



The Commonwealth of Massachusetts

DEPARTMENT OF PUBLIC UTILITIES

D.P.U. 17-179

November 16, 2018

Petition of the Town of Millis for approval by the Department of Public Utilities of a municipal aggregation plan pursuant to G.L. c. 164, § 134.

APPEARANCES:

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FOR: GOOD ENERGY, L.P., as agent for

TOWN OF MILLIS

Petitioner

I. INTRODUCTION AND PROCEDURAL HISTORY

On December 22, 2017, the Town of Millis (“Town”), through its agent Good Energy, L.P. (“Good Energy”), filed with the Department of Public Utilities (“Department”), a petition for approval of a municipal aggregation plan pursuant to G.L. c. 164, § 134 (Petition, Atts. 2-3). On July 10, 2018, the Town filed a revised municipal aggregation plan (“Plan”) (Exh. DPU 1-6, Att. A).¹ On July 10, 2018, the Town also filed a revised public outreach and education plan (“Education Plan”) (Exh. DPU 1-6, Att. B). Under the Plan, the Town will establish a municipal aggregation program (“Program”) through which the Town will aggregate the load of electric customers located within its municipal borders in order to procure electric supply for Program participants. Eligible customers will be automatically enrolled in the Program unless they choose to opt out. G.L. c. 164, § 134(a). The Department docketed this matter as D.P.U. 17-179.

On February 16, 2018, the Department issued a Notice of Public Hearing and Request for Comments (“Notice”).² On March 28, 2018, the Department conducted a public

¹ On July 10, 2018, the Town also filed a revised opt-out notice (Exh. DPU 1-6, Att. C). In this Order, the Department refers to the revised municipal aggregation plan (Exh. DPU 1-6, Att. A) and the revised opt-out notice (Exh. DPU 1-6, Att. C) collectively as “Plan.”

² On December 22, 2017, Good Energy filed a petition to intervene. The Department’s Notice did not seek petitions to intervene. In addition, as agent for the petitioner, Good Energy need not intervene (see Petition, Att. 1, Exh. D). For these reasons, the Department takes no action on Good Energy’s petition.

hearing.³ On April 19, 2018, the Department issued a second Notice due to the Town's failure to comply with certain directives in the Order of Notice. On May 9, 2018, the Department conducted a second public hearing. Michael J. Guzinski, Town Administrator for Millis, filed comments in support of the Plan on May 9, 2018. On July 10, 2018, the Town filed its responses to the Department's first set of information requests.⁴

II. SUMMARY OF PROPOSED PLAN

The Town has retained Good Energy as both its agent and consultant to develop the Plan and to assist in the design, implementation, and management of the Program (Petition, Att. 1, Exh. B). The Town and Good Energy developed the Plan in consultation with the Department of Energy Resources ("DOER") (Petition, Att. 1, Exh. D). The Town's Board of Selectmen and Town Manager will be responsible for all Program decisions, including the selection of the competitive supplier(s), execution of contracts, and termination of the Program (Plan at 4, 11).

Under the Plan, the Town will issue a request for proposals to solicit bids from competitive suppliers for firm, all-requirements electric power supply (Plan at 5-6; Petition, Att. 4, at 2, 6). Price, terms, and conditions for electric supply may differ among customer classes (Plan at 10-11). The Town will launch the aggregation when it obtains bids that meet the criteria set by the Town (Plan at 1).

³ Pursuant to G.L. c. 164, § 134(a), the Department must hold a public hearing prior to final review and approval of a municipal aggregation plan.

⁴ On its own motion, the Department moves the Town's responses to Information Requests DPU 1-1 through DPU 1-10 into the evidentiary record in this proceeding.

