



The Commonwealth of Massachusetts

DEPARTMENT OF PUBLIC UTILITIES

D.P.U. 17-22

March 15, 2017

Inquiry by the Department of Public Utilities on its own Motion into application of the Net Metering Regulations pursuant to 220 C.M.R. § 18.00 et seq., and the Single Parcel and Subdivision Rules, pursuant to Net Metering and Interconnection of Distributed Generation, D.P.U. 11-11-C (2012).

VOTE AND ORDER OPENING INQUIRY

I. INTRODUCTION

The Department of Public Utilities (“Department”) opens this inquiry to investigate application of certain aspects of the Net Metering Regulations pursuant to 220 C.M.R. § 18.00 et seq., and blanket exceptions to the Single Parcel and Subdivision Rules, pursuant to Net Metering and Interconnection of Distributed Generation, D.P.U. 11-11-C (2012). This inquiry will review the current standards and procedures by which distributed generation projects seek exceptions to the net metering rules and regulations.

On July 13, 2016, multiple entities seeking individual relief but working together as the Solar Coalition, filed a petition with the Department seeking blanket exceptions to the Department’s definition of a “Net Metering Facility” as the energy generating equipment associated with a single parcel of land, interconnected with the electric distribution system at a single point, behind a single meter as set forth in Net Metering and Interconnection of Distributed Generation, D.P.U. 11-11-C at 21-22 (2012). The Department docketed the Solar Coalition’s petition as D.P.U. 16-117. Through public comments submitted in D.P.U. 16-117, net metering stakeholders expressed a desire for the Department to consider blanket exceptions to the Single Parcel and Subdivision Rules.¹ In addition, during the past year the Department received numerous inquiries from net metering stakeholders seeking clarification of the Single Parcel Rule and certain other aspects of the net metering rules and

¹ On August 16, 2016, the Department directed the Solar Coalition to issue a notice of filing and request for comments to the electronic service list in Net Metering and Interconnection of Distributed Generation, D.P.U. 11-11 (2011). The Solar Coalition timely filed a return of service stating that it distributed the notice of filing and request for comments. The Department received comments from several net metering stakeholders in response to that notice. The Department held a public hearing on September 26, 2016.

regulations.² In response to numerous stakeholder inquiries, the Solar Coalition’s petition, and public comments in D.P.U. 16-117, the Department opens this inquiry to explore blanket exceptions to the Single Parcel and Subdivision Rules and provide clarification of certain other aspects of the net metering rules and regulations.

II. BACKGROUND AND PROCEDURAL HISTORY

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 C.M.R. § 18.02. Facilities of up to two megawatts (“MW”), or ten MW in the case of certain public facilities, are eligible for net metering if they generate electricity with renewable fuels. 220 C.M.R. § 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.

A. Single Parcel Rule

In D.P.U. 11-11-C at 18, 23, the Department defined the terms “unit” and “facility” with respect to net metering. An eligible net metering facility is defined as “the energy generating equipment associated with a single parcel of land, interconnected with the electric distribution system at a single point, behind a single meter” (“Single Parcel Rule”).

D.P.U. 11-11-C at 23. After the Single Parcel Rule was established, the Department acknowledged that there would be instances where an exception to the Single Parcel Rule

² In 2016, the Department received 13 petitions seeking an exception to the Single Parcel Rule (as compared to three petitions in 2015 and one petition in 2014 seeking an exception to the Single Parcel Rule).

would be warranted, stating that “if a facility needs relief from one of these requirements, it may seek an exception from the Department (i.e., for exceptions to the single parcel requirement) or from the Distribution Companies (i.e., for exceptions to the single interconnection point and/or from the single meter requirement).” Net Metering and Interconnection of Distributed Generation, D.P.U. 11-11-E at 14, 19 (2013). The Department currently considers petitions for exceptions to the Single Parcel Rule on a case-by-case basis. D.P.U. 11-11-E at 14. When considering these petitions, the Department determines whether the requested exception would be contrary to the Department’s stated goals of promoting regulatory certainty and preventing manipulation of the net metering system. D.P.U. 11-11-C at 19, 22.

