

The Commonwealth of Massachusetts

DEPARTMENT OF PUBLIC UTILITIES

D.P.U. 21-50-A

February 23, 2024

Notice of Inquiry by the Department of Public Utilities on its own Motion into procedures for enhancing public awareness of and participation in its proceedings.

ORDER ESTABLISHING TIERING AND OUTREACH POLICY

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I. INTRODUCTION AND PROCEDURAL HISTORY

On April 16, 2021, the Department of Public Utilities (“Department”) issued a Vote and Order opening this inquiry to examine procedural enhancements to its public notice requirements to increase public awareness of and participation in Department proceedings. The Department docketed this proceeding as D.P.U. 21-50.

On December 28, 2022, after receiving comments from various individuals and entities, and conducting a virtual stakeholder roundtable in coordination with the Energy Facilities Siting Board (“EFSB”),¹ the Department issued an Interlocutory Order and Draft Policy on Enhancing Public Awareness and Participation (“Draft Policy”), with a request for comments on the Draft Policy that was set forth on pages 8-9. D.P.U. 21-50, at 9-10. The Department developed the Draft Policy to support the Department’s public engagement objectives while balancing the rights of parties to an administratively efficient review of proposals, the interests of stakeholders and members of the public, and the costs of conducting a proceeding. D.P.U. 21-50, at 7. The Draft Policy proposed grouping Department proceedings into three different tiers, depending on case complexity and significance, with different publication and outreach requirements

¹ The EFSB -- which opened its own proceeding into examining procedural enhancements, docketed as EFSB21-01 -- reviews proposed large energy facilities, including power plants, electric transmission lines, intrastate natural gas pipelines, and natural gas storage tanks. See generally G.L. c. 164, §§ 69H – 69Q. While the Department administratively supports the work of the EFSB, the EFSB is not under the supervision and control of the Department and makes its decisions independently from the Department. G.L. c. 164, § 69H; see also Department of Public Utilities, Energy Facilities Siting Board, <https://www.mass.gov/orgs/energy-facilities-siting-board> (last visited on December 3, 2023).

appropriate to each tier. Draft Policy § 1. Further details regarding the Draft Policy are set forth below.

The following entities provided comments on the Draft Policy on January 20, 2023:

(1) the Attorney General of the Commonwealth of Massachusetts (“Attorney General”); (2) the Massachusetts Department of Energy Resources (“DOER”); (3) Conservation Law Foundation (“CLF”); (4) the Pipe Line Awareness Network for the Northeast, Inc. (“PLAN”); (5) the Town of Hopkinton; (6) the Environmental Defense Fund (“EDF”), Boston Residents Group, and Vote Solar jointly; and (7) the distribution companies jointly.² After reviewing the comments, the Department announced that it would conduct a virtual technical conference to discuss certain details of the Draft Policy. D.P.U. 21-50, Hearing Officer Memorandum Announcing Technical Conference (dated June 10, 2023; issued June 27, 2023). Prior to the technical conference, the Department issued an agenda that included a proposed tiering chart categorizing specific Department proceedings by tier; other items on the agenda included details regarding petitioner outreach and the use of plain language summaries. D.P.U. 21-50, Hearing Officer Memorandum on Technical Conference Agenda and Guidelines (July 11, 2023).

A broad range of interested stakeholders participated in the July 24, 2023 technical conference, including: (1) the Attorney General; (2) DOER; (3) CLF; (4) PLAN; (5) EDF; (6) Boston Residents Group; (7) Vote Solar; (8) NSTAR Electric Company, NSTAR Gas

² The following distribution companies submitted joint comments: Boston Gas Company, Massachusetts Electric Company, and Nantucket Electric Company, each d/b/a National Grid; NSTAR Electric Company, NSTAR Gas Company, and Eversource Gas Company of Massachusetts, each d/b/a Eversource Energy; Liberty Utilities (New England Gas Company) Corp. d/b/a Liberty; The Berkshire Gas Company; and Fitchburg Gas and Electric Light Company d/b/a Unitil.

Company, and Eversource Gas Company of Massachusetts, each d/b/a Eversource Energy; (9) Boston Gas Company, Massachusetts Electric Company, and Nantucket Electric Company, each d/b/a National Grid; (10) Liberty Utilities (New England Gas Company) Corp. d/b/a Liberty; (11) The Berkshire Gas Company; and (12) Fitchburg Gas and Electric Light Company d/b/a Unitil.

Following the technical conference, the Department sought written comments from the distribution list for this proceeding on the issues discussed at the technical conference. Further, as requested at the technical conference, the Department emailed the participants a list of questions raised at the technical conference and invited comment on them. The following entities provided comments in August 2023: (1) the Attorney General; (2) DOER; (3) CLF and EDF jointly; (4) PLAN; (5) Berkshire Environmental Action Team (“BEAT”); and (6) the distribution companies jointly.³

Generally, the commenters support the Department’s proposed tiering and outreach policy, as set forth in the Draft Policy and proposed tiering chart, but recommend certain modifications. In this Order, the Department summarizes the comments, addresses modifications to the Draft Policy and tiering chart, and provides its Tiering and Outreach Policy.

II. DRAFT POLICY AND TIERING CHART

In its Draft Policy, the Department stated that different types of proceedings should merit different levels of publication and outreach, with certain proceedings receiving the greatest level

³ Most of the comments submitted after the technical conference were substantially similar to those provided on the Draft Policy on January 20, 2023, or raised issues outside the scope of this Order. Accordingly, this Order focuses on the most recently submitted comments.

of publication and outreach and less significant and routine cases requiring less publication and outreach. Draft Policy § 1. The Draft Policy also stated that, when making a filing seeking Department review and approval, a petitioner must include with the filing an outreach plan relevant to the subject matter and geographic scope of the filing and consistent with the level of scrutiny required by the tier into which it falls. Draft Policy § 2.

The Draft Policy provided criteria for different tiers of proceedings as guidance to petitioners on the expected level of publication and outreach for each type of proceeding; the Department noted, however, that it would determine under which tier each proceeding fell on a case-by-case basis. Draft Policy § 1. Tier 1 proceedings would be “major, significant proceedings (which may include gas or electric base distribution rate cases or significant policy change initiatives) or proceedings with significant geographic-specific impact on environmental justice (“EJ”) populations (as identified by the Massachusetts EJ information and maps, <https://www.mass.gov/environmental-justice>).” Draft Policy § 1. Tier 2 proceedings would encompass the majority of proceedings, including ratemakings, rulemakings, and proceedings requiring public hearings (which may include Department policy change initiatives, rulemaking proceedings, and gas forecast and supply plans). Draft Policy § 1. Tier 3 proceedings would encompass routine proceedings that do not include a public hearing (which may include annual rate-setting filings (e.g., gas adjustment factor filings, basic service filings, true-up filings), service quality filings, and informational filings). Draft Policy § 1.

