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By email to:

climate.strategies@state.ma.us

william.space@state.ma.us

December 6, 2017

Mr. William Space
Department of Environmental Protection
1 Winter Street
Boston, MA 02108

RE: Request for Comments – Proposed Amendments to 310 CMR 7.75 Clean Energy Standard - Expanding CES Eligibility to Include Clean Energy Generation Procurement to Align with the Energy Diversity Act Implementation

Dear Mr. Space:

Associated Industries of Massachusetts (“AIM”) is pleased to provide the following comments to the above mentioned request for comments.

AIM submitted a set of stakeholder comments on this matter on October 30, 2017. Comments by AIM and others resulted in the proposed amendments that are the subject of this set of comments. In these proposed amendments DEP is attempting to rectify the lack of alignment between the procurement process under Section 83D of the Energy Diversity Act for “clean energy” and the Clean Energy Standard (“CES”) promulgated by DEP on August 11, 2017.

As we said in those earlier stakeholder comments, this lack of alignment was illogical and would likely result in higher costs for ratepayers. DOER’s suggestion to align the two programs was essential for a fair and transparent process and to obtain the best deal for clean energy for ratepayers.

AIM supports these proposed amendments.

Under the current rules, clean energy procured under the Section 83D solicitation may not be eligible under the CES if it began operation prior to 2010 or doesn’t meet the transmission restrictions contained in the CES. This anomaly could have the perverse effect of ratepayers paying for clean power that fails to count towards the Commonwealth’s CES goal, resulting in ratepayers essentially paying twice for clean power.

Second, the misalignment of the two programs has the effect of disadvantaging some bidders in the Section 83D process. The evaluation of bids requires a judgment that finalized contracts will provide clean power and are cost-effective. Bids with pre-2010 clean power generation or transmission constraints when judged against bids without such limitations will be scored lower because they will not be CES compliant. Bids without pre-2010 clean power or transmission issues will prevail, even though for all intent and purpose they are identical and provide the same carbon reducing qualities to the citizens of Massachusetts – and maybe at a cheaper price.

Finally, the CES program was adopted after bids were submitted under Section 83D. The result is that bidders with pre-2010 power did not know they would be disadvantaged. If they did, their bids might have been very different or they might not have bid at all.

This discrepancy is very significant. The existing delineation of sources did nothing but cloud the bidding process, undermining the program.

Conclusion

The changes made by DEP in these proposed amendments appear to address the concerns raised by AIM in that they make it clear that any projects bid under Section 83D will qualify as CES compliant if they are successful. We believe that such changes will result in a fair and transparent process relative to bidding under Section 83D of the Energy Diversity Act.

There are still some issues within the CES regulations that may need to be addressed in the future, including an issue related to sources that operate in ISO-NE control areas adjacent to an adjacent ISO-NE control area. While this issue has no bearing on the alignment issues that are the subject of these comments, it may limit further opportunities of some sources to develop clean energy generation to serve the Massachusetts market. We urge DEP to continue soliciting feedback on that issue.

We thank the DEP for these proposed changes and urge they be adopted without delay.

Should you have any questions please do not hesitate to contact me.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Robert A. Rio". The signature is fluid and cursive, with the first name "Robert" being more prominent than the last name "Rio".

Robert A. Rio, Esq.
Senior Vice President and Counsel
Government Affairs

**STATE OF MASSACHUSETTS
EXECUTIVE OFFICE OF ENERGY AND
ENVIRONMENTAL AFFAIRS AND
DEPARTMENT OF ENVIRONMENTAL
PROTECTION**

310 CMR 7.75 Clean Energy Standard

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**RESPONSE OF BROOKFIELD RENEWABLE TO
REQUEST FOR WRITTEN COMMENTS ON
PROPOSED AMENDMENTS TO THE CES**

In response to the Executive Office of Energy and Environmental Affairs’ (EEA) and Department of Environmental Protection’s (DEP) request for written comments in the above referenced proceeding, Brookfield Renewable (“Brookfield”) is pleased to submit the following written comments.

Brookfield has a strong presence in New England, including over 1,300MW of carbon-free resources in ISO-NE and a further 1,000MW that can be imported to New England from New York and Quebec. Our renewable hydro, wind and pumped storage resources are available to help meet the energy needs and environmental objectives of Massachusetts and the region. In Massachusetts, our facilities include a 600MW pumped storage facility (Bear Swamp) and a 10MW hydroelectric facility (Fife Brook), as well as our North American System Control Center in Marlborough.

Brookfield would first like to express its gratitude to the DEP staff for its extensive work to date on the development of the Clean Energy Standard. In particular, Brookfield would like to thank the DEP for its efforts to develop a CES that helps optimize existing clean energy sources while also incenting incremental supply. Additionally, Brookfield is grateful to the DEP, DOER and EEA for moving quickly to ensure that any clean energy generation procured under Section 83D of the 2016 *Energy Diversity Act* is also eligible under the CES. Without these changes to the CES regulation, certain 83D bids would not meet the requirements under 310 CMR 7.75(7): Eligibility Criteria for Clean Generation Units.

Aligning 83D and the CES

Because the CES will play a significant role in the Commonwealth's achievement of carbon reduction mandates, it is imperative that it is coordinated with existing programs. Absent sufficient alignment, efforts to achieve the CES targets may prove to be cost-prohibitive or duplicative. Without the specific alignment of the Section 83D procurement and the CES, certain 83D bids will be unduly disadvantaged relative to other bids currently qualified under the existing CES regulation. Accordingly, Brookfield is in strong support of the DEP's efforts to amend the CES regulation to establish consistency between the CES and the requirements of the *2016 Energy Diversity Act*.

Amending the CES' definition of "Clean Generation Attribute" to include attributes associated with energy contracted pursuant to 83D, as the DEP has proposed, is a reasonable and straightforward approach to clarifying the eligibility of those resources within the CES. The proposed definitional amendment also highlights the important role of the specific 83D generation product that will enable qualification under the CES, i.e., the non-emitting attribute. This mechanism inherently acknowledges that it is the proper valuation of the *clean generation attribute* itself which enables program alignment, whereas vintage and technology restrictions are immaterial.

Brookfield understands that, by adding the language regarding 83D(h) generation attributes, it is the DEP's intent to exclude resources procured under 83D from all requirements under 310 CMR 7.75(7): Eligibility Criteria for Clean Generation Units, including commercial operation date, capacity obligation limitations and all other criteria. A failure to provide such a universal exemption, however unintentional, could still limit the eligibility of 83D procured resources under the CES. As such, Brookfield recommends that the DEP consider if a more absolute exemption would better capture the DEP's intent, while eliminating any legal ambiguity and offering greater surety to 83D bidders. Amended, clarifying text could take the following form:

(7) Eligibility Criteria for Clean Generation Units.

(a) Eligibility Criteria. A generation unit may qualify as a clean generation unit subject to the limitations in 310 CMR 7.75(7). The Department shall consider all limitations in 310 CMR 7.75(7), including the emissions criteria in 310 CMR 7.75(7)(a)1.a.ii., when considering whether to provide the owner or operator of such unit with a CES statement of qualification pursuant to 310 CMR 7.75(8)(c).

Generation units subject to contracting under Section 83D of Chapter 169 of the Acts of 2008, as inserted by Section 12 of Chapter 188 of the Acts of 2016, are not subject to the limitations in 310 CMR 7.75(7).

Brookfield again thanks the DEP for its efforts to date and for the opportunity to participate in the DEP's ongoing work to craft a Clean Energy Standard that values new and existing non-emitting resources and enables the Commonwealth to meet its energy and environmental goals.



