



The Commonwealth of Massachusetts

DEPARTMENT OF PUBLIC UTILITIES

MEMORANDUM

BY E-MAIL ONLY

TO: Electronic Distribution List 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, Kevin Crane, Elyssa Klein, and Scott Seigal, Hearing Officers

RE: Electric Sector Modernization Plans

DATE: November 14, 2023

CC: Mark Marini, Secretary, Department of Public Utilities
Grid Modernization Advisory Council, c/o Elizabeth Mahony, Commissioner, Department of Energy Resources
Elizabeth Anderson, Division Chief, Energy & Telecom Division, Office of the Attorney General

I. INTRODUCTION

Pursuant to G.L. c. 164, § 92B, each investor-owned electric distribution company (“EDC”) must submit its first electric sector modernization plan (“ESMP”) to the Department of Public Utilities (“Department”) by January 29, 2024. G.L. c. 164, § 92B(a),(d); Department Letter to EDCs at 1 (September 12, 2022). Within seven months after filing, the Department must approve, approve with modification, or reject the ESMP filings. G.L. c. 164, § 92B(d).

On August 7, 2023, the Department issued a procedural memorandum that assigned docket numbers and identified certain requirements applicable to the upcoming ESMP filings. In the instant memorandum, the Department: (1) provides guidance on intervention requirements applicable to these proceedings; (2) establishes the initial procedural schedule; and (3) identifies additional ESMP procedural requirements.

II. INTERVENTION

To enable review of the ESMP filings within the seven-month period provided by G.L. c. 164, § 92B(d), the Department establishes two procedural tracks: a “General Track” and an “Alternate Track.” A General Track participant is a Grid Modernization Advisory Council (“GMAC”) member or other entity whose interests are represented on the GMAC, pursuant to G.L. c. 164, § 92C.¹ General Track participants are presumed to be familiar with the content and/or requirements of an ESMP and the issues that the entity may likely seek to address during the course of the adjudicatory process. A General Track participant will be treated as a putative intervenor until the Department has issued rulings on intervention. An Alternate Track participant is any entity that may be found by the Department, pursuant to G.L. c. 30A § 10, to be substantially and specifically affected by these proceedings but that did not participate in or whose interests were not adequately represented in the GMAC process.²

The deadlines for filing General Track and Alternate Track petitions are addressed in Section III, below. Petitions to intervene will be considered after the ESMP filings are submitted to the Department. A petition for leave to intervene must satisfy the standing requirements of G.L. c. 30A, § 10, and the substantive requirements of 220 CMR 1.03.

Petitions to intervene must identify whether the interested party seeks full party or limited participant status. Limited participants may receive copies of all publicly available filings and submittals in the relevant proceeding(s),³ attend but not participate at evidentiary hearings, and make arguments on brief. Limited participants will not be permitted to submit testimony or issue discovery.

Each petition to intervene (for full party or limited participant status) must be accompanied by a notice of appearance of counsel in accordance with 220 CMR 1.02(7). Attorneys must be licensed to practice in the Commonwealth or admitted pro hac vice.

¹ General Laws c. 164, § 92C establishes the GMAC to review and provide recommendations to the EDCs on their respective ESMPs before submission to the Department.

² The Department employs a similar approach in its review of energy efficiency plans. See Investigation Updating Energy Efficiency Guidelines, D.P.U. 20-150-A, Order Appendix (2021), available at: <https://www.mass.gov/order/investigation-by-the-dpu-into-updating-its-ee-guidelines>.

³ Limited participants will not have access to any confidential materials submitted in these proceedings.

III. PROCEDURAL SCHEDULE

Because these proceedings will involve common questions of law and/or fact, the Department will investigate the ESMPs in parallel and, where appropriate, conduct joint evidentiary hearings. Each proceeding, however, will remain a separate docketed matter. This approach will allow for a consistent review of common issues, is administratively efficient, and is consistent with Department practice in other similar matters. See, e.g., 2022-2024 Three-Year Energy Efficiency Plans, D.P.U. 21-120 through D.P.U. 21-129, Procedural Memorandum (October 5, 2021); Massachusetts Electric Company and Nantucket Electric Company/NSTAR Electric Company, D.P.U. 21-75/D.P.U. 21-76, Procedural Memorandum (August 4, 2021).

