The Commonwealth of Massachusetts

DEPARTMENT OF PUBLIC UTILITIES

D.P.U. 20-150 December 10, 2020

Investigation by the Department of Public Utilities on its own Motion into Updating its Energy Efficiency Guidelines.

VOTE AND ORDER OPENING INVESTIGATION

I. INTRODUCTION

The Department of Public Utilities ("Department") opens this investigation to revise its energy efficiency guidelines ("Guidelines"). In 2000, the Department first established the Guidelines in order to assist in the ongoing review and assessment of energy efficiency filings. Methods and Procedures to Evaluate and Approve Energy Efficiency Programs, D.T.E. 98-100 (2000). Following the passage of G.L. c. 25, §§ 19, 21-22 ("Green Communities Act"), in 2008, the Department updated its Guidelines to respond to the requirements of the Act. Investigation by the Department of Public Utilities on its own Motion into Updating its Energy Efficiency Guidelines Consistent with An Act Relative to Green Communities, D.P.U. 08-50 (2008). The updated Guidelines set forth the filing requirements applicable to energy efficiency programs administered by electric and gas distribution companies and approved municipal aggregators (together, "Program Administrators") and the process by which the Department reviews and evaluates the three-year energy efficiency plans. The Department updated and adopted its current Guidelines in 2013, based on its experience during the first three-year plan and to align review of the energy efficiency plans with the three-year construct envisioned by the Green Communities Act. Investigation by the Department of Public Utilities on its own Motion into Updating its Energy Efficiency Guidelines, D.P.U. 11-120-A, Phase II at 2 (2013). The Guidelines are intended to be updated over time to incorporate changes in Department policies and laws governing energy efficiency, as well as experience gained through the ongoing implementation of the three-year plans.

The Department is seeking stakeholder comments on the specific proposed revisions to the Guidelines outlined in this Order. The Department intends to finalize the revised Guidelines prior to the 2022-2024 three-year plan review process.

II. PROPOSED GUIDELINE REVISIONS

A. Introduction

The Department proposes seven categories of revisions to the Guidelines. The first category relates to Department directives in the recent three-year plan proceedings regarding cost-effectiveness, annual energy efficiency surcharge ("EES") changes, and program planning and administration ("PP&A") costs. 2016-2018 Three-Year Plans Order, D.P.U. 15-160 through D.P.U. 15-169 (2016); 2019-2021 Three-Year Plans Order, D.P.U. 18-110 through D.P.U. 18-119 (2019) Second, the Department proposes to update the mid-term modification process established in Investigation by the Department of Public Utilities on its own Motion into Updating its Energy Efficiency Guidelines, D.P.U. 11-120-A, Phase II (2013). Third, the Department proposes to update the Guidelines to clarify the Department's policy regarding demonstration projects, as addressed in Cape Light Compact, D.P.U. 16-177 (2016), NSTAR Electric Company, D.P.U. 16-178 (2017), and Fitchburg Gas and Electric Light Company, D.P.U. 16-184 (2017). Fourth, the Department proposes to update the Guidelines to reflect the Department's decisions in Energy Efficiency Guideline Three-Year Term Report Template, D.P.U. 11-120-B (2016). Fifth, the Department proposes to review the application of evaluation study results set forth in Investigation by the Department of Public Utilities on its own Motion into Updating its

Energy Efficiency Guidelines, D.P.U. 11-120-A (2012). Sixth, the Department proposes to revise the calculation of the EES to align with the Department's directives in Cost Based Rate Design, D.P.U. 12-126A through D.P.U. 12-126I (2013). The final category includes additional revisions to the Guidelines based on Department experience reviewing prior three-year plans and term reports. The proposed revisions to the Guidelines are attached to this Order as Appendix A.[1]

