



# The Commonwealth of Massachusetts

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## DEPARTMENT OF PUBLIC UTILITIES

D.P.U. 12-81

November 1, 2012

Investigation by the Department of Public Utilities on its own Motion Commencing a Rulemaking pursuant to G.L. c. 30A, § 2 and 220 C.M.R. §§ 2.00 et seq. to Amend 220 C.M.R. § 18.00 et seq.

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### ORDER ADOPTING EMERGENCY REGULATIONS

## I. INTRODUCTION

On August 3, 2012, Governor Patrick signed into law Chapter 209 of the Acts of 2012, An Act Relative to Competitively Priced Electricity in the Commonwealth (“Act”). The Act requires the Department of Public Utilities (“Department”) to adopt rules and regulations implementing certain changes to the net metering provisions of G.L. c. 164, §§ 138 and 139. St. 2012, c. 209, §§ 23-30, effective as of November 1, 2012. The Department institutes this rulemaking for the purpose of implementing the Act’s net metering provisions.

By this Order, and pursuant to G.L. c. 30A, § 2 and 220 C.M.R. § 2.00 et seq., the Department adopts emergency regulations amending 220 C.M.R. § 18.00 et seq. to implement certain changes to the net metering provisions of G.L. c. 164, §§ 138 and 139. St. 2010, c. 359, §§ 25-30. St. 2012, c. 209, §§ 23-30.<sup>1</sup>

It is 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 Relative to Green Communities, St. 2008, c. 169 (“GCA”). Since 2008, net metering has become increasingly important to the development of a robust and stable market for relatively small-scale renewable energy projects by the private and the public sectors.<sup>2</sup> Each distribution

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<sup>1</sup> Attached hereto as Appendix A are the amended regulations at 220 C.M.R. § 18.00 et seq., marked to show the changes incorporated herein. Attached hereto as Appendix B is a clean copy of the amended regulations.

<sup>2</sup> Net metering has separate limits for public and private projects, which are respectively referred to as the public cap and the private cap. The public and private caps are set out in Chapter 359 of the Acts of 2010, An Act Making Appropriations for the Fiscal Years 2010 and 2011 to Provide for Supplementing Certain Existing Appropriations and for Certain Other Activities and Projects. G.L. c. 14, § 139(f); See also Net Metering, D.P.U. 11-10-A at 2 (February 17, 2012).

company is approaching or has reached its private cap as of the date of this Order.<sup>3</sup> To maintain the stability of this market and to foster continued growth of net metering projects by the public and private sectors, the Department finds that implementation of these regulations, without delay, will allow for expansion of net metering services with direct benefits and value realized by electric distribution customers, consistent with the legislature's intent to advance renewable energy resources in the Commonwealth. The emergency regulations are designated as 220 C.M.R. § 18.00 et seq. and are effective upon filing with the Secretary of the Commonwealth.

## II. PROPOSED REGULATIONS

### A. Introduction

To implement the net metering provisions of the Act, the Department proposes revisions to the regulations contained in 220 C.M.R. § 18.00 et seq.<sup>4</sup> The proposed regulations implement

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<sup>3</sup> NSTAR Electric has a private cap of 49.78 megawatts ("MW") with 43.85 MW of projects interconnected and an additional 177.53 MW of applications pending.  
[http://www.nstaronline.com/business/rates\\_tariffs/interconnections/other.asp](http://www.nstaronline.com/business/rates_tariffs/interconnections/other.asp)

Western Massachusetts Electric Company has a private cap of 8.45 MW with 6.34 MW of projects interconnected and 29.98 MW of applications pending.  
<http://www.wmeco.com/residential/understandbill/ratesrules/netmetering.aspx>

Unitil has a private cap of 1.02 MW and it is completely subscribed.  
<http://www.unitil.com/energy-for-businesses/electric-information/distributed-energy-resources/net-metering>

Nantucket Electric has a private cap of 408 kilowatts ("kW") with 283 kW of projects interconnected and 12 kW of applications pending.  
[http://www.nationalgridus.com/nantucket/home/energyeff/4\\_net-mtr.asp](http://www.nationalgridus.com/nantucket/home/energyeff/4_net-mtr.asp)

Massachusetts Electric has a private cap of 51.31 MW with 43.910 MW of projects interconnected and 28.91 MW of applications pending.  
[http://www.nationalgridus.com/Masselectric/home/energyeff/4\\_net-mtr.asp](http://www.nationalgridus.com/Masselectric/home/energyeff/4_net-mtr.asp)

<sup>4</sup> Net metering is available in the Commonwealth pursuant to:  
(1) 220 C.M.R. § 8.00 et seq., Sales of Electricity by Qualifying Facilities and On-site

all changes to the provision of net metering set forth in the Act. Below, we discuss how the proposed regulations will implement the amendments to G.L. c. 164, §§ 138 and 139.

B. Amendments to G.L. c. 164, § 138

The Act changes several aspects of G.L. c. 164, § 138. St. 2012, c. 209, §§ 23-26. The regulations incorporate these changes in several ways. First, pursuant to Section 23 of the Act, the regulations incorporate the definition of “Anaerobic Digestion Net Metering Facility” as:

a facility that (a) generates electricity from a biogas produced by the accelerated biodegradation of organic materials under controlled anaerobic conditions; (b) has been determined by the department of energy resources, in coordination with the department of environmental protection, to qualify under the department of energy resources’ regulations as a Class I renewable energy generating source under M.G.L. c. 25A § 11F; and (c) is interconnected to a Distribution Company.

