement thereto that exceed those reporting requirements established pursuant to this section." We would request that DOER clarify, through regulation, that buildings in Boston and Cambridge are exempt from LBER. It is our expectation that LBER would be an expansion of benchmarking and its benefits to communities that do not currently require it.

Requiring buildings in Cambridge to additionally report to LBER would create two sets of different reporting requirements, asking owners to complete two reporting processes with different procedures. This risks creating significant confusion and additional work and expense for building owners. We are also concerned that a small number of buildings in Cambridge would be covered by LBER but fall just under the BEUDO threshold,¹ creating a new process for a handful of smaller buildings different from what is required of other Cambridge buildings.

Instead, we would work with DOER to share the necessary data from Cambridge buildings to include them in statewide LBER reporting. Cambridge already shares key metrics on each building through its Open Data portal,

¹ BEUDO reporting requirements apply to nonresidential properties of 25,000 square feet or more and residential properties of 50 units or more.

and we would look forward to working with DOER to share this and any other related data to include Cambridge buildings in statewide building reporting.

Finally, as Cambridge begins implementation of the BEUDO performance standards, it will be important that greenhouse gas reporting is aligned between Cambridge and LBER reporting, reflecting the emission factors and methodologies that Cambridge is developing in collaboration with stakeholders.

Considerations for Administration of LBER

Based on our experience with the implementation of BEUDO, we would like to provide the following high-level feedback on the administration of LBER, as proposed in the draft regulation:

- Data would be provided to DOER by both the utilities and, in many cases, building owners. However, the use of Portfolio Manager does not appear to be required, and, without a benchmarking account for each property, this would likely lead to conflicting data. It is also unclear in the regulation whether the use type(s) of the building would be collected. In general, the separate collection of utility data and data from the building owner may hinder the accurate benchmarking and reporting of building energy use.
- The definition of gross floor area may not align with the measure of floor area tracked by individual municipal assessors' offices. In Cambridge, BEUDO thresholds are determined by the living area of the property, per the City Assessor's records.
- The alignment of buildings, parcels, and utility service addresses is often complex. The requirement to report at the building level may result in significant effort to match utility service addresses to the correct building within a parcel.

Additionally, data verification is an important process but presents an additional cost to building owners. We suggest that DOER consider implementing verification in a future phase. It will be important to ensure alignment with verification requirements of Boston and Cambridge's building performance standards.

In closing, we look forward to the implementation of LBER in Massachusetts. We would expect that it will allow Cambridge buildings to comply with BEUDO and exempt them from additional LBER requirements. We are also aware of the complexities of implementing energy reporting, and we would ask DOER to carefully consider the processes of aligning data from different sources statewide, potentially focusing during the first year on making sure these data processes are well established.

We look forward to continuing to work with DOER on the success of LBER.

Sincerely,



Susanne Rasmussen, Director of Climate Initiatives



SMART GROWTH AND REGIONAL COLLABORATION

VIA ELECTRONIC MAIL ONLY

Lyn Huckabee
Department of Energy Resources
100 Cambridge St., 9th Floor
Boston, MA 02114

September 25, 2024

Re: MAPC Comments on Large Building Energy Reporting (LBER) Draft Regulation

Dear Ms. Huckabee,

Thank you for the opportunity to comment on the Department of Energy Resources' (DOER) draft regulations for Large Building Energy Reporting (LBER). The Metropolitan Area Planning Council (MAPC) is the Regional Planning Agency serving the people who live and work in the 101 cities and towns of Greater Boston. We are committed to smart growth, sustainability, regional collaboration, and advancing equity.

MAPC is excited to see the Commonwealth take steps towards implementing building energy disclosure policies like those that have been successfully implemented in the Cities of Boston and Cambridge and in other states. Effective building energy use disclosure and benchmarking policies can help to raise awareness of energy efficiency opportunities and serve as a valuable tool for helping the Commonwealth meet its climate targets, particularly if paired with greenhouse gas (GHG) emissions reductions requirements in the future.

It is imperative for the LBER to be implemented effectively from the outset. The processes and platforms established must provide for a smooth and user-friendly launch and be designed to easily enable future follow-on actions, such as targeted outreach to high energy users or a potential statewide building performance standard (as in Colorado and Washington). A negative experience from building owners trying to comply with reporting requirements in the first year, particularly given the risk of financial penalties, may compromise the success of future initiatives to build on the LBER requirements and reduce GHG emissions from large existing buildings.

While we support DOER's attempts to minimize the administrative burden on building owners, we have significant concerns about the proposed approach to use a combination of utility account data matching and building owner-provided information—an approach which is likely to create significant confusion and be overly reliant on unreliable and nonuniform information sources. Additionally, we are concerned about the lack of clarity in responsibilities and participation

processes for affected parties, the proposed third-party verification process, the lack of protection for residential tenants, and alignment with the existing BERDO and BEUDO programs in Boston and Cambridge.

We are cognizant of the limitations and tight timelines in statute that are pushing this process quickly. Amid this quick process, we are very concerned about the lack of stakeholder involvement in developing these draft regulations and the limited opportunities for public engagement—particularly compared to other ongoing DOER-led policy and program development initiatives. We strongly encourage more engagement with impacted building owners, municipalities, and especially the staff at the Cities of Boston and Cambridge, who have endeavored to address numerous challenges from the launch and ongoing implementation of their respective building energy disclosure ordinances for over a decade.