B. Three-Year Plans Order Directive

1. Cost-Effectiveness

Under the Green Communities Act, as amended by St. 2018, c. 277 ("Energy Act of 2018"), energy efficiency programs are aggregated by sector (low-income, residential, and commercial and industrial ("C&I")) for the purpose of cost-effectiveness review. G.L. c. 25, § 21(b)(3). Accordingly, the Department proposes to amend Guidelines §3.4: Energy Efficiency Program Cost-Effectiveness to include the new requirements set forth in the Energy Act of 2018. The Department has also found that in the pursuit of all cost-effective energy efficiency, the Program Administrators must balance the additional flexibility in program design and implementation afforded by sector-level cost-effectiveness review under the Energy Act of 2018, with bill impacts and the prudent use of ratepayer funds. 2019-2021 Three-Year Plans Order, at 72-74. In doing so, the Program Administrators must consider cost-efficiency, as well as cost-effectiveness. As a means to assess cost-efficiency and,

---

1 The Department is also making a few non-substantive edits to the Guidelines.

thereby, the prudence of expenditures, the Department requires the Program Administrators to continue to report cost-effectiveness at the program and core initiative levels, in addition to the sector level. 2019-2021 Three-Year Plans Order, at 73-74; see also 2013-2015 Three-Year Plans Order, D.P.U. 12-100 through D.P.U. 12-111, at 105 (2013); 2019-2021 Three-Year Plans Order, Hearing Officer Procedural Memorandum at 2 n.1 (October 3, 2018). To ensure that the Guidelines appropriately incorporate this directive, the Department proposes to amend Guidelines § 2: Definitions, to add a definition for “core initiative.” In addition, the Department proposes to amend Guidelines § 3.4.3.1 to ensure that any new energy efficiency core initiative is cost-effective.

2. EES Rate Adjustments and Reconciliation

In the 2016-2018 Three-Year Plans Order, at 113, the Department found that a return to annual EESs was both administratively efficient and would promote the goal of rate continuity.[2] Consistent with this directive, Program Administrators have been making annual EES rate adjustments since January 2016. Accordingly, the Department proposes to remove the following subsections from Guidelines § 3.2: Funding Sources: 3.2.1.6.1, 3.2.1.6.2, 3.2.1.6.4, 3.2.1.6.4.1, 3.2.1.6.4.2, 3.2.2.3, 3.2.2.3.1, and 3.2.2.3.2. The Department is also making additional updates to Guidelines § 3.2, as outlined below.

[2] The Department had adopted a three-year EES construct in D.P.U. 11-120-A, Phase II at 17.

3. Section 3.3.3: PP&A Costs

The Department noted in the 2016-2018 Three-Year Plans Order, at 42, that program budgets increased substantially, specifically PP&A costs. To aid the Department's review of PP&A costs, the Department directed Program Administrators to provide in all future filings a breakdown of PP&A costs. 2016-2018 Three-Year Plans Order, at 42. In response to the Department's directive, the Program Administrators have amended the energy efficiency data tables to include a table with a breakdown of internal and external PP&A costs. See, e.g., The Berkshire Gas Company, D.P.U. 16-120, Part One: Data Tables at 22; NSTAR Electric Company, D.P.U. 19-99, Part One: Data Tables at 29. The Department proposes to amend Guidelines § 3.3.3 to include this requirement and specifically require the breakdown of internal and external PP&A costs.

C. Section 3.8: Mid-term Modifications

During the 2016 through 2018 Three-Year Plans proceeding, the Department requested comments on potential revisions to the mid-term modifications triggers and process as outlined in Guidelines § 3.8.2. D.P.U. 15-160 through 15-169, Hearing Officer Memorandum (December 15, 2015). The Department proposed to eliminate the two percent bill impact trigger[3] for Department review and to eliminate the 20 percent program budget

[3] A Program Administrator must file with the Department a mid-term modification, under the bill impact trigger, if there was a change in its three-year term budget of a customer sector that would require a cents per kilowatt-hour or cents per therm charge for the sector that, if it were to replace the fixed EES for the applicable year, would result in a bill increase for an average customer in the sector exceeding two percent. Guidelines § 3.8.2.

