



The Commonwealth of Massachusetts

DEPARTMENT OF PUBLIC UTILITIES

D.P.U. 17-105

September 12, 2017

Petition of Tesla, Inc. for Emergency Declaratory Relief or an Advisory Ruling pursuant to G.L. c. 30A § 8 and 220 CMR 2.02.

APPEARANCES: Kevin Auerbacher, Esq.
Tesla, Inc.
601 13th Street NW
9th Floor N.
Washington, DC 20005
FOR: Tesla, Inc.
Petitioner

I. INTRODUCTION

This matter concerns the eligibility for net metering of certain solar power generating systems paired with battery storage. Under the statutory and regulatory framework in Massachusetts, net metering allows customers to generate credits for excess electricity that net metering facilities generate. To qualify for net metering, a customer may install any type of generating facility, regardless of fuel source, as long as the facility is smaller than 60 kilowatts (“kW”). 220 CMR 18.02. Facilities of up to two megawatts (“MW”) are eligible for net metering if they generate electricity with renewable technologies (*i.e.*, wind, solar photovoltaics, or anaerobic digestion facilities). 220 CMR 18.02. On August 24, 2012, the Department issued Net Metering, D.P.U. 11-11-C (2012), clarifying which projects are eligible for net metering and which are not. D.P.U. 11-11-C at 21-23.

On May 18, 2017, Tesla, Inc. (“Tesla” or “Petitioner”) filed a petition (“Petition”) with the Department pursuant to G.L. c. 30A § 8 and 220 CMR 2.08 seeking emergency declaratory relief or, in the alternative, an advisory ruling with respect to the eligibility for net metering of certain solar power generation systems paired with battery storage, pursuant to G.L. c. 164, §§ 138-140 and 220 CMR 18.00. Specifically, the Petitioner seeks a determination from the Department that solar power generating systems paired with battery storage,¹ that meet the following criteria, qualify as a solar net metering facility under G.L. c. 164, § 138 and 220 CMR 18.02: (1) the solar net metering facility has a nameplate

¹ The Petitioner seeks a declaratory order or advisory ruling concerning “battery storage” but does not define the term.

capacity of 60 kW or less alternating current (“AC”); (2) the battery storage charges only from the solar net metering facility; and (3) the battery storage component of the facility does not export power to the electric grid (“Small Scale Solar & Battery Storage Facilities”) (Petition at 1).

The Department docketed this matter as D.P.U. 17-105, and on May 26, 2017, directed Tesla to issue a notice of filing and request for comments to the electronic service list in Inquiry Into The Single Parcel and Subdivision Rules, D.P.U. 17-22 (2017). The Petitioner timely filed a return of service certifying that it complied with the notice requirements. The Department received comments from several interested stakeholders in response to the notice.²

II. TESLA’S PETITION³

Tesla seeks emergency declaratory relief or, in the alternative, an advisory ruling from the Department with respect to its Petition. The sole materials before the Department for its determination of the Petition are the Petition itself and the comments received from interested stakeholders. The following summary is based on the materials and representations

² The Department received comments from the following entities: Attorney General Maura Healey (“Attorney General”); Department of Energy Resources (“DOER”); Massachusetts Electric Company and Nantucket Electric Company, each d/b/a National Grid (“National Grid”); Northeast Clean Energy Council (“NECEC”); and Sunrun, Inc. (“Sunrun”).

³ Tesla’s filing consists of its petition.

that the Petitioner provided in support of its request and may not be treated as factual findings by the Department.⁴

Tesla seeks clarification that Small Scale Solar & Battery Storage Facilities can net meter pursuant to National Grid's net metering tariff M.D.P.U. No. 1331, G.L. c. 164, §§ 138-140, and 220 CMR 18.00 (Petition at 1). Tesla states that the definition of a "solar net metering facility" should not exclude battery storage equipment (Petition at 1-2). The Petitioner maintains that on March 21, 2017, Tesla learned that National Grid issued a notice indicating that solar facilities that were paired with battery storage would be not be eligible to receive net metering services (Petition at 7).