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Via Email (climate.strategies@state.ma.us)

December 7, 2017

Massachusetts Dept. of Environmental Protection
ATTN: William Space
One Winter Street
Boston, MA 02108

**Re: Written Comments: MassDEP Proposed Amendments to the Clean Energy
Standard: Alignment with Section 83D of the 2016 Energy Diversity Act**

Dear Mr. Space:

On behalf of the Bay State Hydropower Association (“BSHA”) and its members, I want to thank MassDEP for the opportunity to submit written comments in this rulemaking proceeding to align the Clean Energy Standard (“CES”) with Section 83D of the 2016 Energy Diversity Act (“Section 83D”).

The Bay State Hydropower Association was established in 2007 with the goal of advancing the use of hydropower, an indigenous and clean energy source, in Massachusetts and thereby positively affecting the environment and energy future of the Commonwealth. The BSHA is comprised of hydropower facility owners and operators throughout Massachusetts; it represents nearly 90 percent of the hydro facilities in the state, most of which are small facilities.

The BSHA believes that clean energy procured under Section 83D should be deemed CES-eligible. Alignment of the CES and Section 83D provides two key benefits to the Commonwealth. The first benefit alignment provides is the assurance of a fair evaluation of bids submitted for 83D contracts. The status quo has the effect of disadvantaging some bidders in the 83D process since the CES regulations were released after 83D bids were submitted; it is in the realm of possibility to assume that bids which can demonstrate CES-compliance (i.e. clean energy generators in operation after 2010) would receive higher scores than bids that are not CES-compliant. Alignment would ensure that all 83D bids would be evaluated for their ability to provide clean power that is cost-effective.

The second benefit of alignment is that it provides a surety that Massachusetts will be able to take full advantage of all clean resources that can contribute to the CES and the Global Warming Solutions Act goals. This will protect ratepayers from having to pay additional costs for clean power under the different obligations of the CES and Section 83D.

The BSHA supports alignment of the CES and Section 83D, and respectfully urges the Department to swiftly adopt regulations to this effect. Thank you again for the opportunity to submit written comments on this matter.

Respectfully submitted,

A handwritten signature in blue ink, consisting of a stylized 'T' followed by a horizontal line and a small flourish.

Thomas A. Tarpey, President
Bay State Hydropower Association



COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF
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Charles D. Baker
Governor

Karyn E. Polito
Lt. Governor

Matthew A. Beaton
Secretary

Judith F. Judson
Commissioner

December 7, 2017

Mr. William Space
Department of Environmental Protection
One Winter Street
Boston, MA 02108

RE: Request for Comments – Proposed Amendments to 310 CMR 7.75 Clean Energy Standard

Dear Mr. Space:

On November 3, 2017, the Department of Environmental Protection (“MassDEP”) published proposed amendments to its 310 CMR 7.75 (“CES”) regulations, which are designed to achieve better consistency between the CES and the requirements of the procurement process currently underway pursuant to Section 83D of Chapter 188 of the Acts of 2016, “*An Act to Promote Energy Diversity*,” (“the Act”). MassDEP requested comments on whether the proposed amendments are “sufficient to align the CES implementation with the requirements of the Section 83D procurement process.” In addition, MassDEP requested comments on whether additional amendments are necessary to “clarify how attributes procured and retained pursuant to Section 83D will be counted toward all retail sellers’ compliance obligations, including competitive suppliers’ compliance obligations.” DOER supports the amendments proposed on November 3rd by MassDEP, which will ensure that the Commonwealth’s policies related to clean energy generation are aligned.

In addition, to clarify how attributes procured and retained pursuant to Section 83D will be counted toward retail sellers’ compliance obligations, DOER recommends that the regulation be amended to clarify that all non-Class I RPS eligible attributes procured and retained pursuant to Section 83D be counted towards the compliance obligations of all retail sellers that are subject to a compliance obligation under the CES, in proportion to their statewide retail electricity sales. This approach will allow distribution company customers, including those served by competitive

suppliers, to receive proportional CES compliance benefits of any non-RPS Class I eligible attributes procured and retained pursuant to Section 83D.

DOER looks forward to continued collaboration with DEP to effectively implement the Commonwealth's energy policies and ensure the achievement of the Commonwealth's energy goals.

Sincerely,

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

Judith Judson, Commissioner
Department of Energy Resources
100 Cambridge Street, Suite 1020
Boston, MA 02114

December 7, 2017

Ms. Sharon Weber
Deputy Division Director, Air & Climate Programs
Department of Environmental Protection
One Winter Street 7th Floor
Boston, MA 02108

Re: Eversource Comments on Amending the CES: The 2016 Energy Diversity Act

Dear Ms. Weber:

On August 11, 2017, the Massachusetts Department of Environmental Protection (“MassDEP”) promulgated regulations for the Clean Energy Standard (“CES”) regulations, 310 C.M.R. § 7.75. On October 30, 2017, Eversource Energy Service Company, on behalf of NSTAR Electric Company d/b/a Eversource Energy (“NSTAR Electric”) and Western Massachusetts Electric Company d/b/a Eversource Energy (“WMECO”) (collectively “Eversource” or the “Company”), submitted comments to the MassDEP in response to the request for comments from stakeholders on the MassDEP’s proposed amendment to the CES”) regulations. In its October 30, 2017 comments, Eversource noted the critical importance of ensuring that the CES regulations are aligned with the mandates of the 2016 Energy Diversity Act, St. 2016, c. 188, § 12, specifically §83D of the Energy Diversity Act (“Section 83D”). Specifically, Eversource recommended that the CES regulations be amended to permit, for the purpose of compliance with the Commonwealth’s Global Warming Solutions Act (“GWSA”) goals, the allocation of all Clean Energy Credits (“CECs”) (and other non – Renewable Portfolio Standard (“RPS”) Class 1 environmental attributes) purchased under the Section 83D long-term contracts to all distribution customers in Massachusetts.

On November 3, 2017, MassDEP issued its proposed amendments to the CES regulations, as well as a Technical Support Document. The MassDEP has established a public comment period, ending December 7, 2017, on its proposed amendments to the CES regulations. The Massachusetts Executive Office of Energy and Environmental Affairs (“EEA”) and MassDEP seek comment on whether the proposed amendments are sufficient to align the CES implementation with the requirements of the Section 83D procurement process. Specifically, EEA and MassDEP note that they are aware of the need to clarify how clean energy attributes procured and retained pursuant to Section 83D will be counted toward all Retail Sellers’¹ compliance obligations, including competitive suppliers’ compliance obligations. Technical Support Document, at p. 4. EEA and MassDEP assert that they are currently planning to accomplish the procurement and retention of clean energy attributes administratively within the existing CES regulations, but seek comment on whether this should be accomplished administratively, or whether additional amendments to the CES regulations are necessary. Id.

¹ The CES regulations define a “Retail Seller” as a competitive supplier licenses by the Department of Public Utilities or an electric utility, municipal electric department or municipal light board as each is defined by G.L. c. 164A, § 1. 310 C.M.R. § 7.75(2).

Eversource operates New England's largest utility system serving more than 3.6 million electric and natural gas customers in Connecticut, Massachusetts and New Hampshire. In order to meet its obligations to provide vital public services, Eversource ensures system reliability and safety standards are maintained in compliance with national, regional, and industry standards and policies. Eversource values clean energy as an important part of the energy mix in New England, while ensuring costs to ratepayers remain reasonable and fair. The Company is committed to serving as a clean energy catalyst and leader in the region, pursuing Company-owned solar, storage and electric vehicle infrastructure.