B. Subdivision Rule

In D.P.U. 11-11-C, the Department also recognized that to adopt parcel boundaries as a factor for defining a net metering facility, the Department must set a date after which there would be a presumption against the further subdivision of parcels.³ For the sake of simplicity, the Department chose the same date that the Department of Energy Resources (“DOER”) used for its solar carve-out program, January 1, 2010.⁴ D.P.U. 11-11-C at 21-22. The Department’s Order, D.P.U. 11-11-C, requires that any customer who seeks to establish a net metering facility on a parcel of land that was subdivided after January 1, 2010, file a petition

³ Proponents of the Single Parcel Rule expressed concern that parties seeking to manipulate the system could simply subdivide parcels to build multiple solar projects while still technically complying with the Single Parcel Rule. See D.P.U. 11-11-C at 20 citing BEC/BRS Comments at 1; CLC and CVEC Reply Comments at 4; DOER Comments at 3, 5.

⁴ DOER employs a rebuttable presumption that a parcel of land may not be subdivided for solar carve-out purposes later than January 1, 2010. 225 C.M.R. § 14.05(4)(a).

with the Department demonstrating that the subdivision was not for the purpose of creating multiple parcels specifically to support multiple net metering facilities (“Subdivision Rule”).

D.P.U. 11-11-C at 21-22. While setting a clear presumption against net metering eligibility for parcels subdivided after January 1, 2010, the Department expressly reserved the right to grant exceptions, acknowledging that “property boundaries can change over time for legitimate reasons and we are inclined to allow such changes without eliminating a parcel’s eligibility for net metering as long as the subdivision is not for the purpose of net metering eligibility.”

D.P.U. 11-11-C at 22.

C. The Solar Coalition’s request in D.P.U. 16-117

On July 13, 2016, the Solar Coalition filed a petition with the Department seeking an exception under 220 C.M.R. § 18.09(7) from the net metering regulations, pursuant to 220 C.M.R. § 18.00 et seq., and the Single Parcel and Subdivision Rules, pursuant to Net Metering and Interconnection of Distributed Generation, D.P.U. 11-11-C (2012). Specifically, the Solar Coalition seeks a Department Order stating that any proposed net metering facilities that meet the criteria contained in either of the following categories be exempt from the requirement to file a petition with the Department for an exception from the net metering regulations pursuant to 220 C.M.R. § 18.00 et seq., under 220 C.M.R. § 18.09(7):

1. Net metering facilities that are each 60 kilowatts (“kW”) alternating current (“AC”) or less, and not more than 2 megawatts (“MW”) AC in aggregate, which serve electric customers with their own meters, including but not limited to: farms, condominiums, multi-tenant residential or commercial rental properties, low-income housing, new commercial and residential subdivisions, in all cases where the project is one of several located on the same or adjoining parcel(s) of land; or
2. Net metering facilities of 60 kW AC or less to be located on a property subdivided after January 1, 2010, but not subdivided for net metering purposes.

In addition, the Solar Coalition seeks a Department Order stating that where multi-unit housing facilities on a single parcel of land install solar net metering facilities for several homes, apartments, or businesses on that parcel, and to the extent that such solar net metering facilities are interconnected to different meters, the solar net metering facilities shall be considered electrically separate facilities and the generating capacity thereof shall not be aggregated for purposes of calculating net metering credits (Petition at 2).

The Department received comments from net metering stakeholders in D.P.U. 16-117 during the written comment period and at the public hearing held on September 26, 2016.⁵ The Department has suspended the proceedings in D.P.U. 16-117 pending further action regarding an inquiry into exceptions to the Net Metering Regulations in the instant docket.