Given the numerous concerns outlined here and through the comments offered by the Cities of Boston and Cambridge that we endorse, we strongly suggest DOER use the first compliance year outlined in the statute as a “pilot” year while further discussions about how to improve the reporting process and platform continue. DOER should consider publishing the Covered Parcels List, exempt all covered building owners from compliance in year 1, and publish utility-provided data for review, owner engagement, and account/address alignment to establish a reporting system that works well. This approach will critically allow for more time to finalize the program design, ensure greater stakeholder participation in the process, and launch a successful statewide program. It is imperative that the Commonwealth design this program well to ensure its success and pave the way for lowering building emissions statewide.

Our comments below discuss in more detail: (1) the energy data collection process; (2) the covered parcels list; (3) the third-party verification process; (4) technical assistance for building owners; (5) tenant protections; and (6) alignment of LBER with existing building energy disclosure and performance standards.

(1) Energy Data Collection: The draft LBER regulation relies heavily on electric, gas, and steam utilities to provide customer data at the building or parcel level to serve as the data baseline for compliance. The goal of this approach seems laudable, to reduce the administrative burden on building owners, potentially enabling some building owners to not have to collect and report any energy use data already provided by the utilities beyond verification and self-certification.

However, based on the experiences of Boston and Cambridge, it is apparent that the customer data maintained by investor-owned utilities—which is based on customer accounts and meters—cannot be easily matched to building addresses and parcels without manual input and significant time spent on data cleaning. Many municipalities have different utility providers for gas and electric services (or multiple electric service providers) which may track geospatial information differently for the same customer. It is also unclear how easily customer data held by the 41 municipal light plants across the Commonwealth (many of whom may use different customer data management systems) can be directly matched to building addresses and parcels. Physical addresses used by utilities do not always match municipal assessor databases, MassGIS, and other publicly available

data sources, creating the risk of accounts being incorrectly associated with building owners or having accounts fall through the cracks.

Significant data cleaning and realignment of meters with buildings/parcels will be necessary, whether by staff at DOER or by individual building owners themselves. However, it is unclear from the regulations how this will be achieved, raising many questions about the data collection and reporting process and the quality of data ultimately reported by DOER:

- How will building owners be notified they have a Covered Parcel?
- How will building owners be notified that utilities have provided data for their building/parcel?
- How will building owners have the opportunity to compare what accounts have been associated with their building/parcel and add or remove accounts?
- How does this process differ whether a building owner is verifying utility-provided data or providing delivered fuel information?
- How will generation from any behind-the-meter, on-site solar photovoltaics be captured separate from the net billing data provided?
- How will this data reporting process align with existing municipal building energy reporting in Mass Energy Insight for cities and towns participating in the Green Communities Program?

While collecting data from utilities may help to initially populate a building's energy consumption, many building owners will still ultimately need to review their own energy bills to verify utility-provided data. We encourage DOER to explore a process similar to those used by the Cities of Boston and Cambridge, which require building owners to establish accounts in Energy Star Portfolio Manager (which then enable utilities to provide data on behalf of building owners). Alternatively, we encourage DOER to explore approaches pursued by Washington and Colorado to manage compliance and reporting—both of which require building owners to register their own buildings and provide data. DOER could still first pre-populate the data using what utilities provide, but building owner review and confirmation of the data is an important step.

Additionally, Section 27.10 notes that DOER will report the GHG emissions for each building. However, it is unclear whether DOER will use uniform emission factors for electricity consumption for all buildings across the state or whether GHG emissions reporting will reflect the impact of additional REC purchases above state requirements. For example, many building owners participate in local municipal aggregation programs or use third-party competitive suppliers that purchase additional Class I RECs in excess of the requirements established by the Clean Energy Standard and Renewable Portfolio Standard. The renewable energy content of electricity supply is not known by the investor-owned utilities and would need to be reported by building owners individually (or through coordination with municipal aggregation programs).

(2) Covered Parcels List: Section 27.03 discusses how DOER will establish the Covered Parcels List. We recommend that the Covered Parcels List also include building use case information (e.g.

as established through the guidelines issued by the Division of Local Services from the Dept. of Revenue for property tax assessment). Capturing building use case will facilitate comparison of energy use intensities within similar building use cases for purposes of benchmarking and reporting and will facilitate future development of building performance standards based on use case. Of note, municipal assessor's data does not always accurately classify properties. A process should also be established by which building owners can correct the building use case if assessor's data not aligned with its current use.

Additionally, we note that the Covered Parcels List includes "square footage" but does not specify whether this is parcel square footage or "gross floor area," as defined elsewhere in the draft regulation. We suggest that gross floor area be used, as some parcels may otherwise include parking lots, athletic fields, and other use cases that might either be irrelevant to the goals of LBER or impact the energy use intensity reported.

Section 27.07 discusses the process for disputing inclusion, though there is no information provided regarding what information the building owner must provide for adjudication by DOER. We recommend that DOER establish a timeline for their review and ruling on a dispute (e.g., 30 days), given the potential for a building owner to file a dispute but not receive a response prior to the June 30 deadline. Additionally, we recommend that the regulations clarify whether a building owner whose property is being disputed for coverage is subject to compliance with reporting requirements while the dispute is under review.