The Town expects to offer a standard product that includes five percent more renewable energy than the minimum Massachusetts Renewable Portfolio Standards (“RPS”) requirements (Plan at 2). The exact amount of renewable energy certificates (“RECs”) included in the standard product will be based on the bids from competitive suppliers (Plan at 2). In addition, the Town will offer the following two optional products: (1) a product that meets the minimum RPS requirements; and (2) a product that provides additional RECs, up to 100 percent of a customer’s load (Plan at 2).

After executing a contract for electric supply, the Town, through the competitive supplier, will begin the process of notifying eligible basic service customers about Program initiation and customers’ ability to opt out of the Program (Petition, Att. 4, at 9-10). The notification process will include direct mailings, newspaper notices, public service announcements, postings on the Town’s and consultant’s websites, public meetings, and the posting of notices at the Town municipal offices and buildings (Plan at 7-8; Petition, Att. 3).

The Town will require the competitive supplier to include a return-addressed, postage-paid reply envelope with the opt-out notice so that consumers who sign the opt-out document can protect their signature from exposure (Exhs. DPU 1-5; DPU 1-6, Att. C; DPU 1-11, Att.; Plan at 8-9). The competitive supplier will bear the expenses relating to the opt-out notice (Exh. DPU 1-5; Petition, Att. 4, at 9). After enrollment, participants will have the right to opt out of the Program at any time and return to basic service at no charge (Plan at 1; Petition, Att. 4, at 10).

Program participants will receive one bill from the electric distribution company, which will include the competitive suppliers' generation charge(s) and the distribution company's delivery charge (Plan at 11). Program participants will also pay a \$0.001 per kWh administrative adder that will be used to compensate Good Energy for the development and implementation of the Program, including its provision of ongoing services. Such services include the following: (1) preparing any reports required by the Department or other state agencies; (2) ensuring the competitive supplier's compliance with the electric service agreement entered into with the Town; and (3) providing ongoing customer service and education (Plan at 10; Petition, Att. 1, at Exh. B at 3). Finally, during the first year of the Program, Program participants will also pay a \$0.000025 fee to compensate the Metropolitan Area Planning Council ("MAPC")⁵ for costs associated with the services it provided to the Town related to the Plan (Plan, Att. 2, at 10; Exh. DPU 1-9).

The Town requests a waiver, on its behalf and on behalf of its competitive supplier, from the information disclosure requirements contained at 220 CMR 11.06, which oblige competitive suppliers to mail information disclosure labels directly to customers on a quarterly basis (Petition at 2-3, ¶ 9).⁶ As good cause for the waiver, the Town maintains that it can provide this information more effectively and at a lower cost using means other

⁵ The Town is a member of MAPC, a regional planning agency serving communities in Massachusetts. MAPC issued the request for proposals for community choice aggregation consulting services on behalf of the Town (Petition at 2).

⁶ The disclosure label provides information regarding a competitive supplier's fuel sources, emission characteristics, and labor characteristics. 220 CMR 11.06.

than those specified in the Department's regulations, including press releases, public service announcements on cable television, postings at Town offices and buildings, and postings on the Program's website (Plan at 9; Petition at 3, ¶ 9).

III. STANDARD OF REVIEW

General Laws c. 164, § 134(a) authorizes any municipality or group of municipalities to aggregate the electrical load of interested customers within its boundaries, provided that the load is not served by a municipal light plant. Upon approval by the local governing entity or entities, a municipality or group of municipalities may develop a municipal aggregation plan, in consultation with DOER and for review by its citizens, providing detailed information to customers on the process and consequences of aggregation.

G.L. c. 164, § 134(a). A municipal aggregation plan must provide for universal access, reliability, and equitable treatment of all classes of customers and meet any requirements established by law concerning aggregated service. G.L. c. 164, § 134(a).

A plan must include the following: (1) the organizational structure of the program, its operations, and its funding; (2) details on rate setting and other costs to its participants; (3) the method of entering and terminating agreements with other entities; (4) the rights and responsibilities of program participants; and (5) the procedure for termination of the program. G.L. c. 164, § 134(a). Municipal aggregation plans must be submitted to the Department for final review and approval. G.L. c. 164, § 134(a).

