The Commonwealth of Massachusetts

DEPARTMENT OF PUBLIC UTILITIES

D.P.U. 26-75 July 27, 2026

Petition of the Massachusetts Department of Energy Resources for approval of a proposed timetable and method for the second solicitation and execution of Long-Term Contracts for Energy Storage Systems, pursuant to Section 83E of An Act Relative to Green Communities, St. 2008, c. 169, as amended by St. 2024, c. 239, § 98.

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SUMMARY

Massachusetts law requires the three electric distribution companies to enter into cost-effective contracts for energy storage systems by July 31, 2030, with some of those systems for mid-duration equal to or greater than four hours up to ten hours.

In this Order, the Department of Public Utilities approves the Massachusetts Department of Energy Resources' ("DOER") proposed timetable and method of solicitation of long-term contracts for energy storage systems as it relates to environmental attributes only and finds that they are reasonable, appropriate, and consistent with Section 83E of An Act Relative to Green Communities. The filing for an environmental attributes-only solicitation represents a reasonable balancing of interests and demonstrates progress toward achieving the Commonwealth's statutory energy storage systems requirement as well as seeking to contract for low-cost energy storage systems.

By contrast, the Department denies those parts of the proposed timetable and method for the second solicitation and execution of long-term contracts for energy storage systems as it relates to energy services using an indexed storage credit mechanism. Including energy services in this solicitation is not required by Section 83E and the indexed storage credit mechanism proposed here requires further investigation and stakeholder input.

Section 83E(b) requires that the distribution companies, Fitchburg Gas and Electric Light Company d/b/a Unitil, Massachusetts Electric Company and Nantucket Electric Company each d/b/a National Grid, and NSTAR Electric Company d/b/a Eversource Energy, enter into cost-effective long-term contracts equal to approximately 5,000 megawatts ("MW") of energy storage systems not later than July 31, 2030. This second Section 83E solicitation seeks to procure approximately 1,000 MW of mid-duration storage for energy services (using an indexed storage credit mechanism) and/or for environmental attributes (i.e., Clean Peak Energy Certificates). The solicitation allows bidders to offer proposals for energy storage systems connected to the transmission system and sized from 40 MW up to 700 MW, and it includes a 250-300 MW procurement target for projects connected to the distribution system and sized greater than one MW.

The Department supports the allowance in this solicitation for surplus interconnection service if the original interconnection customer in the arrangement is currently receiving capacity network resource interconnection service, but the Department declines to make requested changes to several interconnection requirements and encourages bidders to attend the bidders conference for requested clarifications. Although several commenters requested an opportunity to review and comment on the form long-term contracts ("Form LTCs"), the Department determines that bidders will have sufficient opportunities to propose changes and raise issues during the contract negotiation and adjudication processes The Department directs the distribution companies to make their transmission-connected Form LTCs available to the Independent Evaluator for review two weeks prior to filing the draft request for proposals ("RFP") with the Department in future rounds. The Department directs the distribution

companies to provide the non-negotiable Form LTCs for distribution-connected projects with the draft RFP in future solicitations.

Regarding existing energy storage systems, the Department directs DOER to revise the solicitation documents to clarify that existing energy storage systems need not demonstrate that a contract is necessary to facilitate financing. The Department also declines to accept recommendations to prescribe additional weighting or scoring requirements for distribution projects but approves the proposed minimum bid size, prohibition on aggregation, site-control requirement, and the 250 to 300 MW target. The Department directs DOER to clarify that a distribution project will not be ineligible solely because it participated in an applicable alternative utility tariff, pilot, or offering if it satisfies certain operational requirements. The Department approves the bid fees and contract security requirements and declines to make recommended changes.

The Department finds that the proposed timetable and method for the second solicitation and execution of long-term contracts for energy storage systems as it relates to an environmental attributes-only solicitation are consistent with the requirements of Section 83E. The Department expects that the next step will be the Companies, in coordination with DOER, issuing the solicitation on or about July 31, 2026.

I. INTRODUCTION AND PROCEDURAL HISTORY

On May 8, 2026, DOER, having consulted with Fitchburg Gas and Electric Light Company d/b/a Unitil ("Unitil"), Massachusetts Electric Company and Nantucket Electric Company each d/b/a National Grid ("National Grid"), and NSTAR Electric Company d/b/a Eversource Energy ("NSTAR Electric") (collectively, "Companies") and with the Attorney General of the Commonwealth ("Attorney General"), filed a Petition with the Department for approval of a proposed timetable and method for the second solicitation and execution of long-term contracts for energy storage systems[1] and associated environmental attributes,[2] pursuant to Section 83E of An Act Relative to Green Communities ("Green Communities Act"), St. 2008, c. 169 ("Section 83E"). The Legislature added Section 83E to the Green Communities Act through An Act Promoting a Clean Energy Grid, Advancing Equity and Protecting Ratepayers, St. 2024, c. 239, § 98 ("2024 Climate Act"). The May 8, 2026 filing included the proposed request for proposals ("RFP") as Attachment A to the Petition. The Department docketed this matter as D.P.U. 26-75.

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[1] An energy storage system is defined in G.L. c. 164, § 1, in pertinent part, as a commercially available technology that is capable of absorbing energy, storing it for a period of time, and thereafter dispatching the energy, and which may be owned by an electric distribution company; provided, that certain provisions specified in G.L. c. 164, § 1 are met.

[2] Environmental attributes are all present and future attributes under any and all international, federal, regional, state, or other law or market, including but not limited to all credits or certificates that are associated, either now or by future action, with clean energy generation, including but not limited to those attributes authorized and created by programs developed under G.L. c. 21N, § 3(c), and G.L. c. 25A, §§ 11F and 17. St. 2024, c. 239, § 95. In Massachusetts, Clean Peak Energy Certificates are the environmental attributes with value that are generated by energy storage systems. RFP § 2.2.2.1.

The Attorney General intervened in this matter on May 15, 2026. On May 19, 2026, pursuant to Section 83E, the Independent Evaluator submitted its report analyzing the proposed timetable and method of solicitation ("Independent Evaluator Report").[3] On May 21, 2026, the Companies submitted a joint letter ("Companies Joint Letter") stating that they supported the RFP as drafted except for the issue of procuring energy services, as detailed below. The Companies also submitted a memorandum that NSTAR Electric had previously submitted to the RFP steering team[4] ("Companies Joint Letter, Att. A"). On July 16, 2026, the Department granted the Companies' petitions to intervene.

The Department's May 26, 2026 Notice of Filing and Request for Comments set an initial comment deadline of June 5, 2026, and a reply comment deadline of June 12, 2026. The Department received comments from the following entities: (1) BlueWave and New Leaf Energy, jointly ("BlueWave/New Leaf"); (2) The Coalition for Community Solar Access ("CCSA"); (3) Conservation Law Foundation ("CLF"); (4) Emergent Microgrid Inc. ("Emergent"); (5) Energy Dome; (6) FirstLight Power ("FirstLight"); (7) Flatiron Energy ("Flatiron"); (8) Great River Hydro, LLC ("Great River Hydro"); (9) Hydrostor USA Holdings ("Hydrostor"); (10) JERA Americas; (11) Longroad Energy Management; and (12) RENEW

3 Pursuant to Section 83E(g), DOER and the Attorney General jointly select, and DOER contracts with, an independent evaluator which, among other things, issues a report analyzing the timetable and method of solicitation conducted pursuant to Section 83E and includes any recommendations for improving the process. DOER and the Attorney General selected Power Advisory LLC as the Independent Evaluator for this Section 83E solicitation (Independent Evaluator Report at 2).

4 The RFP steering team is not defined, but the Department presumes this is a reference to the "RFP Steering Committee." See p. 26 n.19, below.

Northeast, Inc., Solar Energy Industries Association, and Alliance for Climate Transition, jointly ("RENEW/SEIA/ACT"). The Department received reply comments from FirstLight and the Companies. DOER responded to 16 information requests from the Department, the Companies responded to ten information requests from the Department, the Attorney General responded to two information requests from the Department, and the Independent Evaluator responded to four information requests from the Department.

On its own motion, the Department enters into the evidentiary record the following: the RFP filed by DOER; the Independent Evaluator Report; the Companies Joint Letter and Att. A; and the responses to information requests DPU-DOER 1-1 through DPU-DOER 1-7, DPU-DOER 2-1 through DPU-DOER 2-6, DPU-DOER 3-1 through 3-3, DPU-COMMON 1-1 through DPU-COMMON 1-5, DPU-COMMON 2-1 through DPU-COMMON 2-3, DPU-COMMON 3-1 through DPU-COMMON 3-2, DPU-AG 1-1, DPU-AG 2-1 through DPU-AG 2-1 (Supp.); DPU-IE 1-1 through DPU-IE 1-3, and DPU-IE 2-1.

II. SUMMARY OF SECTION 83E

Pursuant to Section 83E, every electric distribution company shall, in coordination with DOER, jointly and competitively solicit proposals for energy storage systems and, provided that reasonable proposals have been received, enter into cost-effective long-term contracts for energy storage systems equal to approximately 5,000 megawatts ("MW") of energy storage systems not later than July 31, 2030. Section 83E(a). Of the 5,000 MW, 3,500 MW shall be mid-duration energy storage,[5] 750 MW shall be long-duration energy storage,[6] and if commercially available at a reasonable cost, 750 MW shall be multi-day energy storage.[7] Section 83E(a). Of the 3,500 MW of mid-duration energy storage: (i) approximately 1,500 MW shall be procured by July 31, 2025, for environmental attributes only; (ii) approximately 1,000 MW shall be procured by July 31, 2026;[8] and (iii) approximately 1,000 MW shall be procured by July 31, 2027. Section 83E(b). Section 83E(a) provides that existing energy storage systems shall be eligible to participate in any procurement issued under this section.