The Draft Policy further provided the following publication and outreach requirements for each tier. Tier 1 proceedings would receive: (1) prominent publication on the petitioner’s website; (2) newspaper postings; (3) outreach to interested persons and service lists; (4) email

notification to customers; (5) outreach to municipal and community leaders; (6) social media posts; (7) bill inserts for base distribution rate cases and significant policy change initiatives; and (8) translated notices and interpretation services at the public hearings. Draft Policy § 1. Tier 2 proceedings would receive: (1) prominent publication on the petitioner's website;⁴ (2) newspaper postings; and (3) outreach to interested persons and service lists. Draft Policy § 1. Tier 3 proceedings would receive: (1) prominent publication on the petitioner's website; and (2) outreach to service lists. Draft Policy § 1.

Prior to the July 24, 2023, technical conference, the Department proposed a tiering chart for discussion. D.P.U. 21-50, Hearing Officer Memorandum on Technical Conference (July 11, 2023). The tiering chart specified the tier in which the majority of Department proceedings belong, rather than providing criteria for determination on a case-by-case basis. The tiering chart also provided further clarification on the types of proceedings that would fall within Tier 1. In particular, the tiering chart specified that Tier 1 proceedings "have a significant geographic-specific impact on an EJ population that is not shared by the rest of the service territory." D.P.U. 21-50, Hearing Officer Memorandum on Technical Conference at 2 (July 11, 2023). Thus, by proposing use of the tiering chart, the Department sought to explore a shift in its approach from a case-by-case tiering determination made by the Department to an expectation that a petitioner would refer to the tiering chart and prepare an outreach plan consistent with the established tiering level for that type of proceeding.

⁴ The Department acknowledges that there may be some small petitioners that do not maintain a website, such as brokers. Thus, for those proceedings involving small petitioners that do not maintain a website, the Department will forgo this requirement.

III. SUMMARY OF COMMENTS

A. Tiering Proposal

1. Tier 1 Criteria

a. CLF and EDF

CLF and EDF recommend that the Department define Tier 1 proceedings with a “significant geographic-specific impact on an environmental justice (“EJ”) population” in a manner that reflects the effects of the proceeding on an EJ population as they relate to: (1) clean air and water; (2) green space; (3) public health; (4) heat island impacts; (5) public transportation and roadway infrastructure; (6) aesthetic impacts; (7) long-term economic impacts on the relevant EJ population; and (8) any project that may result in a net increase of greenhouse gas (“GHG”) emissions during the lifespan of the project (CLF and EDF Comments at 4).

b. BEAT

BEAT states that the proposed tiering system represents a good start toward formulating a policy but contends that terms like “major,” “significant,” and “fundamental” may be too general and, therefore, should not be used as criteria for determining the tiering level of a Department proceeding (BEAT Comments at 1). Instead, BEAT recommends that the Department conduct a public hearing process to revise its tiering criteria (BEAT Comments at 1).

c. Distribution Companies

The distribution companies recommend defining the term “significant geographic-specific impact” to mean a material, long-term environmental or economic effect on an EJ population (Distribution Companies Comments at 9). The distribution companies also

contend that EFSB cases, filings made pursuant to G.L. c. 164 § 72,⁵ and zoning exemptions should not rise to the level of a Tier 1 proceeding, as those projects are geographically limited and broad notice would create unnecessary anxiety, contribute to notice fatigue, and potentially encourage unhelpful intervention that would serve only to delay project review (Distribution Companies Comments at 9). Alternatively, the distribution companies recommend that the Department clarify in its final policy that these filings require additional geographic-specific notice and not broader notice across the distribution company's service territory (Distribution Companies Comments at 9).

2. Tiering Determination

The Attorney General urges the Department to incorporate into its final policy a formalized timeline with deadlines for petitioners to request a tiering determination from the Department and for the Department to issue its tiering determination (Attorney General Comments at 5). The Attorney General also recommends that tiering determinations for Tier 1 and Tier 2 proceedings be established early in the process to allow petitioners sufficient time to prepare for and conduct community outreach before filing a petition with the Department (Attorney General Comments at 5).

In addition, the Attorney General recommends that the Department clearly state in the final policy that the Department can elevate but not lower a proceeding's tiering level (Attorney

⁵ General Laws c. 164, § 72 is a statute that enables the Department to authorize electric companies to take by eminent domain such lands, or such rights of way or other easements therein, necessary for the construction and use or continued use as constructed or with altered construction of such line along the route prescribed in the order of the Department. Boston Edison Company, D.T.E. 99-57, at 1 (1999).

General Comments at 5). The Attorney General also recommends that the Department establish a mechanism by which the Department can change its tiering determination or the default tiering level of the proceeding based on stakeholder input (Attorney General Comments at 5). Finally, the Attorney General encourages the Department to incorporate into its final policy: (1) a process by which stakeholders can request reconsideration of the Department's initial tiering determination; and (2) parameters for when the Department will, on its own accord, elevate a proceeding's tiering designation (Attorney General Comments at 6).

B. Petitioner Outreach

1. Timing of Outreach

a. Attorney General

The Attorney General contends that petitioners should be required to conduct outreach early in a proceeding to ensure that stakeholders have an opportunity to effectively participate in a proceeding (Attorney General Comments at 8). For Tier 1 and Tier 2 proceedings, the Attorney General argues that it may be appropriate for petitioners to conduct outreach before a filing is made with the Department so that stakeholder feedback can be incorporated into the petitioner's filing (Attorney General Comments at 8). The Attorney General asserts, however, that the Department should seek input from interested stakeholders on the timing of petitioner outreach for each tier designation (Attorney General Comments at 8). At a minimum, the Attorney General contends that the Department should ensure that petitioner outreach is conducted well in advance of the public comment deadline of the proceeding (Attorney General Comments at 8-9). Finally, the Attorney General argues that the Department's final policy

should incorporate clear guidelines for the timing by which each step of the petitioner outreach plan must occur (Attorney General Comments at 9).

b. CLF and EDF

CLF and EDF recommend that a distribution company immediately engage with municipal officials and other known advocates of the affected community when it plans to make a filing to discuss a framework for meaningful community engagement (CLF and EDF Comments at 5). CLF and EDF contend that the timeline for such coordination will need to be determined on a case-by-case basis but should occur no less than 30 days before a filing is made (CLF and EDF Comments at 5).

c. BEAT

BEAT argues that petitioners should be required to provide at least five weeks' notice of any events or deadlines so that community organizations can share that information in their monthly meetings or newsletters (BEAT Comments at 2).

2. Content of Petitioner Outreach Plans

a. Attorney General

The Attorney General contends that the information provided in petitioner outreach plans must: (1) be clear and easy to understand, with no ambiguity or unnecessarily difficult words; (2) be offered in multiple languages relevant to the community; and (3) clearly identify the potential impacts of the proceeding on customers (Attorney General Comments at 9). The Attorney General also argues that petitioners should be required to provide plain language notices and summaries of petitions (Attorney General Comments at 9).

b. DOER

DOER contends that petitioners should be required to provide local government and elected officials with information and plain language summaries on the relevance and implications of the proceeding as part of their petitioner outreach plans (DOER Comments at 2, 5). In addition, DOER recommends that petitioner outreach plans include information on important deadlines, how to participate in the proceeding, and how public comments are considered by the Department in different proceedings (DOER Comments at 5-6).

c. CLF and EDF

CLF and EDF argue that all communities should be provided with complete and transparent information on the purported benefits and any potential consequences of the proposed project, as well as any alternatives to the project that the petitioner considered (CLF and EDF Comments at 2).

d. BEAT

BEAT contends that petitioner outreach plans should include: (1) basic information about the proceeding; (2) links to relevant information about the proceeding, including the impacts of the proceeding on customers; and (3) applicable deadlines for public participation in the proceeding (BEAT Comments at 2).