(3) Third-Party Verification Process: Section 27.08 details a third-party data verification requirement through use of a Qualified Energy Professional. While third-party data verification can be valuable for a building performance standard for ensuring compliance targets are being met and accurate information is being submitted, MAPC views third-party data verification as an unnecessary step and expense for building owners for this initial stage of energy data reporting only. For example, the Cities of Boston and Cambridge did not require third-party verification until they began implementing an emissions performance standard in BERDO and BEUDO respectively.

The proposed regulations also do not make it clear how the data verification process will be established in year 1—or how building owners will self-certify energy usage data, particularly when it is provided by utilities. As noted above, we expect there will be sufficient challenges in automating the alignment of utility data with individual buildings and the initial reporting process will need to allow building owners to add or remove accounts/meters that are not on the premises. Beyond ensuring that utility and building data is aligned accurately, which building owners are best positioned to do, we feel that adding third-party verification is an unnecessary burden that will only benefit the energy professionals hired to complete the work.

Given that the statute does not require the use of third-party data verification, we strongly recommend that DOER eliminate the data verification requirement and reconsider implementing it only if a building performance standard is established by the Legislature. If DOER is concerned about the accuracy of data reported, DOER should consider hiring energy professionals to audit a random sample of reported data.

(4) Technical Assistance for Building Owners: We anticipate that DOER will require a significant increase in staff capacity to be able to support building owners (particularly building owners with delivered fuels or steam) in meeting compliance requirements. The Cities of Boston and Cambridge have several full-time equivalent staff members each dedicated to providing technical assistance to building owners to ensure compliance with BERDO and BEUDO.

Moreover, we note that M.G.L. Ch. 25A Sec. 20 (g) *“shall ensure that electric and gas distribution companies provide owners of buildings subject to this section with up-to-date information about energy efficiency opportunities, including incentives in utility-administered or other energy efficiency programs.”* A robust building energy disclosure program that clearly identifies underperforming buildings relative to use case can be valuable for connecting owners of those buildings to relevant energy efficiency opportunities. However, it is unclear from the regulations how this information will be disseminated or how data reported through LBER will be used to target high energy users and connect them with energy efficiency opportunities. We encourage more transparency and discussion about this aspect of the program in the regulations.

(5) Tenant Protections: We are concerned that the regulation through Sections 27.04 and 27.11 appears to be creating a pathway for building owners to demand energy usage information from tenants at risk of financial penalty. We do not support establishing any pathway that provides building owners with the right to access residential tenant account information, as there is risk of creating perverse incentives to penalize tenants for higher energy usage which may be necessary to maintain quality of life or personal health. We suggest that in cases where building owners have difficulty obtaining energy usage for all tenants that DOER establish a process similar to BERDO where building owners may request aggregate building data from their utility. Under BERDO, in cases where there are fewer than four tenants, building owners can get tenant data released by utilities in the aggregate with a signed tenant authorization form. Ultimately, we hope DOER will explore different options to avoid establishing a pathway that enables building owners to demand utility bill data directly from individual tenants.

Additionally, we are concerned about levying fines on individual residential tenants who are deemed to be noncompliant with a written request under Section 27.04. Landlord/tenant relationships are complex, and we are concerned about the risk of creating a perverse mechanism for building owners to penalize tenants. We strongly recommend that DOER exclude residential tenants from penalties issued for non-compliance, particularly low- and moderate-income tenants and small businesses.

(6) Alignment of LBER with Existing Building Energy Disclosure and Performance Standards: As discussed, the Cities of Boston and Cambridge have existing building energy disclosure and performance standards. The existing performance standards in Boston and Cambridge in most cases meet and, in many cases, exceed the requirements articulated in the LBER regulation. The launch of the LBER program and differing reporting and data requirements risk adding an unnecessary additional burden and creating significant confusion among building owners who have already worked with municipal staff for years to ensure compliance.


We strongly recommend that DOER exempt building owners in municipalities with existing or future benchmarking policies and/or building performance standards that meet or exceed the state program from having to report building data to both their municipality and the state. With such an exemption, DOER could coordinate with these municipalities to obtain data for covered parcels in their municipalities to ensure full statewide coverage to meet the statutory requirements.

We encourage more engagement between DOER and staff from the Cities of Boston and Cambridge and large building owners participating in their programs to learn from their experiences and incorporate best practices into this draft LBER regulation. These cities have invested countless staff hours and resources into launching, refining, and ensuring compliance with their respective ordinances, which have been in place for over a decade. Where there are differences between covered parcels/buildings and regulations, we hope DOER will work with municipal staff to resolve any differences and develop solutions that ensure compliance with the LBER enabling statute. We strongly encourage not creating duplicative reporting burdens for building owners and creating unnecessary challenges for capacity-constrained municipal staff that may have to address building owner confusion from two reporting requirements.

Other municipalities have been evaluating whether to implement their own similar policies (e.g. City of Chelsea, City of Somerville). While we believe that a well-structured LBER program will provide the energy and emissions insights necessary for these municipalities to accomplish their goals, some municipalities may still wish to also go further by implementing performance standards similar to Cambridge and Boston ahead of any action by the Commonwealth in this direction. We recommend that DOER develop a pathway through the LBER regulation through which municipalities seeking to implement policies that go beyond the LBER can be exempted from duplicative reporting requirements while also providing the necessary data to DOER to ensure statewide LBER coverage.