(Apps. A and B, § 18.02).

Second, pursuant to Sections 24-26 of the Act, the regulations amend the definitions of “Class II Net Metering Facility” and “Class III Net Metering Facility” to include an Anaerobic Digestion Net Metering Facility (Apps. A and B, § 18.02). Third, pursuant to Section 30 of the Act, the regulations now include a definition of a “Governmental Cooperative.” Specifically, the regulations now define Governmental Cooperative as

(a) a cooperative corporation that is organized pursuant to M.G.L. c. 164 § 136; and (b) comprised solely of Municipalities or Other Governmental Entities.

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Generating Facilities to Distribution Companies, and Sales of Electricity by Distribution Companies to Qualifying Facilities and On-site Generating Facilities; (2) 220 C.M.R. § 11.00 et seq., Rules Governing the Restructuring of the Electric Industry; and (3) 220 C.M.R. § 18.00 et seq. For additional procedural history on net metering regulations, see Net Metering Rulemaking, D.P.U. 08-75, at 1-2 (2009) and Net Metering Rulemaking, D.P.U. 11-10, at 1 (2011).

Finally, the proposed regulations clarify the definition of “Net Metering” by removing the words “or Neighborhood” (Apps. A and B, § 18.02).

C. Amendments to G.L. c. 164, § 139

The Act also changes several aspects of G.L. c. 164, § 139. St. 2012, c. 209, §§ 27-30. First, pursuant to Sections 27 and 28 of the Act, the regulations include new limits on the aggregate capacity of net metering facilities (Apps. A and B, §§ 18.07(1)(a & b)). Specifically, the public cap is now limited to three percent of an electric distribution company’s historical peak load, and the private cap is now limited to three percent of historical peak load (Apps. A and B, §§ 18.07(1)(a-b)). Second, as set forth in Section 30(i) of the Act, the regulations exclude from the private cap all Class I Net Metering facilities that are renewable energy generating facilities with a nameplate rating equal to or less than ten kilowatts (“kW”) on a single-phase circuit; or 25 kW on a three-phase circuit (Apps. A and B, § 18.07(4)(c)). Third, pursuant to Section 29 of the Act, the regulations include Class I Anaerobic Digestion Net Metering Facilities in the calculation of net metering credits (Apps. A and B §§ 18.04(1) & (2)). Fourth, pursuant to Section 30 of the Act, the regulations specify that

Governmental Cooperatives shall not be considered an electric company, generation company, aggregator, supplier, energy marketer or energy broker, as those terms are used in M.G.L. c. 164, §§ 1 and 1F and 220 CMR 11.00

(Apps. A and B § 18.06(2)). Finally, pursuant to Section 30 of the Act, the regulations specify certain treatment of Governmental Cooperatives and their members with respect to net metering (Apps. A and B §§ 18.07(5) & (6)).<sup>5</sup>

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<sup>5</sup> The Act states “Such a cooperative corporation may serve as a host customer, as defined in 220 CMR 18.02, for net metering facilities of municipalities or other governmental entities for all such allocated capacity and its own allocation of capacity as an other governmental

### III. ADOPTION OF THE REGULATIONS

By this Order, the Department amends 220 C.M.R. § 18.00 et seq. to implement the net metering provisions of the Act as emergency regulations. These regulations become effective today, upon filing with the Secretary of the Commonwealth, and will remain in effect for a period not to exceed three months.<sup>6</sup>

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entity; provided, that the net metering credits for which such cooperative serves as host customer shall only be allocated to such cooperative or its members.” St. 2012, c. 209, § 30(h).

<sup>6</sup> Of even date herewith, the Department filed a notice of a public hearing soliciting comment on the emergency regulations with the Secretary of the Commonwealth.



220 CMR: DEPARTMENT OF PUBLIC UTILITIES

220 CMR 18.00: NET METERING

Section

- 18.01: Purpose and Scope
- 18.02: Definitions
- 18.03: Net Metering Services
- 18.04: Calculation of Net Metering Credits
- 18.05: Allocation of Net Metering Credits
- 18.06: Eligibility for Net Metering
- 18.07: Net Metering Capacity
- 18.08: Net Metering Reports
- 18.09: Miscellaneous

18.01: Purpose and Scope

(1) Purpose. 220 CMR 18.00 establishes regulations governing how Distribution Companies are to provide Net Metering services to Customers consistent with the net metering provisions of St. 2008, c. 169, an *Act Relative to Green Communities*, ~~and~~ St. 2010, c. 359, an *Act Making Appropriations for the Fiscal Years 2010 and 2011 to Provide for Supplementing Certain Existing Appropriations and for Certain Other Activities and Projects*, and St. 2012, c. 209, §§ 23 through 30, an Act Relative to Competitively Priced Electricity in the Commonwealth. St. 2008, c. 169, § 78; St. 2010, c. 359, §§ 25 through 30; St. 2012, c. 209, §§ 23 through 30.

(2) Scope. 220 CMR 18.00 applies to all Distribution Companies subject to the jurisdiction of the Department.

18.02: Definitions

The terms set forth in 220 CMR 18.02 shall be defined as follows, unless the context otherwise requires.