3. Outreach Requirements

a. Attorney General

The Attorney General urges the Department to develop and maintain a list of municipal contacts and community organizations to receive notice, which the distribution companies can expand based on their existing contacts, their proposal, and the knowledge of their particular service area (Attorney General Comments at 10). Further, the Attorney General asserts that there

are municipalities, stakeholder groups, and community leaders with significant interest and expertise in matters associated with Tier 2 proceedings (Attorney General Comments at 7). As such, the Attorney General recommends that the Department expand the outreach requirements for Tier 2 proceedings to include outreach to municipal and community leaders and social media posts with information about the proceeding (Attorney General Comments at 6). For Tier 1 and Tier 2 proceedings as well as highly technical proceedings, the Attorney General recommends that the Department consider requiring petitioners to include additional educational materials or links to additional materials related to the proceeding (Attorney General Comments at 9).

b. DOER

DOER contends that petitioners should be required to tailor communications with each municipality based on its form of government (DOER Comments at 3, 4). DOER also recommends that petitioners use the Division of Local Services Gateway and the Massachusetts Municipal Association's municipal directory and map to identify the appropriate contacts for each municipality (DOER Comments at 3-4). Additionally, DOER recommends that the Department require petitioners as part of their outreach plans to: (1) notify regional planning agencies of the proceeding; (2) coordinate with DOER's Green Communities Division to send notifications about the proceeding to its listserv; (3) post physical flyers in municipal buildings, including town halls, libraries, and any other municipal buildings where community members frequently visit or gather; and (4) partner with municipalities so that notifications are posted to city and town websites, posted to city and town social media accounts, and emailed to residents using the municipalities' listservs in the languages most spoken by the residents and businesses of that municipality (DOER Comments at 4). DOER further recommends that the Department

establish dedicated webpages for all Tier 1 proceedings with links that allow interested persons to sign up to receive notifications related to the proceeding (DOER Comments at 5).

c. CLF and EDF

CLF and EDF urge the Department to require petitioners as part of their outreach plans to hold meetings with municipal officers and staff as well as public input sessions and informational sessions with the community (CLF and EDF Comments at 2). CLF and EDF also argue that the Department should require petitioners to file the materials from any such meetings with the Department for posting on the Department's website (CLF and EDF Comments at 2).

Regarding Tier 1 proceedings, CLF and EDF recommend that the Department require the distribution companies to provide notice of the proceeding to customers through a variety of communication channels, including social media (CLF and EDF Comments at 3). CLF and EDF contend that each community has its own communication preferences and that a one-size-fits-all approach to community outreach is not appropriate (CLF and EDF Comments at 3). Therefore, CLF and EDF recommend that the distribution companies hold discussions with each community about its preferred communication methods (CLF and EDF Comments at 3).

If bill inserts are used to notify customers of Tier 1 proceedings, CLF and EDF contend that the bill inserts should contain bold print, a different color envelope, larger print, or some other distinguishing factor to alert customers that there is important information contained in their bill to review (CLF and EDF Comments at 3). For email and text notifications, CLF and EDF argue that an opt-out option should be made available to customers (CLF and EDF Comments at 3).

d. PLAN

PLAN argues that petitioners should be required to provide notice of Tier 1 proceedings to the clerk and manager of the affected municipality, as well as the selectboard chair or mayor, with instructions to post the notice on the municipality's website and to forward the notice to all municipal committees (PLAN Comments at 3). PLAN also recommends that the distribution companies use the communication channel they currently employ for billing purposes to notify customers of Tier 1 proceedings, in addition to using the company's social media accounts (PLAN Comments at 3). PLAN further supports the publication of dedicated webpages for significant Department proceedings and recommends that the Department establish a subscription service that would enable interested persons to sign up for notifications related to a proceeding of interest (PLAN Comments at 6).

e. Distribution Companies

The distribution companies generally support stakeholder outreach across multiple communication channels (Distribution Companies Comments at 5). Nevertheless, the distribution companies argue that, given their unique service territories, the Department should allow each distribution company to create its own tailored outreach plan by applicable tier to meet the needs of its communities, customers, and stakeholders (Distribution Companies Comments at 2). In addition, the distribution companies contend that they should have the flexibility to determine the appropriate communication channel or suite of communication channels to distribute notices (Distribution Companies Comments at 5).⁶

⁶ The distribution companies do not recommend social media posts or text messaging for distributing Department notices (Distribution Companies Comments at 5).

Additionally, the distribution companies contend that the Department should collaborate with the Executive Office of Energy and Environmental Affairs' EJ Director to develop a targeted list of local advocacy groups to be included on a communications and outreach plan subscriber list and an opportunity for the distribution companies to comment on the proposed list (Distribution Companies Comments at 2). The distribution companies further recommend that the Department maintain the outreach plan subscriber list, organize the outreach plan subscriber list by service territory, and invite interested stakeholders to subscribe to the list (Distribution Companies Comments at 3).

For outreach to municipalities, the distribution companies recommend that the Department allow each distribution company to develop its own standard format for communication with the municipalities in its service territory by applicable tier (Distribution Companies Comments at 4). According to the distribution companies, this approach will result in lower administrative costs and decreased possibility for confusion or unclear messaging (Distribution Companies Comments at 4).

Regarding outreach to local advocacy groups, the distribution companies argue that overcommunication to local advocacy groups could pose challenges for future communication and outreach and could delay proceedings (Distribution Companies Comments at 3). Therefore, the distribution companies recommend that the Department limit requirements on petitioner outreach to local advocacy groups to those with the broadest possible outreach (Distribution Companies Comments at 3). At a minimum, the distribution companies state that they expect to coordinate outreach with a local community action partner agency (Distribution Company Comments at 3).

4. Translation and Interpretation Requirements

a. Attorney General

The Attorney General encourages the Department to develop clear guidelines for when translation and interpretation services must be provided (Attorney General Comments at 10).

b. CLF and EDF

CLF and EDF recommend that the Department provide information sessions for translators and interpreters on the types of proceedings that fall within its jurisdiction as well as on commonly used technical jargon, which would, in turn, increase the accuracy of their translations (CLF and EDF Comments at 4).

c. Distribution Companies

The distribution companies argue that the cost of translation and interpreter services is high; therefore, the distribution companies urge the Department to require translation and interpreter services only for Tier 1 proceedings (Distribution Companies Comments at 8). If the distribution companies are required to procure these services, the distribution companies request that the Department establish a mechanism by which they can recover these costs (Distribution Companies Comments at 8). In addition, the distribution companies request 180 days from the date of issuance of the final policy in this proceeding to research, retain, and onboard translation vendors (Distribution Companies Comments at 8).