increase/decrease trigger for review by the Energy Efficiency Advisory Council ("Council").[4] The Department proposed to eliminate both triggers because they were based on a three-year fixed EES rather than the current annual EES rate adjustments and reconciliations (see Section II.B.2, above). Previously, a 20 percent program budget trigger allowed Program Administrators to seek approval for a budget change from the Council, but the EES would remain fixed and could not be adjusted unless they also received Department approval of a mid-term modification (i.e., the two percent bill impact trigger). Although the Program Administrators were supportive of the changes to the mid-term modification process, other commenters sought additional process and the Department found that it was appropriate to defer consideration of the issue in order to allow for additional stakeholder input. 2016-2018 Three-Year Plans Order, at 116.

At this time, the Department revisits the mid-term modification triggers. Now that EES rate adjustments are reconciled annually, the Department finds that any significant budget change needs approval from the Department prior to its implementation so that the Department can review bill impacts prior to the EES adjustment.[5] See G.L. c. 25, § 19(a).

---

4 A Program Administrator must propose a mid-term modification to the Council for a change in a three-year term budget of an energy efficiency program or hard-to-measure energy efficiency program of greater than 20 percent. Guidelines § 3.8.1.

5 In the 2016-2018 term, Program Administrators experienced significant sector-level budget variances; however, in part due to the current MTM rules, the Program Administrators did not seek Department-approval of a change in budget. See Columbia Gas of Massachusetts, D.P.U. 19-90, Part 1, at 5 (residential 33 percent variance, C&I 21 percent variance); Liberty Utilities (New England Natural Gas Company) Corp., D.P.U. 19-93, Part 1, at 6 (residential 30 percent variance); Cape

Therefore, the Department proposes to remove Guidelines § 3.8.1(3), and propose a new mid-term modification trigger, Guidelines § 3.8.2(c), which provides for both Council and Department review for an increase or decrease to a three-year term sector budget that is greater than ten percent.

Further, the Department is mindful of the need for a timely review process of a mid-term modification during a three-year term, particularly for modifications of budget levels. In order to streamline the Department's review, rather than requiring the Program Administrators to submit the proposal to the Council and then wait for a Council Resolution to file with the Department, the proposed Guidelines would require the Program Administrators to submit a proposed mid-term modification at the same time to the Department and the Council. The Council will have 60 days from the date of filing to submit a resolution supporting or opposing the proposed mid-term modification. The Department will issue a final decision on the mid-term modification after consideration of the Council's support or opposition. The Department anticipates that any proposed new energy efficiency core initiative, hard-to-measure core initiative, or a demonstration project will be developed with input from the Council prior to filing a proposed mid-term modification.

Light Compact, D.P.U. 19-96, Part 1, at 7 (low-income 37 percent variance, C&I 38 percent variance); Fitchburg Gas and Electric Light Department d/b/a Unitil (Electric Division), D.P.U. 19-97, Part 1 (Supp.), at 6 (residential 27 percent variance, C&I 20 percent); NSTAR Electric Company, D.P.U. 19-99, Part 1 (Revised), at 7 (residential 20 percent variance).

The Department's intent is to provide Program Administrators with the flexibility to respond to changing circumstances, while ensuring that they implement their plans in a manner consistent with the Department-approved plans. 2016-2018 Three-Year Plans Order, at 108, 115-116. The transition from a program budget trigger (requiring Council approval) to a sector budget trigger (requiring both Council and Department approval) is not intended to diminish the advisory role of the Council. Instead, it is intended to add additional Department oversight to changes in budget where warranted. 2016-2018 Three-Year Plans Order, at 108, 115-116.

The Department proposes to amend Guidelines § 3.8 to include these requirements. In addition, the Department proposes to update existing Guidelines §§ 3.8.1(2), 3.8.1(4), and 3.8.2(1) so that mid-term modifications apply to core initiatives as well as programs (see revised Guidelines §§ 3.8.1(a), (b), 3.8.2(a), (b)). See 2016-2018 Three-Year Plans Order, at 77.