Participation in a municipal aggregation plan is voluntary and a retail electric customer has the right to opt out of plan participation. G.L. c. 164, § 134(a).

Municipalities must inform electric customers of: (1) automatic plan enrollment and the right to opt out; and (2) other pertinent information about the plan. G.L. c. 164, § 134(a); Municipal Aggregation Programs, D.P.U. 16-10, at 19 (2017).

The Department's review will ensure that the plan meets the requirements of G.L. c. 164, § 134, and any other statutory requirements concerning aggregated service. In addition, the Department will determine whether a plan is consistent with provisions in the Department's regulations that apply to competitive suppliers and electricity brokers. See 220 CMR 11.01 et seq. Although the Department's regulations exempt municipal aggregators from certain provisions contained therein, the regulations provide no such exemption for the competitive suppliers that are selected to serve a municipal aggregation load. See 220 CMR 11.01 et seq.

A municipal aggregator is exempt from two requirements included in the Department's regulations concerning competitive supply. First, a municipal aggregator is not required to obtain a license as an electricity broker from the Department under 220 CMR 11.05(2) in order to proceed with an aggregation plan. City of Marlborough, D.T.E. 06-102, at 16 (2007). Second, a municipal aggregator is not required to obtain customer authorization to enroll customers in the program pursuant to G.L. c. 164, § 1F(8)(a) and 220 CMR 11.05(4). D.T.E. 06-102, at 16. The opt-out provision applicable to municipal aggregators replaces the authorization requirements included in the Department's regulations. D.T.E. 06-102, at 16.

A competitive supplier chosen by a municipal aggregator is not exempt from other applicable Department regulations. D.T.E. 06-102, at 16. To the extent that a municipal aggregation plan includes provisions that are not consistent with Department regulations, the Department will review these provisions on a case-by-case basis. D.T.E. 06-102, at 16.

IV. ANALYSIS AND FINDINGS

A. Consistency with G.L. c. 164, § 134

1. Procedural Requirements

General Laws c. 164, § 134(a), establishes several procedural requirements for a municipal aggregation plan. First, a municipality must obtain the authorization from certain local governing entities prior to initiating the process to develop an aggregation plan.

G.L. c. 164, § 134(a).⁷ The Town provided meeting minutes demonstrating local approval through an affirmative vote of the Board of Selectman prior to initiating the process of aggregation (Petition, Att. 1, at Exhs. A, C). Therefore, the Department concludes that the Town has satisfied the requirement regarding local governmental approval.

Second, a municipality must consult with DOER in developing its municipal aggregation plan. G.L. c. 164, § 134(a). DOER submitted a letter to the Town on November 16, 2017, confirming that the Town completed this consultation (Petition, Att. 1,

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A town may initiate a process to aggregate electrical load upon authorization by a majority vote of town meeting or town council. A city may initiate a process to authorize aggregation by a majority vote of the city council, with the approval of the mayor or, where applicable, the city manager. G.L. c. 164, § 134(a).

at Exh. D). Therefore, the Department concludes that the Town has satisfied the requirement to consult with DOER.

Third, a municipality, after development of a plan in consultation with DOER, must allow for citizen review of the plan. G.L. c. 164, § 134(a). General Laws c. 164, § 134(a) is silent on the process a municipality must use to satisfy citizen review of a municipal aggregation plan. The Department, however, requires municipalities to allow citizens sufficient opportunity to provide comments on a proposed plan prior to the municipality filing its plan with the Department. Cape Light Compact, D.P.U. 14-69, at 42 (2015); Town of Ashby, D.P.U. 12-94, at 27 (2014).

The Town made the Plan available from July 10, 2017, through July 24, 2017, at the Town Hall and on its website (Petition, Att. 1, Exh. E). In addition, the Town provided documentation that shows municipal officials presented the Plan at public meetings of the Selectmen on June 26, 2017 and July 24, 2017 (Petition, Att. 1, Exh. C, E2, E5). Therefore, the Department concludes that the Town has satisfied the requirement regarding citizen review.