5. Oversight of Petitioner Outreach

a. Introduction

At the July 2023 technical conference, the participants discussed the challenges of collaboration between the distribution companies, municipal leaders, and local advocacy groups associated with the petitioner outreach plans, and whether a stakeholder working group or an

alternative process could be used to address these challenges. The Department invited further comment on this topic.

b. Comments

i. Attorney General

The Attorney General contends that the Department should ensure that there is third-party oversight and review of petitioner outreach to monitor the adequacy and efficacy of their outreach efforts (Attorney General Comments at 10).

ii. DOER

DOER urges the Department to conduct an evaluation or solicit feedback from stakeholders, elected officials, and local governments on the adequacy of the petitioner outreach plans so that improvements can be made over time (DOER Comments at 6).

iii. CLF and EDF

CLF and EDF contend that a stakeholder working group would be a valuable tool for addressing concerns with collaboration between the distribution companies and local community members (CLF and EDF Comments at 2). Specifically, CLF and EDF argue that a stakeholder working group could be used to establish best practices and protocols for outreach as well as to establish criteria for evaluation of the petitioner outreach plans (CLF and EDF Comments at 2).

iv. Distribution Companies

The distribution companies argue that any evaluation of their outreach plans should be focused on their outreach efforts rather than on the desired results of such outreach (*i.e.*, greater participation in a Department proceeding) (Distribution Companies Comments at 12).

C. Additional Considerations

1. Use of Stakeholder Input

For Tier 1, Tier 2, and highly technical proceedings, the Attorney General recommends that the Department require petitioners to record stakeholder input and describe how the stakeholder input was considered (Attorney General Comments at 11). The Attorney General contends that this process should occur before the close of discovery to provide the Department and interested parties an opportunity to issue discovery on the stakeholder input received and any modifications to the petitioner's initial proposal based on the stakeholder input (Attorney General Comments at 12).

2. Annual Communication to Customers

a. Introduction

At the July 2023 technical conference, the participants discussed whether the distribution companies should use an annual communication to customers containing a link to the company's website with all pending cases before the Department and information on "opt in" options to receive information on Tier 1 proceedings. The participants also discussed whether this information could be provided as part of a "welcome packet" to new customers. The Department invited further comment on this topic.

b. Comments

i. CLF and EDF

CLF and EDF assert that an annual communication to customers with information about currently pending Department proceedings is insufficient to increase public participation in Department proceedings because Department proceedings are highly technical in nature and an annual communication is likely to be overlooked, lost, deleted, or forgotten (CLF and EDF

Comments at 3). Accordingly, CLF and EDF recommend that the Department require petitioners to send customers a letter or email for each proceeding describing the type and nature of the proceeding, the impact of the proceeding on the individual customer, the impact of the proceeding on the community in which the project is proposed, and the public comment and intervention deadlines (CLF and EDF Comments at 3). CLF and EDF also contend that any such customer communication should include a QR code or link to a sign-up form for additional communication and updates about the project at issue (CLF and EDF Comments at 3).

ii. PLAN

PLAN argues that an annual communication from the distribution companies to ratepayers with general information on matters currently pending before the Department would provide little benefit to customers (PLAN Comments at 4). Instead, PLAN recommends that the distribution companies provide customers with information on each proceeding -- including the availability of any opt-in options to receive information about the proceeding -- through bill inserts or emails as well as the company's social media accounts (PLAN Comments at 4).

iii. Distribution Companies

The distribution companies support an annual communication to customers that describes how to access regulatory materials and participate in Department proceedings, with links to relevant regulatory websites (Distribution Companies Comments at 6). The distribution companies, however, argue that the annual communication should be in the form of an email rather than a letter because of the additional costs required to mail letters to their customers (Distribution Companies Comments at 6).

3. Phased Approach to Initial Implementation

a. Introduction

At the July 2023 technical conference, stakeholders discussed the pros and cons of a phased approach to the initial implementation of the outreach plans, whereby the distribution companies would use an initial phase to coordinate with municipal and community leaders on the communication preferences of each community prior to implementing their outreach plans. The Department invited further comment on this topic.

b. Comments

i. CLF and EDF

CLF and EDF argue that petitioner outreach plans require continuity and specificity and that a phased approach to the initial implementation of the petitioner outreach plans could result in piecemeal planning (CLF and EDF Comments at 5). Accordingly, CLF and EDF urge the Department to reject a phased approach to the initial implementation of the petitioner outreach plans (CLF and EDF Comments at 5).

ii. PLAN

PLAN supports a phased approach to the initial implementation of the petitioner outreach plans (PLAN Comments at 5). PLAN contends that the distribution companies should hold a public meeting with municipal and community leaders as part of the initial phase to solicit feedback on their proposed outreach approaches (PLAN Comments at 5).

iii. Distribution Companies

The distribution companies support a phased approach to the initial implementation of the petitioner outreach plans and recommend a 180-day window from the date of issuance of the final policy in this proceeding for the distribution companies to, among other things, procure

translation vendors, contact municipal officials for their communication preferences, develop a uniform outreach plan by tier, and, if necessary, engage in procurement activities and develop or expand information technology resources (Distribution Companies Comments at 10).

IV. ANALYSIS AND FINDINGS

A. Tiering Proposal

1. Tier 1 Criteria

Several commenters recommend that the Department clarify the language used to define Tier 1 proceedings, particularly the language in the proposed tiering chart regarding Tier 1 proceedings “that have a significant geographic-specific impact on an EJ population that is not shared by the rest of the service territory” (CLF and EDF Comments at 4; BEAT Comments at 1; Distribution Companies Comments at 9). After review of these comments and the proposed language, the Department determines that there is a need for further clarification of this criteria and provides the following explanation. To qualify as a Tier 1 proceeding on this basis, the proceeding must have: (1) a unique and specific impact on an EJ population in a particular geographic area within the petitioner’s service territory that is not shared by the entire service territory (e.g., the siting of a substation or solar farm in an EJ population); and (2) a material impact on safety, security, reliability of service, affordability, equity, or GHG emissions. We find this definition to be consistent with our statutory obligations under G.L. c. 25, § 1A, which requires the Department, with respect to itself and the distribution companies, to “prioritize safety, security, reliability of service, affordability, equity and reductions in [GHG] emissions to meet statewide [GHG] limits and sublimits established pursuant to chapter 21N.” Accordingly, we have added these clarifications to the Tiering and Outreach Policy § 1.