D. Demonstration Projects

In several of its latest Orders, the Department addressed the appropriate process and standard of review for both initial approval of and changes to proposed demonstration projects. D.P.U. 16-177, at 6-7; D.P.U. 16-178, at 26-28; and D.P.U. 16-184, at 10-14. In particular, the Department determined that demonstration projects are not properly categorized as traditional hard-to-measure programs (i.e., programs that do not require a showing of cost-effectiveness because they do not have immediate energy savings or their energy savings may be difficult to quantify). D.P.U. 16-178, at 28. Unlike traditional hard-to-measure programs, demonstration projects include new measures, strategies, or technologies that will have measurable benefits and savings or will lead to a better understanding of the potential savings. D.P.U. 16-178, at 28, citing 2016-2018 Three-Year Plans Order, at 141-143; NSTAR Gas Company, D.P.U. 19-120, at 127 n.62 (October 30, 2020). While demonstration projects are not required to be cost-effective at the initial testing and evaluation stage, the addition of a demonstration project must not result in a sector's benefit-cost ratio falling below one. D.P.U. 16-178, at 29, citing D.P.U. 08-50-A at 30. Further, Program Administrators must ensure that any proposed demonstration project is not duplicative of other demonstration offerings either proposed or underway. D.P.U. 16-184, at 14.

Consistent with these findings, the Department proposes to add a definition of "demonstration project" in Guidelines § 2: Definitions. In addition, the Department proposes to add Guidelines § 3.9 to appropriately describe the procedures and standards for the review and evaluation of demonstration projects. The Department also proposes to revise Guidelines § 3.8.2 to clarify the process for proposing a demonstration project through the mid-term modification process.

E. Term Report Template Order

The Department proposes to revise Guidelines § 4: Energy Efficiency Plan Year Performance Reports and Energy Efficiency Three-Year Term Performance Reports to revise the filing schedule to be consistent with the Department's Order in D.P.U. 11-120-B at 9. In particular, the Department proposes to amend Guidelines § 4.1 to require that the Three-Year

Term Reports be filed on or before August 1st of the year following the final plan year. In addition, the Department proposes to revise Guidelines § 4.2 to require that Annual Reports be filed on or before June 1st of the year following the first and second plan implementation years, respectively.[6] These revised filing deadlines are intended to allow Program Administrators sufficient time to submit a complete filing by the applicable deadline and avoid the need for revised or supplemental filings.

F. Application of Evaluation Study Results

In D.P.U. 11-120-A at 14, the Department found that it was important for adjusted gross savings to incorporate the most up-to-date information (from gross savings evaluation studies) and directed Program Administrators to continue to calculate adjusted gross savings, for an applicable program year, on a post-implementation basis using updated gross impact factors (e.g., savings, measure lives, and baselines) from recently completed evaluation studies (i.e., retrospective application of updated factors). D.P.U. 11-120-A at 14. For net savings, however, the Department directed Program Administrators to apply net-to-gross ratios (i.e., net impact factors) prospectively for the subsequent three-year plan ("lock-in

---

6 For both the 2013 and 2014 plan years, the Program Administrators filed motions for extension of time past the original May 1st filing date. The Program Administrators filed their 2013 annual reports with the Department on June 2, 2014 in 2013 Plan-Year Report, D.P.U. 14-87. 2013 Energy Efficiency Plan-Year Report, D.P.U. 14-87, Stamp-Granted Joint Motion for Extension of Deadline to File (May 28, 2014). The Program Administrators filed their 2014 annual reports with the Department on June 5, 2015 in D.P.U. 15-49. 2014 Energy Efficiency Plan-Year Report, D.P.U. 15-49, Stamp-Granted Joint Motion for Extension of Deadline to File (April 28, 2014).

