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July 26, 2019

VIA E-MAIL

John Wassam
Massachusetts Department of Energy Resources
100 Cambridge Street, Suite 1020
Boston, MA 02114

Re: RPS Class I and RPS Class II Regulations – Initial Comments of NSTAR Electric Company d/b/a Eversource Energy and Massachusetts Electric Company and Nantucket Electric Company each d/b/a National Grid

Dear Mr. Wassam:

On behalf of NSTAR Electric Company d/b/a Eversource Energy (“Eversource”), Massachusetts Electric Company and Nantucket Electric Company, each d/b/a National Grid (“National Grid”) and Fitchburg Gas and Electric Light Company d/b/a Unitil (“Unitil” and together, the “Companies”), I am enclosing the Companies’ initial comments regarding the Department of Energy Resource’s draft regulations to amend portions of the Class I and Class II Renewable Energy Portfolio Standards.

Thank you for the opportunity to comment on these draft regulations. Please contact me if you have any questions regarding this filing.

Sincerely,



Matthew S. Stern, Esq.

Enclosures

cc: Laura Bickel, Esq.
Gary Epler, Esq.

**COMMENTS OF NSTAR ELECTRIC COMPANY d/b/a EVERSOURCE ENERGY
MASSACHUSETTS ELECTRIC COMPANY AND NANTUCKET ELECTRIC
COMPANY EACH d/b/a NATIONAL GRID AND FITCHBURG GAS AND ELECTRIC
LIGHT COMPANY d/b/a UNITIL REGARDING PROPOSED RPS CLASS I AND RPS
CLASS II REGULATIONS**

On April 5, 2019 the Department of Energy Resources (“DOER”), pursuant to Sections 11F and 11F1/2 of Chapter 25A of the General Laws, and in conformance with Chapter 30A of the General Laws, filed draft regulations to amend portions of 225 CMR 14--Renewable Energy Portfolio Standard – Class I (“RPS Class I”) and 225 CMR 15--Renewable Energy Portfolio Standard – Class II (“RPS Class II”). The DOER has indicated that its proposed amendments revise the RPS Class I and RPS Class II regulations to address policy related changes, including changes required to implement Section 12 of Chapter 227 of the Acts of 2018, now codified at M.G.L. c. 25A, § 11F. Section 12 of Chapter 227 of the Acts of 2018 amended the RPS Class I Minimum Standard percentage requirements to increase the growth rate of the minimum percentage from 1 percent to 2 percent each year from 2020 to 2029.

The DOER invited written public comments no later than July 26, 2019. In accordance with the DOER’s notice and public comment period, NSTAR Electric Company d/b/a Eversource Energy (“Eversource”), Massachusetts Electric Company and Nantucket Electric Company, each d/b/a National Grid (“National Grid”) and Fitchburg Gas and Electric Light Company d/b/a Unitil (“Unitil” and together, the “Companies”) submit the following comments concerning: (1) the RPS Class I Alternative Compliance Payment (“ACP”); (2) the RPS Class II Waste-to-Energy Minimum Standard and ACP; and (3) the RPS Class II ACP.

As a general matter, the Companies support any measures to lower the costs of RPS compliance for Massachusetts customers while maintaining progress towards the Commonwealth’s clean energy goals. The Companies’ customers are the only Massachusetts

customers bearing RPS-related costs in the Commonwealth, because municipal electric utilities¹ continue to be exempt from the RPS and the Alternative Energy Portfolio Standard (“APS”), even though they benefit from the environmental benefits provided by RPS and APS programs, and any benefits that the Waste-to-Energy generators are providing to Massachusetts. Accordingly, the Companies are supportive of several of the DOER’s proposals, such as the proposal to limit RPS Class I Solar Carve-out units to 40 quarters – a move which is likely to result in approximately \$150 million in savings for the Companies’ customers in Massachusetts. The Companies similarly support the DOER’s proposals to stop adjusting the RPS Class I and RPS Class II ACPs by the Consumer Price Index. However, as discussed further below, the DOER should revise the proposed ACP rates to better align with other ACP rates in the region and to provide better protections for Massachusetts electric customers.

I. THE DOER SHOULD LOWER THE RPS CLASS I ACP RATE.

The DOER has proposed to cap the RPS Class I ACP at \$70 per megawatt-hour (“MWh”) beginning in 2020 with a review scheduled for every five years thereafter. The DOER has indicated that the \$70 per MWh RPS Class I ACP rate is intended to reduce the Companies’ customers’ exposure to higher program costs as the Minimum Standard percentage requirements increase from 2020 to 2029.