Agricultural Net Metering Facility means a Renewable Energy generating facility that is operated as part of an agricultural business, generates electricity, does not have a generation capacity of more than two megawatts, is located on land owned or controlled by the agricultural business, and is used to provide energy to metered accounts of the business. "Agriculture" has the same meaning as provided in M.G.L. c. 128, § 1A; provided that, when necessary, the Commissioner of the Department of Agricultural Resources shall determine if a business is an agricultural business and whether the facility is operated as part of that business.

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Anaerobic Digestion Net Metering Facility means a facility that

- (a) generates electricity from a biogas produced by the accelerated biodegradation of organic materials under controlled anaerobic conditions;
- (b) has been determined by the Department of Energy Resources, in coordination with the Department of Environmental Protection, to qualify under the Department of Energy Resources' regulations as a Class I renewable energy generating source under M.G.L. c. 25A § 11F; and
- (c) is interconnected to a Distribution Company.

Billing Period means the period of time set forth in a Distribution Company's terms and conditions for which a Distribution Company bills a Customer for its electricity consumed or estimated to have been consumed.

Class I Net Metering Facility means a plant or equipment that is used to produce, manufacture, or otherwise generate electricity and that is not a transmission facility and that has a design capacity of 60 kilowatts or less.

Class II Net Metering Facility means an Agricultural Net Metering Facility, Anaerobic Digestion Net Metering Facility, Solar Net Metering Facility, or Wind Net Metering Facility with a generating capacity of more than 60 kilowatts but less than or equal to one megawatt; provided, however, that a Class II Net Metering Facility of a Municipality or Other Governmental Entity may have a generating capacity of more than 60 kilowatts but less than or equal to one megawatt per unit.

Class III Net Metering Facility means an Agricultural Net Metering Facility, Anaerobic Digestion Net Metering Facility, Solar Net Metering Facility, or Wind Net Metering Facility with a generating capacity of more than one megawatt but less than or equal to two megawatts; provided, however, that a Class III Net Metering Facility of a Municipality or Other Governmental Entity may have a generating capacity of more than one megawatt but less than or equal to two megawatts per unit.

Governmental Cooperative means a cooperative, organized pursuant to M.G.L. c. 164, § 136, whose members or shareholders are all Municipalities or Other Governmental Entities.

Customer means any person, partnership, corporation, or any other entity, whether public or private, who obtains distribution service at a customer delivery point and who is a customer of record of the Distribution Company for its own electricity consumption.

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Distribution Company means a company engaging in the distribution of electricity or owning, operating or controlling distribution facilities; provided, however, that a distribution company shall not include any entity which owns or operates plant or equipment used to produce electricity, steam and chilled water, or an affiliate engaged solely in the provision of such electricity, steam and chilled water, where the electricity produced by such entity or its affiliate is primarily for the benefit of hospitals and non-profit educational institutions, and where such plant or equipment was in operation before January 1, 1986.

Host Customer means a Customer with a Class I, II, or III Net Metering Facility that generates electricity on the Customer's side of the meter.

ISO-NE means ISO New England Inc., the independent system operator for New England, or its successor, authorized by the Federal Energy Regulatory Commission to operate the New England bulk power system and administer New England's organized wholesale electricity market pursuant to the ISO-NE Tariff and operation agreements with transmission owners.

Municipality means a city or town.

Neighborhood means a geographic area within a Municipality, subject to the right of the Department to grant exceptions pursuant to 220 CMR 18.09(67), that:

- (a) is recognized by the residents as including a unique community of interests;
- (b) falls within the service territory of a single Distribution Company and within a single ISO-NE load zone; and
- (c) may encompass residential, commercial, and undeveloped properties.

Neighborhood Net Metering Facility means a Class I, II, or III Net Metering Facility that:

- (a) is owned by, or serves the energy needs of, a group of ten or more residential Customers that reside in a single Neighborhood and are served by a single Distribution Company;
- (b) may also be owned by, or serve the energy needs of, other Customers who reside in the same Neighborhood and are served by the same Distribution Company as the residential Customers that own or are served by the facility; and
- (c) is located within the same Neighborhood as the Customers that own or are served by the facility.

Net Metering means the process of measuring the difference between electricity delivered by a Distribution Company and electricity generated by a Class I, Class II, Class III ~~or Neighborhood~~ Net Metering Facility and fed back to the Distribution Company.

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Net Metering Facility of a Municipality or Other Governmental Entity means a Class II or III Net Metering Facility:

- (a) that is owned or operated by a Municipality or Other Governmental Entity; or
- (b) of which the Municipality or Other Governmental Entity is the Host Customer and is assigned 100% of the output.

Other Governmental Entity means a department or agency of the Federal government or of the Commonwealth, and any other entity as approved by the Department.

Renewable Energy means energy generated from any source that qualifies as a Class I or Class II Renewable Energy generating source under M.G.L. c. 25A, § 11F; provided, however, that after conducting administrative proceedings, the Department of Energy Resources, in consultation with the Department of Agricultural Resources, may add technologies or technology categories.

Solar Net Metering Facility means a facility for the production of electrical energy that uses sunlight to generate electricity and is interconnected to a Distribution Company.

Wind Net Metering Facility means a facility for the production of electrical energy that uses wind to generate electricity and is interconnected to a Distribution Company.