DOER, in coordination with the Companies, must propose the timetable and method for solicitation of long-term contracts, which are subject to review and approval by the Department. Section 83E(b). DOER must consult with the Companies and the Attorney General regarding the choice of solicitation methods. Section 83E(b). A solicitation may be coordinated and issued jointly with other New England states or entities designated by those states. Section 83E(b). DOER must develop a staggered procurement schedule to ensure that the

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5 A mid-duration energy storage system is an energy storage system that is capable of dispatching energy at its full-rated capacity for a period of equal to or greater than four hours and up to ten hours. 2024 Climate Act § 97.

6 A long-duration energy storage system is an energy storage system that is capable of dispatching energy at its full-rated capacity for a period greater than ten hours and less than or equal to 24 hours. 2024 Climate Act § 96.

7 A multi-day energy storage system is an energy storage system that is capable of dispatching electricity at its full-rated capacity for greater than 24 hours. 2024 Climate Act § 97.

8 Although Section 83E(b) specifies that the second solicitation shall be procured by July 31, 2026, DOER's timetable anticipates that the RFP will be issued on or about July 31, 2026 (Petition at 5 & n.7; RFP § 3.1 & n.19).

Companies enter into approximately 5,000 MW of cost-effective long-term contracts not later than July 31, 2030. Except for the first procurement, each procurement must consider environmental attributes, energy services, or a combination of both, as discussed further below. Section 83E(b). Each of the Companies must contract with the winning bidders for its apportioned share of the long-term contract. Section 83E(h).

Proposals received pursuant to a solicitation are subject to review and approval by the Department, which must approve, approve in part, or reject the contracts not later than six months from the filing date of the contracts. Section 83E(b). If DOER, in consultation with the Independent Evaluator, determines that reasonable proposals were not received, DOER may terminate the solicitation and may require additional solicitations to fulfill the requirements. Section 83E(b). A Company may decline to pursue proposals having terms and conditions that would require the contract obligation to place an unreasonable burden on the Company's balance sheet. Section 83E(d). If a Company deems all contracts to be unreasonable, it must consult with DOER and, not later than 20 days from the date of the Company's decision, submit a filing with the Department; the Department then has four months to approve or reject the distribution company's decision and may order the Company to reconsider any contract. Section 83E(d).

DOER and the Attorney General must jointly select, and DOER contract with, an independent evaluator to monitor and report on the solicitation and the bid selection process to assist DOER in determining whether a proposal is reasonable, and to assist the Department in its consideration of long-term contracts filed for approval. Section 83E(g). To ensure that an open, fair, and transparent solicitation and bid selection process is not unduly influenced by an affiliated company, the independent evaluator shall: (i) issue a report to the Department analyzing the timetable and method of solicitation and the solicitation process including recommendations, if any, for improving the process; and (ii) at the start of the Department's review of a proposed contract, file a report summarizing and analyzing the solicitation and bid selection process and providing its independent assessment of whether all bids were evaluated in a fair and non-discriminatory manner. Section 83E(g). The Department must consider the independent evaluator's findings and may require them as conditions of approval; if the independent evaluator concludes that the solicitation and bid selection were not fair and objective and that, as a result, the process was substantially prejudiced, the Department must reject the contract. Section 83E(g). Finally, a distribution company may use or retain environmental attributes to meet any annual portfolio standard requirements, or it may sell them to minimize the costs to ratepayers under the contract. Section 83E(i).

In this Order, we assess whether the timetable and method for the second solicitation of long-term contracts in the proposed RFP comply with Section 83E.[9]

III. SUMMARY OF PROPOSED TIMETABLE AND SOLICITATION METHOD

A. Introduction

Consistent with the requirements of Section 83E, DOER developed the proposed RFP in coordination with the Companies and in consultation with the Attorney General and the Independent Evaluator (Petition at 2). DOER states that the RFP encompasses the timetable and

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9 The Department approved the first solicitation pursuant to Section 83E in Timetable and Method of Solicitation for Long-Term Contracts for Energy Storage Systems Pursuant to Section 83E, D.P.U. 25-59 (2025). The contracts entered into pursuant to the first solicitation are pending with the Department in Long-Term Contracts for Energy Storage Systems Pursuant to Section 83E, D.P.U. 26-87/D.P.U. 26-88/D.P.U. 26-89.

method for solicitation of energy storage systems in accordance with Section 83E (Petition at 2). This second RFP seeks to procure approximately 1,000 MW of mid-duration energy storage systems, includes a 250-300 MW procurement target for distribution-connected projects, and proposes to solicit environmental attributes, energy services, or a combination of both (Petition at 1, 2). The RFP includes highlighted language that could establish an indexed storage credit ("ISC") mechanism meeting the definition of "energy services." Removal of this highlighted language would limit the RFP to contracts for environmental attributes only (Petition at 2).

The RFP allows bidders to offer proposals involving energy storage systems connected to the transmission system, defined as above 69 kV, and sized from 40 MW up to 700 MW (Petition at 1; RFP § 2.2.1.1). The RFP also allows bidders to offer proposals involving energy storage systems connected to the distribution system, defined as below 69 kV, and sized above one MW (Petition at 1; RFP § 2.2.1.1). There is no preferred bid size, and bids cannot comprise an aggregation of multiple projects (RFP § 2.2.1.1). Bidders submitting both transmission-connected projects and distribution-connected projects must submit the projects separately (RFP § 2.2.1.1). Following evaluation of the bids, DOER in consultation with the Independent Evaluator (collectively, the "Selection Team") may select any cost-effective project or portfolio of projects that meets the criteria outlined in the RFP; the Selection Team is not obligated to select any specific amount (Petition at 1; RFP §§ 1.1, 2.2.1.1).

B. Proposed Solicitation Method

1. Introduction

A team consisting of DOER, the Companies, the Executive Office of Economic Development ("EOED"), and the Independent Evaluator (collectively, the "Evaluation Team") will evaluate proposals received from this solicitation (Petition at 3; RFP §§ 1.3, 1.4).[10] Specifically, proposals received will be subject to review by DOER and EOED in consultation with the Independent Evaluator, and the Companies shall offer technical advice (Petition at 3; RFP § 1.1). Based on the bid evaluation process described below, the Evaluation Team will consider the evaluation results and project rankings to determine projects to be considered by the Selection Team (Petition at 4; RFP § 1.4).

The Companies may jointly negotiate contracts, and DOER may monitor contract negotiations between the Companies and selected bidders (Petition at 3; RFP § 1.4). For distribution projects, the Companies will provide selected projects with a standard, non-negotiable contract (Petition at 3; RFP § 1.1). Further, each Company intends to contract with the winning bidder(s) for its apportioned share of the environmental attributes and/or energy services being purchased from the bidder's project (Petition at 3; RFP § 2.9). At the conclusion of the solicitation process, the Companies will request approval from the Department of their respective contracts by filing either jointly or individually (Petition at 3; RFP §§ 1.3, 2.10). Upon the opening of an investigation by the Department into a proposed long-term contract, the Independent Evaluator shall file a report with the Department summarizing and analyzing the solicitation and bid selection process and providing an independent assessment of whether all proposals were evaluated in a fair and non-discriminatory manner (Petition at 3-4; RFP § 1.5).

Because the Companies have affiliates that may bid in response to the RFP, each of the Companies has executed a Standards of Conduct document (Petition at 4; RFP § 1.4 &

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10 As their names suggest, the Evaluation Team evaluates the respective proposals, whereas the Selection Team determines the winning bid.

Apps. F-1, F-2, F-3). The Standards of Conduct prohibit any discussion of the RFP and any proposed bid between personnel participating on the Evaluation Team and personnel assisting in the preparation of proposals on behalf of an affiliate, other than discussions that are part of the formal RFP process (e.g., bidder conferences or bidder question-and-answer sessions) (Petition at 4; RFP § 1.4).

2. Bid Evaluation Process

DOER states that the bid evaluation will occur in three stages: (1) a review of all proposals for eligibility and threshold requirements ("Stage One"); (2) a quantitative and qualitative evaluation of proposals ("Stage Two"); and (3) a further evaluation of remaining proposals using the Stage Two quantitative and qualitative evaluation criteria, as well as certain additional discretionary factors, to ensure the selection of viable projects that provide cost-effective, reliable energy storage systems with limited risk ("Stage Three") (Petition at 4; RFP §§ 1.4, 2.1, 2.2, 2.3, 2.6, 2.7). The Evaluation Team will consider the evaluation results and project rankings to determine which projects to consider for selection (Petition at 4; RFP § 1.4).

The RFP provides that eligible bids must include: (1) a scheduled commercial operation date before December 31, 2032; and (2) a commitment to interconnect to the Independent System Operator of New England Inc. ("ISO-NE") pool transmission facilities at a level equivalent to the capacity capability interconnection standard ("CCIS"), as defined by ISO-NE, with required supporting information accompanying the proposal (RFP §§ 2.2.1.2, 2.2.1.6). Distribution projects that are also eligible for the Federal Energy Regulatory Commission ("FERC") wholesale distribution tariff must agree to enroll their project(s) in the appropriate interconnecting utility's tariff (RFP § 2.2.1.2). Further, distribution projects must include a commitment to take the steps outlined in the ISO-NE tariff to screen for and, if appropriate, establish equivalent capacity network resource capability, as defined in the ISO-NE tariff (RFP § 2.2.2.6). The bidder must provide a planned environmental attribute and/or energy services delivery schedule for the amount of environmental attributes and/or energy services it plans to deliver monthly (RFP § 2.2.1.7). The Companies will take possession of all CPECs and other environmental attributes and/or energy services generated from the contracted project capacity (RFP § 2.2.1.7). Additionally, the RFP contains eligibility requirements regarding: (1) pricing requirements; (2) disclosure of affiliations and affiliate relationships; (3) contract terms;[11] (4) capacity requirements; (5) delivery requirements; (6) interconnection requirements; (7) proposal completeness; and (8) bid fees (RFP § 2.2.1).