The RPS Class I ACP acts as a ceiling price to protect electricity customers against unreasonably high market prices for renewable energy certificates (“RECs”). RECs often are purchased at a price close to the ACP rate when there is a shortage of RECs to meet demand. For example, a shortage of RPS Class I RECs traded at a value close to the ACP as recently as 2014.

¹ Such electric utilities include municipal electric departments, municipal light boards, and municipal light plants.

More frequently, there are shortages in RPS Class II RECs, which always trade at a value close to the ACP. Currently, there is sufficient supply of RECs to meet RPS Class I compliance obligations. However, any new law that increases the demand for RPS Class I RECs would increase the price of RECs, perhaps dramatically. For example, the increase in Minimum Standard percentages specified in Chapter 227 of the Acts of 2018 immediately increased prices for RPS Class I RECs. Another potential increase in REC prices is the uncertain status of supply associated with Section 83D. A delay in implementation or termination of this supply would increase demand for RPS Class I RECs to meet the Clean Energy Standard, thus increasing REC prices significantly. A lower ACP rate will benefit Massachusetts electricity customers by capping the amount that they must pay for RPS compliance in future years.

The Companies agree with DOER that there is no need for an annual increase in the ACP for inflation, and that a rate cap should be set, but the Companies disagree with the DOER's proposed ACP rate of \$70 per MWh. Instead, the ACP rate should be decreased to better align with regional ACP rates and to reflect lower development costs for renewable energy generation resources in today's market.

A. Regional ACP Rates Are Well Below \$70 per MWh.

Massachusetts customers are already paying some of the highest electricity costs in the nation, in part driven by aggressive incentives for renewable energy generation. The average residential bill in Massachusetts includes an approximately 2.3 cent adder on every kilowatt-hour ("kWh") consumed to comply with the RPS Class I, RPS Class II, the APS, and the Clean Energy Standard. This equates to nearly \$1.0 billion, annually.² Also, proposals to expand the Clean

² The Companies' annual customer load is approximately 45,000,000 MWh. *See, e.g., Electric Customer Migration Data*, Department of Energy Resources, 2018 Monthly Electric Customer Migration Data. The \$1.0 billion

Energy Standard and to implement a Clean Peak Energy Standard (“CPS”) will result in additional costs for our customers. In other states with similar RPS requirements as Massachusetts, ACP rates are much lower than \$70 per MWh. Those lower ACP rates impact the regional market price of RECs, as load serving entities make economically rational decisions regarding whether to meet RPS requirements through the purchase of RECs or making an ACP.

For example, Connecticut’s ACP rate is set at \$40 per MWh beginning in 2020. The New Hampshire ACP is currently set at \$57.15 per MWh for 2019.³ The New York ACP is even lower, at \$24.67 per MWh for 2019.

Thus, under the current regulatory environment, ACP rates vary significantly in the region even though state policies are designed to encourage the same types of renewable resources, and in fact often compete for the same resources through regional competitive solicitations. With varying ACP rates, renewable generators will seek to sell RECs in the highest price markets (Massachusetts and Rhode Island) during tight market conditions, while consumers in states with lower ACP rates are insulated from the impacts of high market prices. To better align Massachusetts with other states’ ACP rates, and to better protect Massachusetts customers, DOER should implement an ACP rate that matches or is lower than the Connecticut ACP rate of \$40 per MWh.

estimate is derived from the product of the 2.3 cent adder on every kWh and the approximate annual Massachusetts load.

³ At one time, New Hampshire was on the same increasing ACP rate schedule as Massachusetts and Rhode Island. However, in 2013 the ACP rate was lowered to \$55 per MWh.

B. An ACP Rate Of \$70 per MWh Is Unnecessary To Compensate Existing Generators Or To Encourage New Development Of Renewable Generation.

The ACP was set at \$50 per MWh for compliance year 2003. It has increased by inflation to \$70.44 per MWh in 2019. Over the same period, the cost of developing renewable energy generation facilities, particularly solar photovoltaic and wind energy generation facilities, has steadily declined.⁴ As a result of these declining costs, generators require less revenue from the sale of RECs to recover the costs of project development and to earn a reasonable return on their investment.