Finally, a municipal aggregation plan filed with the Department shall include the following: (1) the organizational structure of the program, its operations, and its funding; (2) details on rate setting and other costs to its participants; (3) the method of entering and terminating agreements with other entities; (4) the rights and responsibilities of program participants; and (5) the procedure for terminating the program. G.L. c. 164, § 134(a). After review, the Department finds that the Plan includes each of these required components

(Plan at 3-12). Accordingly, the Department concludes that the Town has satisfied all procedural requirements of G.L. c. 164, § 134(a).

2. Substantive Requirements

a. Introduction

Municipal aggregation plans must provide for universal access, reliability, and equitable treatment of all classes of customers. G.L. c. 164, § 134(a). In addition, municipalities must inform all eligible electric customers prior to their enrollment of their right to opt out of the program and disclose other pertinent information regarding the plan.⁸ G.L. c. 164, § 134(a); D.P.U. 16-10, at 19.

b. Universal Access

The Department has stated that the universal access requirement is satisfied when a municipal aggregation program is available to all customers within the municipality. City of Lowell, D.P.U. 12-124, at 44-46 (2013); D.T.E. 06-102, at 19; Cape Light Compact, D.T.E. 00-47, at 24 (2000). Under the Plan, all eligible customers in the Town will be enrolled in the Program unless the customer previously contracted with a competitive supplier or affirmatively opted out of the Program (Plan at 14-15; Petition, Att. 4, at 3, 10). New customers moving into the Town will (1) initially be placed on basic service and (2) subsequently, receive a notice informing them that they will be automatically enrolled in the Program unless they opt-out (Plan at 13). Town of Lexington, D.P.U. 16-152,

⁸ The municipal disclosures must do the following: (1) prominently identify all charges; (2) provide the basic service rate; (3) describe how to access the basic service rate; and (4) disclose that a customer may choose the basic service rate without penalty. G.L. c. 164, § 134(a).

at 17 (2017). Finally, the Plan provides that customers may return to basic service at any time (Plan at 12-14; Petition at 1). After review, the Department concludes that the Town has satisfied the requirements of G.L. c. 164, § 134(a) regarding universal access.

See Town of Natick, D.P.U. 13-131, at 19-20 (2014); D.P.U. 12-124, at 45-46;

D.T.E. 06-102, at 20.

c. Reliability

A municipal aggregation plan must provide for reliability. G.L. c. 164, § 134(a). The contract that the Town will enter into with the competitive supplier contains provisions that commit the competitive supplier to provide all-requirements power supply, make all necessary arrangements for power supply, and use proper standards for management and operations (Plan at 12-15; Petition, Att. 4, at 13-15). In addition, the Town will use the services of Good Energy, a licensed electricity broker, to ensure that the Town has the technical expertise necessary to operate the Program (Plan at 4). After review, the Department concludes that the Town has satisfied the requirements of G.L. c. 164, § 134(a) regarding reliability. See D.P.U. 14-69, at 45; D.P.U. 13-131, at 20; D.P.U. 12-124, at 46.

d. Equitable Treatment of All Customer Classes

A municipal aggregation plan must provide for equitable treatment of all customer classes. G.L. c. 164, § 134(a). Equitable treatment of all customer classes does not mean that all customer classes must be treated equally; rather, customer classes that are similarly situated must be treated equitably. D.P.U. 14-69, at 10-16, 45-47; D.T.E. 06-102, at 20.