period") to determine net savings for the purpose of calculating cost-effectiveness. D.P.U. 11-120-A at 15-16. This disparate treatment of net-to-gross ratios and other evaluation results complicates the planning process and reduces certainty for Program Administrators, which may deter innovation and aggressively pursuing new energy efficiency opportunities. Therefore, the Department proposes to apply evaluation results, including gross impact factors, prospectively to align with its determination in D.P.U. 11-120-A to apply net-to-gross ratios prospectively. A report by the American Council for an Energy-Efficient Economy("ACEEE") found that about half of states applied net evaluation results prospectively and supported prospective application of results to avoid "chang[ing] the playing field" for program savings.[7] Thus, applying evaluation results on a prospective basis only will provide more certainty in the planning process, yet not frustrate the goal of using the most up-to-date information to calculate adjusted gross savings and benefits.

The Department also proposes applying all evaluation results, including net-to-gross ratios, prospectively to the next program year without a three-year lock-in period. After one program year, savings and benefits may be updated based on the results of a new evaluation, measurement, and verification ("EM&V") study to reflect changes in program delivery or the market. The Department recognizes that the potential benefits to this change would be twofold. First, there is currently a considerable lag between a customer's participation in a

---

7 York, Dan, Charlotte Cohn, and Martin Kushler (2020), *National Survey of State Policies and Practices for Energy Efficiency Program Evaluation*, American Council for an Energy-Efficient Economy Research Report. https://www.aceee.org/research-report/u2009.

program and the collection of net-to-gross data via surveys or market data. This lag means that respondents are less likely to accurately recall their decision-making process and its counterfactual (i.e., what they would have done in the absence of a rebate or program). On the other hand, capturing participant and non-participant spillover (i.e., energy savings actions taken outside of the program and without an incentive) generally requires more time to observe an impact, and therefore applying very recent net-to-gross ratios may mute market effects. Evaluators would need to balance these considerations when planning the timing of net-to-gross studies. Allowing Program Administrators to update impact factors and net-to-gross ratios on an annual basis would enable evaluators to collect data on a rolling basis, closer to the time of program participation, thus ensuring the most up-to-date information is being used.

Second, there is pressure under the current policy to complete all applicable EM&V studies as close to the end of the three-year term as possible to ensure that the most recent data is used. Net-to-gross evaluations can provide valuable feedback on the effectiveness of a measure or program and should not be reserved for the final year of the three-year cycle. The Department also expects that the current planning process that allows time for observation of market effects will continue to ensure that program savings results are accurate. Allowing annual updates, however, would allow various impact factors and net-to-gross ratios to be assessed on a more regular basis and allow EM&V studies to be spread throughout the multi-year program cycle. Therefore, planning the studies, timing the application of the results, and allowing proper feedback on the implication of the programs will be critical to maximize the value of these studies. This has the potential to increase the accuracy of the impact factors and net-to-gross ratios while decreasing the cost of the EM&V studies.

G. Electric Low-Income EES Calculation

The existing Guidelines require a separate electric EES for the low-income, residential, and C&I customer sectors. Guidelines § 3.2.1.6. Further, distribution companies are required to provide a discount off the total bill for low-income customers at levels comparable to the discount rate in effect prior to March 1, 1998, which amounted to a 25 percent discount rate. G.L. c 164, § 1F; Massachusetts Electric Company and Nantucket Electric Company, D.P.U. 09-39, at 430, 432 (2009). The interaction of these two policies has resulted in a significant subsidy to the low-income sector. Initially, the Department found this approach acceptable because the addition of the EES discount to the 25 percent low-income discount rate was relatively small and not in conflict with the Department's directives. D.P.U. 10-09-A at 32-33.