18.03: Net Metering Services

- (1) Each Distribution Company shall provide services to Customers and Host Customers necessary to permit Net Metering, including those related to interconnection, metering and calculation and billing of Net Metering credits, as specified in the Distribution Company's Net Metering tariffs pursuant to 220 CMR 18.09(2) and 220 CMR 18.09(3).
- (2) Each Distribution Company shall be prohibited from imposing special fees on a Host Customer with a Class I Net Metering Facility such as backup charges and demand charges, or additional controls or liability insurance, provided that the facility meets the other requirements of the interconnection tariff, and all relevant safety and power quality standards.
- (3) Each Distribution Company shall calculate a Net Metering credit as set forth in 220 CMR 18.04, and not bill a Host Customer for kilowatt-hour usage, for any Billing Period in which the kilowatt-hours generated by a Class I, II, or III Net Metering Facility exceed the kilowatt-hour usage of the Host Customer.
- (4) Each Distribution Company shall bill a Host Customer for excess consumption for any Billing Period in which the kilowatt-hours consumed by a Host Customer exceed the kilowatt-hours generated by a Class I, II or III Net Metering Facility.

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18.04: Calculation of Net Metering Credits

(1) For a Class I Wind Net Metering Facility, Class I Solar Net Metering Facility, Class- I- Agricultural Net Metering Facility, Class I Anaerobic Digestion Net Metering Facility, Class II Net Metering Facility, and Net Metering Facility of a Municipality or Other Governmental Entity, each Distribution Company shall calculate for each Billing Period a Net Metering credit equal to the product of the:

- (a) excess kilowatt-hours, by time-of-use if applicable; and
- (b) sum of the following Distribution Company charges applicable to the rate class under which the Host Customer takes service:
  1. the default service kilowatt-hour charge (in the ISO-NE load zone where the Host Customer is located);
  2. the distribution kilowatt-hour charge;
  3. the transmission kilowatt-hour charge; and
  4. the transition kilowatt-hour charge.

(2) For a Class I Net Metering Facility other than a Class I Wind Net Metering Facility, Class I Agricultural Net Metering Facility, Class I Anaerobic Digestion Net Metering Facility, or a Class I Solar Net Metering Facility, each Distribution Company shall calculate a Net Metering credit for each Billing Period as the product of the:

- (a) excess kilowatt-hours, by time-of-use if applicable; and
- (b) average monthly clearing price at the ISO-NE.

(3) For a Neighborhood Net Metering Facility or a Class III Net Metering Facility other than a Net Metering Facility of a Municipality or Other Governmental Entity, each Distribution Company shall calculate a Net Metering credit for each Billing Period as the product of the:

- (a) excess kilowatt-hours, by time-of-use if applicable; and
- (b) sum of the following Distribution Company charges applicable to the rate class under which the Host Customer takes service:
  1. the default service kilowatt-hour charge (in the ISO-NE load zone where the Host Customer is located);
  2. the transmission kilowatt-hour charge; and
  3. the transition kilowatt-hour charge.

(4) The calculation of Net Metering credits under 220 CMR 18.04 shall not include the demand side management and renewable energy kilowatt-hour charges set forth in M.G.L. c. 25, §§ 19 through 20.

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(5) For any Billing Period for which a Distribution Company calculates a Net Metering credit for a Host Customer, the Distribution Company shall apply the Net Metering credit to the Host Customer's account for the subsequent Billing Period, unless the Host Customer provides otherwise pursuant to 220 CMR 18.05. The Distribution Company shall carry forward, from Billing Period to Billing Period, any remaining Net Metering credit balance.

18.05: Allocation of Net Metering Credits

(1) For a Class I, II or III Net Metering Facility, each Distribution Company shall allocate Net Metering credits, as designated in writing by the Host Customer, to other Customers who are in the Distribution Company's service territory and are located in the same ISO-NE load zone. The manner and form of credit designation shall be as specified in the Distribution Company's Net Metering Tariff pursuant to 220 CMR 18.09(2). Notwithstanding the foregoing, if the Host Customer is a Municipality or Other Governmental Entity, including a Governmental Cooperative, it may direct its Distribution Company to allocate Net Metering credits only to other Customers that are Municipalities or Other Governmental Entities.

(2) For a Neighborhood Net Metering Facility, the Distribution Company may only allocate Net Metering credits to residential or other Customers who reside in the same Neighborhood in which the Neighborhood Net Metering Facility is located and have an ownership interest in, or are served by, the Neighborhood Net Metering Facility.

(3) The Distribution Company shall carry forward, from Billing Period to Billing Period, any remaining Net Metering credit balance.

(4) For a Class III Net Metering Facility, a Distribution Company may elect to pay to the Host Customer Net Metering credits rather than allocating such credits pursuant to 220 CMR 18.05(1).

18.06: Eligibility for Net Metering

~~—(1)~~ Distribution Companies shall not provide Net Metering services to a Host Customer who is an electric company, generation company, aggregator, supplier, energy marketer, or energy broker, as those terms are used in M.G.L. c. 164, §§ 1 and 1F and 220 CMR 11.00: *Rules Governing the Restructuring of the Electric Industry*.

(2) A Governmental Cooperative shall not be considered an electric company, generation company, aggregator, supplier, energy marketer or energy broker, as those terms are used in M.G.L. c. 164, §§ 1 and 1F and 220 CMR 11.00: *Rules Governing the Restructuring of the Electric Industry*.