While the Company appreciates that the EEA and MassDEP acknowledge the need for clarification of the disposition of clean energy attributes purchased under the Section 83D procurement process, Eversource recommends that the CES regulations be further amended in order to provide certainty. Such further amendments are necessary to ensure that the GWSA goals are met without burdening Massachusetts distribution customers with significant and unnecessary costs associated with the procurement of clean energy generation and attributes. Consistent with this position, the Company is providing proposed redline amendments to the CES regulations for MassDEP's review.² These revisions are limited to adding the clarification that all clean energy environmental attributes purchased under the Section 83D procurement process to be used for the benefit of all of the distribution service customers of the Company, regardless of whether the customer receives its electric supply through the Company's Basic Service offering or from a competitive supplier. Pursuant to the Company's recommendation, the number of clean energy attributes procured under the Section 83D process will be assigned based on a Retail Seller's proportion of the total retail electricity product sold statewide by all such Retail Sellers.

The Company's recommendation represents a reasonable interpretation of the directive contained in Section 83D(h) that an electric distribution company shall retain renewable energy certificates ("RECs") that are not attributed to Class I RPS eligible resources. It is clear that Section 83D(h) was included in the statute to ensure that the benefits associated with contracts entered into as a result of a Section 83D procurement process inure to the benefit of Massachusetts electric distribution customers. Under the Company's proposal, the allocation of the renewable energy certificates ("RECs") that are not attributed to Class I renewable portfolio standard eligible resources to all Retail Sellers, consistent with the proportion of customer load that Retail Seller serves, ensures that Massachusetts distribution customers, regardless of whether they procure their electric supply via the Company's Basic Service offering or through a competitive supplier, benefit from the RECs secured under a Section 83D contract procurement. Certainly, under the Company's proposal, Massachusetts electric distribution customers who take their electric supply from competitive suppliers benefit by not having to pay for additional RECs that are not attributed to Class I RPS eligible resources that their competitive supplier would have to procure in order to meet its obligations under the CES regulations. Additionally, the fact that the Company's proposal can be administered in a non-discriminatory manner that provides no competitive advantage or monetary remuneration to the electric distribution companies is a further benefit Massachusetts electric distribution customers. Given the benefits that will accrue to the benefit of Massachusetts electric distribution customers, the Company's proposal is entirely consistent with the intent of Section 83D(h).

In addition to revising the CES regulations as provided in the Company's redline, the Company also recommends that the MassDEP develop draft Guidelines that clarify how the CES regulations, as amended, will operate,

² The Company's redlined proposed changes consist of the addition of subsection (7) to 310 C.M.R. 7.75(6)(b). For ease of review, the Company's proposed redlined edits, which were made to the redlined version of 310 C.M.R. 7.75 that the MassDEP issued on November 3, 2017, have been highlighted in yellow.

including the manner in which competitive suppliers will be apprised of the number or amount of RECs that are not attributed to Class I RPS eligible resources that they will receive under the allocation method proposed by the Company. The draft Guidelines should be released for public review and comment. Eversource would certainly participate in that process to ensure that the CES regulations are administered in a manner that assists in the achievement of the GWSA goals without burdening Massachusetts distribution customers with significant and unnecessary costs. Eversource recommends that the MassDEP institute a process regarding CES regulations Guidelines in the near term to enable the Company and the other Massachusetts electric distribution companies, along with the DOER and other stakeholders, to utilize the Guideline provisions in evaluating and ultimately selecting bids received under the Section 83D competitive solicitation.

Eversource thanks the MassDEP for its careful consideration of these comments and the Company's recommended amendments to the CES regulations. Eversource looks forward to continuing to work with MassDEP and other stakeholders to develop competitive, cost-effective solutions for meeting the Commonwealth's important energy and environmental goals and stands ready to assist with any aspect of the development and deployment of the CES amendments.

Should you have any comments or questions, please contact Katherine Wilson, 781-441-3789.

Sincerely,

/s/ Jeffery S. Waltman

Jeffery S. Waltman

Manager, Planning and Power Supply

Amend 310 CMR 7.75(2) and (6)

310 CMR 7.75 CLEAN ENERGY STANDARD

(1) Purpose, Authority and Scope. The purpose of this regulation, promulgated in conjunction with 310 CMR 7.74, is to assist the Commonwealth in achieving the greenhouse gas emissions reduction goals adopted pursuant to M.G.L. c. 21N, Section 3(b), by establishing a clean energy standard (CES) that will increase the level of clean electricity that is purchased from the regional electric grid for consumption in Massachusetts. To achieve those goals, the Executive Office of Energy and Environmental Affairs (EEA) and the Department, pursuant to M.G.L. c. 21A, §§ 2 and 8 and M.G.L. c. 21N, §§ 3(c), 4 and 7, hereby jointly promulgate 310 CMR 7.75 following consultation with the Department of Energy Resources (DOER) and based on the considerations specified in M.G.L. c. 21N, § 3(c). In exercising their broad authority and discretion under M.G.L. c. 21N, §§ 3(c), EEA and the Department have determined that establishing the CES, along with the Commonwealth's other climate programs and policies, will ensure achievement of the greenhouse gas emissions limits as established under M.G.L. c. 21N, and that the 310 CMR 7.75 levels are consistent with, and take account of, regional programs such as the Regional Greenhouse Gas Initiative (RGGI) and the Renewable Portfolio Standard (RPS). The Department is also consolidating in this regulation a requirement previously codified at 310 CMR 7.71(9) for retail sellers of electricity to report statewide greenhouse gas emissions and to monitor and ensure compliance with the reporting provisions of M.G.L. c. 21N, § 2(a)(5). 310 CMR 7.75 is also promulgated pursuant to M.G.L. c. 21A, § 16 and M.G.L. c. 111, §§ 2C and 142A-142E.

(2) Definitions. The terms used in 310 CMR 7.75 are defined in 310 CMR 7.75(2) and in 310 CMR 7.00: *Definitions*. Where a term is defined in both 310 CMR 7.00: *Definitions* and 7.75, the definition in 310 CMR 7.75 shall apply.

Biogenic Greenhouse Gas Emissions. Emissions of carbon dioxide that result from the combustion of biogenic (plant or animal) material, excluding fossil fuels.

Business Day. A business day shall mean Monday through Friday, exclusive of state and federal legal holidays.

Carbon Dioxide Equivalent. The amount of carbon dioxide by weight that would produce the same amount of global warming impact as a given weight of another greenhouse gas.

Certificates Obligation. A term defined in the NEPOOL GIS operating rules at Rule 4.1(b).

CES Alternative Compliance Credit. A credit obtained by a retail seller of electricity upon making a CES alternative compliance payment. Such credit is used to document compliance with 310 CMR 7.75(4). One unit of credit shall be equivalent to one clean generation attribute.

CES Alternative Compliance Payment (CES ACP). A payment of a certain dollar amount per MWh, resulting in the issuance of CES alternative compliance credits, which a retail seller of electricity may submit to the Department in *lieu* of providing clean generation attributes required under 310 CMR 7.75(4).

CES Statement of Qualification. A written document from the Department that qualifies a generation unit as a clean generation unit, or that qualifies a portion of the annual electrical energy output of a generation unit as clean generation.

Clean Generation. The electrical energy output excluding any electrical energy utilized for parasitic load of a clean generation unit, or that portion of the electrical energy output excluding any electrical energy utilized for parasitic load of a clean generation unit that qualifies under:

- (a) the special provisions for a generation unit located in a control area adjacent to the ISO-NE control area, pursuant to 310 CMR 7.75(7)(b); or
- (b) any other applicable provision of 310 CMR 7.75 or 225 CMR 14.00 *Renewable Energy Portfolio Standard – Class I*.

Clean Generation Attribute. The generation attribute of the electrical energy output of a specific clean generation unit that derives from the unit's production of clean generation, or any other generation attribute that is retained pursuant to Section 83D(h) of Chapter 169 of the Acts of 2008, as inserted by Section 12 of Chapter 188 of the Acts of 2016.