LBER is the first step towards broadening our understanding of building energy usage across the Commonwealth and towards implementing a potential building performance standard for existing large buildings, which will be an invaluable tool for meeting the Commonwealth's climate goals. We strongly believe LBER can be implemented in a way that addresses the issues highlighted here and complements existing municipal ordinances, particularly by increasing stakeholder engagement in the program development and ensuring the first year of the program serves as a pilot year. Please do not hesitate to reach out if you would like to discuss our comments further.

Sincerely,

A handwritten signature in black ink that reads "Julie Curti". The signature is fluid and cursive, with the first name "Julie" and last name "Curti" clearly distinguishable.

Julie Curti
Director of Clean Energy
Metropolitan Area Planning Council
617-933-0716 | jcurti@mapc.org

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* Former Chair

Ian Finlayson
Deputy Director, Energy Efficiency Division
Department of Energy Resources
100 Cambridge Street, Suite 1020
Boston, MA 02114

September 25, 2024

RE: A Better City's Comments on the Large Building Energy Reporting Regulations

Deputy Director Finlayson:

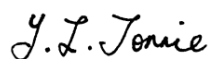
On behalf of A Better City's nearly 130 member businesses and institutions, thank you for your efforts to develop reporting regulations for large buildings across the Commonwealth.

As you know, many A Better City members report energy usage data to the City of Boston's Building Emissions Reduction and Disclosure Ordinance (BERDO), and the City of Cambridge's Building Energy Use and Disclosure Ordinance (BEUDO). A Better City urges the Commonwealth to accept these existing processes and to avoid requiring any additional reporting on energy usage, third party verification, and/or fine structures for buildings already complying with BERDO or BEUDO. In other words, BERDO/BEUDO compliant buildings should not be subject to duplicative reporting requirements.

Some of our comments, therefore, request that the draft Large Building Energy Reporting regulations do not duplicate efforts with energy usage reporting, third party verification, and fines. Additional comments include: adding to the definition of distribution company; deleting cost information as part of Distribution Companies' reporting requirements; clarifying reporting requirements and processes for building owners; clarifying reporting requirements and processes for building owners when energy usage data is not provided by a Distribution Company or Municipal Utility; clarifying reporting requirements and processes for lessees; adding a category for buildings exempt from reporting requirements; clarifying third party verification responsibilities; and clarifying enforcement and penalties for building owners and lessees.

Thank you for your consideration of our comments, for your leadership, and for your commitment to greenhouse gas emissions reduction in the Commonwealth, moving us toward our shared climate goals. Please reach out to ytorrie@abettercity.org with any comments or questions.

Thank you,

A handwritten signature in black ink that reads 'Y. L. Torrie'.

Yve Torrie
Director of Climate, Energy & Resilience
A Better City

Cc: Elizabeth Mahony, Commissioner, DOER
Paul Ormond, Energy Engineer, DOER

- **27.02 Definitions: Distribution Company:** As currently written, electric, gas, and steam distribution companies are included as distribution companies. However, district systems should be included as parties with obligations to report as some district energy companies also deliver other utilities such as chilled water and electricity. ***A Better City recommends adding district energy companies to the definition of distribution company as it relates to obligations to report data.***
- **27.04: Reporting Requirements and Process (1) Distribution Companies.** As currently written, Distribution Companies report annually to DOER all energy usage and the associated cost information for all buildings contained on a covered parcel that have an account with the Distribution Company for the previous calendar year. A Better City members are concerned that associated cost information is shared with DOER as this cost information should be confidential. ***A Better City recommends deleting associated cost information from this requirement.***
- **27.04: Reporting Requirements and Process (3): Building Owners:** It is our understanding that building owners will be required to report any other energy usage not supplied by Distribution Companies or Municipal Utilities, such as delivered oil or propane, or third-party supplies of electricity and natural gas. It is unclear if backup or emergency fuel usage will be included – this is not mandated under BERDO until 2026 and is not required under BEUDO. Many large buildings already report energy use data to BERDO in Boston and BEUDO in Cambridge. Instead of duplicating reporting, we request DOER work with these jurisdictions to access data to minimize reporting requirements for the owners and reduce the cost and burden of reporting. ***A Better City recommends that DOER clarify if backup fuel is required to be reported and work directly with municipalities with existing data reporting regulations to access data directly from the, to reduce the cost and burden of reporting for large buildings.***
- **27.04: Reporting Requirements and Process (3) (a): Energy Usage Information Not Provided by a Distribution Company or Municipal Utility:** As currently written, if a Distribution Company or Municipal Utility does not report the energy usage for a building on a covered parcel, DOER may issue a written notice requiring the building owner to report the energy usage by a date to be determined by DOER. The intent for this regulation is for Distribution Companies or Municipal Utilities to report data; this should not become the burden of large buildings if data is not provided by the Distribution Company/Municipal Utility. Instead, it should be a requirement for Distribution Companies/Municipal Utilities to report energy use data on covered parcels, and all fines and penalties for failing to do so should go to the Distribution Company/Municipal Utility. ***A Better City recommends Distribution Companies and Municipal Utilities be required to report energy data to DOER and that this requirement does not become a large building requirement.***
- **27.04: Reporting Requirements and Process (3) (b): Exemptions for Energy Usage from an Unresponsive Lessee:** As currently written, a building owner shall not be penalized for failing to report any energy ordered, delivered, and charged directly to a lessee if the owner sends a written request for energy usage information to the lessee not later than April 30 of the same year, does not receive a response from the lessee by June 25 of the same year, and provides evidence of the request to DOER. Lessee's energy usage that comes from Distribution Companies/Municipal Utilities should be the responsibility of the Distribution Company/Municipal Utility and not the building owner. ***A Better City recommends lessee energy usage from Distribution Companies/Municipal Utilities be the reporting responsibility of Distribution Companies/Municipal Utilities, not building owners.***

