



# The Commonwealth of Massachusetts

## DEPARTMENT OF PUBLIC UTILITIES

TO: Service List (email only) for NSTAR Electric Company, D.P.U. 24-10;  
Massachusetts Electric Company and Nantucket Electric Company, D.P.U. 24-11;  
and Fitchburg Gas and Electric Light Company, D.P.U. 24-12

FROM: Kerri DeYoung Phillips and W. Jay Lee, Hearing Officers

RE: Phase II Procedural Notice

DATE: November 21, 2024

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### PROCEDURAL NOTICE

#### I. INTRODUCTION

On August 29, 2024, the Department of Public Utilities (“Department”) approved with modification the inaugural electric sector modernization plans (“ESMPs”) filed by NSTAR Electric Company d/b/a Eversource Energy (“NSTAR Electric”), Massachusetts Electric Company and Nantucket Electric Company d/b/a National Grid (“National Grid”), and Fitchburg Gas and Electric Light Company d/b/a Unitil (“Unitil”) (individually, “company”; collectively, “Companies”). Electric Sector Modernization Plans, D.P.U. 24-10/D.P.U. 24-11/D.P.U. 24-12 (August 29, 2024) (“ESMP Order”). Through this Procedural Notice, the Department commences Phase II of these proceedings to investigate an interim annually reconciling cost recovery mechanism for ESMP investments (“interim ESMP mechanism”); and to establish near-term metrics and reporting requirements.<sup>1</sup> Additionally, in this Procedural Notice, the Department: (1) establishes the procedural schedule and its ground rules for its investigation of an interim ESMP mechanism; (2) separately establishes procedural deadlines for its review of near-term metrics and biannual reporting requirements; (3) reserves dates for technical sessions to address the interim ESMP mechanism, near-term metrics, and reporting requirements;

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<sup>1</sup> Proposals relating to (1) capital investment projects (“CIPs”) under the extended Provisional Program, (2) establishment of a long-term system planning process (“LTSP”), including for non-CIP substation “network investment” proposals, and (3) future electric vehicle program proposals, will be addressed in separate proceedings. ESMP Order at 268-270, 334-348, 434, 444-447; Massachusetts Electric Company and Nantucket Electric Company, D.P.U. 23-150, at 40-42 (September 30, 2024).

(4) seeks comment on the considerations for the cost recovery framework and associated performance metrics beyond the interim cost recovery mechanism; and (5) provides an updated service list for these proceedings.

## II. PHASE II ISSUES AND PROCESS

### A. Background

In its Interlocutory Order on the scope of the proceedings, the Department limited cost recovery considerations in the initial phase of these proceedings to the appropriate cost recovery framework, *i.e.*, through base distribution rates and/or through annual reconciling mechanisms, that should apply to proposed ESMP investments and deferred the investigation of any performance metrics to a subsequent phase of these proceedings. D.P.U. 24-10/D.P.U. 24-11/D.P.U. 24-12, Interlocutory Order on Scope of Proceedings at 2, 18, 19, 23-24 (February 20, 2024) (“Interlocutory Order”). The Department stated, to the extent it determined that accelerated cost recovery through annual reconciling mechanisms was appropriate for proposed ESMP investments, it would establish the appropriate parameters for these mechanisms in a separate phase of the proceedings to be conducted after August 29, 2024. Interlocutory Order at 18.

In its ESMP Order, the Department: (1) established an initial ESMP term of July 1, 2025, through June 30, 2030; (2) allowed a short-term, targeted reconciling mechanism for ESMP costs, with the parameters of this mechanism to be determined in the second phase of these proceedings; (3) indicated it would investigate how innovative approaches to cost recovery through base distribution rates can further the purpose of G.L. c. 164, § 92B, optimally balance our priorities, and promote efficiency; and (4) reaffirmed the Department’s intent to address proposed metrics and biannual reporting in a later phase of these proceedings, with the first biannual reports to be submitted on September 30, 2025. ESMP Order at 146, 434, 443-447, 462-476; *see also* Massachusetts Electric Company and Nantucket Electric Company, D.P.U. 23-150, at 40-41 (September 30, 2024).