In fact, many existing generators in the energy and REC markets are likely to have already recovered their development costs. For example, a generator that began operating in the year 2000 has had 19 years of energy revenue and 16 years of REC revenue. Therefore, high REC prices should not be necessary to offset initial development costs. Instead, high REC prices would only result in a windfall to existing generators at the cost of Massachusetts customers who are already paying high electricity costs.

Additional sources of revenue beyond RECs and energy have materialized since the ACP was initially set in 2003 to encourage new renewable energy development. Significantly, renewable generators can now participate in the ISO-NE Forward Capacity Market (“FCM”). Continuing through Forward Capacity Auction 15, which is to be held in 2021, eligible generators can elect to participate in primary auctions as a renewable technology resource (“RTR”), for which a designated number of megawatts from RTRs are exempt from the minimum-offer floor price requirement in each capacity commitment period. Renewable generators can also participate in other FCM auctions. For example, the ISO-NE Competitive Auctions with Sponsored Policy

⁴ See, e.g.: <https://www.nrel.gov/news/program/2018/costs-continue-to-decline-for-residential-and-commercial-photovoltaics-in-2018.html>.

Resources policy provides for a substitution auction to coordinate the entry of new publicly-sponsored resources in the capacity market. Additionally, renewable energy generators that begin operations after January 2019 and existing RPS Class I generators that are paired with a Qualified Energy Storage System currently are expected to be eligible to generate certificates under the developing CPS.⁵ In August of 2017, the Massachusetts Department of Environmental Protection (“MassDEP”) also promulgated Clean Energy Standard regulations that allow RPS Class I generators to qualify for the Clean Energy Standard, which is set to increase to 80% by 2050, thereby creating and ensuring demand for Clean Energy Certificates generated by qualifying projects. These new and valuable opportunities presented by other state and regional policy initiatives should offset a generator’s reliance on REC prices for renewable energy project viability.

Also, the Companies’ recent experiences with competitive solicitations for new renewable energy generation resources supports the conclusion that an ACP rate of \$70 per MWh is unnecessarily high. Energy procured by the Companies under Sections 83, 83A, and 83C of the Green Communities Act has had an average price of \$88 per MWh for energy and RECs. Under the Oakfield Wind and Bingham Wind projects approved in D.P.U. 13-146 through 13-149, for example, the Companies purchase energy and RECs for \$79 per MWh and \$81.85 per MWh, respectively. Under the long-term contracts for energy and RECs from offshore wind energy generation approved pursuant to Section 83C in D.P.U. 18-76/18-77/18-78, the Companies will be paying \$74 per MWh for the first 400 MW project, starting in 2022, and \$65 per MWh for the second 400 MW, starting in 2023.⁶ Additionally, the Zero Carbon Request For Proposals in

⁵ See, e.g., the DOER’s “Clean Peak Standard Straw Proposal Presentation” (April 2, 2019) at Slide 6.

⁶ These prices represent first-year total price, including energy and RECs, pursuant to Section 83C in D.P.U. 18-76/18-77/18-78, Exhibits JU-3- A-F [REDACTED] at Exhibit D.

Connecticut recently resulted in contracts for solar photovoltaic generation, which could qualify for Massachusetts RPS Class I, at a cost of \$49 per MWh for energy and RECs.⁷ To put this in perspective, the average 2018 real-time energy market price was \$43.54 per MWh.⁸

Taken together, these results indicate that new and existing sources of renewable generation do not need REC prices of \$70 per MWh to justify their development and continued operation. Without such a demonstration of need, there is no justification for setting the ACP rate at \$70 per MWh and passing this level of cost burden on to Massachusetts electric customers. The DOER should set an ACP rate cap that matches or is lower than the Connecticut ACP rate of \$40 per MWh.

II. INCREASES TO THE RPS CLASS II WASTE-TO-ENERGY STANDARD AND ACP RATE ARE NOT JUSTIFIED.

The DOER proposes to increase: (1) the RPS Class II Waste-to-Energy Minimum Standard from 3.5 percent to 3.7 percent for years 2019 through 2025; and (2) the RPS Class II Waste-to-Energy ACP rate to align with the RPS Class II ACP rate from 2019 through 2025. The DOER indicated in its stakeholder notice that these revisions are intended to align supply and demand with current retail load figures, address issues related to persistent oversupply, and increase revenues for Waste-to-Energy facilities for the period 2019 through 2025.