In Stage One, the Evaluation Team will evaluate proposals meeting the eligibility requirements to determine whether they also comply with the threshold requirements and various other minimum requirements (RFP § 2.2).[12] The threshold requirements evaluation is intended

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[11] Section 97 of the 2024 Climate Act specifies that long-term contracts for energy storage systems shall not exceed 30 years. In recognition that the Clean Peak Standard program will be discontinued after 2050, the RFP encourages bidders proposing to sell CPECs to submit bids for no more than 20-year terms (RFP § 2.2.1.5). Projects that propose a contract term beyond December 31, 2050 will not be considered (RFP § 2.2.1.5).

[12] The threshold requirements pertain to: (1) facilitating the financing of energy storage systems; (2) site control and related agreements; (3) technical and logistical viability; (4) ability to finance the proposed project; (5) bidder experience; (6) providing enhanced electricity reliability within the Commonwealth; (7) abandonment costs; (8) adequately demonstrating project viability in a commercially reasonable timeframe; (9) contribution to employment and economic development benefits; (10) utilizing an appropriate tracking system to account and enable for goals established in An Act Establishing the Global Warming Solutions Act, St. 2008, c. 298; (11) discussion of safety planning and environmental assessments; (12) providing benefits to environmental justice populations,

to screen out proposals that: (1) are insufficiently mature from a project development perspective; (2) lack technical viability; (3) impose unacceptable balance sheet impacts on the Companies; (4) do not satisfy the minimum requirements set forth in Section 83E; (5) do not comply with the RFP requirements; or (6) fail to satisfy minimum standards for bidder experience and ability to finance the proposed project (RFP § 2.2.2). In addition to the eligibility and threshold requirements, the RFP provides for: (1) the bidder to post development-period security; (2) the Company to take all reasonable actions to structure the contracts to avoid impacts on its balance sheet; and (3) the Evaluation Team to reject any and all changes to the form long-term contract ("Form LTC") (RFP §§ 2.2.3 through 2.2.5).

In Stage Two, the Evaluation Team will subject proposals that meet the requirements of Stage One to quantitative and qualitative analyses, evaluating the costs and benefits of each proposal as a mechanism to procure reliable renewable energy on a long-term basis to the benefit of ratepayers (RFP § 2.3). The Evaluation Team will score proposals on a 100-point scale, with 75 points possible for quantitative factors and 25 points possible for qualitative factors (RFP § 2.3).

For the quantitative analysis, the Evaluation Team will evaluate proposals based on their direct and indirect economic and environmental costs and benefits to ratepayers (RFP § 2.4). Direct contract price costs and benefits include, but are not limited to, the following: (1) Clean Peak Standard-eligible ("CPS-eligible") CPECs from the energy storage systems resources projected to be used for CPS compliance by the Companies or Massachusetts retail electric

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low-income ratepayers in the Commonwealth, and transitioning fossil fuel communities; and (13) including opportunities for diversity, equity, and inclusion (RFP § 2.2.2).

suppliers; (2) energy services; and (3) energy storage systems resources (RFP § 2.4.1). CPS-eligible CPECs will be evaluated using a comparison of the contract prices of such CPECs to the avoided CPEC prices projected for the market without the proposed project in-service (RFP § 2.4.1). Any CPS-eligible CPECs from the energy storage system resources projected to exceed Massachusetts requirements will be valued using a comparison of the contract CPEC prices to the projected CPEC market prices with the proposed project in-service (RFP § 2.4.1). Projects offering energy services would be evaluated comparing payments made to the bidder as to the projected market value of energy and the avoided CPEC prices projected for the market without the proposed project in service (RFP § 2.4.1). Energy storage systems resources will be evaluated on the value of their ability to produce and supply other environmental attributes to meet customer needs if such value is reliably quantifiable and meaningful (RFP § 2.4.1). Additional economic and environmental costs and benefits that the Evaluation Team may take into consideration in Stage Two include, but are not limited to, the following: (1) indirect impacts on the energy markets, if any and to the extent that the Evaluation Team determines such impacts are reliably quantifiable, for retail ratepayers on the capacity or ancillary services market prices with the proposed project in service; and (2) indirect impacts for retail ratepayers on CPEC market prices or other environmental attribute markets, if any and to the extent that the Evaluation Team determines such impacts are reliably quantifiable and meaningful, with the proposed project in-service (RFP § 2.4.2).

During the Stage Two qualitative analysis, the Evaluation Team will evaluate proposals based on factors identified in Section 83E as well as factors that the Evaluation Team considers important (RFP § 2.6). As previously noted, the Evaluation Team will allocate up to 25 points to the following factors: (1) benefits to environmental justice populations,[13] low-income ratepayers, and transitioning fossil fuel communities in the Commonwealth; (2) experience and track record of the bidder; (3) environmental and socioeconomic impacts from siting; (4) project schedule, interconnection status, and financing plan; (5) reliability benefits and grid resiliency; (6) safety and stakeholder engagement; and (7) benefits, costs, and contract risk (RFP § 2.6). The Evaluation Team will determine which proposals proceed to Stage Three based on the following considerations: (1) the rank order of the proposals at the end of the Stage Two evaluation; (2) the cost effectiveness of the proposals based on the Stage Two quantitative and qualitative evaluation; and (3) the total MW quantities of the proposals, relative to the procurement target (RFP § 2.6).

Finally, in Stage Three, the Evaluation Team will consider remaining proposals based on the Stage Two quantitative and qualitative evaluation criteria and, at its discretion, the following additional factors: (1) possible portfolio effects (including but not limited to locational benefits); (2) contributions towards supporting grid resiliency and transmission and distribution needs in specific geographic locations; (3) overall impact of the proposal(s) on the Commonwealth's policy goals, including the goals of An Act Establishing the Global Warming Solutions Act, St. 2008, c. 298 and economic development; (4) any risks associated with project viability of the proposal; (5) minimization and mitigation of ratepayer bill impacts; (6) sensitivity analyses to

[13] The RFP includes a definition for "Environmental Justice Populations" as the definition established in the Massachusetts Executive Office of Energy and Environmental Affairs' Environmental Justice Policy (RFP at v-vi) but then uses the terms "Environmental Justice Populations" and "Environmental Justice Communities" interchangeably throughout the document.

evaluate how the benefits of the project or portfolio change based on applying different ranges of reasonable assumptions; (7) consideration of the 250-300 MW target established for distribution projects; (8) any benefits, costs, or risks to customers that may not have been fully captured in the Stage Two evaluation; and (9) any other considerations, as appropriate, to ensure selection of the proposals that provide the greatest impact and value consistent with the stated objectives and requirements of Section 83E (RFP § 2.7). The Evaluation Team will consider the relative merits of a proposal that offers additional benefits, such as economic development benefits as compared to other top-ranked proposals (RFP § 2.7).

C. Proposed Timetable

1. Introduction

After securing Department approval of the proposed timetable and method of solicitation, the Companies and DOER will promptly issue the RFP to a wide range of potentially interested parties (Petition at 5). The Evaluation Team will conduct a bidders' conference about two weeks thereafter, allow potential bidders the opportunity to submit written questions regarding the RFP, and post responses to any questions on a dedicated website (Petition at 5; RFP § 3.2).[14] The

[14] https://macleanenergy.com/ (last visited on July 27, 2026).

table below sets forth the proposed timetable for the solicitation process (Petition at 5; RFP § 3.1).

Event	Anticipated Dates
Issue RFP	July 31, 2026[15]
Bidders' Conference	August 13, 2026
Deadline for Submission of Questions	August 20, 2026
Due Date for Submission of Confidential and Public Proposals	September 10, 2026
Selection of Projects/Commence Negotiations	January 27, 2027
Execute Contracts and Memorandum of Understanding with DOER	April 28, 2027
Submit Long-Term Contracts for Department Approval	May 26, 2027

2. Independent Evaluator Report

The Independent Evaluator explains that the time period between the RFP issuance date and the proposal submission date is 42 calendar days, shorter than the typical 90-120 day timeframe but comparable to the Round 1 solicitation (Independent Evaluator Report at 18).[16] The Independent Evaluator further notes that the schedule allows for 140 days for proposal evaluation, rather than the 90 days provided in Round 1, to provide more time for market modeling and the assessment of distribution-connected energy storage projects (Independent Evaluator Report at 18).

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15 DOER specified July 31, 2026, as the RFP issuance date but further noted that such date will be after the Department issues a final Order approving the RFP and will be determined at the discretion of the RFP drafting parties (Petition at 5 & n.7; RFP § 3.1).

16 The time between RFP issuance and proposal submission for the first Section 83E solicitation was 41 days (Independent Evaluator Report at 18).

The schedule allows for 91 days of contract negotiations, compared to the 108 days under the Round 1 solicitation (Independent Evaluator Report at 18).[17] The Independent Evaluator opines that 91 days is an aggressive timeline but recognizes that there were certain contributing factors in the Round 1 solicitation -- such as project selection, which occurred just prior to the winter holiday period, and extensive contract exceptions offered by developers -- that are not present in the Round 2 solicitation (Independent Evaluator Report at 18).