Clean Generation Unit. A generation unit or aggregation that has received a CES statement of qualification from the Department, or that has received an RPS statement of qualification from DOER.

Commercial Operation Date. The date that a generation unit first produces electrical energy for sale within the ISO-NE control area or within an adjacent control area. In the case of transmission capacity that is used to transmit clean energy, the date on which the transmission capacity first transmitted energy into the ISO-NE control area or an adjacent control area.

Compliance Filing. A document filed annually by a retail seller of electricity in a format determined by the Department documenting compliance with 310 CMR 7.75(4), submitted no later than the first day of July, or the first business day thereafter, of the subsequent compliance year.

Compliance Year. A calendar year beginning January 1st and ending December 31st, for which a retail seller of electricity that is not an Municipal Electric Department or Municipal Light Board must demonstrate that it has met the requirements of 310 CMR 7.75(4) and (5).

Control Area. A geographic region in which a common generation control system is used to maintain scheduled interchange of electrical energy within and without the region.

Dedicated Transmission Line. A transmission line with a commercial operation date after December 31, 2017 that is not electrically connected to any generation unit that is not a clean generation unit.

Emitting Electricity Generators. Electricity generators that are powered by any fossil or biogenic fuels.

Emitting Megawatt Hours. Megawatt hours that are generated by emitting electricity generators.

End-use Customer. A person or entity in Massachusetts that purchases electrical energy at retail from a retail seller of electricity, except that a generation unit taking station service at wholesale from ISO-NE or self-supplying from its owner's other generating stations, shall not be considered an end-use customer.

Generation Attribute. A non-price characteristic of the electrical energy output of a generation unit including, but not limited to, the unit's fuel type, emissions, vintage and eligibility for renewable or clean energy programs.

GIS Certificate. An electronic record produced by the NEPOOL GIS that identifies generation attributes of each MWh accounted for in the NEPOOL GIS.

Greenhouse Gas. Any chemical or physical substance that is emitted into the air and that the Department may reasonably anticipate will cause or contribute to climate change including, but not limited to, carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons and sulfur hexafluoride.

Intermittent Generation Unit. As determined by the Department, a generation unit that utilizes resources regarding which the timing or magnitude is not predictable or controllable.

ISO-NE. ISO New England Inc., the independent system operator for New England, the regional transmission organization for most of New England, which is authorized by the Federal Energy Regulatory Commission (FERC) to exercise for the New England Control Area the functions required pursuant to the FERC's Order No. 2000 and the FERC's corresponding regulations.

ISO-NE Settlement Market System. The ISO-NE's electronic database system into which all real-time load and generation data are entered and from which such data are provided to the NEPOOL GIS.

Lifecycle Greenhouse Gas Emissions. The aggregate quantity of greenhouse gas emissions, including, but not limited to, direct emissions and significant indirect emissions such as significant emissions from land use changes, and temporal changes in forest carbon sequestration and emissions resulting from biomass harvests, regrowth, and avoided decomposition as determined by the department, related to the full fuel lifecycle,

including all stages of fuel and feedstock production and distribution, from feedstock generation or extraction through the distribution and delivery of the finished fuel to the ultimate consumer, where the mass values for all greenhouse gases are adjusted to account for their relative global warming potential.

Massachusetts Department of Energy Resources or DOER. The Massachusetts agency established pursuant to M.G.L. c. 25A, §§ 1 through 13.

Megawatt-hour (MWh). A unit of electrical energy or work equivalent to one million watts of power operating for one hour.

Municipal Electric Department (MED). A municipal electric department as defined in M.G.L. c. 164A, § 1.

Municipal Light Board (MLB). A municipal light board as defined in M.G.L. c. 164A, § 1.

NEPOOL GIS. The NEPOOL Generation Information System, which includes a generation information database and certificate system, operated by the New England Power Pool (NEPOOL), its designee or successor entity, that accounts for generation attributes of electrical energy consumed and generated within, imported into, or exported from the ISO-NE control area.

NERC Tag. A document that identifies an electrical energy interchange transaction and its associated participants, assigned in accordance with rules set forth by the North American Electric Reliability Corporation (NERC), a non-profit corporation granted by the FERC the legal authority to enforce mandatory reliability standards for the U.S. bulk power system, subject to FERC oversight.

Non-emitting Electricity Generators. Electricity generators powered by hydro, nuclear, ocean, solar or wind power.

Non-emitting Megawatt Hours. Megawatt hours that are generated by non-emitting electricity generators.

Operator. Any person or entity that has charge or control of a generation unit subject to 310 CMR 7.75(7) through (9), including without limitation a duly authorized agent or lessee of the owner, or a duly authorized independent contractor.

Owner. Any person or entity that, alone or in conjunction with others, has legal ownership, a leasehold interest, or effective control over the real property or property interest upon which a generation unit is located, or the airspace above said real property, including without limitation a duly authorized agent of the owner. For the purposes of 310 CMR 7.75, Owner does not mean a person or entity holding legal title or security interest solely for the purpose of providing financing.

Retail Electricity Product. An electrical energy offering that is distinguished by its generation attributes and that is offered for sale by a retail seller of electricity to end-use customers.

Retail Seller of Electricity or Retail Seller. A competitive supplier licensed by the Department of Public Utilities or, as each is defined in M.G.L. c. 164A, § 1, an electric utility, municipal electric department or municipal light board that is connected to the regional electric grid.

RPS Alternative Compliance Credit. A credit obtained by a retail seller of electricity upon making a payment pursuant to 225 CMR 14.08(3), and used to comply with 225 CMR 14.07: *Renewable Energy Portfolio Standard – Class I*.

RPS Class I Renewable Generation Unit. A generation unit or aggregation that has received a statement of qualification as an RPS Class I renewable generation unit from DOER pursuant to 225 CMR 14.00: *Renewable Energy Portfolio Standard – Class I*.

RPS Statement of Qualification. A written document issued by DOER pursuant to 225 CMR 14.06: *Qualification Process for RPS Class I, Solar Carve-out Renewable Generation Units, and Solar Carve-out II Renewable Generation Units* that qualifies a generation unit or aggregation as an RPS Class I qualified generation unit, or that qualifies a portion of the annual electrical energy output of a generation unit.

Short Ton. 2000 pounds or 0.9072 metric tons.

(3) Applicability. Retail sellers are required to comply with 310 CMR 7.75.

(4) Clean Energy Standard. Beginning in calendar year 2018, the total annual sales of each retail electricity product sold to Massachusetts end-use customers by a retail seller that is not an MED or MLB shall include a minimum percentage of electrical energy sales with clean generation attributes. For calendar years 2018 through 2050, percentage requirements are listed in 310 CMR 7.75(4): Table A.

310 CMR 7.75(4): Table A

Year	Retail Sellers, except Municipal Electric Departments and Municipal Light Boards
2018	16%
2019	18%
2020	20%
2021	22%
2022	24%
2023	26%
2024	28%
2025	30%
2026	32%

2027	34%
2028	36%
2029	38%
2030	40%
2031	42%
2032	44%
2033	46%
2034	48%
2035	50%
2036	52%
2037	54%
2038	56%
2039	58%
2040	60%
2041	62%
2042	64%
2043	66%
2044	68%
2045	70%
2046	72%
2047	74%
2048	76%
2049	78%
2050, and each year thereafter	80%

(5) Compliance Procedures for Retail Sellers that are not MEDs or MLBs.

(a) Standard Compliance. Each retail seller subject to 310 CMR 7.75(4) shall be deemed to be in compliance with 310 CMR 7.75 if the information provided in the compliance filing submitted pursuant to 310 CMR 7.75(5) is true and accurate and demonstrates compliance with 310 CMR 7.75(4). Such retail seller shall demonstrate, using a form provided by the Department or DOER that clean generation attributes used for compliance have not otherwise been, nor will be, sold, retired, claimed, used or represented, as part of electrical energy output or sales, or used to satisfy obligations in jurisdictions other than Massachusetts.