Here, the Plan allows for varied pricing, terms, and conditions for different customer classes (Plan at 10-11).⁹ This feature of the Plan’s design appropriately takes into account the different characteristics of each customer class. D.P.U. 13-131, at 22-25; D.P.U. 12-94, at 32; D.P.U. 12-124, at 47. After review, the Department finds that the Town has satisfied the requirements of G.L. c. 164, § 134(a) regarding equitable treatment of all customer classes.

e. Customer Education

General Laws c. 164, § 134(a) provides that it is the “duty of the aggregated entity to fully inform participating ratepayers” that they will be automatically enrolled in the Program and that they have the right to opt out. It is critical that a municipality inform and educate eligible customers, including customers with limited English language proficiency, about a municipal aggregation plan and their right to opt out of the program, especially in light of the automatic enrollment provisions afforded to these plans. City of Newton, D.P.U. 18-36, at 10 (September 20, 2018); D.T.E. 06-102, at 21. To this end, the Department reviews the form and content of the consumer notifications issued by municipal aggregations. As the Department continues to gain experience with the operation of municipal aggregation programs, it is fully anticipated that we will refine our position on the adequacy and clarity of consumer notifications. Town of Stoughton, D.P.U. 17-43, at 13 (2017). The Town is required to adhere to any future directives in this regard.

⁹ The customer classes in the Program will be the same as those used by the Town’s electric distribution company, NSTAR Electric Company, d/b/a Eversource Energy (Plan at 10-11).

According to the Town's Plan and Education Plan, the Town will provide, "in other languages, where appropriate" Program information to customers through the following channels: (1) general education, which will consist of a press conference, media outreach, public notices and postings, and a toll-free customer service number and Program website operated by Good Energy and linked to the Town's website; and (2) a direct mail opt-out notice, which will inform customers of their rights under the Program, including their right to opt out at any time without penalty (Plan at 7; Exh. DPU 1-6, Att. B at 2-5). The Town maintains that it does not have substantial populations for whom English is not their primary language and who self-identify as speaking English less than very well and, therefore, the Town proposes to provide Program materials in English only (Exh. DPU 1-4). The Town reports, however, that between approximately one and two percent of its population speaks Spanish or Italian and identify as speaking English "less than very well" (Exh. DPU 1-4). Consistent with the Town's Plan and Education Plan and in order to ensure that these customers are appropriately notified about automatic enrollment in the Plan and their right to opt-out, the Town shall revise its opt-out notice to include a sentence in Spanish and a sentence in Italian that informs eligible customers that the notice contains important information from the Town about their electric service and they should have the notice translated. Such text should also include the toll-free customer service number referenced in the Plan and Education Plan (Plan at 7; Exh. DPU 1-6, Att. B at 4). With this change, the form of the Town's revised exemplar opt-out notice is consistent with the Department's requirements that such notices be sent in clearly marked municipal envelopes that state they

contain information regarding customers' participation in the Program and include a return-addressed, postage-paid reply envelope to protect consumer signatures from exposure (Exhs. DPU 1-6, Att. C; DPU 1-11, Att.). D.P.U. 13-131, at 26-27.

Pursuant to G.L. c. 164, § 134(a), the Town must prominently identify all Program charges and include a full disclosure of the basic service rate. In this regard, the Town's exemplar opt-out notice prominently identifies all Program charges, including the administrative adder that will be used to compensate the consultant and the additional adder to compensate MAPC (Plan at 8-10; Exhs. DPU 1-6, Att. B at 4, Att. C). In addition, the Plan describes how Program charges will be set, including a description of any additional costs that could be imposed due to a change in law (Plan at 10-11).^{10,11} With respect to taxes, the Town shall revise its Plan to disclose the following: (1) taxes will be billed as part

¹⁰ Should a change in law result in a material increase in costs to the competitive supplier, the Plan provides that the Town and the competitive supplier will negotiate a potential change in the Program price. At least 30 days prior to the implementation of any such change, the Town will notify Program participants of the change in price through media releases, postings at Town Hall, and on the Program website (Plan at 11).

The Town shall inform the Director of the Department's Consumer Division prior to the implementation of any such price change. Notification to the Department shall occur prior to the customer notification and must include copies of all media releases, Town Hall and website postings, and other communications the Town intends to provide to customers regarding the change in price.