The Independent Evaluator further explains that, because of the short turnaround time between issuances of Section 83E RFPs, not all of the lessons learned from Round 2 will likely be incorporated in Round 3 (Independent Evaluator Report at 19). The Independent Evaluator identifies this as an issue with the annual procurement cycle as established by Section 83E, not a result of the proposed procurement schedule (Independent Evaluator Report at 19). The Independent Evaluator concludes that the procurement schedule represents a reasonable balancing of the annual procurement cycle dictated by Section 83E and the time required to prepare and evaluate proposals and negotiate the contracts (Independent Evaluator Report at 19).

IV. INDEPENDENT EVALUATOR REPORT

A. Introduction

As noted above, Section 83E(g) requires the Independent Evaluator to submit a report to the Department analyzing the proposed timetable and method of solicitation and the solicitation process implemented by the Companies and DOER. The report must also include recommendations, if any, for improving the process. In accordance with Section 83E, the

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17 The Round 1 contract negotiation period was later extended for an additional 49 days (Independent Evaluator Report at 18).

Independent Evaluator analyzed the proposed timetable and method of the second Section 83E solicitation and the solicitation process and submitted its report to the Department on May 19, 2026 (Independent Evaluator Report at 2). The Independent Evaluator focused on the following issues: (1) the development of the RFP; (2) the procurement of environmental attributes and energy services; (3) the procurement target and schedule, including the minimum and maximum bid sizes; (4) distribution-connected storage projects (including (a) the aggregation of multiple projects; (b) "take-it-or-leave-it" contracts ("non-negotiable Form LTCs"); (c) procurement targets; (d) interconnection standards; (e) project viability; and (f) tariff obligations); (5) fairness of the RFP terms (including (a) bid fees; (b) standards for surplus interconnections; (c) Quantitative and Qualitative Point Scoring; and (d) development period security); and (6) review of the Form LTC (Independent Evaluator Report at 4-28).

B. Report Conclusions

The Independent Evaluator concludes that the proposed solicitation design satisfies the statutory standards for an open, fair, and transparent solicitation that is not unduly influenced by affiliates (Independent Evaluator Report at 29). The Independent Evaluator supports the RFP procurement target, allowable bid sizes, and schedule (Independent Evaluator Report at 29). Based on its participation in the RFP drafting process and the dialogue among DOER, the Companies, and the Attorney General (collectively, the "RFP Drafting Parties"), the Independent Evaluator reports that the terms and conditions of the RFP are fair and represent a reasonable balancing of interests (Independent Evaluator Report at 29). In addition, the Independent Evaluator opines that the RFP process is designed to promote transparency and fairness (Independent Evaluator Report at 29). The Independent Evaluator, however, states that it was not provided with a copy of the Form LTC for transmission projects and thus could not determine whether the Form LTC represents a reasonable balancing of commercial interests between the Companies as buyers, bidders as sellers, and ratepayers (Independent Evaluator Report at 29). Finally, the Independent Evaluator opines that, in its current form, the Form LTC for distribution-connected projects is tailored more to transmission projects than smaller distribution projects, with all the incumbent obligations, and may serve as a barrier to participation for smaller distribution projects (Independent Evaluator Report at 29).

V. SCOPE OF DEPARTMENT'S REVIEW

Section 83E(b) limits the scope of this proceeding to a review of the timetable and method for the solicitation of long-term energy storage systems contracts under Section 83E(b). In RFP review proceedings such as this, we have sought to avoid predetermining or limiting the consideration of proposed contracts or evaluation models. Timetable and method of Solicitation for Long-Term Contracts for Energy Storage Systems Pursuant to Section 83E, D.P.U. 25-59, at 18 (2025); Timetable and method for the solicitation and execution of long-term contracts for offshore wind energy generation, pursuant to Section 83C of An Act Relative to Green Communities, St. 2008, c. 169, as amended., D.P.U. 23-42, at 21 (2023); Timetable and method for the solicitation and execution of long-term contracts for renewable energy, pursuant to St. 2012, c. 209, § 36, D.P.U. 15-84, at 22 (2015). We have found that doing so could constrain the flexibility of buyers and sellers in contract negotiations to seek the best sharing of risks and benefits under the contracts. D.P.U. 25-59, at 18; D.P.U. 23-42, at 21; D.P.U. 15-84, at 22. Further, the Department has found that parties may raise all relevant substantive issues regarding the evaluation of proposed projects, all phases of contract development and negotiation, and the specific terms and conditions contained in the resulting contracts in the context of the adjudications of the individual long-term contracts. D.P.U. 25-59, at 18; D.P.U. 23-42, at 21-22; D.P.U. 15-84, at 22. Thus, we find that the appropriate time to address these substantive issues is when each electric distribution company submits a proposed contract for Department approval. D.P.U. 25-59, at 18; D.P.U. 23-42, at 21-22; D.P.U. 15-84, at 22. Determinations regarding whether the specific contents of the contracts that result from this solicitation are consistent with the public interest and result in just and reasonable rates must be made in the context of individual adjudications, where the Department will weigh evidence and arguments to make fact-based decisions on a case-by-case basis. D.P.U. 25-59, at 19; D.P.U. 15-84, at 22-23.

VI. PROCUREMENT OF ENERGY SERVICES

A. Introduction

As noted above, Section 83E(b) provides that, except for the first procurement, each subsequent procurement shall consider inclusion of environmental attributes, energy services, or a combination of both. While DOER interprets this statutory language as requiring that the second and subsequent procurements must include energy services, the Companies disagree and maintain that this second procurement should be for environmental attributes only (Petition at 2; Exh. DPU-DOER 1-5(a); Companies Joint Letter at 1-2). To address this disagreement, DOER requested that the Department confirm how it interprets Section 83E(b); specifically, DOER requested the Department to consider whether the RFP must establish a method for soliciting contracts for energy services pursuant to Section 83E, especially given that energy services would allow projects not otherwise eligible under the CPS, for various reasons, to participate in a Section 83E procurement (Petition at 2).

B. RFP Provisions Pertaining to Energy Services

The proposed RFP contains language that DOER and the Companies support for an environmental attributes-only solicitation, similar to the Round 1 RFP approved last year in D.P.U. 25-59. The proposed RFP also contains highlighted language supported only by DOER that would allow for an energy services solicitation using an ISC (Petition at 2). In particular, the RFP provides that an eligible transmission project bidder can submit a bid for a transmission project for an environmental attributes contract or must submit both an energy services contract and an environmental attributes contract (RFP § 2.2.1.3).[18] The DOER-supported provision of the RFP defines energy services as:

> the operation of infrastructure that increases the deliverability or reliability of clean energy generation or reduces the cost of clean energy generation. Such infrastructure shall include, but not be limited to, transmission, energy storage systems, as defined in section 1 of chapter 164 of the General Laws, and demand response technologies (RFP at v).

The ISC mechanism operates as follows: Among other pricing provisions for energy services, the RFP requires that a proposal to sell energy services must propose a storage strike price that is indexed to the ISO-NE day-ahead energy market (RFP § 2.2.1.3). Payments made by the Companies under an energy services contract will be calculated by following the ISC formula, which equals the storage strike price minus the reference energy arbitrage price, as calculated in Appendix I of the RFP (RFP § 2.2.1.3 & App. I). Projects offering energy services would be evaluated comparing payments to the bidder as to the projected market value of energy

[18] A distribution project proposal can only be for an environmental attribute contract (RFP § 2.2.1.3).

and the avoided CPEC prices projected for the market without the proposed project in service (RFP § 2.4.1.ii).

C. DOER's Position

DOER interprets Section 83E(b) as a statutory mandate to solicit energy services as part of this procurement and accordingly favors an RFP with the ISC mechanism (Exh. DPU-DOER 1-5(a)). DOER notes that it first added energy services and the ISC to the shared drafting issues list on January 12, 2026, and the parties discussed these issues through March 2026 (Exh. DPU-DOER 1-2). DOER contends that any bids and associated risks or uncertainties around the ISC can be assessed as part of the bid evaluation process (Exh. DPU-DOER 1-5(a)).

DOER further argues that the proposed ISC mechanism meets the definition of energy services because both the energy market and the CPS incentivize the operation of energy storage at strategic times, which increases the system's total renewable energy generation potential and flexibility to support variable resources (Exh. DPU-DOER 1-3). While the CPS provides an incentive for energy dispatch, DOER created the grid-charging window requirement for qualified energy storage systems ("QESS") to virtually pair with renewables, which further supports firm renewable generation across the Commonwealth (Exh. DPU-DOER 1-3). DOER explains that projects with an ISC-based contract for energy services will generate CPECs, if eligible, and operate to reduce peak demand through energy market arbitrage, which is consistent with increased use of clean energy generation (Exh. DPU-DOER 1-3). DOER asserts that the proposed ISC is consistent with the CPS methodology because it incentivizes developers to generate CPECs by dispatching during the designated time period, and the projects will reduce peak demand by selling lower-priced energy when prices are higher (Exh. DPU-DOER 1-3). Likewise, projects engaging in energy arbitrage will charge when low-priced electricity generators without fuel costs (such as solar and wind) are operating (Exh. DPU-DOER 1-3). DOER argues that the CPS does not require that 100 percent of the energy discharged from storage projects be certified as clean energy generation, but rather that a QESS must operate primarily to store and discharge renewable energy (Exh. DPU-DOER 1-1, Att.). Further, DOER contends that a 100 percent clean energy generation requirement does not align with the technologies specified in the statutory definition of energy services, including transmission and demand response which cannot produce clean energy generation certificates (Exh. DPU-DOER 1-1, Att.). DOER concludes that energy services inherently increase the deliverability or reliability of clean energy generation or reduce the cost of clean energy generation (Exh. DPU-DOER 1-3).