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18.07: Net Metering Capacity

(1) Each Distribution Company shall make Net Metering services available to Host Customers such that the aggregate capacity of:

- (a) Net Metering Facilities that are not Net Metering Facilities of a Municipality or Other Governmental Entity does not exceed ~~13~~3% of the Distribution Company's highest historical peak load; and
- (b) Net Metering Facilities of a Municipality or Other Governmental Entity does not exceed ~~23~~3% of the Distribution Company's highest historical peak load.

(2) The maximum amount of generating capacity eligible for Net Metering by a Municipality or Other Governmental Entity shall be ten megawatts, as determined by the sum of the nameplate ratings of Class II and III Net Metering Facilities for which the Municipality or Other Governmental Entity is the Host Customer; except as provided in 220 CMR 18.07(6) below.

(3) Each Distribution Company shall identify on an annual basis its highest historical peak load and post that data on its website by February 1<sup>st</sup> of the following year.

(4) For the purpose of calculating the aggregate capacity of Class I, II, and III Net Metering Facilities, the capacity of a:

- (a) Solar Net Metering Facility shall be 80% of the facility's direct current rating at standard test conditions; and
- (b) Wind Net Metering Facility, and all other non-solar net metering facilities, shall be the nameplate rating.

(5) A Class I Net Metering Facility shall be exempt from the calculation of the aggregate capacity of Net Metering facilities that are not Net Metering facilities of a Municipality or Other Governmental Entity if:

- (a) it is a Renewable Energy generating facility; and
- (b) its nameplate rating is equal to or less than
  - 1. ten kilowatts on a single-phase circuit; or
  - 2. 25 kilowatts on a three-phase circuit.

(6) A Municipality or Other Governmental Entity that is a member of a Governmental Cooperative may transfer any or all of the net metering generating capacity associated with one or more Class II or III Net Metering Facilities to said Governmental Cooperative by providing written assent to the Governmental Cooperative and obtaining approval from the Department.

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(7) A Governmental Cooperative may serve as a Host Customer for a Net Metering Facility of a Municipality or Other Governmental Entity for all capacity allocated pursuant to 220 CMR 18.07(6) and its own capacity as an Other Governmental Entity, provided that the net metering credits for which such Governmental Cooperative serves as Host Customer shall only be allocated to that same Governmental Cooperative or its members.

18.08: Net Metering Reports

- (1) Each Distribution Company shall track at least the following:
  - (a) the size, generation type, Net Metering class, fuel type, and the Municipality within which each Net Metering facility receives Net Metering services;
  - (b) the size, generation type, fuel type, and the Municipality within which each Net Metering facility has requested interconnection with the Distribution Company; and
  - (c) the aggregate capacity of Net Metering facilities that have interconnected, and that have requested interconnection, to the Distribution Company.
- (2) Each Distribution Company shall file with the Department information regarding the provision of Net Metering services to its Customers, in a format and according to a schedule as determined by the Department.
- (3) Each Distribution Company shall post data to a publicly accessible website tracking the aggregate capacity of eligible Net Metering facilities that have connected, and that have requested interconnection, relative to the Net Metering capacity set forth in 220 CMR 18.07. The data shall be updated on a monthly basis.

18.09: Miscellaneous

- (1) The provision of Net Metering services does not entitle Distribution Companies to ownership of, or title to, the renewable energy or environmental attributes, including renewable energy certificates, associated with any electricity produced by a Net Metering facility.
- (2) Each Distribution Company shall implement its responsibilities and obligations regarding the provision of Net Metering services to Customers and Host Customers pursuant to a Department-approved tariff.
- (3) Each Distribution Company shall implement its responsibilities and obligations regarding the provision of interconnection services to Customers and Host Customers pursuant to a Department-approved tariff.

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- (4) Each Distribution Company shall be allowed to recover the aggregate of the distribution portion of any Class I, II, or III Net Metering credits and the Distribution Company delivery charges displaced by a Class I, II or III Net Metering Facility through a uniform per kilowatt-hour surcharge or surcharges billed to all of its Customers on an annual basis.
- (5) Nothing in 220 CMR 18.00 is intended in any way to limit eligibility for Net Metering services based upon a third-party ownership or financing agreement related to a Net Metering facility, where Net Metering services would otherwise be available.
- (6) Unless otherwise indicated, all capacity and energy measurements referenced in 220 CMR 18.00 refer to alternating current.
- (7) The Department may, where appropriate, grant an exception from any provision of 220 CMR 18.00.

REGULATORY AUTHORITY

220 CMR 18.00: St. 2008, c. 169, § 78~~and~~; St. 2010, c. 359, §§ 25 through 30; St. 2012, c. 209, §§ 23 through 30.

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220 CMR 18.00: NET METERING

Section

- 18.01: Purpose and Scope
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18.01: Purpose and Scope

(1) Purpose. 220 CMR 18.00 establishes regulations governing how Distribution Companies are to provide Net Metering services to Customers consistent with the net metering provisions of St. 2008, c. 169, an *Act Relative to Green Communities*, St. 2010, c. 359, an *Act Making Appropriations for the Fiscal Years 2010 and 2011 to Provide for Supplementing Certain Existing Appropriations and for Certain Other Activities and Projects*, and St. 2012, c. 209, §§ 23 through 30, an *Act Relative to Competitively Priced Electricity in the Commonwealth*. St. 2008, c. 169, § 78; St. 2010, c. 359, §§ 25 through 30; St. 2012, c. 209, §§ 23 through 30.