Tesla argues that Small Scale Solar & Battery Storage Facilities should be able to net meter because it is technically feasible to configure Small Scale Solar & Battery Storage Facilities where the stored energy is only from the electricity generated by sunlight, and the battery storage equipment itself does not export to the electric grid (Petition at 11). Tesla maintains that the default factory setting for solar inverters disables battery charging from the electric grid and only allows charging to occur when there is power being generated from the solar panels (Petition at 11). Tesla also claims that while the excess power from the solar panels serves customer loads, or is exported to the grid, the battery storage component itself is not exporting (Petition at 11). The Petitioner maintains that the definition of a solar net metering facility does not preclude the facility from containing a storage component, arguing

⁴ Throughout this ruling, the Department assumes - without finding - the facts to be as represented in the Petition. We further assume, without so finding, that Tesla's assertion of material facts is both complete and accurate. See G.L. c. 268, § 6.

that that the definition does not limit how the production uses sunlight, nor does it use limiting or preclusionary language (Petition at 12). Furthermore, Tesla argues that it is the Legislature's intent to advance energy storage technology paired with technologies such as solar (Petition at 12-13 citing St. 2016, c. 188, §§ 8-9).

The Petitioner maintains that the New York Public Service Commission ("NYPSC") recently determined that solar paired with energy storage is eligible for net metering (Petition at 14 citing Case No. 15-E-0751, In the Matter of the Value of Distributed Energy Resources, Order on Net Energy Metering Transition, Phase One of the Value of Distributed Energy Resources, and Related Matters, at 17 (March 9, 2017)). Tesla adds that while the NYPSC is exploring whether to impose conditions on solar systems paired with storage, it has made clear that certain small facilities would be able to participate in the net metering program (Petition at 14). The Petitioner seeks a determination from the Department, similar to that granted by the NYPSC, finding in particular that Small Scale Solar & Battery Storage Facilities are eligible to net meter to reduce the harm that Tesla and other customers are experiencing as a result of National Grid's current business practices (Petition at 8).

III. COMMENTS

A. National Grid

National Grid claims that combining solar power generation with battery storage offers a wide range of potential benefits for consumers and the electric power system (National Grid Comments at 3). National Grid notes that other state agencies are exploring energy storage targets and policies that could create significant growth of energy storage

systems in the near future (National Grid Comments at 3). National Grid agrees that a narrow advisory ruling addressing whether Small Scale Solar & Battery Storage Facilities are eligible for net metering is appropriate (National Grid Comments at 4).

National Grid maintains, however, that Small Scale Solar & Battery Storage Facilities may not be eligible as solar net metering facilities under G.L. c. 164, § 138, and the Department's net metering regulations (National Grid Comments at 3). In evaluating this issue, National Grid identifies a number of considerations including rate treatment, ISO New England Inc. ("ISO-NE") participation requirements, impact on capacity rights and participation in the ISO-NE forward capacity market, and other technical and interconnection requirements (National Grid Comments at 4). National Grid emphasizes that these considerations need not be evaluated in the instant matter, as those concerns are mitigated when Small Scale Solar & Battery Storage Facilities comply with the limitations outlined in Tesla's Petition (National Grid Comments at 4).

National Grid represents that its decision not to provide net metering services to Small Scale Solar & Battery Storage Facilities, to date, is reasonable, arguing that National Grid would have had to make unilateral decisions on restrictions and eligibility requirements, which might have been different than other electric distribution companies (National Grid Reply Comments at 3). National Grid also objects to the Department's issuing a broad decision on battery storage in this proceeding, arguing that it is beyond the scope of the Petition and the Department's Notice (National Grid Reply Comments at 4). For example, National Grid maintains that the Department should further consider how pairing battery

storage with solar behind a single net meter could impact the facility's participation in the ISO-NE energy and capacity markets (National Grid Reply Comments at 4-6).

National Grid notes that if the Department were to find that Small Scale Solar & Battery Storage Facilities are eligible to receive net metering services, the Department should address two additional clarifications: (1) the process surrounding compliance with the configuration represented by Tesla; and (2) whether the facility's capacity is based on the solar facility itself or the combined capacity of the solar facility and battery storage (National Grid Reply Comments at 6).

B. Department of Energy Resources

DOER emphasizes that it is the role of the Department to interpret the eligibility of technologies for net metering (DOER Comments at 1-2 citing 220 CMR 18.09(2)). DOER recommends that the Department clarify whether Tesla's proposed Small Scale Solar & Battery Storage Facilities fit the net metering statutes and regulations, because such a determination could have an impact on a variety of programs funded by DOER (DOER Comments at 2).