### B. Interim ESMP Mechanism

#### 1. Introduction

In the ESMP Order at 444-447, the Department found it appropriate to establish during Phase II of these proceedings a new ESMP mechanism on an interim basis until a framework for longer-term cost recovery through base distribution rates is established. *See also* D.P.U. 23-150, at 40-41. The Department explained that our Phase II investigation may include, but need not be limited to: (1) the definitions of ESMP costs eligible for recovery; (2) cost containment provisions such as budget or revenue caps; (3) documentation required to support cost recovery; (4) the Companies’ processes for evaluating alternatives and addressing changed circumstances during the five-year ESMP terms; (5) consideration of possible mechanisms to encourage innovative approaches designed to minimize costs for ratepayers; and (6) planned sunset of the interim ESMP mechanism. ESMP Order at 447; D.P.U. 23-150, at 41.

As reflected in Section II.B.3., below, the Department establishes a procedural schedule to adjudicate and implement an interim ESMP mechanism prior to the July 1, 2025 ESMP term start date. Pursuant to the procedural schedule, the Companies shall coordinate and jointly submit a model interim ESMP mechanism tariff and each company shall submit a company-specific exemplar interim ESMP mechanism tariff with supporting documentation and testimony in these proceedings by **Wednesday, December 18, 2024**. The model and company-specific exemplar tariffs and supporting documentation shall account for the issues for investigation identified by the Department and discussed in further detail below. The filings shall be pre-marked for identification and have a consistent marking format between the proceedings. See D.P.U. 24-10/D.P.U. 24-11/D.P.U. 24-12, Hearing Officer Memorandum at 5 (August 7, 2023).

2. Issues for Consideration

a. Costs Eligible for Recovery

Generally, tariffs for annual reconciling mechanisms define the costs and/or investments, *i.e.*, incremental operations and maintenance (“O&M”) expenses and/or capital investment costs, eligible for recovery through the mechanism. Additionally, in these proceedings, the Companies identified several categories of proposed incremental ESMP investments, although each company did not necessarily propose ESMP investments for each category. See ESMP Order at 161-165, 177, 243-245. While the Department approved each company’s plan with modification, the Department expressly stated that it was not preapproving or preauthorizing any proposed ESMP investments or related costs. ESMP Order at 65-66.<sup>2</sup>

Accordingly, the Companies shall identify and define in their exemplar tariffs and supporting documentation the types of proposed ESMP costs, *e.g.*, capital and/or O&M expenses, and eligible investments to be proposed for recovery through the interim ESMP mechanism to be established, consistent with the directives in the ESMP Order. Where appropriate, the Companies shall also consider the requirements established in the grid modernization proceedings applicable to the definitions for eligible investments. See, *e.g.*, Grid Modernization Plans, D.P.U. 15-120-E/D.P.U. 15-121-E/D.P.U. 15-122-E (2022).

b. Cost Containment

The Department expects the interim ESMP mechanism to include robust ratepayer protection and cost controls. ESMP Order at 457, 443-444, 447; see also D.P.U. 23-150,

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<sup>2</sup> The Department also instructed that certain ESMP network investments, such as substation projects outside of the CIP cost allocation framework identified by National Grid and Unitil, should be accounted for in the LTSPP and associated cost recovery mechanism to be established and/or considered at a later date. See ESMP Order at 268-270, 334-339, 445. NSTAR Electric did not propose ESMP network investments. ESMP Order at 177.