(b) Banked Compliance.

1. Beginning in 2021, a retail seller subject to 310 CMR 7.75(4) may use clean generation attributes produced in either or both of the two prior compliance years, subject to the limitations in 310 CMR 7.75(5)(b) and provided that the retail seller is in compliance with 310 CMR 7.75 for all previous compliance years. In addition, the retail seller shall demonstrate, using a form provided by the Department or DOER, that such attributes:

a. Were in excess of the clean generation attributes needed for compliance

in the compliance year in which they were generated, and that such excess attributes have not previously been used for compliance with 310 CMR 7.75;

b. Do not exceed 30% of the clean energy generation attributes needed by the retail seller for compliance with 310 CMR 7.75(4) in the year they were generated, subject to 310 CMR 7.75(5)(b)1.d.;

c. Were produced during the compliance year in which they are claimed as excess by the generation of electrical energy sold to end-use customers in the ISO-NE control area; and

d. Have not otherwise been, nor will be, sold, retired, claimed or represented as part of electrical energy output or sales, or used to satisfy obligations in jurisdictions other than Massachusetts.

2. Any RPS-eligible renewable generation attributes claimed for compliance with RPS pursuant to 225 CMR 14.08(2) and used to comply with 225 CMR 14.07:

Renewable Energy Portfolio Standard – Class I in a particular year shall be counted toward compliance with 310 CMR 7.75 in that year.

(c) Alternative Compliance. Any RPS alternative compliance credits claimed pursuant to 225 CMR 14.08(3)(a) and used to comply with 225 CMR 14.07: *Renewable Energy Portfolio Standard – Class I* shall be counted toward compliance with 310 CMR 7.75. A retail seller subject to 310 CMR 7.75(4) may discharge its obligations under 310 CMR 7.75(4), in whole or in part, by making a CES ACP to the Department. Such funds shall be deposited in a segregated account, which may be the same account established to receive auction proceeds under 310 CMR 7.74(6)(h)1.i., administered by a Trustee appointed by EEA and the Department, and used for the purposes set forth in 310 CMR 7.75(5)(c)2.

1. Procedures. A retail seller subject to 310 CMR 7.75(4) shall receive CES alternative compliance credits from the Department, subject to the following:

a. The quantity of credits, specified in MWh, that can be applied to its obligations under 310 CMR 7.75(4) shall be determined by calculating the ratio of the total of CES ACPs paid for the compliance year to the CES ACP rate for that compliance year.

b. The CES ACP rate in dollars shall be 0.75 times the rate calculated annually by DOER pursuant to 225 CMR 14.08(3)(a)2 for years 2018-2020, and 0.50 times the rate calculated annually by DOER pursuant to 225 CMR 14.08(3)(a)2 for years 2021–2050.

2. Use of Funds. CES ACP funds shall be expended to further the goals of M.G.L.

c. 21N by supporting programs and projects to reduce greenhouse gas emissions to mitigate the impacts of climate change, including but not limited to clean energy and vehicle electrification projects; programs or projects to support adaptation to the impacts of climate change; mitigation or adaptation programs or projects involving communities that are already adversely impacted by air pollution, including but not limited to environmental justice communities; and for the administration of any such programs or projects. CES ACP funds may also be used for the administration of 310 CMR 7.75. CES ACP funds shall be expended at the direction of the Trustee, in consultation with EEA and the Department. The

Trustee, EEA and the Department may consult with and enter into agreements with other agencies within the Energy and Environmental Affairs Secretariat to assist in the administration and expenditure of CES ACP funds.

(d) Treatment of Existing Contracts. Notwithstanding 310 CMR 7.75(4), in determining the total CES-qualified MWh applied to each retail seller subject to 310 CMR 7.75(4) in 2018 and 2019, the Department shall not include that portion of electrical energy sales that were subject to a contract executed or extended prior to August 11, 2017, provided that the electricity was sold at a price specified in the contract and the retail seller provides the Department with satisfactory documentation of the terms of such contracts. Contracted electrical energy delivered after December 31, 2019 shall be included in the CES, regardless of the contract's date of execution or extension.

1. In order to demonstrate eligibility of contracts for exemption under 310 CMR 7.75(5)(d), retail sellers shall provide the relevant documentation by December 31, 2017 in accordance with a form prescribed by the Department, including, but not limited to, the execution and expiration dates of the contracts and the projected annual volume of electric energy supplied at a contract-specified price.

2. In order to demonstrate eligibility of electrical energy sales for exemption under 310 CMR 7.75(5)(d), retail sellers shall provide the relevant documentation by July 1 of the year after the sales occurred, along with information required in accordance with a form prescribed by the Department, including, but not limited to, the execution and expiration dates of the contracts and the actual annual volume of electric energy supplied at a contract-specified price.

(6) Annual Compliance Filings for Retail Sellers that are not MEDs or MLBs.

(a) Date of Annual Compliance Filing. For each compliance year, each retail seller subject to 310 CMR 7.75(4) shall file an annual compliance filing with the Department no later than the first day of July, or the first business day thereafter, of the subsequent compliance year. Such retail sellers shall complete an annual compliance report for compliance years 2018 through 2050.

(b) Contents of Annual Compliance Filing. For each retail electricity product, the filing shall document compliance with the provisions of 310 CMR 7.75(4) and (5) using a form provided by the Department and shall include, but not be limited to, the following:

1. Total Electrical Energy Sales to End-use Customers. Documentation of the total MWh of electrical energy allocated by the retail seller to end-use customers in the compliance year. Such allocation is defined as the total quantity of such seller's certificates obligation that the seller correctly allocated or should have allocated to all of the seller's Massachusetts retail subaccounts in the NEPOOL GIS, in compliance with all relevant provisions of Part 4 of the NEPOOL GIS Operating Rules, as specified in the Guideline on the Determination of Sales to End-use Customers.

2. Electrical Energy Sales to End-use Customers by Product. Documentation of the total MWh of each retail electricity product allocated by the retail seller to end-use Massachusetts customers in the compliance year, verified by an independent third party satisfactory to the Department. Such allocation is defined as the quantity of the seller's certificates obligation that the seller correctly

allocated or should have allocated to each of the seller's Massachusetts retail subaccounts at the NEPOOL GIS, in compliance with all relevant provisions of Part 4 of the NEPOOL GIS Operating Rules, as specified in the Guideline on the Determination of Sales to End-use Customers.

3. Attributes Allocated from the Compliance Year. Documentation of the total MWh of each retail electricity product allocated by the retail seller to end-use Massachusetts customers that ~~were derived from~~ had clean generation attributes during the compliance year, as follows:

- a. For electrical energy transactions included in the ISO-NE Settlement Market System, the compliance filings shall include documentation from the NEPOOL GIS administrator of the retail seller's ownership of GIS certificates representing clean generation during the compliance year.
- b. For electrical energy transactions not included in the ISO-NE Settlement Market System, but for which the retail seller has secured GIS certificates from the NEPOOL GIS, the compliance filings shall include documentation from the NEPOOL GIS of the retail seller's ownership of GIS Certificates representing clean generation during the compliance year.
- c. For clean generation attributes allocated to retail sellers retained pursuant to Section 83D(h) of Chapter 169 of the Acts of 2008, as inserted by Section 12 of Chapter 188 of the Acts of 2016, compliance filings shall be made using a form provided by the Department and/or DOER.