- 27.05: Reporting Exemptions (1) Buildings Exempt from Reporting Requirements:** In addition to the exemptions listed, A Better City recommends including an exemption for a new building that has not received an occupancy permit by July 1st (or half of the year). ***A Better City recommends that a new building that has not received an occupancy permit by July 1st (or half of the year) should not be required to report their energy usage.***
- 27.08: Data Verification: (2) Third Party Data Verification:** As Distribution Companies and Municipal Utilities are obligated to report energy data, it is unclear why they would not be required to have this data verified by a 3rd party. If it is the responsibility of the Distribution Companies and Municipal Utilities to report, then it should also be their responsibility to have the data 3rd party verified, with building owners and lessees being able to challenge the data submitted and verified. For building owners that have energy usage in addition to that supplied by Distribution Companies and Municipal Utilities, like delivered oil or propane, or third-party supplies of electricity and natural gas, A Better City requests the 3rd party verified data used in BERDO and BEUDO be accepted so that no additional burden and cost is imposed on large building owners. ***A Better City recommends Distribution Companies and Municipal Utilities be responsible for 3rd party verification of the energy they supply/distribute, and that building owners and lessees can challenge this data. In addition, for a building owner's energy usage not supplied/distributed by Distribution Companies and Municipal Utilities, we request 3rd party verified data under other municipal energy or emissions reduction reporting regulations be accepted so an additional burden and cost is not placed on building owners.***
- 27.11: Enforcement and Penalties (3) Building Owners, and (4) Lessees:** Building owners and lessees will be fined \$150/day for not submitting data; in addition, building owners will be fined \$150/day for not submitting 3rd party verified data, or for a discrepancy in the data after a 30-day notification period. If energy usage data to be reported is from Distribution Companies/Municipal Utilities, building owners and lessees should not be penalized for not submitting data, not submitting verified data, nor discrepancies in data. In addition, building owners should be able to challenge the data submitted on their behalf as frequent mistakes have been found in Distribution Company/Municipal Utility data. If fines are applied to building owners for not submitting data, 3rd party verified data, or data discrepancies in energy usage other than energy supplied/distributed by Distribution Companies/Municipal Utilities, then A Better City asks for clarity about how/if DOER will be coordinating with municipalities already imposing fines on building owners for the same data requirements not being met. Finally, A Better City recommends that the funds collected via fines and penalties not revert to the General Fund, but instead, go directly to a dedicated fund for large building energy retrofits. ***A Better City recommends any penalties for data submission, verification, and discrepancies that relate to data from Distribution Companies/Municipal Utilities be borne by the Distribution Companies/Municipal Utilities. For penalties for data submission, verification, and discrepancies that relate to data not from Distribution Companies/Municipal Utilities, we request clarity on how DOER will coordinate with municipalities already imposing fines for the same requirements. A Better City also recommends funds from fines and penalties be dedicated to a large building energy retrofit fund.***

September 25, 2024

Lyn Huckabee
Department of Energy Resources
100 Cambridge Street, 9th Floor
Boston, MA 02114

SUBMITTED ELECTRONICALLY

BER Public Comment

Re: Comments of Bloom Energy on Large Building Energy Reporting Draft Regulation

Dear Ms. Huckabee & the Large Building Energy Reporting Team,

Bloom Energy Corporation (Bloom Energy) hereby respectfully submits the following comments in response to the Large Building Energy Reporting Draft Regulation, 225 CMR 27.00, released by the Department of Energy Resources (DOER) on August 26, 2024. Bloom Energy appreciates the opportunity to provide written input to inform the development of Massachusetts' first statewide energy reporting program for facilities over 20,000 square feet in floor area.

About Bloom Energy

Bloom Energy is a manufacturer of solid oxide fuel cell technology that utilizes an electrochemical process to power non-combustion microgrids as well as advanced electrolyzer systems capable of converting renewable electricity into renewable hydrogen. Our solid oxide fuel cells and electrolyzers are designed in a modular fault-tolerant format that provides mission critical reliability with no downtime for maintenance. Bloom Energy has installed over 1,200 of its non-combustion solid oxide fuel cell systems for customers in thirteen U.S. states as well as in Japan, South Korea, India, Italy and Taiwan with over 35 systems operating in Massachusetts. Our systems have proven resilient through outages caused by hurricanes, winter storms, earthquakes, forest fires, and other extreme weather and natural disasters. As a distributed energy resource (DER), Bloom fuel cells generate electricity and therefore interact with the electric grid by offsetting generation elsewhere on the system. In combined heat and power (CHP) configurations, Bloom's fuel cells can also provide useful thermal energy to offset other building end uses such as heating and cooling loads, further increasing system efficiency.