at 47-48; Aquarion Water Company of Massachusetts, D.P.U. 17-90-A at 25-26 (2019). As such, the Department seeks to explore in Phase II cost containment provisions such as budget or revenue caps and consideration of possible mechanisms to encourage innovative approaches designed to minimize costs for ratepayers, while also acknowledging the timing and cost-estimate limitations for potential budget preapproval requests. See ESMP Order at 145, 447; Interlocutory Order at 17; see also D.P.U. 23-150, at 46-51 & n.21; Bay State Gas Company, D.P.U. 18-GSEP-05, at 10-11, 26-32 (2019); D.P.U. 17-90-A at 26-33; D.P.U. 17-90, at 66-68 (2018). Interim mechanism proposals shall also account for actual offsets from alternative funding sources. See ESMP Order at 351; see also Second Grid Modernization Plans (Track 2), D.P.U. 21-80-B/D.P.U. 21-81-B/D.P.U. 21-82-B at 300-302 (2022) (“Second Grid Modernization Plans (Track 2)”); D.P.U. 17-90, at 74 (2018); NSTAR Electric Company and Western Massachusetts Electric Company, D.P.U. 16-105, at 4, 10-11 (2016).

Taking into consideration the above, the Companies shall include cost containment provisions in the proposed ESMP cost recovery mechanism. Any revenue cap proposals shall be well-documented and supported. The Companies may also propose additional approaches for the interim ESMP mechanism to minimize customer costs.

c. Documentation

A company’s failure to provide clear, cohesive, and reviewable evidence demonstrating eligibility for recovery risks disallowance of the expenditures in question. See, e.g., Massachusetts Electric Company and Nantucket Electric Company, D.P.U. 19-113, at 45, 51-55 & n.27 (2023); Second Grid Modernization Plans (Track 2) at 198. For particular mechanisms and costs, the Department has previously required that specific documentation be submitted with the cost recovery filings, and such requirements have at times been reflected in Department-approved company tariffs. See, e.g., D.P.U. 19-113, at 45, 52-53 (citations omitted); Second Grid Modernization Plans (Track 2) at 302-304; Bay State Gas Company, D.P.U. 16-GREC-05, at 28-30 (2016).

Accordingly, the Companies shall identify proposed documentation to be submitted with the annual ESMP cost recovery filings while the interim mechanism is in effect. Model and company-specific exemplar tariffs shall reflect the proposed documentary filing requirements. Additionally, to facilitate Department monitoring and review of ESMP investments to be submitted for cost recovery, the Companies’ documentary proposals for annual filings shall include a summary of planned investments and estimated costs for the subsequent investment year. For each filing year, these summaries shall be cumulative and shall also account for

anticipated revisions to, and reprioritization of, proposed ESMP investments. ESMP Order at 65.<sup>3</sup>

d. Alternatives Considerations

In Phase II of these proceedings, the Department intends to explore whether and how the Companies' processes for evaluating alternatives and changed circumstances during the five-year ESMP term, inclusive of the need for flexibility, should be incorporated into the interim ESMP mechanism and prudency review framework. See ESMP Order at 63-65, 305-308, 447; see also Future of Gas, D.P.U. 20-80-C at 25-27 (April 2, 2024) (instructing that, at the time cost recovery is sought, each local distribution company must "show your work" demonstrating that it appropriately considered non-pipeline alternatives ("NPAs") at the project planning stage); D.P.U. 20-80-B at 97-98 (December 6, 2023) (stating that "consideration of NPAs will be an essential part of the regulatory landscape, and that companies should begin examining opportunities to minimize investments that may contribute to future stranded costs"); D.P.U. 21-80-A/D.P.U. 21-81-A/D.P.U. 21-82-A at 69-70 (2022) ("Second Grid Modernization Plans (Track 1)") (noting that, while technologies evolve quickly, grid modernization technologies and investment proposals for purposes of accelerated cost recovery must be designed "to provide long-term solutions for customers"). Accordingly, the Companies shall include alternatives considerations in their interim ESMP mechanism proposals.<sup>4</sup>

e. Planned Sunset

As part of its Phase II investigation, the Department will address the planned sunset of the interim ESMP mechanism. ESMP Order at 447. Accordingly, the interim ESMP mechanism

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<sup>3</sup> The Department took a similar approach taken for gas system enablement plan enhancement program cost recovery filings by the local distribution companies. See, e.g., Bay State Gas Company, D.P.U. 14-134, at 56-58 (2015); D.P.U. 16-GREC-05, at 28-29.