4. Attributes Allocated from Banked Compliance. Allocation by each retail seller, itemized by retail electricity product, of any quantity of clean generation attributes banked from one or both of the two previous years pursuant to 310 CMR 7.75(5)(b) that are used to demonstrate compliance with the clean energy standard in the current compliance year.

5. CES Alternative Compliance Credits. Allocation by each retail seller, itemized by retail electricity product, of any CES alternative compliance credits claimed pursuant to 310 CMR 7.75(5)(c)1. or RPS alternative compliance credits claimed pursuant to 225 CMR 14.08(3)(a), along with a copy of any alternative compliance payment receipt(s).

6. Attributes Banked for Future Compliance. Identification of any quantity of ~~attributes from~~ clean generation attributes, that the retail seller anticipates claiming for purposes of banked compliance in subsequent years under the banked compliance provisions of 310 CMR 7.75(5)(b).

7. For the purpose of determining compliance with 310 CMR 7.75(4), clean generation attributes that are retained by an electric utility pursuant to Section 83D(h) of Chapter 169 of the Acts of 2008, as inserted by Section 12 of Chapter 188 of the Acts of 2016, and that are not attributed to Class I renewable portfolio standard eligible resources, shall be assigned to all end use customers served by all retail sellers subject to 310 CMR 7.75(4). The number of attributes assigned to each such retail seller's customers shall be based on the retail seller's proportion of the total retail electricity product sold statewide by all such retail sellers.

(7) Eligibility Criteria for Clean Generation Units.

(a) Eligibility Criteria. A generation unit may qualify as a clean generation unit subject to

the limitations in 310 CMR 7.75(7). The Department shall consider all limitations in 310 CMR 7.75(7), including the emissions criteria in 310 CMR 7.75(7)(a)1.a.ii., when considering whether to provide the owner or operator of such unit with a CES statement of qualification pursuant to 310 CMR 7.75(8)(c).

1. **Fuels, Energy Resources and Technologies.** In order to be considered by the Department for qualification, a generation unit must satisfy at least one of the two eligibility criteria in 310 CMR 7.75(7)(a)1.a. and not be excluded by 310 CMR 7.75(7)(a)1.b.

a. A generation unit must satisfy at least one of the following two eligibility criteria:

i. The generation unit has been issued an RPS statement of qualification as an RPS Class I renewable generation unit pursuant to 225 CMR 14.06(3);

ii. The generation unit has net lifecycle GHG emissions, over a 20 year life cycle, that yield at least a 50% reduction of greenhouse gas emissions per unit of useful energy relative to the lifecycle greenhouse gas emissions from the aggregate use of the operation of a new combined cycle natural gas electric generating facility using the most efficient commercially available technology as of the date of the statement of qualification application for the portion of electricity delivered by the generation unit;

b. A generation unit that does not satisfy applicable fuel, energy resource, or technology-specific provisions or limitations in 225 CMR 14.05(1)(a)5. through 7. shall not qualify under 310 CMR 7.75(7); provided, however, that any generation unit that is a hydroelectric generator that has a nameplate capacity greater than 30 megawatts may qualify under 310 CMR 7.75(7) if it satisfies the emissions criteria in 310 CMR 7.75(7)(a)1.a.ii.

2. **Commercial Operation Date.** For a generation unit that qualifies as a clean generation unit pursuant to 310 CMR 7.75(7)(a)1.a.ii., the commercial operation date shall be after December 31, 2010.

3. **Metering.** For a generation unit that qualifies as a clean generation unit pursuant to 310 CMR 7.75(7)(a)1. the electrical energy output from the generation unit shall be verified by the ISO-NE or by an independent verification system or person participating in the NEPOOL GIS accounting system as an independent Third Party Meter Reader, as defined in Rule 2.5(j) of the NEPOOL GIS Operating Rules, and approved by the Department.

4. **Capacity Obligation.** For a generation unit that qualifies as a clean generation unit pursuant to 310 CMR 7.75(7)(a)1., the generation unit's generating capacity is subject to the obligations in 310 CMR 7.75(7)(a)4.

a. The amount of the generation capacity of the generation unit whose electrical energy output is claimed as clean generation shall not be committed to any control area other than the ISO-NE control area, unless such generation unit has entered into a capacity obligation in another control area before the start of the first available compliance year for the

ISO-NE forward capacity market, in which case 310 CMR 7.75(7)(a)4.a. shall apply upon the expiration of that capacity obligation.

b. The generation unit owner or operator of a generation unit that is not an intermittent generation unit shall commit to the ISO-NE Control Area the amount of the capacity of that unit claimed as clean generation by submitting, by the applicable deadline, a show of intent for the ISO-NE forward capacity auction that is the earliest available for the unit after the owner or operator has submitted a CES statement of qualification application, unless the owner or operator can provide to the Department documentation of its prior commitment to the ISO-NE control area of such capacity. The owner or operator of any unit that cannot demonstrate such prior commitment must also clear the forward capacity auction for which it has qualified, even if it must participate as a price taker.

c. A clean generation unit that was deemed unqualified by the ISO-NE for participation in the ISO-NE forward capacity market for technical reasons may commit capacity to another control area and may receive GIS certificates for the energy sold into the ISO-NE control area, subject to a determination by the Department.

(b) Special Provisions for a Generation Unit Located in a Control Area Adjacent to the ISO-NE Control Area. The portion of the total electrical energy output of a clean generation unit located in a control area adjacent to the ISO-NE control area that qualifies as clean generation shall meet the requirements in Rule 2.7(c) and all other relevant sections of the NEPOOL GIS Operating Rules, and the requirements in 310 CMR 7.75(7)(b).

1. The generation unit owner or operator shall provide documentation, using a form provided by the Department or DOER, of a contract or other legally enforceable obligation, that is executed between the generation unit owner or operator and an electrical energy purchaser located in the ISO-NE control area for delivery of the unit's electrical energy to the ISO-NE control area. Such documentation shall include provisions for obtaining associated transmission rights for delivery of the unit's electrical energy from the unit to the ISO-NE Control Area using transmission capacity with a commercial operation date after December 31, 2016. The generation unit owner or operator shall pay for evaluation and verification of the provisions of such documentation by an independent party that is engaged or approved by the Department.

2. The generation unit owner or operator shall provide documentation using a form provided by the Department or DOER, that:

a. The electrical energy delivered pursuant to the legal obligation was settled in the ISO-NE Settlement Market System;

b. The generation unit produced, during each hour of the applicable month, the amount of MWh claimed, as verified by the NEPOOL GIS administrator; if the originating control area employs a generation information system that is comparable to the NEPOOL GIS, information from that system may be used to support such documentation;

c. The electrical energy delivered under the legal obligation received a NERC tag confirming transmission from the adjacent control area to the

ISO-NE control area using transmission capacity with a commercial operation date after December 31, 2016; and

d. The clean generation attributes have not otherwise been, nor will be, sold, retired, claimed, used or represented as part of electrical energy output or sales, or used to satisfy obligations in jurisdictions other than Massachusetts.

3. The generation unit owner or operator must provide an attestation in a form approved by the Department that it will not itself or through any affiliate or other contracted party, knowingly engage in the process of importing clean generation into the ISO-NE control area for the creation of clean GIS certificates, and then exporting that energy or a similar quantity of other energy out of the ISO-NE control area during the same hour.

4. The quantity of electrical energy output from a clean generation unit outside the ISO-NE control area that can qualify as clean generation at the NEPOOL GIS during each hour is limited to the lesser of the clean generation actually produced by the unit or the clean generation actually scheduled and delivered into the ISO-NE control area.

5. For the purpose of determining compliance with 310 CMR 7.75(7)(b) and all other provisions of 310 CMR 7.75, a clean generation unit that delivers clean energy into the ISO-NE control area or an adjacent control area through a dedicated transmission line shall be considered to be located in the control area to which the clean energy is delivered.