Since establishing the low-income EES, the low-income discount rate for electric distribution companies has increased substantially, and the Department's prior findings may no longer be applicable. See NSTAR Electric Company and Western Massachusetts Electric Company, D.P.U. 17-05-B at 158 (2018) (36 percent); Massachusetts Electric Company and Nantucket Electric Company, D.P.U. 18-150, at 518 (2019) (32 percent); Fitchburg Gas and Electric Light Company (electric division), D.P.U. 19-130, at 11 (April 17, 2020) (34.5 percent). Therefore, to align the method by which the electric distribution companies collect the revenues from customers required to fund low-income programs with the Department's directives in Cost Based Rate Design, D.P.U. 12-126A through 12-126I (2013), we propose to revise the low-income electric EES calculation to be more consistent with the gas EES calculation.[8] The Department proposes a low-income allocation factor, where low-income energy efficiency program costs are allocated among the residential and C&I sectors using a distribution revenue allocator and collect the resulting allocation from each rate class in the sector using a volumetric charge. D.P.U. 12-126A through 12-126I at 23. This would result in two surcharges, one for the residential sector, including low-income, and one for the C&I sector (e.g., the same structure as the gas EES). Low-income customers will continue to receive a discount on their total electric bill.

H. Other Guidelines Revisions[9]

1. Guidelines § 3.4.4: Benefits

The Guidelines currently define benefits separately for gas Program Administrators in Guidelines § 3.4.4.2 and for electric Program Administrators in Guidelines § 3.4.4.1. In recent three-year plan filings, both gas and electric Program Administrators used the same

---

8 In Cost Based Rate Design Reconciling Mechanisms, D.P.U. 12-126 (2013), the Department revised the method by which the electric and gas distribution companies collect the revenues from customers required to fund low-income programs.

9 In 2018, the Department stated that the Program Administrators are no longer required to file the tables or related information as required by Guidelines §§ 3.2.1.7, 3.2.2.4, 3.3.5, 3.3.7, or 3.4.4.3. See D.P.U. 18-110 through D.P.U. 18-119, Procedural Memorandum (October 3, 2018). The Department has revised the Guidelines to reflect the removal of the requirement to file tables in accordance with Guidelines §§ 3.2.1.7, 3.2.2.4, 3.3.5, 3.3.7, or 3.4.4.3.

categories of program benefits in their data tables. To simplify the Guidelines and align them with current reporting practices, the Department proposes to amend Guidelines § 3.4.4 to establish a single set of benefits for all Program Administrators.

2. Guidelines § 3.5: Evaluation Plans

Guidelines § 3.5.2 requires each three-year plan to include an evaluation plan describing how the Program Administrator will evaluate energy efficiency programs during the term. In recent three-year plans, the Program Administrators provided a statewide strategic evaluation plan to demonstrate the appropriate level of funding, scope, oversight, and planning of upcoming evaluation activities. See, e.g., 2016-2018 Three-Year Plans Order, Exh. 1, Att. S; 2019-2021 Three-Year Plans Order, Exh. 1, Att. S. Specifically, the Program Administrators included a series of work plans for future evaluation studies.[10] 2016-2018 Three-Year Plans Order, at 30; 2019-2021 Three-Year Plans Order, at 36. In addition, each Program Administrator filed separate documentation to support its savings assumptions and calculations, including completed evaluation studies that were applied to the three- year plans. See 2016-2018 Three-Year Plans Order, Exh. 1, Apps. T & U; 2019-2021 Three-Year Plans Order, Exh. 1, Apps. T & U.

The Department proposes to revise Guidelines § 3.5: Evaluations Plan to reflect the information provided by the Program Administrators in the Three-Year Plan and Term Reports, in addition to the information that the Department currently requires, to properly

[10] Work plans are proposed evaluations in early planning stages; they are not completed evaluation studies.

evaluate both completed evaluation studies and proposed evaluation plans. The Department's proposed revisions are in: (1) strategic evaluation plans in § 3.5.2 and § 3.5.2.1; (2) evaluation work plans in § 3.5.2.1.1, and (3) completed evaluation studies in § 3.5.3. These changes are intended to incorporate the information available to Program Administrators regarding their evaluation studies and proposed work plans as well as the information needed for the Department to evaluate each study and plan.[11]