Bloom Energy strongly supports the Commonwealth's efforts to drive energy efficiency in buildings and limit the impact on the built environment. The Large Building Energy Reporting Regulation will provide an excellent opportunity to track energy consumption at facilities over 20,000 square feet and further drive adoption of efficient equipment and operations. Understanding that measuring energy data is the first step in reducing the impact of emissions, Bloom anticipates that this regulation will also provide baseline data and a reporting framework to inform potential future efforts to develop emissions limits and



Bloom Energy Corporation
4353 North First Street, San Jose, CA 95134
408 543 1500
www.bloomenergy.com

reduction targets. With this in mind, we wish to point out that both DERs and central power plants produce electricity for customers; hence, buildings should report energy consumption from either a DER or the grid in the same way. The proposal, however, would have buildings report energy from the *input* to DERs (i.e. the fuel), but the *output* from power plants on the grid (i.e. the electricity) produced from unreported fuels. DERs should be treated in the same manner as a central power plant. Therefore, the outputs, in this case directly to a building, should be reported rather than the inputs, as would be provided to DOER by the distribution companies. In contrast, electricity consumed on-site but generated on the electric grid does not consider the energy content of the input fuel upstream at the power plant – the facility would of course only report the electricity consumed on-site. We respectfully point out this discrepancy and encourage equal accounting for both on-site and off-site electricity generation to avoid inadvertently penalizing highly efficient on-site power generation, which often enables resilient facility operations.

As DOER finalizes the regulations for Building Energy Reporting, we suggest that the concept of DERs from fuel-flexible fuel cells and CHP systems be understood as a distinct energy input not directly associated with an individual end use, rather as a means of displacing additional energy purchased from the electric grid. DERs interact with the regional electric grid by displacing marginal power plants which are typically large, inefficient fossil fuel-fired generators. Consequently, an accounting methodology that credits the energy input to DERs producing onsite power is different from other end uses of fuel delivered to the site.

DERs provide facility managers with an electricity source generated with less carbon dioxide emissions than marginal power plants in ISO-NE and creates multiple co-benefits including the ability to ride through electric distribution system outages without combustion and near-zero production of local air pollutants all while being a cost-effective means to manage electricity expenses. Additionally, DERs such as fuel cells operate at a higher efficiency than traditional thermoelectric power generators, result in no line losses on the transmission and distribution system as the power is consumed at the point of generation, avoid grid-side transmission and distribution investments, and provide resiliency and grid independence in the face of ever-increasing outages due to increasing severity and frequency of storms. These fuel cell microgrids help critical facilities, such as hospitals, grocery stores and telecommunications sites operate through power outages without the use of emergency generators. This is particularly vital given the number of life science and technology customers excelling within the state.

It is vitally important that the Department lay the groundwork for energy and emission reporting such that all energy and the emissions associated with generating it, regardless of location, be treated equally and appropriately accounted for to truly quantify consumption and reduce emissions from buildings. Ultimately greenhouse gas emissions produced anywhere count equally and it is essential that both on-site and grid emissions are both valued at their true factors when assessing a building's energy consumption., Massachusetts has the opportunity to design with this in mind. Please take these vital resources into account as the draft regulation for Large Building Energy Reporting is finalized.

Thank you for your consideration of these comments and for supporting the robust stakeholder process that is underway. Please do not hesitate to reach out if we can provide additional information.

Sincerely,

/s/Maryette Haggerty Perrault

Maryette Haggerty Perrault
Senior Policy Manager, New England
Bloom Energy Corporation

(857) 408-8681

maryette.haggerty-perrault@bloomenergy.com

www.bloomenergy.com

Laura Turenne, Spark Energy Conservation

I consult for Winchester and Woburn. Every year, both municipalities are required to submit an annual report to DOER via MassEnergyInsight. It would be redundant and more work for them to have to also provide the same data via Energy Star Portfolio. Secondly, municipalities should not be fined if the utilities fail to provide the necessary data. For instance, Eversource revamped all their account numbers in April, and many electric accounts have still not been entered into MEI for May and June, nor have the municipalities received bills for these accounts for May and June. This is not the fault of the municipalities, so in this case, it should be Eversource who is held responsible. My third comment is that the third-party verification will need to be clarified. I'm the one entering the data as a consultant for the municipalities, so would they need to hire an additional consultant to check the data entry that I do?

Thank you



For a thriving New England

CLF Massachusetts 62 Summer Street
Boston, MA 02110
P: 617.350.0990
F: 617.350.4030
www.clf.org

Filed electronically to doer.ber@mass.gov

September 26, 2024

Massachusetts Department of Energy Resources
Attn: Lyn Huckabee
10 Cambridge Street, 9th Floor
Boston, Massachusetts 02114
doer.ber@mass.gov

RE: Large Building Energy Reporting ("BER") Draft Regulation 225 CMR 27.00
Public Comment, dated August 2024

Dear Ms. Huckabee:

Conservation Law Foundation ("CLF")¹ offers the following comments in support of the Large Building Energy Reporting ("BER") draft regulation proposed by the Massachusetts Department of Energy Resources ("DOER") in August 2024, 225 CMR 27.00. CLF supports DOER's efforts to implement An Act Driving Clean Energy and Offshore Wind, Sec. 41 of Ch. 179 of the Acts of 2022.

Benchmarking is a Positive Step Forward

CLF supports the Department's efforts to implement a large building energy reporting program statewide, as this will provide information regarding the extent of emissions contributed by these buildings and identify those buildings that require energy efficiency and/or weatherization improvements. The draft BER regulation as proposed provides a process for reporting energy usage ("benchmarking"), and is a positive step forward in understanding how large buildings throughout the Commonwealth contribute to buildings sector emissions.