(8) Qualification Process for Clean Energy Generation Units.

(a) CES Statement of Qualification Application. For clean generation units that have not received an RPS statement of qualification, a CES statement of qualification application shall be submitted to the Department by the owner or operator of the generation unit. The applicant must use the most current forms and associated instructions provided by the Department, and must include all information, documentation, and assurances required by such forms and instructions.

(b) Review Procedures.

1. The Department shall notify the applicant when the CES statement of qualification application is administratively complete or if additional information is required pursuant to 310 CMR 7.75(8)(a).

2. The Department may, in its sole discretion, provide an opportunity for public comment on any CES statement of qualification application.

(c) Issuance or Non-issuance of a CES Statement of Qualification.

1. If the Department finds that all or a portion of the electrical energy output of a generation unit meets the requirements for eligibility as clean generation pursuant to 310 CMR 7.75(7)(a), and the generation unit is not eligible to receive an RPS statement of qualification from DOER, the Department shall provide the owner or operator of such unit with a CES statement of qualification.

2. The CES statement of qualification shall include any applicable restrictions and conditions that the Department deems necessary to ensure compliance by a particular generation unit with the provisions of 310 CMR 7.75.

3. If the generation unit does not meet the requirements for eligibility as a clean

generation unit, the Department shall provide written notice to the Owner or Operator, including the Department's reasons for such finding.

(d) Notification Requirements for Change in Eligibility Status. The owner or operator of a clean generation unit shall notify the Department of any changes in the technology, operation, emissions, fuel sources, energy resources, capacity commitment, or other characteristics of the generation unit that may affect the eligibility of the unit as a clean generation unit. The owner or operator shall submit the notification to the Department no later than five days following the end of the month during which such changes were implemented. The notice shall state the date the changes were made to the clean generation unit and describe the changes in sufficient detail to enable the Department to determine if a change in eligibility is warranted.

(e) Notification Requirements for Change in Ownership, Generation Capacity, or Contact Information. The owner or operator of a clean generation unit shall notify the Department of any changes in the ownership, operating entity, generation capacity, NEPOOL GIS account, independent verification system for the unit's electrical energy output, or contact information for the generation unit. The owner or operator shall submit the notification to the Department no later than five days following the end of the month during which such changes were implemented.

(f) Time Limit for Project Implementation. Any CES statement of qualification shall expire 48 months after the issuance date of the CES statement of qualification (the expiration date) unless the commercial operation date of the generation unit is on or before the expiration date. The Department may, at its discretion, grant an extension of the expiration date of the CES statement of qualification upon petition by the owner or operator of the generation unit. If the owner or operator of such unit desires an extension, such owner or operator must submit a new CES statement of qualification application, and the decision of the Department on such new application may be made in accordance with the regulations and criteria that are applicable on the date that the Department receives that application.

(g) Suspension or Revocation of CES Statement of Qualification. The Department may suspend or revoke a CES statement of qualification if the owner or operator of a clean generation unit fails to comply with 310 CMR 7.75.

(h) Identification of Clean Generation Units. The Department shall inform the NEPOOL GIS administrator which generation units should be designated clean generation units pursuant to 310 CMR 7.75.

(9) Reporting Requirements.

(a) Certification. Any person required by 310 CMR 7.75 to submit documentation to the Department shall provide:

1. The person's name, title and business address;
2. The person's authority to certify and submit the documentation to the Department; and
3. The following certification: "I hereby certify, under the pains and penalties of perjury, that I have personally examined and am familiar with the information submitted herein and, based upon my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties, both civil

and criminal, for submitting false information, including possible fines and imprisonment.”

(b) Annual Clean Energy Resource Report. The Department shall produce and make available to the public an annual report that summarizes information submitted to the Department by retail sellers subject to 310 CMR 7.75(4) in the annual compliance filings submitted to the Department pursuant to 310 CMR 7.75(6)(b). Such report shall include non-confidential data that provides the following:

1. The extent to which the retail sellers complied with the minimum clean energy standard, both separately and combined;
2. The extent to which the retail sellers used standard compliance, banked compliance, and alternative compliance, in meeting the minimum standards; and
3. The names, locations, and types of clean generation from which the retail sellers, as an aggregate, obtained the clean energy attributes used in meeting the minimum standards.

(c) Greenhouse Gas Emissions Reporting.

1. Each retail seller shall report annually to the Department its MWh sold and associated greenhouse gas emissions. The first required reporting year for retail sellers which are new competitive suppliers is the first year after 2017 in which they sell electricity in Massachusetts. Biogenic and non-biogenic greenhouse gas emissions shall be reported separately. This report shall be on a form provided by the Department.

2. Deadlines.

a. Beginning with 2018 calendar year generation, retail sellers subject to 310 CMR 7.75(4) shall report the MWh required in 310 CMR 7.75(9)(c)4.a. through c. on a form provided by the Department no later than the first day of July after the calendar year in which the MWh were generated.

b. Beginning with 2018 calendar year emissions, the annual GHG emissions report shall be submitted no later than the 15th day of the second September following each calendar year. The report shall be submitted using the final annual emission factors provided by the Department for the purpose of calculating greenhouse gas emissions pursuant to 310 CMR 7.75(9)(c)3.

c. In order to finalize the annual biogenic and non-biogenic emission factors, the Department shall:

- i. post draft annual emission factors, including methodologies and data sources, on its website for public comment for 30 days and notify retail sellers of the posting and the deadline for submittal of public comment; and,
- ii. post final annual emission factors, including methodologies and data sources, on its website.

d. Beginning with 2018 calendar year generation, MEDs and MLBs choosing to report under 310 CMR 7.75(9)(c)5.b. and c. shall submit those reports on a form provided by the Department no later than the first day of July after the calendar year in which the MWh were generated.

3. For the report required in 310 CMR 7.75(9)(c)2.b., all retail sellers shall use the following formula to calculate greenhouse gas emissions:

$GHG = (EF * MWh / 2000 \text{ pounds per short ton}) + \text{emissions reported in 310 CMR 7.75(9)(c) 6.}$

Where:

GHG = Short tons of greenhouse gases (in carbon dioxide equivalents) associated with electricity sold in MA in a particular calendar year.

EF = Emission factors supplied by the Department each year for biogenic and non-biogenic greenhouse gas emissions (pounds carbon dioxide equivalents per MWh).

MWh = Annual electricity consumed by customers in a particular calendar year, increased to account for the portion of electricity lost during transmission and distribution (line losses), as reported pursuant to 310 CMR 7.75(6)(b)1. or 310 CMR 7.75(9)(c)5.a., less the sum of certificates reported pursuant to 310 CMR 7.75(9)(c)4.b. and c. or MWh reported pursuant to 310 CMR 7.75(9)(c)5.b. and c.

4. Source of Megawatt Hour and Emissions Data for retail sellers subject to 310 CMR 7.75(4).

a. In calculating biogenic and non-biogenic greenhouse gas emissions, retail sellers shall report the same number of MWh used to calculate any CES certificates obligation under 310 CMR 7.75(6)(b)1., inclusive of line losses.

b. Retail sellers shall report, by fuel and by state or province, the number of emitting and non-emitting MWh of electricity generated by emitting and non-emitting electricity generators represented by GIS renewable energy certificates or clean energy certificates retired in such seller's NEPOOL GIS Massachusetts Retail Subaccount, as defined in the NEPOOL GIS Operating Rules.

c. If the number of GIS certificates retired in a retail seller's NEPOOL GIS Massachusetts Retail Subaccount and reported pursuant to 310 CMR 7.75(9)(c)4.b. are greater than the MWh reported pursuant to 310 CMR 7.75(9)(c)4.a., the retail seller shall indicate, on the 310 CMR 7.75(9)(c)4.b. report, which certificates will be excluded from GHG reporting so that the number of certificates does not exceed the MWh reported.