The Companies do not support the DOER's proposed increases to the RPS Class II Waste-to-Energy Minimum Standard and ACP rate because no data or analysis has been provided to justify it, and those adjustments will unnecessarily increase costs to customers.

At present, the MassDEP regulations provide for enhanced sorting and recycling and for the owners of each Waste-to-Energy plant to remit to the MassDEP 50 percent of the proceeds

⁷ <https://www.ct.gov/deep/cwp/view.asp?Q=607002>.

⁸ <https://www.iso-ne.com/static-assets/documents/2019/05/2018-annual-markets-report.pdf>

from selling Waste-to-Energy Certificates (“WECs”). The MassDEP uses those funds to help support municipal recycling programs. The DOER’s proposed changes to the Waste-to-Energy regulations would increase WEC prices, resulting in higher costs for Massachusetts electric customers.

The DOER’s proposed changes to the RPS Class II Waste-to-Energy standard and ACP rate are unrelated to the statutory amendment under Section 12 of Chapter 227 of the Acts of 2018. Instead, it appears these revisions are general policy-related changes. The DOER’s stated policy reason for increasing the standard and ACP rate is to “align supply and demand with current retail load” and to “improve revenues for Waste-to-Energy facilities.” However, the DOER has not provided any supporting analysis to justify the proposed increases in the RPS Class II Waste-to-Energy standard and ACP rate. Without reviewing any such supporting data or analysis, it is difficult to assess whether there is any need to artificially adjust supply and demand of Waste-to-Energy resources or to subsidize revenues for the operators of those resources. The DOER should make its analysis available for review to determine whether increased costs to customers are justified to support Waste-to-Energy facilities. Additionally, the WEC prices have not experienced any decline in the market which would necessitate the proposed changes for price support.

A transparent review of data supporting the DOER’s proposed market-based policies is particularly important because the Waste-to-Energy industry in Massachusetts has historically been fulfilled by only two suppliers and is therefore more appropriately characterized as a duopoly. The proposed changes to the Waste-to-Energy regulations are thus likely to benefit only those two suppliers (and MassDEP, to the extent that it receives a share of WEC proceeds).⁹ The DOER

⁹ One of these suppliers, Covanta Energy, has filed comments in Connecticut supporting H.B. No. 5381, An Act Concerning The Renewable Portfolio Standard for Class II Renewable Energy Sources. If passed, this measure will increase prices for Waste-to-Energy Class II RECs in Connecticut.

should provide further data to explain how the proposed changes to the regulations will benefit the environment and consumers at large, rather than just producing higher revenues for the two existing suppliers in the state.

If the Waste-to-Energy ACP is increased from its current level of \$11.56 per MWh up to \$35 per MWh, as the DOER has proposed, customers will likely experience much higher compliance costs. With only two suppliers of WECs, if the DOER increases the Waste-to-Energy standard, then it is likely to create a short market for WECs, resulting in prices trading closer to or at the ACP. In fact, before the DOER's proposed regulations were issued, WECs were trading around \$6 to \$7 each. After DOER's proposal was released, prices increased to the range of \$12 to \$17 dollars for 2019 and 2020. Even if prices remained at \$17 through 2025, it would result in increased compliance costs of over \$114 million for Massachusetts customers.¹⁰ If WECs increase to \$5 below the proposed ACP rate of \$35 due to the increased Minimum Standard, then from 2019 through 2025, Massachusetts customers would see a total increase of approximately \$245 million. A comparison of the last five years of actual data demonstrates that in an average year there will be a shortage of WECs to meet the proposed Minimum Standard of 3.7 percent. From 2014 through 2018, an average of 1,751,392 WECs were minted annually.¹¹ From 2012 through 2016 (the last year of published data), the RPS compliance load averaged 48,249,761 MWh annually.¹² The proposed Minimum Standard of 3.7 percent requires 1,785,241 WECs to satisfy the obligation, which is 33,849 WECs greater than the average supply for the last five years. This

¹⁰ As stated in note 2, above, the Companies' customer load is approximately 45,000,000 MWh. The estimated increased compliance costs of over \$114 million for Massachusetts customers is derived from an assumption of a 2019 WEC increase to \$12 from \$6, and a further assumption of a 2020 through 2025 WEC increase to \$17 from \$7.

¹¹ Source: www.nepoolgis.com. GIS Certificate Statistic Public Report.