DOER argues that the proposed ISC methodology incentivizes but does not require operation during a critical CPEC window and that failure to operate during a CPEC window would not be considered non-performance (Exh. DPU-DOER 1-4). DOER argues that the ISC will allow storage systems to operate more flexibly and respond to market needs, thereby increasing benefits to the Commonwealth (Exh. DPU-DOER 1-4). DOER believes that the Companies' concerns about whether an ISC mechanism meets the definition of energy services could be addressed through the Department's approval of an RFP containing the ISC provision and through the contract review and approval process for any resulting contracts (Exh. DPU-DOER 1-5).

While not specifically addressing the perceived need for a comprehensive investigation raised by the parties and some commenters, DOER notes that in requesting stakeholder comments for the Round 1 RFP, it received comments on the inclusion of energy services and the use of an indexing or other adjustment mechanism (Exh. DPU-DOER 1-6). DOER states that it also received comments for the Round 2 RFP regarding how an energy services contract for a transmission-connected energy storage system should be structured (Exh. DPU-DOER 1-6). DOER notes, however, that if the Department determines that more process is warranted on whether to include energy services in Section 83E procurements, the Department should not delay the Round 2 solicitation and should direct the RFP Drafting Parties to develop and implement a mechanism to allow energy services contracts in all future rounds of Section 83E procurements (Exh. DPU-DOER 2-4). DOER states that any change from the proposed ISC mechanism to a different mechanism would require more time than the current legislative timeline and does not warrant changing the procurement schedule (Exh. DPU-DOER 2-3).

D. Companies' Position

The Companies argue that the words "shall consider" as used in Section 83E(b) is commonly used to direct the parties to think carefully about an issue, usually before making a decision or taking action (Companies Joint Letter at 3). The Companies contend that Section 83E(b) directs the parties to examine and evaluate whether to solicit energy services as part of the solicitation rather than mandates inclusion of energy services in the solicitation (Companies Joint Letter at 3). The Companies assert that the Drafting Parties considered the inclusion of energy services in the solicitation, in accordance with the statute, through many communications with DOER, the Independent Evaluator, and the Attorney General, from

December 9, 2025, into May 2026 (Companies Joint Letter at 8-10 & Att. A; Exhs. DPU-COMMON 1-1 & Atts. A, B; DPU-COMMON 1-2 & Atts. A through H; DPU-COMMON 1-5). The Companies raised initial concerns and questions to the Steering Committee[19] about including energy services on December 10, 2025, and NSTAR Electric first raised the main concerns addressed in Att. A on February 10, 2026 (Exhs. DPU-COMMON 1-1 & Att. B; DPU-COMMON 1-2(b) & Att. A; DPU-COMMON 1-5). These concerns were further discussed at three Steering Committee meetings in February and March 2026 (Exh. DPU-COMMON 1-2(b)). The Companies assert that the proposed ISC was developed without input or analysis from the Companies and was provided to the Steering Committee on March 31, 2026, as the mechanism that DOER intended to use in the second RFP (Exhs. DPU-COMMON 1-2(c) & Att. (D). The Companies provided further feedback, and the parties had further discussions on April 23, 2026 (Exhs. DPU-COMMON 1-2; DPU-COMMON 1-2(h)). National Grid and Unitil confirmed their support for NSTAR Electric's position on May 5, 2026 (Exhs. DPU-COMMON 1-2 & Atts. F, G). The Companies assert that this activity demonstrates that they met their statutory burden to consider including energy services in the second solicitation (Companies Joint Letter at 8-10).

The Companies further argue that the ISC mechanism does not align with the statutory definition of energy services, potentially jeopardizing cost recovery (Companies Joint Letter at 5-8 & Att. A at 3-4; Exh. DPU-COMMON 2-2). The Companies contend that the ISC as

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[19] The Section 83E Steering Committee consists of representatives from the Companies, DOER, the Attorney General, and the Independent Evaluator pursuant to Section 83E(g) (Companies Joint Letter at 3 n.6).

proposed is not consistent with the definition of energy services because it does not specifically account for the role of clean energy as the energy for charging the battery and because the systems use more energy to charge than they discharge (Companies Joint Letter at 5; Exh. DPU-COMMON 2-2). Instead, the Companies assert that the proposed ISC mechanism incentivizes developers to maximize energy arbitrage revenues without being tied to clean energy generation (Companies Joint Letter at 5; Exh. DPU-COMMON 1-4(e)). The Companies explain that energy storage systems charge from the system energy mix and that in New England, natural gas serves as the marginal resource in almost every hour of the year (Companies Joint Letter at 5). Under this scenario, the Companies argue, most energy storage systems will be charged primarily by fossil fuels and may increase emissions rather than provide the expected compliance benefits (Companies Joint Letter at 5-6). As the counter-parties to the long-term contracts, the Companies assert that they run the risk that in a future cost recovery proceeding, they will be denied recovery of costs associated with ISC contracts if the contracts did not align with the definition of energy services (Companies Joint Letter at 6).

Additionally, the Companies state that they would be at risk of non-performance and sub-maximal benefits to the proposed ISC payment structure if a storage facility does not operate during the CPEC charging and discharging window hours or if the facility were unable to discharge during the CPEC windows due to increased storage capacity in the Commonwealth (Companies Joint Letter at 6). The Companies assert that if they were unable to provide documentation demonstrating that the costs sought for recovery were properly incurred and met the requirements of the governing statute or regulation, they could risk failing to obtain cost recovery or face legal challenges (Companies Joint Letter at 6-7 & Att. A at 4). Absent statutory or regulatory changes, the Companies argue, the operation of an energy storage system under an ISC contract would not result in CPECs certified by DOER, shifting the compliance risk to the Companies to defend payments that are not aligned with the definition of energy services (Companies Joint Letter at 7-8 and Att. A at 6-7; Exh. DPU-COMMON 1-3).

The Companies assert that securing necessary statutory changes would be a precondition to using an ISC mechanism and that they would collaborate with DOER and the Attorney General to secure those changes (DPU-COMMON 1-4). Absent such statutory changes, the Companies claim that it is premature to seek regulatory clarifications or legal advisory rulings from the Department (DPU-COMMON 1-4). Thus, the Companies asserted that this Round 2 solicitation should be limited to environmental attributes only (Companies Joint Letter at 1-2; Exh. DPU-COMMON 1-4).

The Companies further argue that if and when clear statutory authority is granted to solicit for energy services using an ISC mechanism, it is critical that there is a comprehensive investigation of the ISC mechanism before its inclusion in any future Section 83E solicitation (Companies Joint Letter at 2; Exhs. DPU-COMMON 1-4; DPU-COMMON 1-5; DPU-COMMON 2-1). The Companies assert that there are a number of significant issues that remain unresolved, such as whether the ISC formula is missing additional revenue sources and system benefits or whether requiring bidders to reflect their own assumptions about future capacity market revenues reduces transparency and complicates bid comparison (Companies Joint Letter at 4; Exh. DPU-COMMON 1-3). Moreover, the Companies note that there are other ISC mechanisms that have not been evaluated for use in this solicitation, and that these mechanisms need to be investigated with stakeholders to determine if the proposed ISC is better for customers than other ISC variations or other potential energy services contracting mechanisms (Exhs. DPU-COMMON 2-1; DPU-COMMON 2-3). The Companies note that the comments filed in this proceeding are the first public comments on the proposed ISC mechanism and that, if an ISC mechanism is included in this second solicitation, then Massachusetts would be the only state to propose such a mechanism without first having sought robust stakeholder feedback (Companies Joint Letter at 10; Companies Reply Comments at 6).

The Companies contend that there is insufficient time to secure legislative changes, analyze a revised proposal, and convene a stakeholder process before the Department's Order (Exh. DPU-COMMON 2-2). Thus, the Companies argue that the need for a comprehensive investigation and robust stakeholder feedback requires that the Round 2 solicitation not include energy services using an ISC mechanism (Companies Joint Letter, App A; Exhs. DPU-COMMON 1-2 Att. G; DPU-COMMON 1-3). Otherwise, the Companies argue that they could reasonably conclude that a contract would place an unreasonable burden on their balance sheet or that all contracts received would be unreasonable (Exh. DPU-COMMON 2-3). The Companies recommend deferring an ISC mechanism for consideration in Round 3 to allow more time for sufficient analysis and stakeholder engagement (Exh. DPU-COMMON 2-2).

E. Attorney General's Position

The Attorney General argues that there should be a comprehensive evaluation including opportunity for stakeholder feedback regarding the proposal to procure energy services through the ISC framework (Exh. DPU-AG 1-1(a)). The comprehensive evaluation should address: (1) whether and to what extent the ISC mechanism ensures an increase in the deliverability or reliability of clean energy generation or reduces the costs of clean energy generation; (2) how to measure the increase in clean energy generation or reductions in costs; (3) quantitative benefits to ratepayers in comparison to costs under the proposed ISC framework; (4) any other procurement methods that should be considered to procure energy services; and (5) whether and to what extent developers should provide the Companies with revenues to offset ratepayer costs under an energy services procurement (Exh. DPU-AG 1-1(a)).

The Attorney General contends that a comprehensive investigation is needed because the proposed ISC mechanism is "yet another example of ratepayers' funds 'being used to finance the Commonwealth's energy transition'" and emphasizes that the ISC mechanism must be rigorously scrutinized to ensure that all costs associated with the implementation of the clean energy transition are mitigated to the greatest extent possible (Exh. DPU-AG 1-1(a)). Additionally, the Attorney General asserts that the ISC mechanism must be vetted to ensure that it complies with the statutory definition of energy services and is in the overall best interests of ratepayers (Exh. DPU-AG 1-1(a)).