Regarding the distribution companies' contention that EFSB cases, G.L. c. 164, § 72 filings, and zoning exemptions should not rise to the level of a Tier 1 proceeding, the Department first notes that EFSB is conducting its own public access proceeding, EFSB 21-01, and will make its own determinations regarding publication and outreach for EFSB cases. With respect to G.L. c. 164, § 72 filings the Department may need to address the tiering determinations for these proceedings on a case-by-case basis in light of all of the relevant circumstances presented at the time of filing. Lastly, regarding zoning exemptions, the Department notes that it specifically designated these as Tier 1 proceedings in its proposed tiering chart and is maintaining this designation in the Tiering and Outreach Policy § 1. Therefore, the Department declines to implement the distribution companies' recommendation to exclude EFSB cases, G.L. c. 164, § 72 filings, and zoning exemptions from the Tier 1 level. Nevertheless, for zoning exemptions and for proceedings filed pursuant to G.L. c. 164, § 72 that are designated as Tier 1 proceedings, the Department finds it appropriate to require notice and outreach to only those municipalities and customers affected by the proceeding rather than broader notice and outreach to the entire service territory. Tiering and Outreach Policy § 2. In the future, following implementation of the Tiering and Outreach Policy, the Department may find it appropriate to reexamine these decisions based on lessons learned.

The Department also declines to conduct any further process before establishing the tiering levels set forth in the Tiering and Outreach Policy. The Department received many comments from interested stakeholders on its Draft Policy, which included the initial tiering criteria. Draft Policy § 1. The Department also held a technical conference with interested stakeholders on July 24, 2023 to discuss the Department's Draft Policy and the previously

supplied tiering chart, followed by a further opportunity for comments. The Department has incorporated many of the stakeholders' recommendations into its Tiering and Outreach Policy. Therefore, the Department finds it unnecessary to seek additional public comments on its tiering criteria at this time but will incorporate lessons learned in the future.

2. Tiering Determination

The Attorney General offers various comments about the timing of tiering determinations (Attorney General Comments at 5-6). In the Draft Policy, the Department included criteria for the different tiers of proceedings, stating that these criteria were “designed to serve as guidance, but the Department will determine under which tier each proceeding falls on a case-by-case basis.” Draft Policy § 1. The Draft Policy did not specifically address the timing by which the Department would determine the tiering level into which each proceeding falls. The Department recognizes the importance of a timely determination of a proceeding's tier but does not find it necessary at this time to establish a formal tiering determination timeline. Moreover, by proposing a tiering chart for discussion and incorporating a revised version of it into the Tiering and Outreach Policy § 1, the Department has established a process that does not require the Department to make pre-filing tiering determinations. The Department expects that the vast majority of proceedings will accord with the tiering designation provided in the tiering chart. Therefore, prior to filing a petition, a petitioner should refer to the tiering chart and prepare an outreach plan that accords with the tier for that type of proceeding. If a petitioner is uncertain as to the tiering level for a proceeding, the petitioner may contact the Department prior to filing the petition and request Department input with a tiering determination.

In response to the Attorney General's concern about lowering tiering levels, the Department does not envision a scenario in which it would lower a proceeding's tiering level from that identified by a petitioner. Nevertheless, this Tiering and Outreach Policy is the Department's first attempt at categorizing Department proceedings by tier for publication and outreach purposes, and the Department cannot predict with certainty whether a scenario may arise in which a particular proceeding would warrant a lower tier. Accordingly, the Department declines to implement the Attorney General's recommendation to state in the Tiering and Outreach Policy that the Department can elevate but not lower a proceeding's tiering level from that identified by a petitioner.

The Department also finds it premature to incorporate into the Tiering and Outreach Policy parameters for when the Department will, on its own accord, elevate a proceeding's tiering designation, as the Attorney General suggests. The Department will carefully consider all of the circumstances involved in each proceeding, as well as lessons learned through implementation of its Tiering and Outreach Policy, to determine on a case-by-case basis whether to elevate a proceeding's tier from that identified by a petitioner. When a petition is filed, the Department will review the petitioner's choice of tiering level and the associated publication and outreach requirements in light of all of the relevant circumstances presented. If the Department finds that a proceeding's tiering level should be elevated, the Department will inform the petitioner and require an updated publication and outreach plan as necessary.

Finally, the Department finds that it is unnecessary at this time to establish a formal mechanism by which stakeholders can request reconsideration of a tiering determination. The Department recognizes the importance of public involvement and participation in its proceedings

and will consider concerns raised about a proceeding's tiering level. The Department also recognizes the Attorney General's important role as the ratepayer advocate for the Commonwealth and notes that the Attorney General may contact the Department with questions or concerns regarding a particular proceeding's tiering level. Nevertheless, the Department needs to balance the rights of parties to an administratively efficient review of proposals, the ease of implementation, and the cost of conducting a proceeding. The Department is also mindful of its statutory obligations for issuing decisions on certain proceedings within a specific timeframe⁷ and is concerned that, in some circumstances, a request for reconsideration of the tiering determination made after a petition is submitted could significantly delay a final decision in that proceeding. If requested to reconsider a proceeding's tiering level, the Department will consider all of the circumstances involved in the proceeding including, but not limited to, applicable statutory deadlines, the rate and policy implications of the proceeding, the need for enhanced outreach, and stakeholder concerns.

B. Petitioner Outreach

1. Timing of Outreach

The Department's Draft Policy did not specifically address the timing by which petitioners must execute their outreach plans, which led several commenters to offer timing recommendations. The Department recognizes that timely outreach is important to increase public awareness of and participation in its proceedings; the Department also recognizes, however, that its Tiering and Outreach Policy must allow for flexibility to be workable and to

⁷ For example, G. L. c. 164, § 94 requires the Department to issue a decision in a base distribution rate proceeding within ten months.

address unforeseen circumstances. Generally, for proceedings that meet the Tier 1 criteria, the Department expects petitioners to conduct outreach to municipal and community leaders at least 30 days prior to filing a petition with the Department. Tiering and Outreach Policy § 2.a. In circumstances in which a petitioner is unable to conduct outreach to municipal and community leaders at least 30 days prior to filing a petition, the petitioner should include with its filing an explanation as to why it was unable to conduct such outreach within that timeframe. Tiering and Outreach Policy § 2.a.

For Tier 2 and Tier 3 proceedings, which do not require pre-filing outreach, the Tiering and Outreach Policy states that petitioners may create a standard outreach plan, with periodic updates as needed. Tiering and Outreach Policy § 3. The Department will determine the applicable deadlines for outreach on a case-by-case basis in light of all of the relevant circumstances presented at the time the filing is made.

2. Content of Petitioner Outreach Plans

As noted in the comments, petitioner outreach efforts should provide the public with meaningful background information about a proceeding to assist members of the public in making an informed decision as to their level of involvement in a proceeding. The Department acknowledges the technical nature of its proceedings and recognizes that information about its proceedings must be conveyed in the simplest terms possible to meaningfully increase public involvement in its proceedings. Therefore, as stated in the Tiering and Outreach Policy, petitioner outreach plans -- and the outreach itself -- must include plain language summaries of proceedings that are clear and easy to understand. Tiering and Outreach Policy § 3. The plain language summaries must explain the purpose of the filing and identify the potential rate impacts

of the proceeding on customers. Tiering and Outreach Policy § 3. For highly complex proceedings, such as base distribution rate proceedings, the Department encourages, but does not require, petitioners to include as part of their outreach plans additional educational materials or links to additional materials related to the proceeding.