Pursuant to 220 CMR 1.06(5), the Department will establish the procedural schedules for its investigation of the ESMPs. Before the establishment of final procedural schedules, the following dates shall be observed for these matters:

<u>DATE</u>	<u>ACTION</u>
Monday, January 29, 2024	ESMP filings submitted to Department
Tuesday, January 30, 2024	Petitions to intervene (General Track) due Discovery (General Track) commences ⁴
Thursday, February 1, 2024	Responses to (General Track) petitions to intervene due
Wednesday, February 14, 2024	Petitions to intervene (Alternate Track) due
Friday, February 16, 2024	Responses to (Alternate Track) petitions to intervene due
Upon Department ruling on petition to intervene	Discovery (Alternate Track) commences
Tuesday, February 20, 2024	Pre-hearing statements ⁵ (General Track) due

⁴ All responses to information requests will be due within five (5) business days of the request.

⁵ Pre-hearing statements shall set forth the following information: (1) the name of all witnesses who may be called to testify by the party, along with the subject matter of each witness' testimony; (2) a description of all exhibits that may be used by the party in presenting its case and the witness sponsoring each; (3) a statement of the party's basic position in the proceeding; (4) a statement of each question of fact, question of law, and policy question that the party considers at issue, along with the party's position on each issue, and, where applicable, the names of the party's

Friday, March 1, 2024	EDCs' first discovery logs due
Tuesday, March 5, 2024	Intervenor testimony (General Track) due Pre-hearing statements (Alternate Track) due
Thursday, March 7, 2024, at 7:00 p.m., and Tuesday, March 12, 2024, at 2:00 p.m.	Virtual Public Hearings ⁶
Wednesday, March 13, 2024	Intervenor Testimony (Alternate Track) due
Monday, March 25, 2024	Deadline to issue discovery
Monday, April 1, 2024	Final discovery responses due EDCs' updated discovery logs due
Wednesday, April 3, 2024	Deadline for EDCs to submit exhibit lists
Monday, April 8, 2024, through Friday, April 26, 2024	Evidentiary hearings ⁷
To Be Determined	Briefing

In setting these dates, the Department relies on its experience in other proceedings and has carefully considered several important factors including: the necessary time to develop a complete evidentiary record for each proceeding; affording all parties a reasonable time to conduct discovery, and file testimony and exhibits; and reserving sufficient time for deliberation by the Commission. In establishing these dates, the Department also has considered its obligation to conduct its proceedings in an efficient and orderly manner.

IV. ADDITIONAL PROCEDURAL REQUIREMENTS

In addition to the filing and procedural requirements outlined in the Department's August 7, 2023 memorandum, the Department's procedural regulations at 220 CMR 1.00 et

witness(es) who will address each issue; and (5) any objections to a witness' qualifications as an expert.

⁶ Additional details and the need for additional public hearings will be determined at a later date.

⁷ Parties and their witnesses must be available for each date identified above. A detailed evidentiary hearing schedule will be determined at a later date.

seq., and Standard Ground Rules (with the exception of paper filing requirements and discovery response deadlines) will apply to these proceedings.⁸

Under the Standard Ground Rules, parties must discuss the use of a non-disclosure agreement for materials considered proprietary or confidential by a party. Standard Ground Rules at Section E.2.a. To avoid unnecessary delay in these proceedings, the Department requires any party seeking or expecting to seek access to confidential materials to pursue a non-disclosure agreement with the EDCs as early as possible.

Further, the following additional requirements shall apply to these proceedings:

1. Each EDC shall provide an electronic copy of its complete filing to each member of the GMAC and the e-mail addresses included on the attached electronic distribution list when the ESMP is filed with the Department.
2. Each ESMP filing shall include:
 - a. A proposed draft Notice of Filing, Public Hearing, and Request for Comments (“Notice”). Each proposed Notice should be substantially similar in form and content for all three filings. The draft Notice also shall be consistent with the format of other recent Department notices of filing, public hearing, and requests for comments and shall use concise, everyday language that avoids industry terminology where possible in summarizing the filing and any proposals included therein.
 - b. Pre-filed testimony and supporting documentation that addresses the EDC’s existing capital planning process(es), demand forecast methods, and decision-making process for distribution system capital investments. In addition, the pre-filed testimony and supporting documentation must also address whether, how, and why the ESMP forecasting, timeline, and investment proposal(s), if applicable, differ from the existing capital planning process.

V. CONCLUSION

Please contact Kerri DeYoung Phillips at kerri.phillips@mass.gov, with any procedural questions.

⁸ The Standard Ground Rules are available on the Department’s website at <https://www.mass.gov/how-to/file-comments-or-pleadings-with-the-dpu>.