F. Independent Evaluator Report

The Independent Evaluator agrees with DOER that the RFP should include energy services (Independent Evaluator Report at 16). The Independent Evaluator opines that NSTAR Electric's definition of energy services unnecessarily constrains the operation of energy storage resources and, by so doing, would effectively increase costs to customers (Independent Evaluator Report at 15). The Independent Evaluator notes that the CPS does not require 100 percent of energy discharged from storage projects to be certified as clean energy generation (Independent Evaluator Report at 16). While the ISC structure allows non-CPEC-eligible projects to bid into Round 2, the Independent Evaluator believes that projects not eligible to generate CPECs will have a significantly higher assessed cost that will disadvantage them in the quantitative evaluation (Independent Evaluator Report at 11).

The Independent Evaluator cites to DOER estimates that CPECs represent about 50 percent of a standalone energy storage project's total revenues (Independent Evaluator Report at 13). Therefore, under an environmental attributes-only RFP, the Independent Evaluator asserts that developers must manage market risks for over 50 percent of their revenues, which is likely to lead to a higher cost of capital and higher CPEC pricing for customers (Independent Evaluator Report at 13). The Independent Evaluator expects that an ISC mechanism would result in lower effective costs for customers (Independent Evaluator Report at 16).[20]

The Independent Evaluator notes that the lack of agreement among the RFP Drafting Parties, as well as the annual cycle of Section 83E procurements, prevented the RFP Drafting Parties from further testing the ISC framework by securing stakeholder feedback before filing the proposed RFP (Independent Evaluator Report at ES-3, 16). Under DOER's approach of including both energy services and environmental attributes in the RFP, however, the Independent Evaluator maintains there will be an ability to directly compare the cost of CPECs from a CPEC-only procurement with the effective cost of CPECs under the ISC framework, making this a "no-regrets" approach (Independent Evaluator Report at 16). The Independent Evaluator cautions, though, that:

> finalizing this procurement within the specified schedule will be a major challenge unless work is begun immediately on the long-term contract for energy services. Furthermore, with no stakeholder review of the ISC settlement framework changes to the ISC formula may be appropriate. Both of these factors

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20 The Independent Evaluator did not provide any analysis or modeling to support its conclusions of cost effectiveness and lower effective costs.

> suggest that issuing the 83E Round 2 RFP on or before July 31st may prove difficult if the Department directs DOER and the Distribution Companies to ensure that the RFP allows for the procurement of energy services and environmental attributes

(Independent Evaluator Report at 17).

G. First Light Comments

FirstLight contends that, regardless of whether Section 83E requires an option to bid energy services, the statute undeniably authorizes the second RFP to include a solicitation of energy services (FirstLight Comments at 2-3). FirstLight argues that the definition of energy services is expansive and general, the Companies have only a consulting role over the form of the RFP, and DOER is acting within its discretion to interpret that definition to include the proposed ISC mechanism (FirstLight Comments at 2-3).[21] FirstLight also argues that there is minimal risk to the Companies regarding cost recovery and the disallowance of costs incurred pursuant to contracts approved by the Department as consistent with statutory requirements (FirstLight Comments at 3).

Further, FirstLight contends that including an ISC supports a necessary element of the procurement because, to comply with Section 83E, DOER must develop a mechanism that enables existing energy storage resources to compete in the RFP (FirstLight Comments at 3-4). FirstLight notes that existing storage resources built before 2019 are ineligible to earn CPECs under the current CPS, and CPECs are the only environmental attributes recognized by DOER (FirstLight Comments at 4). FirstLight disagrees with recommendations to exclude or limit

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21 Where comments did not contain printed page numbers, we provide cites to the PDF page numbers.

existing resources and argues that existing resources can increase utilization, reduce end-user costs, and provide decarbonization and reliability benefits (FirstLight Reply Comments at 2-3). FirstLight further argues that existing resources that are ineligible for CPECs will not compete for the same revenue streams as CPEC-eligible new resources and that excluding existing resources would reduce competition and could increase bid prices (FirstLight Reply Comments at 2-3). Thus, FirstLight argues that an attributes-only procurement effectively excludes resources that would otherwise be eligible to participate and could deliver cost-effective benefits to consumers (FirstLight Reply Comments at 2-3). In support of this argument, FirstLight states that if existing resources were not able to participate in the solicitation, it would be contrary to the Department's finding in D.P.U. 25-59 that existing energy storage resources must be allowed to participate in Section 83E procurements regardless of financing status or need (FirstLight Comments at 4, citing D.P.U. 25-59, at 24).

H. Other Commenters

RENEW, SEIA, and ACT aver that the statutory definition of energy services is broad and that, along with the goals of increasing deliverability or reliability of clean energy generation and reducing the cost of clean energy generation, DOER has considerable discretion as to the procurement models that can be considered for energy services (RENEW/SEIA/ACT Comments at 4). While this language does not preclude use of the ISC under the umbrella of energy services, RENEW, SEIA, and ACT urge DOER to ensure that new capacity is procured if existing storage assets ineligible for CPECs are included in the bid process (RENEW/SEIA/ACT Comments at 6). RENEW, SEIA, and ACT state that existing, non-CPS-eligible resources can participate in Section 83E procurements and that existing storage assets that do not qualify for

CPECs would be able to participate if an ISC mechanism is offered in the RFP (RENEW/SEIA/ACT Comments at 6). RENEW, SEIA, and ACT support a comprehensive investigation of an ISC mechanism prior to its inclusion in this or any future solicitations under Section 83E (RENEW/SEIA/ACT Comments at 3).

Flatiron states that an energy services procurement could open the procurement to existing non-CPS-eligible resources and dilute the focus on clean peak attributes and the environmental and peak-reduction benefits that justify the procurement under Section 83E (Flatiron Comments at 2). Flatiron recommends that, if existing non-CPS-eligible resources are considered in Round 2, the Department should limit them to incremental capacity or consider a MW limit (Flatiron Comments at 2).

BlueWave and New Leaf express concern that existing resources could displace incremental storage resources, and that they could provide market-distorting bids because they do not require the same upfront capital investment (BlueWave/New Leaf Comments at 2). To address this concern, they recommend limiting participation to any incremental capacity that the existing resource is proposing to construct or evaluating existing resources separately and providing a shorter contract term (BlueWave/New Leaf Comments at 2). Lastly, BlueWave and New Leaf recommend that distribution-connected storage that reaches commercial operation in 2026 or 2027 should be considered a new, not an existing, resource (BlueWave/New Leaf Comments at 2). While they do not recommend delaying the Round 2 RFP or removing the ISC mechanism, BlueWave and New Leaf recommend that DOER solicit robust stakeholder input on the design of the ISC in advance of Round 3 (Blue Wave/New Leaf Comments at 2).

CCSA cautions against including existing resources in the same procurement as new resources without additional safeguards (CCSA Comments at 3). If existing resources are included in the RFP, CCSA recommends establishing new eligibility criteria, evaluation criteria, and contracting structures to acknowledge the different economic and contract needs of existing resources (CCSA Comments at 3).

I. Analysis and Findings

1. Introduction

The Department appreciates the RFP Drafting Parties' efforts in developing the RFP to balance the apparent inconsistency in their interpretations of Section 83E(b) and DOER's request for the Department to provide guidance on this issue. We further appreciate the thoughtful comments provided on this issue. Our analysis focuses on the statutory language of Section 83E(b) as it relates to this novel issue and charting appropriate next steps.

2. Statutory Language

Section 83E(b) requires that, except for the first procurement, "each procurement shall consider inclusion of environmental attributes, energy services or a combination of both." Section 83E does not define "procurement" or "consider," nor does it specify at what point in the procurement process there shall be such consideration. In the absence of statutory definitions, courts may derive the words' usual and accepted meanings from sources presumably known to the statute's enactors, such as their use in other legal contexts and dictionary definitions. Curtatone v. Barstool Sports, Inc., 487 Mass. 655, 658 (2021).

The Merriam-Webster dictionary defines a procurement as the act or process of procuring or obtaining something.[22] The Massachusetts Uniform Procurement Act defines "procurement" as "buying, purchasing, renting, leasing, or otherwise acquiring a supply or service, and all functions that pertain to the obtaining of a supply or service, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration." G.L. c. 30B, § 2. Procurement is also commonly defined as the end-to-end process of sourcing, negotiating, and acquiring the goods and services an organization needs to operate.[23] Accordingly, the Department finds that the entire process of discussions and negotiations leading to the RFP signifies "procurement."

The Merriam-Webster dictionary defines "consider" as to think about carefully, such as to think of especially with regard to taking some action or to take into account.[24] The record reflects that the RFP Drafting Parties addressed the inclusion of energy services in the solicitation through many communications among the Companies, DOER, the Independent Evaluator, and the Attorney General (Exhs. DPU-COMMON 1-1(A) & (B), Att., DPU-COMMON 1-2(A), Att., through DPU-COMMON 1-2(H), Att.; DPU-COMMON 1-3; DPU-COMMON 1-5 & Atts. (A) through (C)). DOER notes as well that it added the concept of an energy services solicitation using an ISC mechanism to the shared drafting issues list on January 12, 2026, and the parties discussed these issues during the ensuing meetings through

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22 https://www.merriam-webster.com/dictionary/procurement (last visited on July 27, 2026).

23 https://www.investopedia.com/terms/p/procurement.asp (last visited on July 27, 2026).

24 https://www.merriam-webster.com/dictionary/consider (last visited on July 27, 2026).