¹¹ To ensure that customers are fully informed about the possibility of a Program price change due to a change in law, the Town shall revise its opt-out notice to include the following sentence in the section where prices are identified: "Program prices could increase as a result of a change in law that results in direct, material increase in costs during the term of the electric supply agreement."

of the Program's power supply charge; and (2) customers are responsible for identifying and requesting an exemption from the collection of any tax by providing appropriate documentation to the competitive supplier (see Petition, Att. 4, Article 7.4.4).

The Department notes that certain municipal aggregations may seek competitive supply rates that provide savings for participating electric customers compared to basic service rates. However, due to changes in market conditions and differences in contract terms, a municipal aggregation plan cannot guarantee customers cost savings compared to basic service over time. See D.P.U. 12-124, at 57-66. In addition, municipalities must fully inform customers about the plan, including the benefits and consequences of municipal aggregation. G.L. c. 164, § 134(a). This is true regardless of whether the primary purpose of the municipal aggregation is to provide savings to participating customers. Therefore, the Department has found that municipalities must clearly explain in a plan and all education materials distributed prior to program implementation that customers are not guaranteed cost savings compared to basic service. City of Gloucester, D.P.U. 16-101, at 13 (2017).

Certain information prepared by the consultant in this case and provided in conjunction with Town Meeting and Board of Selectman meetings included language related to "lower costs[s]" and "savings" without any accompanying explanation or disclaimer that such savings cannot be guaranteed (Petition, Att. 1, Exhs. C, E1, E2, E5).¹² The Town and

¹² In particular, an "Outline of the Aggregation Program" that was read at Town Meeting provides that the "objectives of the aggregation program are to lower the cost of electricity [and] gain longer term price stability" without any accompanying explanation or disclaimer that such savings cannot be guaranteed (Petition, Att. 1, Exh. E1-E2). Further, at a Board of Selectmen meeting held on July 24, 2017, Bob

its consultant shall ensure that all future communications and information regarding the Program (including, but not limited to mailings, advertisements, website postings, etc.) contain a disclaimer that “savings cannot be guaranteed” in each instance where price is referenced, regardless of whether references to “savings” or “price stability” or the like are made.¹³

In Town of Orange, D.P.U. 17-14, at 11-12 (2017), the Department determined that Program enrollments shall begin no sooner than 36 days after mailing of the opt-out notice. Such timing ensures that eligible customers have a full 30 days to opt out, plus an additional six days to account for mailing (i.e., three days for the opt-out notice to be delivered to the customer and three days for the opt-out document to be delivered to the competitive supplier through the mail). D.P.U. 17-14, at 12. The Town’s Plan and exemplar opt-out notice are consistent with these directives (Plan at 8-9; Exh. DPU 1-6, Att. C).

In addition, in order to ensure that no customers who wish to opt out are automatically enrolled in the Program, the Department has determined that a municipal aggregator must identify the actual date by which customers must postmark the opt-out

Weiss, Energy Manager, explained that “the plan... will provide Town residents and businesses with stable electric rates with a modest reduction in costs” without any accompanying explanation or disclaimer that savings cannot be guaranteed (Petition, Att. 1, Exh. C).

¹³ The Department notes that Good Energy acts as program consultant for several municipal aggregation programs in Massachusetts (see, e.g., Town of Hadley, D.P.U. 17-173; Town of Bedford, D.P.U. 17-178; Town of Rockland, D.P.U. 17-180; Town of Avon, D.P.U. 17-182). In its role as consultant, Good Energy must ensure all of its communications with municipalities regarding municipal aggregation fully disclose that savings cannot be guaranteed.

document, consistent with the timing described above. D.P.U. 17-14, at 12. The Department has further found that such language must appear in a prominent location in color at the top of the first page of the opt-out notice as well as on the opt-out reply card, and must inform eligible customers that they will be automatically enrolled in the Program unless they return postmark the opt-out document by the identified date.^{14,15} D.P.U. 17-14, at 12. The Town's exemplar opt-out notice and opt-out reply card are consistent with these directives (Exhs. DPU 1-6, Att. C; DPU 1-11, Att.).