(2) Scope. 220 CMR 18.00 applies to all Distribution Companies subject to the jurisdiction of the Department.

18.02: Definitions

The terms set forth in 220 CMR 18.02 shall be defined as follows, unless the context otherwise requires.

Agricultural Net Metering Facility means a Renewable Energy generating facility that is operated as part of an agricultural business, generates electricity, does not have a generation capacity of more than two megawatts, is located on land owned or controlled by the agricultural business, and is used to provide energy to metered accounts of the business. "Agriculture" has the same meaning as provided in M.G.L. c. 128, § 1A; provided that, when necessary, the Commissioner of the Department of Agricultural Resources shall determine if a business is an agricultural business and whether the facility is operated as part of that business.

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Anaerobic Digestion Net Metering Facility means a facility that

- (a) generates electricity from a biogas produced by the accelerated biodegradation of organic materials under controlled anaerobic conditions;
- (b) has been determined by the Department of Energy Resources, in coordination with the Department of Environmental Protection, to qualify under the Department of Energy Resources' regulations as a Class I renewable energy generating source under M.G.L. c. 25A § 11F; and
- (c) is interconnected to a Distribution Company.

Billing Period means the period of time set forth in a Distribution Company's terms and conditions for which a Distribution Company bills a Customer for its electricity consumed or estimated to have been consumed.

Class I Net Metering Facility means a plant or equipment that is used to produce, manufacture, or otherwise generate electricity and that is not a transmission facility and that has a design capacity of 60 kilowatts or less.

Class II Net Metering Facility means an Agricultural Net Metering Facility, Anaerobic Digestion Net Metering Facility, Solar Net Metering Facility, or Wind Net Metering Facility with a generating capacity of more than 60 kilowatts but less than or equal to one megawatt; provided, however, that a Class II Net Metering Facility of a Municipality or Other Governmental Entity may have a generating capacity of more than 60 kilowatts but less than or equal to one megawatt per unit.

Class III Net Metering Facility means an Agricultural Net Metering Facility, Anaerobic Digestion Net Metering Facility, Solar Net Metering Facility, or Wind Net Metering Facility with a generating capacity of more than one megawatt but less than or equal to two megawatts; provided, however, that a Class III Net Metering Facility of a Municipality or Other Governmental Entity may have a generating capacity of more than one megawatt but less than or equal to two megawatts per unit.

Governmental Cooperative means a cooperative, organized pursuant to M.G.L. c. 164, § 136, whose members or shareholders are all Municipalities or Other Governmental Entities.

Customer means any person, partnership, corporation, or any other entity, whether public or private, who obtains distribution service at a customer delivery point and who is a customer of record of the Distribution Company for its own electricity consumption.

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Distribution Company means a company engaging in the distribution of electricity or owning, operating or controlling distribution facilities; provided, however, that a distribution company shall not include any entity which owns or operates plant or equipment used to produce electricity, steam and chilled water, or an affiliate engaged solely in the provision of such electricity, steam and chilled water, where the electricity produced by such entity or its affiliate is primarily for the benefit of hospitals and non-profit educational institutions, and where such plant or equipment was in operation before January 1, 1986.

Host Customer means a Customer with a Class I, II, or III Net Metering Facility that generates electricity on the Customer's side of the meter.

ISO-NE means ISO New England Inc., the independent system operator for New England, or its successor, authorized by the Federal Energy Regulatory Commission to operate the New England bulk power system and administer New England's organized wholesale electricity market pursuant to the ISO-NE Tariff and operation agreements with transmission owners.

Municipality means a city or town.

Neighborhood means a geographic area within a Municipality, subject to the right of the Department to grant exceptions pursuant to 220 CMR 18.09(7), that:

- (a) is recognized by the residents as including a unique community of interests;
- (b) falls within the service territory of a single Distribution Company and within a single ISO-NE load zone; and
- (c) may encompass residential, commercial, and undeveloped properties.

Neighborhood Net Metering Facility means a Class I, II, or III Net Metering Facility that:

- (a) is owned by, or serves the energy needs of, a group of ten or more residential Customers that reside in a single Neighborhood and are served by a single Distribution Company;
- (b) may also be owned by, or serve the energy needs of, other Customers who reside in the same Neighborhood and are served by the same Distribution Company as the residential Customers that own or are served by the facility; and
- (c) is located within the same Neighborhood as the Customers that own or are served by the facility.

Net Metering means the process of measuring the difference between electricity delivered by a Distribution Company and electricity generated by a Class I, Class II, Class III Net Metering Facility and fed back to the Distribution Company.

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Net Metering Facility of a Municipality or Other Governmental Entity means a Class II or III Net Metering Facility:

- (a) that is owned or operated by a Municipality or Other Governmental Entity; or
- (b) of which the Municipality or Other Governmental Entity is the Host Customer and is assigned 100% of the output.

Other Governmental Entity means a department or agency of the Federal government or of the Commonwealth, and any other entity as approved by the Department.