<sup>4</sup> Consideration of alternatives should not extend to rate design. See Interlocutory Order at 21-22. Additionally, more comprehensive alternatives analyses for major ESMP infrastructure projects, e.g., CIPs and new substations, are better addressed in Department preapproval proceedings, such as the Provisional Program extension and the forthcoming LTSP. ESMP Order at 307-308. CIP filings under the Provisional Program extension must describe how a company considered and/or incorporated flexible interconnection or non-wires alternatives options in its proposals, and the LTSP to be proposed by the Companies must specifically address, in part, the role of flexible interconnection in deferring or negating the need for certain system upgrades and/or improving the operations of the current distribution system. ESMP Order at 338-339 & Appendix A at v. Similarly, more comprehensive alternatives analyses requirements apply to projects submitted to the Energy Facilities Siting Board review. ESMP Order at 308 (citations omitted).

proposals to be submitted by the Companies shall at this time address limiting cost recovery for eligible ESMP investments and costs to those costs incurred during the first ESMP term and eligible carry-over costs. See NSTAR Electric Company, D.P.U. 23-49, at 18-21 (2023); Second Grid Modernization Plans (Track 2) at 289; Second Grid Modernization Plans (Track 1) at 77, 89, 98, 111.

f. Additional Considerations

The Companies shall consider and address in their proposals additional relevant factors, including whether the Department should: (1) conduct annual prudency reviews for the filings rather than an end-of-term review; (2) align cost recovery filing dates for investments with the second biannual report filing date of September 30 established by the Department; (3) require at least 60 days between the annual filing date and the date that proposed revised ESMP rate factors would take effect; (4) require the Companies to explain how they minimized the potential for stranded costs and identify and explain stranded costs in their annual cost recovery filings; and (5) the appropriate regulatory lag for ESMP investments. See ESMP Order at 447; D.P.U. 20-80-C at 97-98; Second Grid Modernization Plans (Track 2) at 160-161, 176-177, 200, 205, 304; D.P.U. 15-120-F/D.P.U. 15-121-F/D.P.U. 15-122-F (2022).

Phase II of these proceedings will not address cost recovery, or related considerations, of community benefits agreements or compensation for community-based organization members of the Community Engagement Advisory Group to be established by the Companies. See ESMP Order at 356, 381.

3. Procedural Schedule<sup>5</sup>

DATE	ACTION
Wednesday, December 18, 2024	Companies shall jointly file a model interim ESMP tariff and each file a company-specific exemplar interim ESMP mechanism tariff with supporting documentation and testimony  Discovery opens on interim ESMP mechanism  Parties confirm participant availability for reserved technical session dates and identify any scheduling limitations
Tuesday, January 14, 2025	Technical session questions and final participant lists due

<sup>5</sup> With the exception of the technical sessions, this procedural schedule is limited to issues relating to the interim ESMP mechanism. Additional details about the technical sessions and initial ESMP metrics and reporting requirements are discussed below.

Tuesday, January 21, 2025, through Friday, January 24, 2025	Dates reserved for virtual technical session(s)
Tuesday, January 28, 2025	Intervenor pre-filed testimony on interim cost recovery issues due Discovery on intervenor testimony opens
Thursday, February 13, 2025	Discovery closes
Friday, February 28, 2025	Deadline to request evidentiary hearing(s) and anticipated time needed for cross-examination, if applicable
Tuesday, March 4, 2025	Updated discovery log and Phase II exhibit list from each company due
Tuesday, March 11, 2025, through Friday, March 14, 2025	Dates reserved for virtual evidentiary hearing(s), if needed <sup>6</sup>
Dates to be determined	Briefing