DOER notes that there are few applicants disqualified from receiving net metering services (DOER Comments at 3). DOER interprets the relevant tariffs and statutes to include Small Scale Solar & Battery Storage Facilities in the definition of "solar net metering facility" included in 220 CMR 18.02 (DOER Comments at 3). However, DOER argues that Small Scale Solar & Battery Storage Facilities only fit this definition as long as the battery

exclusively stores energy generated by sunlight and is unable to export energy to the electric grid (DOER Comments at 3).

DOER outlines the potential benefits that Small Scale Solar & Battery Storage Facilities would bring to all ratepayers (DOER Comments at 3). DOER argues that using energy storage technologies allows a solar facility to consume the energy on site rather than exporting the excess generation to the electric grid (DOER Comments at 3). DOER maintains that this design will reduce the amount of net metering credits that the generator receives and therefore reduce the amount of credits that need to be recovered from ratepayers (DOER Comments at 4).

C. Northeast Clean Energy Council

NECEC favors Tesla's proposal and recommends that the Department approve the Petition (NECEC Comments at 1-2). NECEC notes that energy storage has a number of benefits, including energy and monetary savings, energy and environmental policy impacts, and important electric grid management and resiliency benefits (NECEC Comments at 1).

NECEC also urges the Department to approve a broader category of solar power generating facilities paired with storage than the one proposed by Tesla (NECEC Comments at 1).⁵ NECEC specifically requests that solar power generating facilities paired with storage of any size be included in the Department's definition of a solar net metering facility, so long as Tesla's other proposed conditions are met (NECEC Comments at 1-2). NECEC seeks this clarification to avoid the need for duplicative filings by other interested parties, and to allow

⁵ NECEC did not define "storage" or specify battery storage in its comments.

the storage industry to proceed with these types of projects while the Department considers whether to open a separate docket to address other configurations of storage paired with renewable technologies (NECEC Comments at 2).

D. Sunrun

Sunrun requests that the Department approve Tesla's Petition and provide guidance stating that Small Scale Solar & Battery Storage Facilities using inverters, such as the SolarEdge inverter, that do not allow the facility to charge from the electric grid should be able to net meter (Sunrun Comments at 1-2, 7). Sunrun argues that a solar power generating facility paired with storage can control when onsite load is served by the facility, similar to a facility that tracks the sun (Sunrun Comments at 3). Sunrun requests that the Department resolve this request for Small Scale Solar & Battery Storage Facilities now and defer other issues to a future rulemaking or proceeding (Sunrun Comments at 9).

Sunrun maintains that the definition of "net metering" lacks a temporal element requiring that the generation from a net metering facility be fed to the electric grid the instant that it is generated (Sunrun Comments at 3). Sunrun further argues that the underlying legislative purpose of net metering is to give customers the ability to receive fair credit and value for energy they cannot use in real-time (Sunrun Comments at 5). Sunrun notes that allowing customers to use their own onsite generation to meet a greater part of their onsite load enhances this legislative intent (Sunrun Comments at 5). Sunrun also claims that the Department has previously recognized that a "prescriptive definition [for determining net

metering eligibility] could unreasonably restrict the configurations that are available to solar developers” (Sunrun Comments at 6 citing D.P.U. 11-11-C at 17).

E. Attorney General

The Attorney General generally supports Tesla’s Petition and interprets G.L. c. 164, §§ 138-140 to permit developers to incorporate battery storage into a net metering facility (Attorney General Comments at 1). The Attorney General supports allowing the battery storage component of Small Scale Solar & Battery Storage Facilities to charge only from the solar facility (Attorney General Comments at 1-2). The Attorney General proposes to include this requirement in the interconnection agreement for the net metering facility (Attorney General Comments at 1-2). The Attorney General maintains that the Department should require developers to utilize software, hardware, or metering capabilities to ensure this criterion is met, and that, at the Department’s discretion, additional technological requirements may be necessary to ensure that Small Scale Solar & Battery Storage Facilities do not draw power from the electric grid in order to fully charge the battery in an effort to generate additional net metering credits. (Attorney General Comments at 1-2).