These plain language summaries are intended to be used for informational purposes only and will supplement, rather than replace, the Department's notices in each proceeding. Moreover, these plain language summaries will not be entered into the evidentiary record of the applicable proceeding and will not be considered by the Department in rendering its decision in the matter. The Department will continue to issue a notice and an order of notice for each proceeding as required, containing the Department's own plain language summary of the proceeding as well as relevant deadlines and information on how to participate in the proceeding.

3. Outreach Requirements

The Department recognizes that petitioner outreach is vital to increasing public awareness of Department proceedings and acknowledges the recommendations offered by the commenters. To increase the visibility of Department proceedings and facilitate participation, the Department will endeavor to establish dedicated webpages for all Tier 1 proceedings. In addition, the Department will investigate developing a process by which interested persons can subscribe to a distribution list ("subscription list") for communications about a particular proceeding or a particular type of proceeding (e.g., base distribution rate proceedings) through the Department's website. As soon as this subscription process is fully developed and ready to implement, the Department will announce its availability, as well as provide instructions on how to use it, through a variety of communication channels.

Both the Attorney General and the distribution companies propose that the Department be primarily responsible for developing and maintaining the list of contacts and organizations to be included on communications and outreach (Distribution Companies Comments at 2, 3; Attorney General Comments at 10). The Department, however, finds that this task is more appropriate for the distribution companies, as they have thorough knowledge of their service territories. The Department also expects the distribution companies to participate in active discussions with municipalities, community-based organizations, and other relevant entities in their respective service territories to develop their own specific lists for outreach (“outreach lists”) to supplement the Department’s subscription list. The Department notes that the distribution companies regularly communicate with the municipalities in their service territories as part of their normal business operations through their regulatory liaisons. Therefore, the Department finds it appropriate for the distribution companies to reach out to their municipal contacts to determine the best points of contact for each municipality to receive information regarding Department proceedings as well as their communication preferences.

Because petitioners have vastly different capabilities for communicating with their customers, the Department finds it appropriate to allow each petitioner the flexibility to determine the communication channel, or suite of communication channels, to use for outreach. For Tier 1 proceedings, however, the Department expects petitioners to use at least two communication channels (e.g., bill inserts and customer emails) for outreach to increase the likelihood of reaching the greatest number of customers. Tiering and Outreach Policy § 2.a. In the event a distribution company chooses to conduct outreach via bill inserts, the Department expects that the bill inserts will be differentiated from other bill information (e.g., bold print, a

different color envelope, or larger print) to alert customers that there is important information contained in their bill to review. Tiering and Outreach Policy § 2.a. For email or text communications, the Department expects petitioners to provide customers with the ability to opt out of any such communications in the event the customer desires to do so. Tiering and Outreach Policy § 2.a.

The Department recognizes the significant interest that stakeholders may have in participating in its Tier 2 proceedings and the importance of public participation in those proceedings. At this time, however, the Department declines to implement the Attorney General's recommendation to expand the outreach requirements for Tier 2 proceedings to include outreach to municipal and community leaders and social media posts with information about the proceeding (Attorney General Comments at 6). We find that Tier 2 proceedings, which account for the majority of Department proceedings, do not require the same enhanced level of outreach as Tier 1 proceedings. The Department may reexamine the need to expand the publication and outreach requirements for Tier 2 proceedings in the future based on lessons learned.

4. Translation and Interpretation Requirements

The Attorney General recommends clear guidelines for when translation and interpretation services must be provided (Attorney General Comments at 10). The distribution companies raised concerns about translation and interpretation costs (Distribution Companies Comments at 8).

For Tier 1 proceedings, the Department's Draft Policy required notices to be translated and interpretation services to be provided at public hearings consistent with the Department's

Language Access Plan. Draft Policy § 1. The Draft Policy, however, did not address whether petitioners or the Department would be responsible for procuring the services needed for translation and interpretation. As explained below, the Department has determined that this responsibility will depend on whether the proceeding is initiated by a petitioner or by the Department.

For Tier 1 proceedings initiated by a petitioner, the petitioner shall be required to make all arrangements and cover all expenses associated with language access services (i.e., translation and interpretation services). Tiering and Outreach Policy § 2.a. For pre-filing materials, such as plain language summaries, the Department expects petitioners to translate those documents and distribute them to the outreach list for that proceeding at least 30 days prior to filing the petition, consistent with the Department's determination on outreach timing in Section IV.B.1, above. Tiering and Outreach Policy § 2.a. For Tier 1 proceedings that impact an entire service territory, petitioners shall translate the pre-filing materials into the top three languages spoken in the Commonwealth (i.e., Spanish, Portuguese, and Mandarin) and, to the extent practicable, any additional languages upon request to the petitioner.⁸ Tiering and Outreach Policy § 2.a. The pre-filing materials shall include a statement that translations can be provided in other languages upon request to the petitioner. Tiering and Outreach Policy § 2.a. For Tier 1 proceedings that have a significant geographic-specific impact on an EJ population that is not shared by the rest of the service territory, petitioners shall coordinate with municipal and community leaders in those

⁸ Requests to translate pre-filing materials into additional languages should be directed to the petitioner's point of contact, as described below. The petitioner shall have discretion to determine the reasonableness and feasibility of such requests.

communities to determine the appropriate languages for translation. Petitioners, in coordination with the Department, may determine the languages required for interpretation services at public hearings after filing their petitions. Tiering and Outreach Policy § 2.a. Each petitioner must establish a point of contact who is responsible for responding to requests for translation or interpretation. Petitioners shall include the contact information for its designated point of contact in the pre-filing materials distributed to the outreach list for that proceeding. Tiering and Outreach Policy § 2.a.

For Tier 1 proceedings initiated by the Department, such as a rulemaking or generic investigation, the Department anticipates that it will procure and provide the appropriate language access services. Tiering and Outreach Policy § 2.a. The Department expects to issue an updated Language Access Plan within the next twelve months that will provide further details regarding the Department's language access policies. In addition, the Department expects to develop a list of commonly used technical terms to provide to translators and interpreters in advance to aid them with their translations.

As stated in Section IV.B.3, above, the Department recognizes the significant interest that stakeholders may have in participating in its Tier 2 proceedings and the importance of public participation in those proceedings. At the same time, the Department must balance the need for public participation with the costs of conducting a proceeding. Thus, the Department declines to expand the language access services requirements to Tier 2 proceedings at this time. Rather, the Department may determine whether a petitioner must provide language access services for a particular Tier 2 proceeding in light of all of the relevant circumstances presented at the time the filing is made. The Department may reexamine the need for expanded language access services

in the future based on lessons learned; further, the Department notes that language access services are available upon request to the Language Access Coordinator.⁹

5. Oversight of Petitioner Outreach

Several commenters recommend that the Department establish a process to review the adequacy of petitioner outreach. DOER recommends that the Department conduct an evaluation or solicit feedback from stakeholders, elected officials, and local governments on the adequacy of the petitioner outreach plans so that improvements can be made over time, while the Attorney General argues that the Department should require third-party oversight of outreach (DOER Comments at 6; Attorney General Comments at 10). The distribution companies contend that any evaluation of their outreach plans should be focused on their outreach efforts rather than on the resulting level of public participation in a proceeding (Distribution Companies Comments at 12).