⁵ The Department received comments from the following entities in The Solar Coalition, D.P.U. 16-117: Cities of Boston, Cambridge, and Somerville separately submitted identical comments (jointly “Cities”); Fitchburg Gas and Electric Light Company d/b/a Unitil, Massachusetts Electric Company and Nantucket Electric Company, each d/b/a National Grid, NSTAR Electric Company and Western Massachusetts Electric Company, each d/b/a Eversource (jointly “Distribution Companies”); FTE Solar LLC (“FTE Solar”); Pioneer Valley Habitat for Humanity (“Habitat for Humanity”); PV Squared; SunBug Solar (“SunBug”); Wright Builders. The Department summarized these comments in an Order issued March 15, 2017. D.P.U. 16-117, at 5-10 (2016). Pursuant to 220 C.M.R. § 1.10(3), the Department hereby incorporates by reference into D.P.U. 17-22: all comments filed in D.P.U. 16-117.

III. SOLICITATION OF COMMENTS AND NOTICE OF TECHNICAL CONFERENCE

The Department seeks initial written comments on the following net metering questions no later than 5:00 p.m. on **April 10, 2017**. The Department will issue a Hearing Officer Memorandum announcing the date for submitting reply comments. When providing comments, please clearly indicate which question is being answered. Comments may be provided on any or all of the questions.

A. Capacity Aggregation

The Department seeks comments on the following topics regarding all Single Parcel Rule exceptions that are granted permitting multiple net metering facilities on a single parcel of land, including any potential blanket exception(s).

1. Should the generating capacity of all net metering facilities located on a single parcel of land be aggregated for the purpose of calculating class size and net metering credits?
2. If the Department were to require the aggregation of generating capacity for the purpose of calculating class size and net metering credits, please discuss:
 - a) What entity should be responsible for tracking aggregate capacity?
 - b) If net metering facilities are developed on a single parcel of land in stages such that adding another net metering facility results in a change of class size, should all facilities on the parcel receive the same new credit value even though one or more facilities may have previously received a different credit value?
 - c) Are there other issues that need to be resolved to aggregate generating capacity for the purpose of calculating class size and net metering credits?

3. If the Department were to allow blanket exception(s) and **not** require the aggregation of generating capacity for the purpose of calculating class size and net metering credits, what would prevent a customer from manipulating the system by building multiple net metering facilities that are each equal to or less than 10 kW on a single phase circuit or 25 kW on a three phase circuit (“Cap Exempt Facility”), solely for the purpose of generating a higher credit value?
4. Should the generating capacity of all net metering facilities located on a single parcel of land be aggregated for the purpose of receiving a cap allocation from the Massachusetts System of Assurance of Net Metering Eligibility (“System of Assurance”)?⁶
5. If the Department were to require the aggregation of generating capacity for the purposes of obtaining a cap allocation, please discuss:
 - a) What entity should be responsible for tracking aggregate capacity?
 - b) Should a cap allocation continue to be associated with one Interconnection Service Agreement (“ISA”)?
 - i. If so, how should multiple net metering facilities on a single parcel of land apply for a cap allocation?
 - ii. If not, how should the System of Assurance account for multiple ISAs related to a single cap allocation?
 - c) Are there other issues that need to be resolved to aggregate generating capacity for the purpose of receiving cap allocations?

⁶ The System of Assurance is set forth in Appendix A to Net Metering, D.P.U. 11-11-A (2012).

6. If the Department were to allow blanket exception(s) but **not** require the aggregation of generating capacity for the purposes of obtaining a cap allocation, what would prevent a customer from manipulating the system by building multiple Cap Exempt Facilities solely for the purpose of not having to obtain a cap allocation?

B. Blanket Exceptions

The Department seeks comments on possible blanket exceptions⁷ to the Single Parcel Rule and the Subdivision Rule.

7. How have circumstances changed since the Department established the Single Parcel Rule and the Subdivision Rule in 2012 such that establishing one or more blanket exceptions is now warranted and would not cause regulatory uncertainty or manipulation of the net metering system?
8. If a blanket exception for certain net metering facilities is established, please discuss:
 - a) Which entity (e.g., Administrator of the System of Assurance, each distribution company, Department, other), if any, should the Host Customer notify to qualify under the blanket exception?
 - b) What method, if any, should be used to notify the entity?
 - c) What documentation, if any, should be provided to the entity as proof of qualification?