#### 4. Ground Rules and Technical Session Guidelines

The procedural ground rules and technical session guidelines identified by the Department in its February 23, 2024 Procedural Notice continue to apply. However, responses to discovery shall be due within ten business days of the request, and any responses or oppositions to motions for protective treatment shall be due within ten business days of the motion. Additionally, the Department continues to encourage the use of common discovery between the proceedings for purposes of administrative efficiency. See D.P.U. 24-10/D.P.U. 24-11/D.P.U. 24-12, Hearing Officer Memorandum (February 14, 2024).

#### C. Metrics and Reporting

By **Tuesday, March 18, 2025**, the Companies shall confer and jointly propose initial ESMP metrics and reporting templates for the September 2025 and March 2026 biannual reports consistent with the Department's directives. See ESMP Order at 462, 471-474, 476; Interlocutory Order at 23. The Companies' proposals may incorporate the proposed ESMP metrics identified in their initial filings and shall be informed by their existing grid modernization metrics and reporting requirements, where appropriate. See ESMP Order at 460-462; Interlocutory Order at 23; Grid Modernization Annual Reports, D.P.U. 24-40, Memorandum & Atts. (April 3, 2024). In particular, the Companies shall identify and address whether existing grid modernization reporting metrics should be carried forward for particular ESMP investments. ESMP Order at 460-462. The filing shall also include for reference a list of each company's existing metrics associated with electrification and a summary list and associated filing dates of each company's existing annual reporting requirements in place as of

<sup>6</sup> The Department does not anticipate that more than two days would be required for evidentiary hearings, if requested.

December 31, 2024. See ESMP Order at 459-460, 473-474; D.P.U. 24-10, Exhs. ES-Metrics-1, at 3; ES-Metrics-3; D.P.U. 24-11, Exhs. NG-Metrics-1, at 5-6; NG-Metrics-3; D.P.U. 24-12, Exhs. UN-Metrics-1, at 3-4; UN-Metrics-3.

Intervenors may provide initial comments on the Companies' proposals and may submit additional proposed metrics by **Thursday, April 17, 2025**. The Department encourages the intervenors to collaborate and submit joint proposals, where feasible. The Companies may submit reply comments by **Thursday, May 15, 2025**.

#### D. Technical Sessions

The Department reserves **January 21 through January 24, 2025**, for technical sessions to discuss the interim ESMP mechanism and initial metrics and biannual reporting requirements. The technical sessions will be conducted virtually and participation will be limited to parties to the proceedings, although members of the public may observe the sessions. Additional details will be determined at a later date.

To facilitate discussions, the Department encourages the parties to coordinate where possible and provide a brief, general list of questions to the service list by **Tuesday, January 14, 2025**. The list should identify the particular topic(s) to which each question applies, *i.e.*, interim cost recovery, metrics, and/or reporting. To ensure the efficient and orderly conduct of the technical sessions in the time afforded, Department staff may limit discussion on particular questions.

### III. REQUEST FOR COMMENT

The Department intends to investigate in a separate proceeding how innovative approaches to cost recovery through base distribution rates can further the purpose of G.L. c. 164, § 92B, optimally balance our priorities, and promote efficiency. ESMP Order at 444. The Department stated that such a proceeding will likely require a lengthy inquiry to identify, analyze, and resolve many complex ratemaking issues. ESMP Order at 444. To help inform the subsequent proceeding(s), the Department requests comments from the parties on items and issues that should be considered. As part of these comments, the Department encourages: (1) information and data on innovative approaches to cost recovery, in particular, to facilitate accelerated electrification and/or grid modernization efforts identified at the federal level and/or successfully implemented or being considered in other states; and (2) discussion and proposals on performance metrics and incentives applicable to longer-term cost recovery considerations. There is also the possibility that the LTSPS stakeholder working group's discussions and forthcoming report, due by April 4, 2025, may inform particular issues to be addressed by the intervenors. See ESMP Order at 337. Accordingly, the Department requests, for informational purposes only, initial comments from the Companies by **Wednesday, September 10, 2025**, initial comments from intervenors by **Wednesday, October 8, 2025**, and any reply comments by **Wednesday, November 5, 2025**, on this topic.