The Department recognizes the importance of petitioner outreach and outreach plans as tools to increase public awareness of Department proceedings, but also recognizes that the Tiering and Outreach Policy must contain sufficient flexibility to respond to unforeseen circumstances. The Tiering and Outreach Policy is intended to help the Department and the distribution companies achieve their mutual goal of increased public participation in Department proceedings. The Department acknowledges, however, that improvements to our Tiering and Outreach Policy and the petitioner outreach plans will need to be made over time based on

⁹ The Language Access Coordinator is responsible for overseeing implementation of the Department's Language Access Plan. Contact information for the Language Access Coordinator is found on <https://www.mass.gov/info-details/dpu-divisions-contact-information#media-contact-information->.

stakeholder input and lessons learned. The Department welcomes feedback on the petitioner outreach plans either directly or through the public comment process for a particular proceeding but declines to establish a process for third-party oversight of petitioner outreach plans at this time. The Department also strongly encourages petitioners to work with the Attorney General, DOER, and other stakeholders to develop their outreach lists and establish best practices and protocols for outreach on an ongoing basis.

C. Additional Considerations

1. Use of Stakeholder Input

The Department's Draft Policy did not address whether or how petitioners must incorporate feedback from interested stakeholders into the proceeding. The Attorney General argues that for Tier 1, Tier 2, and highly technical proceedings, the Department should require petitioners to record stakeholder comments, questions, and concerns, to describe how they considered the stakeholder input, and to file this information before the close of discovery to provide the Department and interested parties an opportunity to issue discovery on the input received and on any modifications to the petitioner's initial proposal based on the stakeholder input (Attorney General Comments at 11-12). The Department declines to do so at this time.

As stated above, the purpose of petitioner outreach is to provide the public with meaningful background information about a proceeding to assist members of the public in understanding the matter and making an informed decision as to their level of involvement in a proceeding. Any person who desires to comment on a petitioner's filing will have an opportunity to do so through the public comment process after the filing is submitted to the

Department. The Department will then use the public comments to aid in its review of the filing and to help guide the discovery process.

2. Annual Communication to Customers

The distribution companies recommend an annual email communication to customers that describes how to access regulatory materials and participate in the Department proceedings, and that includes links to relevant regulatory websites (Distribution Companies Comments at 6). Other commenters argue that an annual communication is insufficient and recommend that the distribution companies issue informational letters or emails to customers for each proceeding (CLF and EDF Comments at 3; PLAN Comments at 4).

As stated above, the Department must balance the need for public participation in its proceedings with the cost of conducting a proceeding. The Department is concerned that requiring communications for each proceeding may be time-consuming and costly, and that the information contained in such communications would overlap with the plain language summaries discussed in Section IV.B.2, above. Therefore, the Department declines to require the distribution companies to provide customers with a letter or email communication for each proceeding. Nevertheless, the Department finds it beneficial to require the distribution companies to issue an annual email communication to customers with the following information: (1) the contact information for the company; (2) a link to the company's website with a list of all pending cases before the Department; and (3) the availability of any "opt-in" options (e.g., text or email) to receive information on Tier 1 proceedings. Tiering and Outreach Policy § 2.d. The Department also encourages the distribution companies to include this information in their new customer welcome packs and quarterly newsletters (or as otherwise scheduled).

3. Phased Approach to Initial Outreach Implementation

The Department's Draft Policy did not address whether the requirement for petitioners to file outreach plans with their petitions will be effective immediately upon issuance of the Department's final policy in this proceeding or whether the implementation of the petitioner outreach plans will occur in phases. The distribution companies and PLAN support a phased approach, whereas CLF and EDF do not (Distribution Companies Comments at 10; PLAN Comments at 5; CLF and EDF Comments at 5). After review of the comments, the Department determines that a phased approach to the initial implementation of the petitioner outreach plans is appropriate. For the first 180 days following the issuance of this Order, petitioners shall:

(1) conduct outreach to municipal and community leaders in their service territories to develop an outreach list to be used to distribute pre-filing materials, Department notices, and other relevant materials for Tier 1 proceedings; (2) procure the necessary resources to provide accurate translation and interpretation services for Tier 1 proceedings; and (3) update the Department on their progress. Within 180 days after the date of this Order, petitioners subject to the Tiering and Outreach Policy must begin filing outreach plans and plain language summaries with any petition seeking Department review and approval.

V. CONCLUSION

In the Tiering and Outreach Policy, the Department has refined and incorporated the tiering chart proposed for discussion at the July 24, 2023 technical conference. In addition, the Department has established the Tiering and Outreach Policy to provide clear guidance to petitioners on the expected level of publication and outreach for each type of Department

proceeding. Finally, the Department has incorporated into the Tiering and Outreach Policy changes to the Draft Policy based on the analyses and findings above.

The Department's goal is to provide meaningful involvement of all people and communities with respect to the development, implementation, and enforcement of energy, climate change, and environmental laws, regulations, and policies and the equitable distribution of energy and environmental benefits and burdens regardless of race, color, national origin, income, or English language proficiency. As stated above, the Tiering and Outreach Policy is the Department's first attempt at categorizing Department proceedings by tiers for publication and outreach purposes. The Department views its Tiering and Outreach Policy as an important step towards making its proceedings more accessible to the public. The Department recognizes, however, that changes to the Tiering and Outreach Policy may be appropriate in the future based on lessons learned and stakeholder feedback, including feedback from any working group established to address these issues.

VI. ORDER

Accordingly, after notice, comment, and due consideration, it is

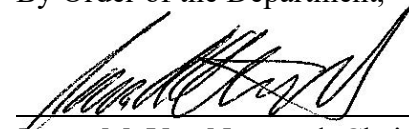
ORDERED: That the Department establish the Tiering and Outreach Policy as set forth herein; and it is

FURTHER ORDERED: That beginning not later than 180 days following the issuance of this Order, each petitioner subject to the Tiering and Outreach Policy must include with its filing of a petition for Department review and approval: (1) an outreach plan relevant to the subject matter and geographic scope of the proceeding and consistent with the level of scrutiny required by the tier into which the proceeding falls; and (2) a plain language summary; and it is

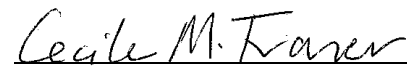
FURTHER ORDERED: That the Secretary of the Department shall distribute electronically and, where requested, serve by mailing this Order on the Department's distribution list for this proceeding; and it is

FURTHER ORDERED: That petitioner subject to the Department's jurisdiction shall comply with all directives contained in this Order.

By Order of the Department,



James M. Van Nostrand, Chair



Cecile M. Fraser, Commissioner

D.P.U. 21-50-A, APPENDIX A: TIERING AND OUTREACH POLICY

1. Types of Proceedings

Different types of Department proceedings merit different levels of publication and outreach, with certain proceedings receiving the greatest level of publication and outreach, and less significant and routine cases requiring less publication and outreach. The Department has determined that each of its proceedings, other than those specifically exempt from this policy,¹⁰ should fit into one of the following tiers:

- Tier 1: proceedings that involve significant policy changes or fundamental changes to process;
- Tier 2: proceedings that generally require public hearings; and
- Tier 3: routine proceedings that do not require public hearings.