The Attorney General encourages the Department to apply the same eligibility criteria and gaming mitigation rules to all solar power generating facilities paired with battery storage, irrespective of their size (Attorney General Comments at 2). Lastly, the Attorney General maintains that the Department should consider rules or technological requirements that maximize the benefits of the energy produced by a solar facility with no behind-the-meter load (Attorney General Comments at 2).

F. Tesla

Tesla requests that the Department put aside any concerns regarding gaming in the context of its Petition, and notes that National Grid stated that “for the most part, the Company’s Policy and Technical concerns are mitigated” (Tesla Reply Comments at 4). Tesla cautions against prescribing any specific technology or software, and further points to the simplified, expedited, and standard/model interconnection agreement provisions, which include a self-certification regarding the contents of the application for interconnection (Tesla Reply Comments at 5).⁶ Tesla agrees with the Attorney General that other combinations and sizes should be eligible for net metering (Tesla Reply Comments at 5). Tesla contends that there is unanimous agreement in the comments that an immediate ruling on the net metering eligibility for Small Scale Solar & Battery Storage Facilities is essential (Tesla Reply Comments at 6).

IV. STANDARD OF REVIEW

As an initial matter, the Department puts on notice any petitioner seeking an exception from the Department’s rules, regulations, Orders, or other directives governing net metering services that any such petition must include specific information consistent with the Department’s previously issued guidance materials and Procedural Rules. Jonathan Bracken, D.P.U. 16-36, Hearing Officer Memorandum (2016); see also 220 CMR 1.00; Powerhead

⁶ National Grid’s standard interconnection agreement is included as Exhibit H to the Massachusetts Electric Company and Nantucket Electric Company “Standards For Interconnecting Distributed Generation,” M.D.P.U. No. 1320.

LLC, D.P.U. 16-157, Notice of Deficient Petition for an Exception from the Net Metering Regulations (2016), Sun Edison LLC, D.P.U. 15-124 (2016).⁷

A Declaratory Order is binding on the parties limited to the explicit fact situation for which it is issued. A party requesting a Declaratory Order must provide with its petition the basic information required for the Department to make a decision. The Department has discretion to issue or decline to issue a Declaratory Order as to the applicability to any person, property, or factual situation of any statute or regulation enforced or administered by the Department. NSTAR Electric Company, D.P.U. 15-174, at 20-21 (2016).

Pursuant to G.L. c. 30A, § 8, and 220 CMR 2.08, the Department has discretion to issue or to decline to issue advisory rulings as to the applicability to any person, property, or factual situation of any statute or regulation enforced or administered by the Department. USGen New England, Inc., D.T.E. 98-107, at 7 (1998); USGen New England, Inc., D.P.U. 98-20, at 5 (1998); Millennium Power Partners, L.P., D.P.U. 98-19, at 5 (1998); Littleton Electric Light Department, D.P.U. 96-11, at 3 (1996). Such rulings are not binding upon the Department in any subsequent formal proceeding. See McDonough, 38 Administrative Law and Practice, §§ 10.54, 10.55 (Mass. Practice Series, 2d ed. 2016). Nor may a petitioner for such an advisory ruling plead estoppel if the Department were later,

⁷ In response to several petitions seeking exceptions from the net metering regulations that omitted important information required for the Department's review, the Department has issued multiple Notices of Deficient Petitions with information about how to remedy the deficiency and submit a supplemental filing. See e.g., John and David de Kadt, Notice of Deficient Petition for an Exception from the Net Metering Regulations D.P.U. 17-111 (June 16, 2017).

in an actual adjudication based on an evidentiary record, to adopt a view of the law that differed from an earlier advisory ruling. Phipps Product Association v. Massachusetts Bay Transportation Authority, 387 Mass. 687, 693 (1982); McAndrews v. School Committee of Cambridge, 20 Mass. App. Ct. 356, 361 (1985).⁸