IV. SERVICE LIST

Mark D. Marini, Department Secretary  
Massachusetts Department of Public Utilities  
One South Station, 3rd Floor  
Boston, MA 02110  
E-mail: [dpu.efiling@mass.gov](mailto:dpu.efiling@mass.gov)

Kerri DeYoung Phillips, Hearing Officer  
W. Jay Lee, Hearing Officer  
Massachusetts Department of Public Utilities  
One South Station, 3<sup>rd</sup> Floor  
Boston, MA 02110  
E-mail: [kerri.phillips@mass.gov](mailto:kerri.phillips@mass.gov)  
[w.jay.lee@mass.gov](mailto:w.jay.lee@mass.gov)

Cheryl M. Kimball, Esq.  
Kerri A. Gowaski, Esq.  
Keegan Werlin LLP  
99 High Street, Suite 2900  
Boston, MA 02110  
Telephone: (617) 951-1400  
E-mail: [ckimball@keeganwerlin.com](mailto:ckimball@keeganwerlin.com)  
[kgowaski@keeganwerlin.com](mailto:kgowaski@keeganwerlin.com)  
FOR: NSTAR ELECTRIC COMPANY  
Petitioner, D.P.U. 24-10  
Limited Participant, D.P.U. 24-11, D.P.U. 24-12

Nancy D. Israel, Esq.  
National Grid  
170 Data Drive  
Waltham, MA 02451  
Telephone: (332) 201-1206  
E-mail: [nancy.israel@nationalgrid.com](mailto:nancy.israel@nationalgrid.com)

-and-

John K. Habib, Esq.  
Tiffany N. Tisler, Esq.  
Keegan Werlin LLP  
99 High Street, Suite 2900  
Boston, MA 02110  
Telephone: (617) 951-1400  
E-mail: [jhabib@keeganwerlin.com](mailto:jhabib@keeganwerlin.com)  
[ttisler@keeganwerlin.com](mailto:ttisler@keeganwerlin.com)  
FOR: MASSACHUSETTS ELECTRIC COMPANY AND  
NANTUCKET ELECTRIC COMPANY  
Petitioners, D.P.U. 24-11  
Limited Participants, D.P.U. 24-10, D.P.U. 24-12

Patrick Taylor, Esq.  
M. Alice Davey, Esq.  
Unitil Service Corp.  
6 Liberty Lane West  
Hampton, NH 03842  
Telephone: (603) 773-6440  
(603) 617-2715  
E-mail: [taylorp@unitil.com](mailto:taylorp@unitil.com)  
[daveya@unitil.com](mailto:daveya@unitil.com)

-and-

Kevin F. Penders, Esq.  
Ashley S. Marton, Esq.  
Keegan Werlin LLP  
99 High Street, Suite 2900  
Boston, MA 02110  
Telephone: (617) 951-1400  
E-mail: [kpenders@keeganwerlin.com](mailto:kpenders@keeganwerlin.com)  
[amarton@keeganwerlin.com](mailto:amarton@keeganwerlin.com)  
FOR: FITCHBURG GAS AND ELECTRIC LIGHT COMPANY  
Petitioner, D.P.U. 24-12  
Limited Participant, D.P.U. 24-10, D.P.U. 24-11

Andrea Joy Campbell, Attorney General  
Commonwealth of Massachusetts

By: Kelly Caiazzo

Christopher Modlish

Donald W. Boecke

William C. Rose

Assistant Attorneys General

Office of Ratepayer Advocacy

One Ashburton Place

Boston, MA 02108

Telephone: (617) 727-2200

E-mail: [Kelly.Caiazzo@mass.gov](mailto:Kelly.Caiazzo@mass.gov)