3. Hard-to-Measure Core Initiatives and Programs

In the 2013-2015 energy efficiency plan filings, the Program Administrators proposed to re-categorize programs as core initiatives and define programs as a bundle of its component core initiatives. 2013-2015 Three-Year Plans Order, at 105. The Department accepted this re-categorization, recognizing the benefit of providing the Program Administrators additional flexibility in delivering their energy efficiency plans. To recognize this change, the Department proposes a definition for "hard-to-measure core initiatives" in Guidelines § 2 in order to differentiate them from hard-to-measure programs. Also, similar to the proposal in Section II.C above regarding mid-term modifications, the Department must review significant sector budget changes that would lead to an increase in rates for residential or C&I customers. Therefore, the Department proposes to revise Guidelines § 3.8.1(1) to § 3.8.2 so that the addition of a hard-to-measure core initiative or hard-to-measure program requires Department review in addition to Council review.

---

[11] Completed evaluation studies submitted with the Annual Report (i.e., Plan Year) and the Term Report are not currently addressed in § 3.5.2.

4. Guidelines § 3.2: Funding Sources (Electric)

When the Guidelines were revised in D.P.U. 08-50-B and D.P.U. 11-120-A, Phase II, electric Program Administrators did not yet have approved EES tariffs in place to show the calculation of the EES to recover energy efficiency-related costs from customers. Therefore, the Department included a step-by-step calculation in Guidelines § 3.2: Funding Sources for each electric Program Administrator to calculate a residential, low-income, and C&I EES. See Massachusetts Electric Company and Nantucket Electric Company, D.P.U. 08-129, at 47 (2009). Since 2015, electric Program Administrators have had approved EES tariffs in place memorializing such calculations. D.P.U. 10-07-A through D.P.U. 10-09-A at 48. Thus, the calculation in Guidelines § 3.2 is no longer needed. In an effort to ensure consistency, and replace or delete duplicative or unnecessary information, the Department proposes to revise the following subsections of Guidelines § 3.2: Funding Sources: 3.2.1.2, 3.2.1.3, 3.2.1.4, 3.2.1.5, and 3.2.1.6.

5. Guidelines § 3.4.7: All Available Energy Efficiency

The Green Communities Act mandates that electric and natural gas resources must be first met through all energy efficiency and demand reduction resources that are cost effective or less expensive than supply, and that three-year plans must provide for these resources with the lowest reasonable customer contribution. G.L. c. 25 §§ 21(a), 21(b)(1). Section 3.4.7 of the Guidelines, however, do not currently provide any specific guidance regarding how Program Administrators can meet this requirement, nor does it provide guidance on savings goals. In the 2019-2021 Three Year Plans Order, at 9, the Department found that, in reviewing a Program Administrator's savings goal, the Department must ensure that each Program Administrator takes appropriate steps to demonstrate that its three-year plan (1) establishes a sustainable effort in its continued delivery of energy efficiency, (2) considers new technologies and enhancements, (3) includes the results of avoided costs, potential studies, and EM&V studies, and (4) seeks to design programs to address identified barriers. See 2016-2018 Three-Year Plans Order, at 25-27; 2013-2015 Three-Year Plans Order, at 37-40. These issues are relevant to the Department's ultimate determination of whether the three-year plans will provide for the acquisition of all available cost-effective energy efficiency and demand reduction resources. See G.L. c. 25, §§ 19(a), 19(b), 21(b)(1). The Department proposes to amend Guidelines § 3.4.7: All Available Energy Efficiency to incorporate these requirements to support this mandate. Further, the Department proposes to amend Guidelines § 3.4.7 to incorporate the existing requirement for each Program Administrator to provide savings goals by program and core initiative for each fuel, as well as a net lifetime all fuel savings goal, which are used to evaluate the degree to which proposed three-year plans achieve their stated goal of reducing energy usage. 2019-2021 Three-Year Plans Order, at 156-157.