In issuing an advisory ruling, the Department does not find any facts or implicitly sanction or accept any of a petitioner's factual assertions or estimates. D.T.E. 98-107, at 7; D.P.U. 98-20, at 5-6; D.P.U. 98-19, at 5-6; D.P.U. 96-11, at 4. Ordinarily, the Department declines to issue advisory rulings and prefers to construe its statutes and regulations in specific factual settings. Massachusetts-American Water Company, D.P.U. 95-41, at 7 (1995), citing Town of Stow, D.P.U. 93-124-B at 1 (1994); see also NSTAR Electric Company d/b/a Eversource Energy, D.P.U. 15-174, at 20 n. 12 (2016) ("The Department has moved away from its past practice of issuing Advisory Rulings related to net metering matters."). The Department avoids, where possible, rendering advisory rulings on matters that have not yet matured into an actual controversy for resolution through the adjudicatory process. Cambridge Electric Light Company, Commonwealth Electric Company, and Canal Electric Company, D.P.U./D.T.E. 97-111, at 38 (1998). Consequently, an advisory ruling does not have the effect of resolving a specific legal issue, but rather renders an opinion about the legal effect and impact of a statute, rule, or regulation administered by the Department.

⁸ The Department's general practice, however, is to take no action against a party relying in good faith on an advisory ruling. NSTAR Electric Company, D.P.U. 15-174, at 20 n.12 (2016).

V. ANALYSIS AND FINDINGS

The Petitioner seeks emergency declaratory relief or, in the alternative, an advisory ruling, to clarify a question of first impression: whether Small Scale Solar & Battery Storage Facilities are eligible for net metering, pursuant to G.L. c. 164 §§ 138-140 and 220 CMR 18.00. The Department find this purpose sufficient to warrant a departure from our customary reticence under G.L. c. 30A, § 8, to issue an advisory ruling.⁹ Some expression of the Department's views on the issue raised in the Petition is appropriate to assist similarly situated parties in understanding their rights and obligations under G.L. c. 164, §§ 138-140, and 220 CMR 18.00. Therefore, as discussed further below and for the following reasons, we find that Small Scale Solar & Battery Storage Facilities configured in the manner as described in the Petition are eligible to net meter pursuant to G.L. c. 164, §§ 138-140, and 220 CMR 18.00.

A. Declaratory Order

A party requesting a declaratory order must provide with its petition the basic information required for the Department to make a decision. As with an advisory ruling, the Department has discretion to issue or decline to issue a declaratory order as to the applicability to any person, property, or factual situation of any statute or regulation enforced or administered by the Department. See (as to advisory ruling) USGen New England, Inc., D.T.E. 98-107, at 7 (1998); USGen New England, Inc., D.P.U. 98-20, at 5 (1998);

⁹ An advisory ruling is in contrast to orders that, for example, establish obligations or requirements, set rates and charges, or impose penalties.

Millennium Power Partners, L.P., D.P.U. 98-19, at 5 (1998); Littleton Electric Light Department, D.P.U. 96-11, at 3 (1996). Tesla outlines the issue of eligibility for net metering of certain solar power generating systems paired with battery storage, but it does not connect with particularity the issue with relevance to Tesla's generating facilities or specific activities. Therefore, in the exercise of its discretion, the Department declines to issue a declaratory order. However, we conclude that there is sufficient uncertainty in the net metering industry to warrant issuing the advisory ruling set forth below to address the controversy concerning the eligibility for net metering of certain solar power generating systems paired with battery storage.

B. Advisory Ruling

In issuing an advisory ruling, the Department does not find any facts. D.T.E. 98-107, at 7; D.P.U. 98-20, at 5-6; D.P.U. 98-19, at 5-6; D.P.U. 96-11, at 4. Rather, an advisory ruling renders an opinion about the legal effect and impact of a statute administered by the Department. In this case, the Department finds it appropriate to issue an advisory ruling to address the uncertainty raised in the Petition regarding the eligibility for net metering of certain solar power generating systems paired with battery storage.

The Supreme Judicial Court has stated that "statutory language should be given effect consistent with its plain meaning and in light of the aim of the Legislature unless to do so would achieve an illogical result." Welch v. Sudbury Youth Soccer Association, 453 Mass. 352, 354-355 (2009) (quoting Sullivan v. Town of Brookline, 435 Mass. 353, 360 (2001)). "None of the words of a statute is to be regarded as superfluous, but each is to be given its

ordinary meaning without overemphasizing its effect upon the other terms appearing in the statute, so that the enactment considered as a whole shall constitute a consistent and harmonious statutory provision capable of effectuating the presumed intention of the Legislature.” Bolster v. Commissioner of Corporations and Taxation, 319 Mass. 81, 84-85 (1946); see also International Organization of Masters v. Woods Hole, Martha’s Vineyard and Nantucket Steamship Authority, 392 Mass. 811, 813 (1984).