March 2026 (Exh. DPU-DOER 1-2). The parties have provided detailed memoranda explaining and supporting their positions (e.g., Exh. DPU-DOER 1-1), proposed possible solutions such as regulatory and legislative changes, and jointly worked within the statutory time frame to debate the inclusion of energy services in the RFP (e.g., Companies Joint Letter at 8-10; Exh. DPU-DOER 1-5(c)). Significantly, the statute does not require that each procurement shall *include* environmental attributes, energy services or a combination of both but, rather, requires that each procurement "shall consider inclusion." Thus, we find that the RFP Drafting Parties have met the statutory requirement by thoroughly considering the inclusion of energy services in this procurement.

Further, Section 83E(b) uses "or" in listing the items to be considered for inclusion. It is fundamental to statutory construction that the word "or" is disjunctive unless the context and the main purpose of all the words demand otherwise. Cumberland Farms, Inc. v. Board of Health, 495 Mass. 225, 235 (2025). This signifies that the procurement shall consider inclusion of *either* environmental attributes *or* energy services *or* a combination of both (i.e., in the alternative). Thus, as long as the parties had considered at least *one* of the three Section 83E(b) elements – environmental attributes, energy services, or a combination of both – they would have met the statutory requirement.[25]

[25] By contrast, Section 83E(d) uses "and" in its directive that, in developing proposed long-term contracts, the Companies shall consider long-term contracts for energy services, for environmental attributes, and for a combination of both energy services and environmental attributes. This provision is likely applicable only where a procurement included energy services (Companies Joint Letter at 3).

3. Inclusion of Energy Services

Having concluded that this second procurement satisfactorily considered inclusion of energy services, we must next determine whether the RFP should include the ISC mechanism language. We find that the ISC mechanism should not be included in this second solicitation. The ISC mechanism is a novel product on which the key parties, DOER and the Companies, did not agree, rendering it difficult for the Department to evaluate the competing claims or compare the ISC mechanism to alternative energy service mechanisms without further process.

Several parties and commenters argued that there should be a comprehensive investigation of an energy services procurement before an energy services procurement should be issued (Companies Joint Letter at 2; Exhs. DPU-COMMON 1-4; DPU-COMMON 1-5; DPU-COMMON 2-1; DPU-AG 1-1(a); RENEW/SEIA/ACT Comments at 3; Blue Wave/New Leaf Comments at 2). We agree that there is need for additional investigation and stakeholder input before including energy services in a solicitation pursuant to Section 83E. It is premature, therefore, for the Department to make any findings on whether the ISC mechanism as proposed meets the statutory definition of energy services.[26] Accordingly, we direct the parties to begin a thorough, stakeholder-included exploration of an ISC or other mechanism for inclusion in a future solicitation that would enable procurement of energy services as soon as practicable so as not to delay drafting of the 2027 RFP. The Department expects that energy services will be thoroughly considered for inclusion in the Round 3 solicitation after the comprehensive investigation and stakeholder feedback process is completed and expects, but does not require,

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26 Similarly, it is premature for the Companies to claim that statutory changes would be required before an ISC mechanism could be included in a future procurement round.

that energy services will be included in the next proposed RFP. The Department strongly prefers a joint filing by DOER and the Companies for the Round 3 RFP. Therefore, because of the short procurement schedule for Round 3, the Department requests that DOER and the Companies file joint progress updates regarding the discussions around energy services. The first update shall be due on October 30, 2026, and further updates shall be due on January 29, 2027, and March 31, 2027.

Further, as we have determined that this RFP will not include energy services or an ISC mechanism, we need not address whether the proposed ISC mechanism would meet the definition of energy services or any of the remaining arguments regarding energy services. Moreover, we find that Section 83E requires that existing energy storage systems be eligible to participate on the same basis as other resources capable of providing the product solicited and satisfying the applicable eligibility and threshold requirements. If existing energy storage systems can generate and deliver the environmental attributes solicited under the RFP, including CPECs associated with eligible incremental new capacity at an existing energy storage system, then they are not excluded based on their existing-resource status or lack of financing need.[27]

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[27] Where an existing energy storage system commenced commercial operation before January 1, 2019, has no eligible incremental new capacity, and cannot generate CPECs or otherwise provide the environmental attributes solicited under this RFP, that resource may, as a practical matter, have no product to sell into this solicitation. That result is consistent with Section 83E. FirstLight's argument that an environmental attributes-only solicitation would exclude existing energy storage systems that do not qualify for CPECs from participating is not relevant to our determination of whether this procurement must include energy services.

VII. ISSUES RAISED BY COMMENTERS

A. Introduction

Pursuant to Section 83E(b), and as noted in Section V, above, the scope of this proceeding is limited to a review of the timetable and method for the solicitation of long-term contracts for energy storage systems under Section 83E. In the instant proceeding, commenters raised issues concerning a range of topics, including: (1) bid evaluation protocols; (2) interconnection requirements; (3) Form LTCs; (4) existing energy storage systems; (5) distribution-connected projects; (6) commercial operation date; and (7) bid fees and development period security. We address each of these issues below.

B. Bid Evaluation

1. Introduction

The review of proposals occurs in three stages (RFP § 2.1). In Stage One of the bid evaluation process, the Evaluation Team will ensure that proposed projects meet eligibility and threshold requirements (RFP §§ 2.1, 2.2). Among other things, the Evaluation Team determines the eligibility of the bidder and of the bid itself (RFP §§ 2.2.1.1 through 2.2.1.8, 2.2.2.1 through 2.2.2.13). In Stage Two of the bid evaluation, the Evaluation Team will review proposals based on specified quantitative and qualitative criteria (RFP §§ 2.1, 2.3). Stage Two scoring will be based on a 100-point scale, with up to 75 points for quantitative factors and up to 25 points for qualitative factors, resulting in a relative ranking and scoring of all proposals (RFP § 2.3, 2.5, 2.6). In Stage Three, the Evaluation Team will conduct further evaluation of remaining proposals based on the Stage Two quantitative and qualitative evaluation criteria and, at their discretion, additional factors, to ensure that the Selection Team's selection of viable projects provide cost-effective, reliable energy storage systems charging and discharging with limited risk (RFP §§ 2.1, 2.7).

Comments related to the bid evaluation process fall into the following categories: (1) request for clarification of round-trip efficiency as defined in RFP § 2.2.1.7 and Appendix A, Section A-3; (2) request for clarification of delivery obligations under RFP § 2.2.1.7; (3) request for a greater emphasis on project viability in the evaluation criteria; and (4) request for a greater emphasis on various aspects of the qualitative portion of the bid evaluation process.

2. Independent Evaluator Report

The Independent Evaluator explains that proposals that reach the Stage Two evaluation will be scored with up to 75 points for quantitative factors and 25 points for qualitative factors, in contrast to the first round of procurement, which allocated 80 and 20 points for quantitative and qualitative factors, respectively (Independent Evaluator Report at 25). The Independent Evaluator reports that the first round of procurement included several low-quality proposals and that allocating 20 points to qualitative factors in the first round did not allow for sufficient distinction between high- and low-quality proposals (Independent Evaluator Report at 25). The 75/25 quantitative/qualitative split in the second round is intended to increase the weight of qualitative factors in the Stage Two evaluation while ensuring a strong incentive for bidders to offer their best possible pricing (Independent Evaluator Report at 25-26).

3. Comments

Several commenters recommend changes and clarifications to the bid evaluation criteria. JERA Americas states that Section A-3 of Appendix A requires providing the round-trip efficiency of the proposed project and notes that the round-trip efficiency of energy storage systems changes over time (JERA Americas Comments at 3-4). As such, JERA Americas recommends that the RFP Drafting Parties clarify in Section A-3 that bids may include either an annual expected round-trip efficiency for the duration of the contract period or an average expected round-trip efficiency for the duration of the contract period (JERA Americas Comments at 4).

FirstLight requests clarification of RFP § 2.2.1.7, Delivery Requirements, which provides, "It is the responsibility of the bidder to satisfy the delivery requirement" (FirstLight Comments at 5). Specifically, FirstLight seeks clarification of what the delivery obligation will be under the contract and how that requirement will be satisfied, noting that the bids will forecast a schedule of charging and generating over the life of the contract based on a number of assumptions including market and weather data, but actual charging and generating schedules will differ (FirstLight Comments at 5).

CCSA recommends that the evaluation criteria more clearly account for distribution project benefits, including distribution circuit multiplier value, localized grid benefits, and project viability (CCSA Comments at 1-2). CCSA recommends a greater emphasis on project viability and states that distribution-connected storage takes less time to permit, interconnect, and construct than large, transmission-connected projects (CCSA Comments at 2). CCSA argues that it is not clear from the evaluation criteria how the benefits of a distribution-connected project in an advanced stage of development would be scored (CCSA Comments at 2).

RENEW, SEIA, and ACT recommend revising the 75/25 quantitative/qualitative point split to a 65/35 split, citing the recent procurement of the New York State Energy Research and Development Authority ("NYSERDA") which included a 60/40 quantitative/qualitative split

(RENEW/SEIA/ACT Comments at 10). CLF supports this position and argues that proposals should be weighted more heavily for qualitative factors, specifically that the 75/25 quantitative/qualitative split should be revised to a 65/35 split, to follow RENEW, SEIA, and ACT's proposal or a 60/40 split to follow NYSERDA's example (CLF Comments at 3-4). According to these commenters, this change would allow evaluators to more fully account for benefits that are not reflected in bid price, including grid reliability, environmental justice benefits, workforce development opportunities, and reductions in greenhouse gas emissions (RENEW/SEIA/ACT Comments at 10; CLF Comments at 4). CLF also argues that the Department should ensure that the qualitative evaluation criteria appropriately value community benefits and stakeholder engagement and receive consideration for commitments to community benefit agreements, local hiring, and workforce development (CLF Comments at 3).