[Chris.Modlish@mass.gov](mailto:Chris.Modlish@mass.gov)

[Donald.Boecke@mass.gov](mailto:Donald.Boecke@mass.gov)

[William.Rose@mass.gov](mailto:William.Rose@mass.gov)

[Jennifer.Foley3@mass.gov](mailto:Jennifer.Foley3@mass.gov)

[Genevieve.Brusie@mass.gov](mailto:Genevieve.Brusie@mass.gov)

Intervenor, D.P.U. 24-10, D.P.U. 24-11, D.P.U. 24-12

Colin Carroll, Esq.

Christopher McDonough, Esq.

Department of Energy Resources

100 Cambridge Street, 9<sup>th</sup> Floor

Boston, MA 02114

Telephone: (617) 626-7300

E-mail: [colin.carroll@mass.gov](mailto:colin.carroll@mass.gov)

[chris.g.mcdonough@mass.gov](mailto:chris.g.mcdonough@mass.gov)

Intervenor, D.P.U. 24-10, D.P.U. 24-11, D.P.U. 24-12

Kyle T. Murray, Esq.

Acadia Center

15 Court Square, Suite 1000

Boston, MA 02108

Telephone: (617) 742-0054

E-mail: [kmurray@acadiacenter.org](mailto:kmurray@acadiacenter.org)

FOR: ACADIA CENTER

Intervenor, D.P.U. 24-10, D.P.U. 24-11, D.P.U. 24-12

Audrey Eidelman Kiernan, Esq.  
Rebecca F. Zachas, Esq.  
KO Law, P.C.  
1337 Massachusetts Avenue, Box 301  
Arlington, MA 02476  
Telephone: (617) 644-7681  
E-mail: [akiernan@kolawpc.com](mailto:akiernan@kolawpc.com)  
[rzachas@kolawpc.com](mailto:rzachas@kolawpc.com)  
FOR: CAPE LIGHT COMPACT JPE  
Intervenor, D.P.U. 24-10

Priya Gandbhir, Esq.  
Conservation Law Foundation  
62 Summer Street  
Boston, MA 02110  
Telephone: (617) 850-1777  
E-mail: [pgandbhir@clf.org](mailto:pgandbhir@clf.org)  
FOR: CONSERVATION LAW FOUNDATION  
Intervenor, D.P.U. 24-10, D.P.U. 24-11, D.P.U. 24-12

Walter A. Foskett, Esq.  
Robert D. Shapiro, Esq.  
Duncan & Allen  
25 Braintree Hill Office Park, Suite 200  
Braintree, MA 02184  
Telephone: (781) 817-4441  
(781) 817-4443  
E-mail: [waf@duncanallen.com](mailto:waf@duncanallen.com)  
[rds@duncanallen.com](mailto:rds@duncanallen.com)  
FOR: DIRECT ENERGY BUSINESS, LLC, DIRECT ENERGY SERVICES, LLC,  
ENERGY PLUS HOLDINGS, LLC, GREEN MOUNTAIN ENERGY  
COMPANY, INC., NRG HOME, AND XOOM ENERGY MASSACHUSETTS,  
LLC  
Intervenors, D.P.U. 24-10, D.P.U. 24-11

Bernice I. Corman, Esq.  
Bicky Corman Law, PLLC  
1250 Connecticut Ave., NW, Suite 700  
Washington, DC 20036  
Telephone: (202) 213-1672  
E-mail: [bcorman@bickycormanlaw.com](mailto:bcorman@bickycormanlaw.com)  
[lindsey.stegall@evgo.com](mailto:lindsey.stegall@evgo.com)  
[katelyn.lee@evgo.com](mailto:katelyn.lee@evgo.com)  
FOR: EVGO SERVICES LLC  
Limited Intervenor, D.P.U. 24-10, D.P.U. 24-11  
FOR: TESLA, INC.  
Limited Intervenor, D.P.U. 24-10, D.P.U. 24-11