6. Guidelines § 3.7: Department Review of Energy Efficiency Plans

The Department proposes revisions to Guidelines § 3.7 to reflect the changes to the Procedural Tracks established in D.P.U. 18-110 through 18-119, Procedural Memorandum (October 3, 2018). The Department's proposed revisions establish two procedural tracks, general and alternate, with the expectation that most, if not all, intervenors will be on the general track. The Department proposes to amend Guidelines § 3.7.2(a) to clarify what factors the Department will consider when determining whether an entity will be considered a general track or alternate track participant if granted intervenor status.

In addition, the Department proposes to modify Guidelines § 3.7.3: Model Procedural Schedule to allow for a longer discovery period. The Department is cognizant that the short 90-day review period mandated by G.L. c 25, § 21(d)(2) must allow sufficient time for discovery, Department review, briefing, and issuance of a final Order approving an energy efficiency plan. It is the Department's experience in adjudicatory proceedings that a robust discovery period mitigates against the need for a longer evidentiary hearing. The Department has found this to be particularly true in prior three-year plan proceedings. Thus, the Model Procedural Schedule has been revised to: (1) remove the requirement of a technical session, (2) extend the discovery period by two days to allow more discovery on intervenor testimony, if any, and (3) shorten the evidentiary hearing period by two days.

III. PUBLIC PARTICIPATION IN THIS INVESTIGATION

The Department invites all interested persons to participate in this investigation. Interested persons may file comments on the issues and questions discussed above. The Department anticipates that a number of persons will be interested in this proceeding. Therefore, the Department encourages interested persons to present consensus positions and submit comments jointly, when possible. Initial written comments must be filed no later than the close of business on January 8, 2021. Reply written comments must be filed no later than the close of business on January 25, 2021. Comments may not exceed 35 pages in length.

At this time, because of the COVID-19 state of emergency issued by Governor Baker on March 10, 2020 and ongoing limitations, all filings will be submitted only in electronic format in recognition of the difficulty that parties and the Department may have filing and receiving original copies. Parties must retain the original paper version, and the Department will later determine when the paper version must be filed with the Department Secretary. All documents must be submitted to the Department in .pdf format by e-mail attachment to peter.ray@mass.gov and joseph.f.dorfler@mass.gov. The text of the e-mail must specify: (1) the docket number of the proceeding (D.P.U. 20-150); (2) the name of the person or company submitting the filing; and (3) a brief descriptive title of the document. The electronic filing should also include the name, title, and telephone number of a person to contact in the event of questions about the filing. The electronic file name should identify the document but should not exceed 50 characters in length. Importantly, all large files submitted must be broken down into electronic files that do not exceed 20 MB. All documents submitted in electronic format will be posted on the Department's website through our online File Room as soon as practicable (enter "20-150") at: https://eeaonline.eea.state.ma.us/DPU/Fileroom/dockets/bynumber. Documents filed in this proceeding will not be available for public viewing at the Department because of the COVID-19 pandemic. All documents, pleadings, or filings submitted to or issued by the Department will be available on the Department's website as referenced above as soon as practicable. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), contact the Department's ADA coordinator at DPUADACoordinator@mass.gov.

IV. ORDER

Accordingly, the Department

VOTES: To open an investigation into Updating its Energy Efficiency Guidelines; and it is

ORDERED: That the Secretary of the Department shall publish notice of this investigation in a statewide paper of daily circulation within the Commonwealth of Massachusetts; and it is

FURTHER ORDERED: That the Secretary of the Department shall send a copy of this Order to the service lists in 2019-2021 Three-Year Energy Efficiency Plans, D.P.U. 18-110 through D.P.U. 18-115.

By Order of the Department,

Matthew H. Nelson, Chair

Robert E. Hayden, Commissioner

Cecile M. Fraser, Commissioner