



The Commonwealth of Massachusetts

DEPARTMENT OF PUBLIC UTILITIES

MEMORANDUM

TO: DG Stakeholder Electronic Distribution List

FROM: Kate Tohme, DG and Clean Energy Ombudsperson

RE: COVID-19 and Distributed Generation
Force Majeure Event Termination

DATE: May 25, 2023

CC: Mark Marini, Secretary

I. INTRODUCTION

On March 10, 2020, Governor Baker declared a state of emergency due to the outbreak of COVID-19. On March 26, 2020, the Department of Public Utilities (“Department”) held a teleconference to provide stakeholders with information and procedural guidance related to distributed generation (“DG”) during the COVID-19 public health emergency. During the teleconference and through written notification, the electric distribution companies (“EDCs”) declared a Force Majeure Event pursuant to the Standards for Interconnection of Distributed Generation Tariff (“DG Interconnection Tariff”), § 3.7 and Sch. IC, ¶ 16.

On April 6, 2020, based on discussions with the EDCs, the Department of Energy Resources (“DOER”), and the Office of the Attorney General (“AGO”), and inquiries and comments provided during and following the March 26, 2020 teleconference, the Department

issued Force Majeure Event guidance to DG stakeholders and to the EDCs (“Guidance Memorandum”). In its Guidance Memorandum, the Department directed the EDCs to take certain actions to ensure transparency and timely communication with the Department and stakeholders. Amongst other requirements, the Department stated that “the EDCs shall coordinate with the Department to determine the appropriate time to end the Force Majeure Event as well as timing and method of communication to DG stakeholders.” The EDCs have appropriately complied with the Department’s requirements during the public health emergency.

Throughout the public health emergency, the Department has shared the DG community’s concerns regarding how the health emergency could cause delays and uncertainty for DG-related programs and projects. To mitigate delays and uncertainty to the greatest extent possible, the Department has continuously engaged with the EDCs, DOER, and AGO to provide information to DG stakeholders whenever possible.

II. FORCE MAJEURE EVENT TERMINATION

On March 15, 2023, Governor Healey announced that the state’s public health emergency would end on May 11, 2023, to align with the end of the federal public health emergency. In alignment with the end of the public health emergency at both the state and federal level, the EDCs coordinated with the Department and have declared an end to the Force Majeure Event. The EDCs have posted notifications of termination of the Force Majeure Event on their respective websites.

While the Department recognizes that supply chain issues resulting from the public health emergency may continue to impact construction timelines, these delays will be handled in accordance with existing rules and regulations. It is the Department’s understanding that the EDCs have not needed to exercise the discretion provided under the Force Majeure

Event. Nevertheless, the EDCs will no longer maintain the right, solely pursuant to the Force Majeure Event, to modify or suspend their performance obligations under the DG Interconnection Tariff.

III. FORCE MAJEURE EVENT TERMINATION GUIDANCE

- With the end of the state and federal public health emergencies and the termination of the EDCs' Force Majeure Event, the Department's Guidance Memorandum is no longer in effect.¹
- Inquiries and concerns related to DG should be submitted through the Department's online inquiry form: <https://www.mass.gov/forms/submit-a-renewable-energy-complaint-or-question-to-the-dpus-distributed-generation-group>
- Contact information for the EDCs, DOER, AGO and other relevant resources can be found on the Department's website: <https://www.mass.gov/info-details/who-to-contact-about-my-renewable-energy-question-or-concern>
- This memorandum along with the EDC's notices and prior Force Majeure Event information will be available on the Department's website for three months following this memorandum at: <https://www.mass.gov/info-details/force-majeure>

¹ Any Force Majeure extensions granted to Net Metering Applicants by the Administrator of the Massachusetts System of Assurance of Net Metering Eligibility prior to the date of this memorandum may remain in effect. This includes instances where the Force Majeure extension would end after the date of this memorandum.