Renewable Energy means energy generated from any source that qualifies as a Class I or Class II Renewable Energy generating source under M.G.L. c. 25A, § 11F; provided, however, that after conducting administrative proceedings, the Department of Energy Resources, in consultation with the Department of Agricultural Resources, may add technologies or technology categories.

Solar Net Metering Facility means a facility for the production of electrical energy that uses sunlight to generate electricity and is interconnected to a Distribution Company.

Wind Net Metering Facility means a facility for the production of electrical energy that uses wind to generate electricity and is interconnected to a Distribution Company.

18.03: Net Metering Services

- (1) Each Distribution Company shall provide services to Customers and Host Customers necessary to permit Net Metering, including those related to interconnection, metering and calculation and billing of Net Metering credits, as specified in the Distribution Company's Net Metering tariffs pursuant to 220 CMR 18.09(2) and 220 CMR 18.09(3).
- (2) Each Distribution Company shall be prohibited from imposing special fees on a Host Customer with a Class I Net Metering Facility such as backup charges and demand charges, or additional controls or liability insurance, provided that the facility meets the other requirements of the interconnection tariff, and all relevant safety and power quality standards.
- (3) Each Distribution Company shall calculate a Net Metering credit as set forth in 220 CMR 18.04, and not bill a Host Customer for kilowatt-hour usage, for any Billing Period in which the kilowatt-hours generated by a Class I, II, or III Net Metering Facility exceed the kilowatt-hour usage of the Host Customer.
- (4) Each Distribution Company shall bill a Host Customer for excess consumption for any Billing Period in which the kilowatt-hours consumed by a Host Customer exceed the kilowatt-hours generated by a Class I, II or III Net Metering Facility.

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18.04: Calculation of Net Metering Credits

(1) For a Class I Wind Net Metering Facility, Class I Solar Net Metering Facility, Class I Agricultural Net Metering Facility, Class I Anaerobic Digestion Net Metering Facility, Class II Net Metering Facility, and Net Metering Facility of a Municipality or Other Governmental Entity, each Distribution Company shall calculate for each Billing Period a Net Metering credit equal to the product of the:

- (a) excess kilowatt-hours, by time-of-use if applicable; and
- (b) sum of the following Distribution Company charges applicable to the rate class under which the Host Customer takes service:
  - 1. the default service kilowatt-hour charge (in the ISO-NE load zone where the Host Customer is located);
  - 2. the distribution kilowatt-hour charge;
  - 3. the transmission kilowatt-hour charge; and
  - 4. the transition kilowatt-hour charge.

(2) For a Class I Net Metering Facility other than a Class I Wind Net Metering Facility, Class I Agricultural Net Metering Facility, Class I Anaerobic Digestion Net Metering Facility, or a Class I Solar Net Metering Facility, each Distribution Company shall calculate a Net Metering credit for each Billing Period as the product of the:

- (a) excess kilowatt-hours, by time-of-use if applicable; and
- (b) average monthly clearing price at the ISO-NE.

(3) For a Neighborhood Net Metering Facility or a Class III Net Metering Facility other than a Net Metering Facility of a Municipality or Other Governmental Entity, each Distribution Company shall calculate a Net Metering credit for each Billing Period as the product of the:

- (a) excess kilowatt-hours, by time-of-use if applicable; and
- (b) sum of the following Distribution Company charges applicable to the rate class under which the Host Customer takes service:
  - 1. the default service kilowatt-hour charge (in the ISO-NE load zone where the Host Customer is located);
  - 2. the transmission kilowatt-hour charge; and
  - 3. the transition kilowatt-hour charge.

(4) The calculation of Net Metering credits under 220 CMR 18.04 shall not include the demand side management and renewable energy kilowatt-hour charges set forth in M.G.L. c. 25, §§ 19 through 20.

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(5) For any Billing Period for which a Distribution Company calculates a Net Metering credit for a Host Customer, the Distribution Company shall apply the Net Metering credit to the Host Customer's account for the subsequent Billing Period, unless the Host Customer provides otherwise pursuant to 220 CMR 18.05. The Distribution Company shall carry forward, from Billing Period to Billing Period, any remaining Net Metering credit balance.

18.05: Allocation of Net Metering Credits

(1) For a Class I, II or III Net Metering Facility, each Distribution Company shall allocate Net Metering credits, as designated in writing by the Host Customer, to other Customers who are in the Distribution Company's service territory and are located in the same ISO-NE load zone. The manner and form of credit designation shall be as specified in the Distribution Company's Net Metering Tariff pursuant to 220 CMR 18.09(2). Notwithstanding the foregoing, if the Host Customer is a Municipality or Other Governmental Entity, including a Governmental Cooperative, it may direct its Distribution Company to allocate Net Metering credits only to other Customers that are Municipalities or Other Governmental Entities.

(2) For a Neighborhood Net Metering Facility, the Distribution Company may only allocate Net Metering credits to residential or other Customers who reside in the same Neighborhood in which the Neighborhood Net Metering Facility is located and have an ownership interest in, or are served by, the Neighborhood Net Metering Facility.

(3) The Distribution Company shall carry forward, from Billing Period to Billing Period, any remaining Net Metering credit balance.

(4) For a Class III Net Metering Facility, a Distribution Company may elect to pay to the Host Customer Net Metering credits rather than allocating such credits pursuant to 220 CMR 18.05(1).