Adria Pratt, Esq.  
Law Office of Adria Pratt  
85 Eastern Avenue, Suite 302  
Gloucester, MA 01930  
Telephone: (978) 879-9929  
E-mail: [adria@adriaprattlaw.com](mailto:adria@adriaprattlaw.com)  
FOR: GLOUCESTER ECONOMIC DEVELOPMENT AND INDUSTRIAL CORP.  
Limited Participant, D.P.U. 24-11

Elisa J. Grammer, Esq.  
47 Coffin Street  
West Newbury, MA 01985  
Telephone: (703) 855-5406  
E-mail: [elisa.grammer@perennialmotion.com](mailto:elisa.grammer@perennialmotion.com)  
FOR: GREEN ENERGY CONSUMERS ALLIANCE  
Intervenor, D.P.U. 24-10, D.P.U. 24-11

John A. DeTore, Esq.  
David C. Fixler, Esq.  
Greenberg Traurig, LLP  
One International Place, Suite 2000  
Boston, MA 02110  
Telephone: (617) 310-6000  
E-mail: [detorej@gtlaw.com](mailto:detorej@gtlaw.com)  
[fixlerd@gtlaw.com](mailto:fixlerd@gtlaw.com)  
FOR: NORTHEAST CLEAN ENERGY COUNCIL, INC., COALITION FOR  
COMMUNITY SOLAR ACCESS, INC., ADVANCED ENERGY UNITED,  
INC., AND SOLAR ENERGY INDUSTRIES ASSOCIATION, INC.

-and-

Jeremy McDiarmid  
Managing Director and General Counsel  
Advanced Energy United, Inc.  
1801 Pennsylvania Ave. NW, Suite 410  
Washington, DC 20006  
Telephone: (202) 380-1950  
E-mail: [jmcdiarmid@advancedenergyunited.org](mailto:jmcdiarmid@advancedenergyunited.org)  
FOR: ADVANCED ENERGY UNITED, INC.  
Intervenors, D.P.U. 24-10, D.P.U. 24-11, D.P.U. 24-12

Jay Myers, Esq.  
Locke Lord LLP  
111 Huntington Ave.  
Boston, MA 02199  
Telephone: (617) 239-0285  
E-mail: [Jay.Myers@lockelord.com](mailto:Jay.Myers@lockelord.com)  
FOR: POWEROPTIONS, INC.  
Limited Participant, D.P.U. 24-10, D.P.U. 24-11

Robert Ruddock, Esq.  
Ruddock Law Office  
436 Pleasant Street  
Belmont, MA 02478  
Telephone: (617) 834-6363  
E-mail: [Robert.Ruddock@rruddock.com](mailto:Robert.Ruddock@rruddock.com)  
FOR: THE ENERGY CONSORTIUM  
Limited Participant, D.P.U. 24-10, D.P.U. 24-11

R. Benjamin Borowski, Esq.  
Todd J. Griset, Esq.  
Kijana E. Plenderleith, Esq.  
Preti Flaherty, Beliveau & Pachios, LLP  
One City Center  
Portland, ME 04101  
Telephone: (207) 791-3052  
E-mail: [rborowski@preti.com](mailto:rborowski@preti.com)  
[tgriset@preti.com](mailto:tgriset@preti.com)  
[kplenderleith@preti.com](mailto:kplenderleith@preti.com)  
FOR: WILLIAMS COLLEGE  
Intervenor, D.P.U. 24-11

## V. CONCLUSION

For questions regarding this memorandum, please contact Hearing Officers Kerri DeYoung Phillips ([kerri.phillips@mass.gov](mailto:kerri.phillips@mass.gov)) and W. Jay Lee ([w.jay.lee@mass.gov](mailto:w.jay.lee@mass.gov)).