Finally, while G.L. c. 164, § 134(a) is silent regarding customer education after a customer is enrolled in a municipal aggregation program, the Town must continue to provide customers with information regarding the ongoing operations of the Program. D.P.U. 14-69, at 48; Town of Dalton, D.P.U. 13-136, at 23 (2014). Here, the Town's Education Plan provides that ongoing education, including information regarding Program details, Program changes, and power supply sources, will continue through a dedicated Program website linked to the Town's website.¹⁶ In addition, the Education Plan provides that price changes

¹⁴ The Department has found that where the opt-out notice and reply card will be printed entirely in black and white, a municipality may include the language in bold black type in the specified locations instead of in color. However, if the opt-out notice and reply card include color text, this language must be included in color. Town of Shirley, D.P.U. 17-21, at 12, n.11 (2017), citing D.P.U. 17-14, at 12.

¹⁵ The Department has determined that it is not optimal to group essential language regarding automatic enrollment and the deadline to act together with other information in the body of the opt-out notice. D.P.U. 17-14, at 12.

¹⁶ The Town shall provide, at a minimum, basic information about the Plan in a prominent location on its website with appropriate links to the dedicated Program website.

will be announced in a media release and through the Program website (Plan at 8-10; Exh. DPU 1-6, Att. B at 2-5). The Town will also maintain a toll-free customer information and support hotline (; Plan at 8; Exhs. DPU 1-6, Att. B at 2-5; DPU 1-8).

After review, and with the modifications to the Plan and opt-out notice required above, the Department concludes that the Town has satisfied the requirements of G.L. c. 164, § 134(a) regarding customer education. The Town shall submit a copy of the final opt-out notice and reply card to the Director of the Department's Consumer Division for review and approval prior to issuance.¹⁷ Town of Southborough, D.P.U. 17-19, at 14 (2017).

f. Conclusion

Based on the findings above, with the required modifications to the Plan and opt-out notice, the Department concludes that the Town has satisfied all substantive requirements in G.L. c. 164, § 134(a). The Town shall file a revised Plan and opt-out notice within 14 days of the date of this Order. The Department will review these materials for compliance with the directives specified above.

B. Waiver from Department Regulations Regarding Information Disclosure

General Laws c. 164, § 134 requires that a municipal aggregation plan meet any requirements established by law or the Department concerning aggregated service. In this

¹⁷ The final opt-out notice should contain all relevant prices. The return postmark date may be left blank on the final opt-out notice and reply card if the date is not yet known. The final opt-out notice and reply card must also be filed in the instant docket, in a manner consistent with the Department's filing requirements. 220 CMR 1.02.

regard, the Town has requested a waiver, on behalf of itself and its competitive supplier, from the information disclosure requirements contained in 220 CMR 11.06(4)(c). The Department's regulations at 220 CMR 11.08 permit a waiver from these regulations for good cause shown. As good cause for the waiver, the Town maintains that the competitive supplier can provide the same information more effectively and at a lower cost through alternate means (Plan at 9-10; Petition at 2-3, ¶ 9).