¹² Source: Massachusetts 2016 Renewable Portfolio Standard (RPS) and Alternative Portfolio Standard (APS) Annual Compliance Report.

indicates that the market would be short and the WECs would trade close to the proposed ACP rate of \$35.

Given the substantial cost effect on Massachusetts customers from this proposed change, the DOER should provide some analysis to justify this cost. The Companies recommend that the RPS Class II Waste-to-Energy ACP should remain at \$11.56 per MWh and no longer increase by the Consumer Price Index. Also, the Minimum Standard should remain at 3.5 percent.

III. THE RPS CLASS II ACP RATE SHOULD BE LOWERED.

The DOER has also proposed to cap the RPS Class II ACP rates at 50 percent of the RPS Class I ACP rate, or \$35 per MWh. Similar to the RPS Class I ACP rate, the Companies support ACP caps as a means of providing consumer protection against high market prices. For the same reasons explained above, the RPS Class II ACP rate should be set at 25 percent to 50 percent of the RPS Class I ACP rate only if the RPS Class I ACP rate is reduced to \$40 per MWh or less to be commensurate with Connecticut's ACP rate.

Historically, the market has been tight for RPS Class II RECs. Therefore, an increase in the ACP will likely result in an increase in RPS Class II REC prices, as such RECs are already trading close to the ACP. The table below provides the average RPS Class II REC trading prices compared to the ACP rates for the last several years:

Table 1: “Comparison of RPS Class II Market Prices and ACP rate”

Compliance Year	Average Market Price (in \$)¹³	ACP Rate (in \$)
2015	26.32	27.53
2016	26.89	27.50
2017	26.38	27.79
2018	26.52	28.30
2019	26.03	28.91

If the RPS Class II ACP is increased to \$35, market prices could reasonably be expected to increase from \$26 per REC to \$33 per REC. An increase of that magnitude would cost customers an additional \$10 million in compliance costs each year.¹⁴

As with RPS Class I resources, RPS Class II resources have several new revenue opportunities that were not available when the RPS Class II ACP was initially set. Many RPS Class II resources have obtained capacity supply obligations in the ISO-NE FCM. Additionally, many small hydroelectric units have enrolled in, or are eligible to enroll in, the small hydroelectric net metering program. Also, RPS Class II generators that are paired with a Qualified Energy Storage System are expected to be eligible to participate under the developing CPS framework.¹⁵ Based on these additional options for generators, rather than increase the ACP, the DOER should lower the ACP to align more closely with regional prices and current market conditions. Additionally, the DOER should revise the formula used to determine the RPS Class II Minimum Standard. The current formula has resulted in tight markets due to high demands and low supply. RPS Class II REC prices historically trade near the ACP and above RPS Class I RECs, which is

¹³ The market prices used in this table were obtained from SNL, a subscription-based service.

¹⁴ As stated in note 2, above, the Companies’ customer load is approximately 45,000,000 MWh. The estimated increased compliance costs of an additional \$10 million for Massachusetts customers is derived using the 2020 Class II minimum standard of 3.2056% and an assumption of a 2019 Class II increase to \$33 from \$26.

¹⁵ See, e.g., the DOER’s “Clean Peak Standard Straw Proposal Presentation” at Slide 6.

paradoxical, given that existing generators would be expected to have lower fixed costs than new generators. If the DOER establishes an ACP rate between \$10 per MWh and \$20 per MWh, it may help correct this anomaly of Class II RECs trading at higher prices than RPS Class I RECs. If the DOER lowers the ACP or “ceiling price” for RPS Class II RECs, it would decrease the possibility that RPS Class I RECs trade at a value lower than RPS Class II RECs.

IV. CONCLUSION

The Companies appreciate the opportunity to submit comments regarding the DOER’s proposed changes to the RPS Class I and RPS Class II regulations. The Companies support the DOER’s proposal to fix ACP rates. However, to better protect customers from high market costs, the DOER should implement an RPS Class I ACP rate at or below the Connecticut ACP rate of \$40 per MWh and lower the RPS Class II ACP rate to a range between \$10 to \$20 per MWh. Additionally, the DOER should not revise the Waste-to-Energy Standard or ACP without first providing further analysis to demonstrate that the resulting cost to customers would be justified.

Respectfully Submitted,

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d/b/a EVERSOURCE ENERGY



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**FITCHBURG GAS AND ELECTRIC LIGHT
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Dated: July 26, 2019