⁷ The Department interprets the phrase “blanket exception” to mean that host customers of net metering facilities that meet certain criteria would be permitted to locate one or more net metering facilities on a single parcel of land, one net metering facility across multiple parcels of land, or net metering facilities on land subdivided after January 1, 2010, without petitioning the Department, even if the facilities would otherwise violate the Single Parcel or Subdivision Rule.

The following questions and statements involve the criteria that net metering facilities should meet to qualify for a blanket exception to the Single Parcel Rule permitting **multiple net metering facilities on a single parcel of land**.

9. What should be the maximum generating capacity for each individual net metering facility that qualifies for the blanket exception?
10. What should be the maximum aggregate generating capacity for net metering facilities on a single parcel of land that qualify for the blanket exception?
11. Should the Department require net metering facilities to be sized to load to qualify for the blanket exception?
12. If the Department were to require net metering facilities to be sized to load to qualify for the blanket exception, please discuss:
 - a) What percentage of the load should the facility be required to meet?
 - b) How would customers demonstrate that a facility is sized to load?
 - c) How would customers calculate their expected load if a building is not yet constructed?
 - d) Should customers be permitted to oversize their system by a certain percentage because they expect their load to increase at a future date?
 - e) If customers are permitted to oversize their net metering facility because they expect their load to increase, what documentation or justification should be provided, if any?
13. What additional criteria, if any, should net metering facilities be required to meet to qualify for a blanket exception permitting multiple net metering facilities on a single parcel of land?

The following questions and statements involve the criteria that net metering facilities should meet to qualify for a blanket exception to the Single Parcel Rule permitting **one net metering facility on multiple parcels of land**.

14. What should be the maximum generating capacity of a net metering facility that qualifies for a blanket exception permitting one net metering facility on multiple parcels of land?
15. Should the blanket exception only apply to a net metering facility across a limited number of parcels (e.g., two parcels)?
16. If the blanket exception only applies to a net metering facility across a specified number of parcels, must the parcels be contiguous?
17. What additional criteria, if any, should net metering facilities be required to meet to qualify for a blanket exception permitting one net metering facility on multiple parcels of land?

The following questions and statements involve a possible blanket exception for certain net metering facilities from the **Subdivision Rule**.

18. What entity should make the determination that the parcels of land were not subdivided for net metering purposes?
19. What should be the maximum generating capacity of a net metering facility eligible for a blanket exception to the Subdivision Rule?
20. What additional criteria, if any, should net metering facilities be required to meet to qualify for a blanket exception to the Subdivision Rule?

C. Streamlining the Department's Review of Petitions for Exceptions from Net Metering Rules and Regulations

The Department seeks comments on possible methods of streamlining submission and review of petitions for exceptions from the net metering rules and regulations.

21. What methods should the Department implement to streamline the net metering petition submission and review process (e.g., checklist, form, templates)? For each suggested method, please provide an example, if possible, and indicate: (i) the type of petition for which the method is applicable; and (ii) how the method would streamline or expedite the net metering petition submission or review process.

D. Petition Requirements

The following questions and statements involve the minimum requirements that petitions for exceptions to net metering rules and regulations should meet. In setting these requirements, the Department seeks to: (i) provide further clarity to petitioners seeking exceptions from the net metering rules and regulations; and (ii) expedite the petition review process by reducing the amount of discovery issued. The Department currently requires petitions to include the following information, at a minimum:

- a) Clear identification of the regulatory or decisional requirements for which an exception is sought.
- b) Clear explanation of the legal, business, commercial, economic, or other issues presented in connection with the requested exception.
- c) Identification of the specific relief or remedy requested.