Moving forward, CLF encourages the Department to seek legislative change for authority to expand its benchmarking BER program, specifically to require energy *inefficient* large buildings to take appropriate action (i.e., equipment upgrades, weatherization, other

¹ CLF is a regional environmental advocacy organization headquartered in Boston. Since 1966, CLF has used the law, science, and market solutions to help preserve New England's natural resources, build healthy communities, and sustain a vibrant economy for the benefit of all people.

energy efficiency-related improvements etc.) as a complementary policy to Mass Save and the forthcoming Clean Heat Standard. In developing requirements to improve large building energy efficiency, DOER should adopt specific building performance standards with a defined timeline for building owners to understand their obligations and achieve phased-in compliance milestones. At this time, CLF does not take a position as to whether DOER should consider in the future the adoption of building performance standards capping total greenhouse gas emissions per building square foot or, alternatively, energy efficiency standards that limit the amount of total energy consumed per square foot. In the future review of these two standard approaches to building performance standards, DOER should certainly seek out public engagement and public comment.

Finally, as DOER looks toward the future of a long-term large building energy reporting program, we strongly encourage cross-agency collaboration between DOER and DEP to adopt complementary regulations that ensure buildings emissions reductions (i.e., phasing out the sale and installation of gas-powered furnaces and water heaters between 2025 and 2030). See, *i.e.*, Appendix A, proposed new regulations 310 CMR 7.32 and 310 CMR 7.35, *Petition for Massachusetts Department of Energy Resources Rulemaking to Establish Regulations to Implement the Global Warming Solutions Act and An Act Creating a Next-Generation Roadmap for Massachusetts Climate Policy*, Conservation Law Foundation (May 3, 2023) at , available at <https://www.clf.org/wp-content/uploads/2023/05/Conservation-Law-Foundation-GWSA-DOER-Petition-May-3-202397.pdf>.

Reporting Requirements

While it is important that utilities and building owners alike be afforded a pathway for an extended time period to report energy usage, “alternative compliance pathways” in the context of large building energy reporting programs are generally associated with looser timelines or accommodations for achieving minimum levels of building energy performance standards established by the program – not for the benchmarking (energy reporting) part of the program. In the anticipation that DOER will extend the BER program in the future to require minimum levels of building performance standards of all buildings it regulates, the time extensions associated with energy usage reporting should not be referred to as an “alternative compliance pathway” (as this is a term of art within the building performance standards space).²

² See, e.g., Katherine Lee Goyette, *Building Performance Standards (BPS): East Coast Approaches to Reducing Building Stock Emissions*, American Bar Association (November 17, 2023), available at https://www.americanbar.org/groups/environment_energy_resources/resources/newsletters/climate-change/building-performance-standards/.

Data Collection

With respect to proposed 225 CMR 27.10, CLF requests that data collected as a result of this BER regulation be publicly shared, to the extent that it can, on a publicly accessible platform that is easily navigable. The public's access to such energy data, if appropriately presented, can help both stakeholders and building owners make data-driven decisions to reduce overall building sector emissions within the state.

Ideally, in the development of an expanded BER program (namely, to include achievement of minimum building performance standards), DOER will strategically use the data to assist those building owners that need assistance or resources to increase the energy efficiency of their buildings. In addition, DOER should pay special attention to buildings identified as energy inefficient that are historically significant or house low-income persons or affordable housing tenants. The BER program should specifically prioritize and make flexible accommodations for these building owners to comply with minimum building energy performance standards.

Stakeholder Engagement

The creation of an advisory council, task force, working group, committee, review board, or other like entity made up of community members can be beneficial for several reasons. See, *i.e.*, City of Boston, *Buildings Emissions Reduction and Disclosure Ordinance* ("BERDO") (September 22, 2021), available at https://www.boston.gov/sites/default/files/file/2023/12/BERDO%202.0%20Final%20Amended%20Docket%200775_1.pdf. First, on behalf of communities, it can advise DOER on best practices when implementing BER program requirements. Second, it can help amplify the perspectives of low-income and environmental justice communities. Finally, it can aid DOER in its messaging to communities about energy consumption, energy efficiency, and emissions reduction resources for building owners, tenants, and contractors. As the Department further develops its BER program to include mandated building performance standards, CLF strongly encourages the creation of an advisory entity composed of community members and stakeholders.

Thank you for considering CLF's comments in support of the BER draft regulation.

Sincerely,

Katherine Lee Goyette
Staff Attorney



Massachusetts Housing Finance Agency
One Beacon Street Boston, MA 02108

Tel: 617-854-1000 Relay 711
Fax: 617-854-1091 www.masshousing.com



September 25, 2024

By email: Lyn Huckabee <jerrylyn.huckabee@mass.gov>

Ms. Lyn Huckabee
Regulatory and Innovation Manager, Energy Efficiency Division
Department of Energy Resources
100 Cambridge St. 9th Floor Boston, MA 02114

Re: BER Public Comment

Dear Ms. Huckabee:

Thank you for the opportunity to provide public comment on the draft Building Energy Reporting (BER) regulation. We appreciate the Department's focus on soliciting feedback from interested stakeholders early in the regulation generation process, and we hope that our comments are helpful as the details of the regulation are considered and determined.