18.06: Eligibility for Net Metering

(1) Distribution Companies shall not provide Net Metering services to a Host Customer who is an electric company, generation company, aggregator, supplier, energy marketer, or energy broker, as those terms are used in M.G.L. c. 164, §§ 1 and 1F and 220 CMR 11.00: *Rules Governing the Restructuring of the Electric Industry*.

(2) A Governmental Cooperative shall not be considered an electric company, generation company, aggregator, supplier, energy marketer or energy broker, as those terms are used in M.G.L. c. 164, §§ 1 and 1F and 220 CMR 11.00: *Rules Governing the Restructuring of the Electric Industry*.

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18.07: Net Metering Capacity

- (1) Each Distribution Company shall make Net Metering services available to Host Customers such that the aggregate capacity of:
  - (a) Net Metering Facilities that are not Net Metering Facilities of a Municipality or Other Governmental Entity does not exceed 3% of the Distribution Company's highest historical peak load; and
  - (b) Net Metering Facilities of a Municipality or Other Governmental Entity does not exceed 3% of the Distribution Company's highest historical peak load.
  
- (2) The maximum amount of generating capacity eligible for Net Metering by a Municipality or Other Governmental Entity shall be ten megawatts, as determined by the sum of the nameplate ratings of Class II and III Net Metering Facilities for which the Municipality or Other Governmental Entity is the Host Customer; except as provided in 220 CMR 18.07(6) below.
  
- (3) Each Distribution Company shall identify on an annual basis its highest historical peak load and post that data on its website by February 1<sup>st</sup> of the following year.
  
- (4) For the purpose of calculating the aggregate capacity of Class I, II, and III Net Metering Facilities, the capacity of a:
  - (a) Solar Net Metering Facility shall be 80% of the facility's direct current rating at standard test conditions; and
  - (b) Wind Net Metering Facility, and all other non-solar net metering facilities, shall be the nameplate rating.
  
- (5) A Class I Net Metering Facility shall be exempt from the calculation of the aggregate capacity of Net Metering facilities that are not Net Metering facilities of a Municipality or Other Governmental Entity if:
  - (a) it is a Renewable Energy generating facility; and
  - (b) its nameplate rating is equal to or less than
    1. ten kilowatts on a single-phase circuit; or
    2. 25 kilowatts on a three-phase circuit.
  
- (6) A Municipality or Other Governmental Entity that is a member of a Governmental Cooperative may transfer any or all of the net metering generating capacity associated with one or more Class II or III Net Metering Facilities to said Governmental Cooperative by providing written assent to the Governmental Cooperative and obtaining approval from the Department.

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(7) A Governmental Cooperative may serve as a Host Customer for a Net Metering Facility of a Municipality or Other Governmental Entity for all capacity allocated pursuant to 220 CMR 18.07(6) and its own capacity as an Other Governmental Entity, provided that the net metering credits for which such Governmental Cooperative serves as Host Customer shall only be allocated to that same Governmental Cooperative or its members.

18.08: Net Metering Reports

- (1) Each Distribution Company shall track at least the following:
  - (a) the size, generation type, Net Metering class, fuel type, and the Municipality within which each Net Metering facility receives Net Metering services;
  - (b) the size, generation type, fuel type, and the Municipality within which each Net Metering facility has requested interconnection with the Distribution Company; and
  - (c) the aggregate capacity of Net Metering facilities that have interconnected, and that have requested interconnection, to the Distribution Company.
- (2) Each Distribution Company shall file with the Department information regarding the provision of Net Metering services to its Customers, in a format and according to a schedule as determined by the Department.
- (3) Each Distribution Company shall post data to a publicly accessible website tracking the aggregate capacity of eligible Net Metering facilities that have connected, and that have requested interconnection, relative to the Net Metering capacity set forth in 220 CMR 18.07. The data shall be updated on a monthly basis.

18.09: Miscellaneous

- (1) The provision of Net Metering services does not entitle Distribution Companies to ownership of, or title to, the renewable energy or environmental attributes, including renewable energy certificates, associated with any electricity produced by a Net Metering facility.
- (2) Each Distribution Company shall implement its responsibilities and obligations regarding the provision of Net Metering services to Customers and Host Customers pursuant to a Department-approved tariff.
- (3) Each Distribution Company shall implement its responsibilities and obligations regarding the provision of interconnection services to Customers and Host Customers pursuant to a Department-approved tariff.

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- (4) Each Distribution Company shall be allowed to recover the aggregate of the distribution portion of any Class I, II, or III Net Metering credits and the Distribution Company delivery charges displaced by a Class I, II or III Net Metering Facility through a uniform per kilowatt-hour surcharge or surcharges billed to all of its Customers on an annual basis.
- (5) Nothing in 220 CMR 18.00 is intended in any way to limit eligibility for Net Metering services based upon a third-party ownership or financing agreement related to a Net Metering facility, where Net Metering services would otherwise be available.
- (6) Unless otherwise indicated, all capacity and energy measurements referenced in 220 CMR 18.00 refer to alternating current.
- (7) The Department may, where appropriate, grant an exception from any provision of 220 CMR 18.00.

REGULATORY AUTHORITY

220 CMR 18.00: St. 2008, c. 169, § 78; St. 2010, c. 359, §§ 25 through 30; St. 2012, c. 209, §§ 23 through 30.