- d) Clear description of the net metering facility, including capacity (kilowatts alternating current) and distribution company service territory⁸, including any and all supporting materials.
- e) Identification of any changes to relevant parcel boundaries since January 1, 2010, for the purpose of subdivision.
- f) Explanation of communication(s) with the Administrator of the System of Assurance of Net Metering Eligibility and the affected electric distribution company concerning the issues underlying the petition.
- g) Identification of which cap (public or private) the net metering facility would be located in.
- h) Direct testimony or an affidavit from the Petitioner or supporting witness(es).
- i) Explanation of how the request meets the good cause requirements for an exception when petitioning under the good cause standard.
- j) Copy of the relevant documents from the relevant Registry of Deeds when requesting that different boundaries be recognized for the purposes of net metering or to build multiple net metering facilities on one parcel of land.
- k) An appearance of counsel if the petition is filed by an attorney.
- l) Certificate of service if the petition is filed by an attorney.

22. Please discuss whether the above requirements represent an undue burden for petitioners.

⁸ Note that if the facility is located in the Eversource service area, petitioners should specify whether the facility is located in the Western Massachusetts Electric Company or NSTAR Electric Company service area.

23. The Department is considering adding the following requirement to ensure that a petition is not presented to the Department before the issue is ripe for consideration.

Please discuss if this potential requirement would present an undue burden for petitioners.

- a) Documentation that an ISA has been submitted to and deemed complete by the relevant distribution company.

24. What additional requirements should be required from petitioners seeking an exception to net metering rules and regulations to help the Department expedite review of petitions?

E. Net Metering Credit Allocation Procedures

25. Please discuss any challenges in allocating credits to multiple accounts and include suggested solutions to remedy these challenges.⁹

Any person who desires to file written comments shall file an original and one (1) copy of such written comments with Mark D. Marini, Secretary, Department of Public Utilities, One South Station, Boston, Massachusetts, 02110. All documents should also be submitted to the Department in electronic format using one of the following methods: (1) by e-mail attachment to dpu.efiling@state.ma.us and the hearing officers Kate.Tohme@state.ma.us and Staci.Rubin@state.ma.us; or (2) on a CD-ROM. The text of the e-mail or CD-ROM must specify: (1) the docket number of the proceeding (D.P.U. 17-22); (2) the name of the person or company submitting the filing; and (3) a brief descriptive title of the document. The

⁹ The Department seeks to utilize this inquiry as a forum for customers and Distribution Companies to discuss challenges regarding allocating credits to multiple accounts, but does not intend to broaden the scope of the inquiry to consider amendments to the interconnection tariffs.

electronic filing should also include the name, title, and telephone number of a person to contact in the event of questions about the filing. Documents filed with the Department will be available for public inspection at its offices during business hours and through our website by looking up the docket by its number in the docket database at <http://web1.env.state.ma.us/DPU/FileRoom/dockets/bynumber> (insert 17-22). To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), contact Theresa Kelly at Theresa.Kelly@state.ma.us or (617) 305-3642.

To provide further opportunity for comment and discussion, the Department will hold a technical conference on **May 3, 2017**, at **10:00 a.m.**, at the Department's offices, One South Station, 5th Floor, Boston, Massachusetts. Reasonable accommodations at technical conferences for people with disabilities are available upon request. Include a description of the accommodation you will need, including as much detail as you can. Also include a way the Department can contact you if we need more information. Please provide as much advance notice as possible. Last minute requests will be accepted, but may not be able to be accommodated. Contact Theresa Kelly at Theresa.Kelly@state.ma.us or (617) 305-3642. The Department intends to issue a technical conference agenda in advance of **May 3, 2017**.

IV. ORDER

Accordingly, the Department

VOTES: To open an inquiry to investigate application of certain aspects of the Net Metering Regulations pursuant to 220 C.M.R. § 18.00 et seq., and blanket exceptions to the Single Parcel and Subdivision Rules, pursuant to Net Metering and Interconnection of Distributed Generation, D.P.U. 11-11-C (2012); and it is