The Massachusetts Community Climate Bank (MCCB) is the climate finance initiative announced by Governor Maura Healey in June 2023 to accelerate achievement of the state's clean energy goals. The mission of MCCB is to facilitate investment in projects that will reduce greenhouse gas emissions in key sectors of the Massachusetts economy. The initial focus of MCCB is to support decarbonization strategies in the residential sector and specifically in the low- and moderate-income multi-family rental and single-family homeownership markets. MassHousing is the lead sponsoring agency of the MCCB and will draw on its decades of housing finance and investment expertise and lending capabilities serving these markets to advance the MCCB mission.

One-quarter of all subsidized rental units in Massachusetts are in MassHousing's rental lending portfolio. MassHousing is also a Project-Based Contract Administrator for the U.S. Department of Housing and Urban Development (HUD). Between MassHousing's own loan portfolio and the developments MassHousing oversees for HUD, the Agency has an active presence in 41% of all subsidized rental housing in Massachusetts.

MassHousing currently manages a multifamily rental housing portfolio that consists of 315 developments, including over 37,000 units of rental housing. Many of the buildings in these developments are over 20,000 square feet and would therefore be covered by the Building Energy Reporting regulation.

Many of the developments in MassHousing's portfolio are owned and operated by non-profit affordable housing owners, and these are capacity and capital-limited organizations. Many want to better

Maura Healey, Governor
Kim Driscoll, Lt. Governor

Jeanne Pinado, Chair
Carolina Avellaneda, Vice Chair

Chrystal Kornegay,
Chief Executive Officer

understand their building energy consumption and emissions profiles, but they need a streamlined, efficient, and consistent way to access information that does not add workload to an already overburdened asset and property management staff. In this spirit we offer the following recommendations as DOER continues to refine this regulation and develop its associated implementation program.

In conjunction with our partners at the Massachusetts Housing Partnership, we offer the following recommendations:

Recommendation #1: Require Distribution Company and Municipal Utilities' Provision of Data

We recommend that the regulation be drafted in a way that sets clear expectation that any distribution company or municipal utility that provides energy to a building on the covered parcel list is the responsible entity and expected to report whole building energy consumption and cost data, request exemptions (when applicable), and provide appropriate data quality assurance/control. We recommend removing the language in Section 27.04:(3) (a) that indicates that a building owner is responsible for reporting energy usage for buildings on a covered parcel if a distribution company or municipal utility does not meet their obligation to report. Instead, we recommend focusing attention on setting and enforcing stringent non-compliance penalties that will ensure that these responsible entities meet their obligations under this regulation (Per Section 27.11: Enforcement and Penalties).

Recommendation #2: Codify Provision of Data in a Format Conducive to Import into the EPA Portfolio Manager Tool.

Jurisdictions with building energy reporting requirements and performance standards across the country have coalesced around using EPA's Portfolio Manager tool to track and report building energy use. To maximize the benefits of the data being reported directly by distribution companies and municipal utilities, we highly recommend that they be required to report whole building energy consumption and cost information in a format specifically designed for easy upload/import to the Portfolio Manager tool. Furthermore, we recommend that DOER design and implement a database system for storage and management of the data reported by distribution companies/municipal utilities to enable direct import into an owner's Portfolio Manager account (with no need for data download and upload assuming appropriate connections and permissions are provided).

We believe that the two provisions outlined above have the potential to significantly reduce/eliminate many of the barriers that have impeded progress associated with large building energy consumption information access/analysis. This will create a greater opportunity to incorporate this data into portfolio-wide benchmarking and emissions reduction activities for building owners and stakeholder entities, such as lenders like MassHousing and the Massachusetts Community Climate Bank.

Recommendation #3: Data Verification Responsibility Clarification

Section 27.08: Data Verification requires building owners to provide third-party verification of submitted data. As most of the data being provided under this regulation will be from distribution companies or municipal utilities, this section should be revised to include appropriate QA/QC requirements for these regulated entities, minimizing the cost and burden associated with third-party data verification for building owners. This approach should also govern edits to Section 27.11: Enforcement and Penalties (3)(b) and (c).

Recommendation #4: Facilitate Communication with Covered Parcel Building Owners

We recommend that DOER implement a process by which building owners with covered parcels receive direct outreach that notifies them of coverage by this regulation and helps them understand who the

regulated entities for their covered parcel are. Any information that the Department needs from the building owner should be requested via an easy-to-use form or web page, and the building owner should be able to access/change/update information about their covered parcel via secure login. The Building Energy Reporting regulation has the potential to become a mechanism by which multifamily lenders, such as MassHousing and the Massachusetts Community Climate Bank, and affordable housing owners and managers can easily access whole building energy consumption, cost, and emissions information. We expect this data to enable our organization to work more proactively with the owners in our portfolio to create and implement plans that reduce energy use and cost, facilitating progress towards the Commonwealth's emission reduction goals and promoting greater financial stability for these important affordable housing resources.

Thank you very much for your consideration of our feedback on the draft regulation, and please do not hesitate to reach out if further detail or discussion is helpful.

Yours truly,

A handwritten signature in brown ink, appearing to read "Maggie Super Church". The signature is fluid and cursive, with a long horizontal stroke at the end.

Maggie Super Church
Director of Policies and Programs
Massachusetts Community Climate Bank
Office: (617) 854-1060
Cell: (617) 602-0785