In addition, the Department has developed the following tiering chart that indicates into which of the three tiers particular types of proceedings belong:

Tier 1	Tier 2	Tier 3	
Base Distribution Rate cases	Rulemakings	Annual Performance Based Ratemaking adjustments	Gas System Enhancement Plans (“GSEPs”)
Significant Notices of Inquiry: <u>e.g., Investigation Assessing the Future of Natural Gas in Massachusetts</u> , D.P.U. 20-80; <u>Basic Service Investigation</u> , D.P.U. 23-50	Energy Efficiency (“EE”) Plans and Term Reports	Basic Service filings	Reconciling Mechanisms, including but not limited to: True-ups, Pension Adjustment Factors, Revenue Decoupling Adjustment Factors, EE Reconciling Factors, EE Surcharges, Net Metering Recovery Surcharges, Grid Modernization filings, Electric Vehicles, GSEP Reconciliation filings
Mergers	Forecast & Supply Plans	Special Contracts	Informational/Administrative filings

¹⁰ Exempt proceedings involve individual petitioners or complainants seeking adjudication of their individual rights, such as consumer adjudatory proceedings, competitive supplier complaints, Transportation Network Company driver appeals, and Dig Safe adjudatory proceedings.

Tier 1	Tier 2	Tier 3	
Zoning Exemptions	Net Metering (non-reconciling factors)	Gas Adjustment Factor filings	Emergency Response Plans
Proceedings that have a significant geographic-specific impact on an EJ population that is not shared by the rest the service territory ¹¹	Municipal Aggregations	Arrearage Management Plans	Service Quality
Tier 2 or Tier 3 proceedings that have a significant geographic-specific impact on an EJ population that is not shared by the rest of the service territory	Grid Modernization Plans and Grid Modernization Term Reports	Broker/retailer licenses	Depreciation
	Financings		
	Electric Vehicle Plans		
	Long-term Renewable Contracts		

This chart is designed to serve as guidance for petitioners prior to filing their petitions, so that they can conduct any necessary outreach in advance of the filing. Prior to filing a petition, a petitioner may consult with the Department as to which tier applies. The Department will review a petitioner’s selected tier for each proceeding but will not otherwise determine the appropriate tier for a proceeding except upon petitioner request or where the Department deems it necessary.

2. Outreach Requirements for Each Tier

a. Tier 1 Proceedings

Tier 1 proceedings shall receive the following publication and outreach efforts: prominent publication on the petitioner’s website; newspaper postings; outreach to interested persons and service lists; and outreach to municipal and community leaders. Petitioners must work with stakeholders in affected communities to develop outreach plans and determine which platforms or locations to use to publicize notices. Petitioners shall conduct outreach to municipal and community leaders at least 30 days prior to filing a petition with the Department. In circumstances in which a petitioner is unable to conduct outreach to municipal and community

¹¹ To qualify as a Tier 1 proceeding on this basis, the proceeding must have: (1) a unique and specific impact on an EJ population in a particular geographic area within the petitioner’s service territory that is not shared by the entire service territory (e.g., the siting of a substation or solar farm in an EJ population); and (2) a material impact on safety, security, reliability of service, affordability, equity, or GHG emissions.

leaders at least 30 days prior to filing a petition, the petitioner should include with its filing an explanation as to why it was unable to conduct such outreach within that timeframe.

Petitioners must conduct outreach through at least two communication channels and must provide customers with the ability to opt out of email or text communications. For email and text notifications to customers, such notifications shall be only to those customers with email addresses or phone numbers on file with the petitioner and who have not opted out of such notifications. Email and social media notices may be combined with other emails and postings to customers to streamline and reduce the number of communications. For bill inserts, the bill inserts must be differentiated from other bill information (e.g., bold print, a different color envelope, or larger print).

For Tier 1 proceedings initiated by a petitioner, petitioners shall make all arrangements and cover all expenses associated with language access services (i.e., translation and interpretation services). Each petitioner must establish a point of contact who is responsible for responding to requests for translation or interpretation and provide that contact information in the prefiling materials distributed as part of the outreach efforts.

Petitioners must translate prefiling materials, such as plain language summaries, and distribute them as part of the outreach efforts at least 30 days prior to filing the petition. For Tier 1 proceedings that impact an entire service territory, petitioners shall translate the prefiling materials into the top three languages spoken in the Commonwealth (i.e., Spanish, Portuguese, and Mandarin) and any additional languages requested or as determined by petitioners in coordination with municipal and community leaders. Further, interested persons may request that additional languages be accommodated for any Tier 1 proceeding. For Tier 1 proceedings that have a significant geographic-specific impact on an EJ population that is not shared by the rest the service territory, petitioners shall coordinate with municipal and community leaders in those communities to determine the appropriate languages for translation.

In addition, Tier 1 proceedings shall have translated notices and interpretation services at the public hearing. Petitioners, in coordination with the Department, may determine the languages required for notices and interpretation services at public hearings after filing their petitions.

b. Tier 2 Proceedings

Tier 2 proceedings shall receive the following publication and outreach efforts: prominent publication on the petitioner's website¹²; newspaper postings where required; outreach to service lists; and any other publication or outreach the Department requires.

¹² This requirement is not applicable to small petitioners, such as brokers, that do not maintain their own websites.

c. Tier 3 Proceedings

Tier 3 proceedings shall receive the following publication and outreach efforts: prominent publication on the petitioner’s website; outreach to service lists; and any other publication or outreach the Department requires.¹³

d. All Tiered Proceedings

The distribution companies must issue an annual email communication to customers with the following information: (1) the contact information for the company; (2) a link to the company’s website with a list of all pending cases before the Department; and (3) the availability of any “opt-in” options (e.g., text or email) to receive information on Tier 1 proceedings.

3. Petitioner Outreach Plans

Each petitioner of a tiered proceeding subject to this policy must include with its filing of a petition for Department review and approval: (1) an outreach plan relevant to the subject matter and geographic scope of the proceeding and consistent with the level of scrutiny required by the tier into which the proceeding falls; and (2) a plain language summary of the proceeding that is clear and easy to understand, explains the purpose of the filing, and identifies the potential rate impacts of the proceeding on customers.

For Tier 1 proceedings, the outreach plan must include: (1) a list of the municipal and community organizations to whom the notice will be provided; (2) plans for translation and interpretation services (including which languages and the justification for those languages); (3) the plain language summary; and (4) a description of the outreach already conducted and any additional planned outreach efforts. For Tier 2 and Tier 3 proceedings, petitioners may create a standard outreach plan, with periodic updates as needed, and may customize the standard outreach plans as appropriate for their service territories, customers, and stakeholders.

¹³ Customers will continue to receive 30-day notice of changes in basic service rates. Default Service Pricing and Procurement, D.T.E. 99-60-C at 7 (2000).