Where ambiguities exist, the Court will interpret a statute “according to the intent of the Legislature ascertained from all its words construed by the ordinary and approved usage of the language, considered in connection with the cause of its enactment, the mischief or imperfection to be remedied and the main object to be accomplished, to the end that the purpose of its framers may be effectuated.” Commonwealth v. Welch, 444 Mass. 80, 85 (2005) (quoting Board of Education v. Assessor of Worcester, 368 Mass. 511, 513 (1975)); see also Kain v. Department of Environmental Protection, 474 Mass. 278, 286 (2016); Sperounes v. Farese, 449 Mass. 800, 804 (2007) (quoting Hanlon v. Rollins, 286 Mass. 444, 447 (1934)). Where the Legislature has explicitly left a statutory gap, the agency charged with the administration of a statute is delegated authority to provide clarification. United States v. Mead Corp., 533 U.S. 218, 227 (2001) (citing Chevron U.S.A., Inc. v. Natural Resources Defense Council, 467 U.S. 837, 843-844 (1984)); Middleborough v. Housing Appeals Committee, 449 Mass. 514, 523 (2007)(citing Zoning Board Of Appeal of Wellesley v. Housing Appeals Committee, 385 Mass. 651, 654 (1982)).

By statute, a “Solar Net Metering Facility” is defined as, “a facility for the production of electrical energy that uses sunlight to generate electricity and is interconnected to a distribution company.” G.L. c. 164 § 138. The statutory framework concerning net metering is silent with regard to energy storage systems. G.L. c. 164 §§ 138-140. The Legislature has, however, defined “Energy Storage System” in G.L. c. 164 § 1 as:

a commercially available technology that is capable of absorbing energy, storing it for a period of time and thereafter dispatching the energy and which may be owned by an electric distribution company; provided, however, that an energy storage system shall: (i) reduce the emission of greenhouse gases; (ii) reduce demand for peak electrical generation; (iii) defer or substitute for an investment in generation, transmission or distribution assets; or (iv) improve the reliable operation of the electrical transmission or distribution grid; and provided further, that an energy storage system shall: (1) use mechanical, chemical or thermal processes to store energy that was generated for use at a later time; (2) store thermal energy for direct heating or cooling use at a later time in a manner that avoids the need to use electricity at that later time; (3) use mechanical, chemical or thermal processes to store energy generated from renewable resources for use at a later time; or (4) use mechanical, chemical or thermal processes to capture or harness waste electricity and to store the waste electricity generated from mechanical processes for delivery at a later time.

The Legislature has not addressed the interaction between Solar Net Metering Facilities and Energy Storage Systems. As such, the Department recognizes that a regulatory gap exists regarding Energy Storage Systems and Solar Net Metering Facilities subject to G.L. c. 164 §§ 138-140, thereby creating uncertainty for net metering stakeholders.

In such circumstances where the Legislature has delegated decision-making authority to the Department, the Court grants deference to the Department, based on its “expertise and experience.” Energy Express, Inc. v. Department of Public Utilities, 477 Mass. 571, 575

(August 3, 2017) citing Bay State Gas Company v. Department of Public Utilities, 459 Mass. 807, 813-814 (2011). The Department recognizes that it is the Legislature's intent to promote the use of Energy Storage Systems in the Commonwealth and established policy of the Commonwealth to provide, forthwith, renewable and alternative energy for the immediate preservation of the public convenience. See e.g., An Act to Promote Energy Diversity, St. 2016, c. 188, § 15; An Act Relative to Green Communities, St. 2008, c. 169 ("GCA"). Since the GCA's enactment, net metering has become increasingly important to the development of a robust and stable market for renewable energy projects in the private and the public sectors. Net Metering Rulemaking, D.P.U. 16-64, at 1-2 (2016). Thus, by supporting the eligibility of Small Scale Solar & Battery Storage Facilities for net metering services, consistent with comments received by interested stakeholders, the Department's interpretation of this regulatory gap is consistent with the larger legislative design to encourage the development of renewable and alternative energy throughout the Commonwealth, including the use of Energy Storage Systems.