The Town's proposed information disclosure strategy is similar to the strategies approved by the Department in other municipal aggregation plan proceedings. See, e.g., Town of Webster, D.P.U. 18-16, at 18 (2018); Town of Greenfield, D.P.U. 13-183, at 27-29 (2014); D.P.U. 13-131, at 29-31. The Department finds that the Town's proposed alternate information disclosure strategy should allow the competitive supplier to provide the required information to its customers as effectively as the quarterly mailings required under 220 CMR 11.06(4)(c). Accordingly, pursuant to 220 CMR 11.08, the Department grants the Town's request for a waiver from 220 CMR 11.06(4)(c) on behalf of itself and its competitive supplier.¹⁸ To maintain this waiver, as part of its Annual Reports to the Department (see Section V, below), the Town must to provide sufficient information to show that the competitive supplier has provided the same information to Program participants as effectively as the quarterly mailings required under 220 CMR 11.06(4)(c). The Town and its

¹⁸ This waiver is only for the Town's Program. The competitive supplier must continue to adhere to the applicable provisions of 220 CMR 11.06 for its other customers.

competitive supplier are required to adhere to all other applicable provisions of 220 CMR 11.06.

V. OTHER REQUIREMENTS

In addition to the requirements set forth in G.L. c. 164, § 134, as discussed above, the Town shall comply with all additional requirements for municipal aggregations as set forth by the Department. See, e.g., D.P.U. 14-69, at 29-30 (requirements for revising a municipal aggregation plan); D.P.U. 13-131-A at 10 (program pricing for customers that join a municipal aggregation program after initiation); D.P.U. 12-124, at 57-66 (prohibiting the practice of suspension); Town of Lanesborough, D.P.U. 11-27, at 24 (2011) (notice requirements to local distribution company).

The Town shall submit an annual report to the Department by December 1st of each year. The annual report shall, at a minimum, provide the following information: (1) a list of the Program's competitive suppliers over the past year; (2) the term of each energy supply agreement; (3) monthly enrollment statistics by customer class (including customer additions and withdrawals); (4) the number and percentage of customers that opted-out of the Program over the past year; (5) a brief description of any renewable energy supply options included in the Program; (6) a detailed discussion (with all relevant documentation) addressing Town and competitive supplier compliance with the alternative information disclosure strategy approved in Section IV.B, above; (7) evidence documenting that the Town has fully complied with all provisions contained in its Education Plan (including, at a minimum, copies of all opt-out notices and other correspondence with eligible customers and Program participants, copies of

Town Meeting notices, minutes of any such meetings, and screenshot images of all relevant Program pages of the websites of the Town and consultant); and (8) copies of any complaints received by the Town, its consultant, or the competitive supplier regarding the Program.

The Town's first annual report shall be filed on or before December 1, 2018.

VI. CONCLUSION

Consistent with the discussion above, the Department finds that the Plan, with the modifications required herein, satisfies all statutory filing requirements contained in G.L. c. 164, § 134(a). In addition, with the waiver from the information disclosure requirements contained in 220 CMR 11.06(4)(c) allowed above, the Department finds that the Plan, as amended consistent with the directives contained herein, meets the requirements established by the Department concerning aggregated service. Accordingly, the Department approves the Town's Plan, as amended consistent with the directives contained herein.

VII. ORDER

Accordingly, after due notice, public hearing, and consideration, it is

ORDERED: That the municipal aggregation plan filed by the Town of Millis, to be further revised and amended consistent with the directives contained herein, is APPROVED; and it is

FURTHER ORDERED: That the Town of Millis shall comply with all directives contained in this Order.

By Order of the Department,

/s/
Angela M. O'Connor, Chairman

/s/
Robert E. Hayden, Commissioner

/s/
Cecile M. Fraser, Commissioner

An appeal as to matters of law from any final decision, order, or ruling of the Commission may be taken to the Supreme Judicial Court by an aggrieved party in interest by the filing of a written petition praying that the Order of the Commission be modified or set aside in whole or in part. Such petition for appeal shall be filed with the Secretary of the Commission within twenty days after the date of service of the decision, order, or ruling of the Commission, or within such further time as the Commission may allow upon request filed prior to the expiration of the twenty days after the date of service of said decision, order, or ruling. Within ten days after such petition has been filed, the appealing party shall enter the appeal in the Supreme Judicial Court sitting in Suffolk County by filing a copy thereof with the Clerk of said Court. G.L. c. 25, § 5.