5. Source of Megawatt Hour and Emissions Data for retail sellers that are MEDs or MLBs.

a. In calculating biogenic and non-biogenic greenhouse gas emissions, MEDs and MLBs shall use the same number of MWh reported in the annual return to the Department of Public Utilities, inclusive of line losses.

b. Optional MED and MLB Reporting of Non-emitting Electricity. MEDs and MLBs may choose to subtract any MWh of electricity generated by non-emitting electricity generators from the amount of MWh reported in 310 CMR 7.75(9)(c)5.a., if such non-emitting MWh are reported in the annual report due under 310 CMR 7.75(9)(c)1., and provided the following criteria are met:

- i. the MED or MLB reports MWh by fuel and by state or province;
- ii. the MED or MLB provides information from the NEPOOL GIS showing that the certificates associated with the non-emitting MWh of electricity were unsettled certificates whose attributes were aggregated in residual mix certificates, both as defined in the NEPOOL GIS Operating Rules; and
- iii. for non-emitting electricity generators not owned by the MED or MLB, the MED or MLB provides a copy of the contract or contracts establishing that it has purchased electricity from such non-emitting electricity generators and reports such MWh.

c. Optional MED and MLB Reporting of Emitting Electricity. MEDs and MLBs may choose to report calculations of biogenic and non-biogenic greenhouse gas emissions, based on the methodology provided in 310 CMR 7.75(9)(c)6., if such emitting MWh are reported in the annual report due under 310 CMR 7.75(9)(c)1., and provided the following criteria are met:

- i. the MED or MLB reports MWh by fuel and by state or province;
- ii. the MED or MLB provides information from the NEPOOL GIS showing that the certificates associated with the emitting MWh of electricity were unsettled certificates whose attributes were aggregated in residual mix certificates, both as defined in the NEPOOL GIS Operating Rules; and
- iii. for emitting electricity generators not owned by the MED or MLB, the MED or MLB provides a copy of the contract or contracts establishing that the MED or MLB has purchased electricity from such emitting electricity generators.

d. The total of all optional non-emitting and emitting MWh reported under 310 CMR 7.75(9)(c)5.b. and c. shall not be greater than the MWh reported in 310 CMR 7.75(9)(c)5.a.

6. Carbon dioxide, methane and nitrous oxide emissions from any emitting electricity generator shall be reported as follows:

$GHGi = (EFi * MWHi / 2000 \text{ pounds per short ton})$

Where:

$GHGi$ = Short tons of greenhouse gases for each emitting fuel type i (in carbon dioxide equivalents) associated with electricity sold in MA in a particular calendar year.

EFi = Emission factors supplied by the Department each year for biogenic and non-biogenic greenhouse gas emissions for each emitting fuel type i (pounds carbon dioxide equivalents per MWh).

$MWHi$ = as reported for fuel type i pursuant to 310 CMR 7.75(9)(c)4.b.

(d) The Department may specify the format and process by which any submission required pursuant to 310 CMR 7.75 shall occur, including electronic submission requirements.

(10) Not later than December 31, 2017, the Department shall complete a review, including an opportunity for public comment, of options for including generators that meet all requirements of

310 CMR 7.75, except for the commercial operation date requirements in 310 CMR 7.75 (7)(a)2. and (b)1., in the clean energy standard. This review shall also examine options for including annual standards for MEDs and MLBs in the clean energy standard.

(11) Not later than December 31, 2021, the Department shall complete a review, including an opportunity for public comment on the program review, of the requirements of 310 CMR 7.75 to determine whether the program should be amended. This review shall evaluate projected clean energy credit supply and costs, and any other information relevant to review of the program.

(12) Inspection and Record Retention.

(a) Document Inspection. The Department may audit the accuracy of all information submitted pursuant to 310 CMR 7.75. The Department may request and obtain from any owner, operator or authorized agent of a clean generation unit, and from any retail seller, information that the Department determines necessary to monitor compliance with and enforcement of 310 CMR 7.75.

(b) Audit and Site Inspection. Upon reasonable notice to a retail seller or to a clean generation unit owner, operator or authorized agent, the Department may conduct audits, which may include inspection and copying of records and/or site visits to a clean energy generation unit, or a retail seller's facilities, including, but not limited to, all files and documents that the Department determines are related to compliance with 310 CMR 7.75.

(c) Record Retention. All documentation used to comply with any provision of 310 CMR 7.75 shall be retained for five years and provided to the Department electronically or in hard copy as requested by the Department.

(13) Enforcement.

(a) If a retail seller that is not an MED or MLB does not comply with the requirements of 310 CMR 7.75(4) and (5), then such retail seller shall be deemed to have caused air pollutant emissions releases to the environment without the approval or authorization of the department.

(b) The requirements of 310 CMR 7.75 shall be enforced in accordance with applicable federal and Massachusetts law, including but not limited to, the issuance of an administrative order or civil administrative penalties pursuant to M.G.L. c. 21A, §16, 310 CMR 5.00: *Administrative Penalty*, M.G.L. c. 111, §§ 142A through 142M, M.G.L. c. 111, §2C, and M.G.L. c. 21N, § 7(d).



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December 7, 2017

Martin Suuberg, Commissioner
Massachusetts Department of Environmental Protection
1 Winter Street
Boston, MA 02108

Re: **Comments on the Draft Amendments to the *Clean Energy Standard***

Commissioner Suuberg:

As a stakeholder with considerable interest in the development and success of the Clean Energy Standard (CES) regulation (310 CMR 7.75), Nalcor Energy (Nalcor) appreciates the opportunity to submit the following comments to the Department of Environmental Protection (DEP) on the *Draft Amendments to 310 CMR 7.75(2) and (6)*. The rationale for the proposed amendments is outlined in the *Technical Support Document on Proposed Regulatory Amendments to: 310 CMR 7.75 Clean Energy Standard* (Technical Document).

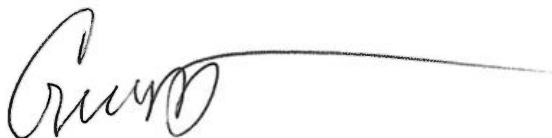
Nalcor owns, operates and develops electric generating facilities in Newfoundland and Labrador and it is seeking to participate in Massachusetts retail providers' acquisition of clean energy. Nalcor is a partner to the Atlantic Link proposal submitted by Clean Power Northeast Development in response to the Request for Proposals for Long-Term Contracts for Clean Energy Projects (RFP) as issued on March 31, 2017 by Massachusetts distribution companies and the Massachusetts Department of Energy Resources (DOER) pursuant to Section 83D of Chapter 169 of the Acts of 2008 (Section 83D) as amended by Chapter 188 of the Acts of 2016, *An Act to Promote Energy Diversity*.

As outlined in the Technical Document the differences between the eligibility requirements outlined in the CES and the RFP eligibility requirements could mean that at least some of the energy procured under the RFP would not qualify as clean energy under the current CES.

The amendment as proposed by the DEP ensures the alignment of the eligibility criteria of the CES and the RFP. Nalcor is pleased to support these amendments as proposed by the DEP and acknowledges that the DEP has taken the necessary steps to ensure that clean energy procured through the RFP would be designated as eligible clean energy under the CES.

Nalcor thanks the Department for the opportunity to provide these comments and your considered attention to them. I look forward to working with you and other stakeholders to help Massachusetts meet its energy diversity and carbon reduction objectives.

Sincerely,

A handwritten signature in black ink, appearing to read "Greg Jones", followed by a long horizontal line extending to the right.

Greg Jones
General Manager
Nalcor Energy Marketing