The Department agrees with National Grid that a number of issues exist relating to the eligibility of net metering facilities paired with Energy Storage Systems for net metering services that require further consideration, including uniformity amongst electric distribution companies, technical and interconnection requirements, ratemaking treatment, ISO-NE participation requirements, and impact on capacity rights and participation in the ISO-NE forward capacity market. However, the Department also agrees that these considerations are mostly mitigated if a solar net metering facility paired with battery storage complies with the

limitations outlined in Tesla's Petition. As such the Department's opinion that Small Scale Solar & Battery Storage Facilities should be eligible to net meter is wholly reliant upon Tesla's claims that a solar net metering facility paired with battery storage can technically be configured in a manner that meets the criteria of Small Scale Solar & Battery Storage Facilities (Petition at 11).

The Department further finds that the complexity of this matter along with stakeholder interest and concern in this matter warrants further Department consideration and additional public process to investigate all potential issues related to the eligibility of net metering facilities paired with energy storage systems under G.L. c. 164, §§ 138-140, and 220 CMR 18.00.¹⁰ As such, the Department intends to separately open an Inquiry, on its own Motion, into the eligibility of energy storage systems to net meter, pursuant to G.L. c. 164, §§ 138-140, and 220 CMR 18.00 ("Inquiry").¹¹

¹⁰ The Department's inclusion of the term "energy storage system" in this Ruling does not indicate its decision to accept the definition set forth in G.L. c. 164, § 1, for net metering purposes. The Department intends to investigate the proper definition of energy storage systems for the purposes of net metering services through its Inquiry.

¹¹ National Grid, specifically requested Department clarification on two issues concerning the eligibility of Small Scale Solar & Battery Storage Facilities to net meter: 1) the process for customers to certify, ensure, and enforce their compliance with the criteria of Small Scale Solar & Battery Storage Facilities; and 2) whether a Small Scale Solar & Storage Facility's capacity is based on the solar facility itself or the combined capacity of the solar facility and battery storage system (National Grid Reply Comments at 6). The Department intends to address both of these issues in detail in its Inquiry, however, in the interim, the Department directs the electric distribution companies at their discretion to require any interconnecting solar net metering facility paired with battery storage to submit documentation sufficient to demonstrate to the electric distribution company that the facility meets the criteria of Small Scale Solar & Battery Storage Facilities in compliance with this ruling; and to

Therefore, the Department does not adopt any new rule but offers the advisory opinion that, while the general eligibility of energy storage systems paired with net metering facilities for net metering services requires further investigation, in the interim, Small Scale Solar & Battery Storage Facilities, in the manner as presented by Tesla in its Petition should be eligible to net meter pursuant to G.L. c. 164, §§ 138-140, and 220 CMR 18.00, subject to the configuration conditions set forth herein.¹²

VI. LIMITATIONS

The limitations applicable to this advisory ruling include the following:

- This advisory ruling is issued only to the Petitioner.
- This advisory ruling is applicable only to the statutory and regulatory provisions specifically noted herein. No opinion is expressed or implied herein with respect to the application of any other federal, state, or local statute, rule, regulation, ordinance, or law that may be applicable to the organization and operation of the Petitioner.

consider the generating capacity of a Small Scale Solar & Battery Storage Facility to be equal to the combined nameplate capacity of the solar net metering facility and the battery storage system.

¹² The Department's advisory opinion in this ruling is generally applicable to all solar net metering facilities paired with battery storage that meet the criteria of Small Scale Solar & Battery Storage Facilities. However, the Department puts all net metering stakeholders on notice that information received through further investigation in the Department's Inquiry could alter or expand the Department's opinion on this matter.

- This advisory ruling is limited in scope to the specific matters described in this ruling and has no applicability to other matters, even those that appear similar in nature or scope.

VII. ORDER

Accordingly, after notice, opportunity for comment, and due consideration, it is hereby

ORDERED: That the Secretary of the Department shall serve a copy of this advisory ruling on Tesla, Inc. in answer to its Petition of May 18, 2017; and it is

FURTHER ORDERED: That the Secretary of the Department shall serve a copy of this advisory ruling on each electric distribution company subject to the Department's jurisdiction.

By Order of the Department,

/s/
Angela M. O'Connor, Chairman

/s/
Robert E. Hayden, Commissioner

/s/
Cecile M. Fraser, Commissioner