The Companies argue that the Department has previously found that the appropriate method of evaluation of proposed projects should be left to the reasoned determination of the Evaluation Team, and therefore the evaluation protocol is outside the scope of this proceeding (Companies Reply Comments at 10-11).

4. <u>Analysis and Findings</u>

Commenters have requested clarification of the definition of round-trip efficiency and how projects will be required to satisfy the delivery requirement of the long-term contract. The Department notes that following issuance of the instant Order, the Evaluation Team will hold a bidders' conference for prospective bidders and interested persons, the purpose of which is to provide the opportunity to clarify aspects of the RFP (RFP § 3.2). The Department encourages interested stakeholders, and these commenters in particular (JERA Americas, FirstLight, CCSA, RENEW, SEIA, ACT, and CLF) to participate in this bidders' conference so that they can obtain clarification of these issues at that time.

Regarding recommended changes to the evaluation criteria, the Department finds that such changes are outside the scope of this proceeding and should largely be left to the determination of the Evaluation Team. This finding is consistent with the Department's decisions in its review of previous long-term contract RFPs, and particularly with our determination on the first Section 83E procurement. D.P.U. 25-59, at 33-34, 38-39. Further, as noted above, the Independent Evaluator reviewed the quantitative/qualitative point allocation and supported the proposed split based on the Evaluation Team's experience with the first Section 83E solicitation. The Department also has reviewed the quantitative/qualitative allocation and defers to the Evaluation Team's determination that the 75/25 split is appropriate for the second procurement. As such, the Department declines to modify the evaluation criteria and quantitative/qualitative point split based on the commenters' recommendations but remains open to changes in future solicitations, based on the experiences of DOER, the Companies, the Evaluation Team, and the bidders.

C. Interconnection Requirements

1. Introduction

The RFP includes various interconnection requirements for transmission-connected and distribution-connected projects (RFP § 2.2.1.8). For all transmission-connected projects, proposals must include a commitment to interconnect via one of two standards:

(1) interconnection at a level equivalent to the CCIS as defined by ISO-NE,[28] or (2) interconnection as the surplus interconnection customer as part of a surplus interconnection service ("SIS") arrangement, if the original interconnection customer in the SIS arrangement is currently receiving capacity network resource interconnection service[29] (RFP §§ 2.2.1.2, 2.2.1.6, 2.2.1.8). Distribution-connected projects must enroll in: (1) the operational parameters for energy storage systems ("OPESS") tariff offered by the interconnecting utility, once such tariffs become effective;[30] and (2) their interconnecting utility's FERC wholesale distribution tariff,[31] if the project is eligible (RFP § 2.2.1.2). The RFP also requires distribution-connected projects to include a commitment to take the steps outlined in the ISO-NE tariff to screen for and, if

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28 ISO-NE Open Access Transmission Tariff, Sch. 22, at 8, https://www.iso-ne.com/static-assets/documents/regulatory/tariff/sect_2/sch22/sch_22_lgip.pdf (last visited July 27, 2026); ISO-NE Open Access Transmission Tariff, Sch. 23, at 8, https://www.iso-ne.com/static-assets/documents/regulatory/tariff/sect_2/sch23/sch_23_sgip.pdf (last visited July 27, 2026).

29 ISO-NE Open Access Transmission Tariff, Sch. 22 § 3.3, https://www.iso-ne.com/static-assets/documents/regulatory/tariff/sect_2/sch22/sch_22_lgip.pdf (last visited July 27, 2026); ISO-NE Open Access Transmission Tariff, Sch. 23 § 3.3, https://www.iso-ne.com/static-assets/documents/regulatory/tariff/sect_2/sch23/sch_23_sgip.pdf (last visited July 27, 2026).

30 The OPESS tariffs, which establish operational parameters for all distribution-connected energy storage systems, are currently pending before the Department. The proposed tariffs are docketed as D.P.U. 23-115 (National Grid), D.P.U. 23-117 (Unitil), and D.P.U. 23-126 (NSTAR Electric).

31 The RFP specifies these tariffs as follows: NSTAR Electric Company Wholesale Distribution Tariff, Massachusetts Electric Co. FERC Wholesale Distribution Tariff No. 3. and Fitchburg Gas and Electric Light Company Wholesale Distribution Tariff (RFP § 2.2.1.2 n.16).

applicable, establish equivalent capacity network resource capability[32] ("eCNRC"), as defined in the ISO-NE tariff (RFP §§ 2.2.1.6, 2.2.1.8). Bidders must also demonstrate that their proposals meet additional interconnection and delivery requirements included in the RFP (RFP § 2.2.1.8).

2. Independent Evaluator Report

The Independent Evaluator reports that the requirement for distribution-connected projects to establish eCNRC was added to ensure that distribution projects are equivalent to transmission projects from an interconnection perspective (Independent Evaluator Report at 23). The Independent Evaluator supports this requirement, as it allows for the direct comparison of distribution- and transmission-connected projects (Independent Evaluator Report at 23). Similarly, the Independent Evaluator supports the requirement for distribution-connected projects to enroll in the OPESS tariff and their interconnecting utility's FERC wholesale distribution tariff, if they are eligible, as this mirrors the requirement for transmission-connected projects (Independent Evaluator Report at 23).

The Independent Evaluator supports the inclusion of SIS arrangements in this round of procurement, stating that it offers the opportunity for interconnection costs savings that may yield lower prices (Independent Evaluator Report at 25). The Independent Evaluator notes, however, that the quantitative and qualitative evaluation process will need to distinguish between the value that a project with a SIS agreement will bring relative to a project connecting via CCIS (Independent Evaluator Report at 25).

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32 ISO-NE Open Access Transmission Tariff § II.48.5, https://www.iso-ne.com/static-assets/documents/regulatory/tariff/sect_2/oatt/sect_ii.pdf (last visited July 27, 2026).

3. Comments

JERA Americas strongly supports the inclusion of SIS as a permitted interconnection option and recommends redline changes to RFP § 2.2.1.8 to provide developers additional clarity on the interconnection requirements of the procurement (JERA Americas Comments at 1-2).

Emergent recommends that the RFP be more specific regarding what steps are required for distribution-connected projects to establish or commit to screening for eCNRC status (Emergent Comments at 1-2). Emergent also recommends removing the interconnection study requirement for distribution-connected projects and contends that projects with such an analysis should score higher (Emergent Comments at 2). Emergent seeks clarification on whether power flow modeling is required for distribution-connected projects (Emergent Comments at 2). Emergent requests that the price adjustment in RFP § 2.2.1.8 not apply to distribution-connected projects (Emergent Comments at 2-3). Finally, Emergent requests that market participation in the continuous storage facility market or the day-ahead ancillary services initiative be optional for distribution-connected projects (Emergent Comments at 3).

Great River Hydro states that its transmission-connected project cannot participate in the solicitation because it is under the 40 MW eligibility threshold for transmission-connected projects (Great River Hydo Comments at 1). Great River Hydro recommends removing or reducing the 40 MW threshold, arguing that it limits the number of resources that can contribute to the Commonwealth's decarbonization goals (Great River Hydro Comments at 1-3).

BlueWave and New Leaf recommend that the RFP clarify that projects participating in the National Grid Active Resource Integration pilot or a similar utility offering may satisfy the intent of the OPESS tariff requirement (BlueWave/New Leaf Comments at 2-3).

4. Responses to JERA Americas' Proposed Changes

The Companies and DOER agree in part with JERA Americas' characterization of the issues but find implementation of the edits to be unnecessary (Exhs. DPU-COMMON 3-1; DPU-DOER 3-1). Specifically, the Companies and DOER agree that SIS resources are not required to independently satisfy network capability interconnection standard ("NCIS") or CCIS requirements where the ISO-NE tariff does not impose such obligations (Exhs. DPU-COMMON 3-1; DPU-DOER 3-1). Nevertheless, the Companies and DOER note that projects relying on the SIS interconnection pathway require documented consent from the original interconnection customer and that documentation of such an agreement is important for consistency with the RFP's overarching objective of ensuring the deliverability of selected resources (Exhs. DPU-COMMON 3-1; DPU-DOER 3-1).

The Companies and DOER did not respond to Emergent's, Great River Hydro's, or BlueWave and New Leaf's recommendations.

5. Analysis and Findings

In carrying out its authority under Section 83 to approve the timetable and method of solicitation of long-term contract RFPs, the Department has consistently granted DOER and the Companies discretion to implement RFP terms and provisions in line with the statutory requirements. D.P.U. 25-59, at 49; D.P.U. 23-42, at 65. As an update to the previous solicitation, DOER and the Companies have included provisions in the instant RFP to allow for SIS if the original interconnection customer in the SIS arrangement is currently receiving capacity network resource interconnection service (RFP §§ 2.2.1.6, 2.2.1.8). The Independent Evaluator supports the updated SIS arrangements included in this round of procurement

(Independent Evaluator Report at 25). The Department has also previously recognized that SIS could result in lower costs for ratepayers and more rapid deployment of energy storage systems, expressing its support for the inclusion of SIS as a permitted interconnection option in this round of solicitation. D.P.U. 25-59, at 50. The Department supports the inclusion of SIS in the RFP and appreciates DOER's and the Companies' efforts to incorporate our previous request.

JERA Americas suggests edits to RFP § 2.2.1.8 to clarify the SIS interconnection pathway requirements. The Companies and DOER agree in part with JERA Americas' characterization of the issues but find implementation of the edits to be unnecessary because SIS resources are not required to independently satisfy NCIS or CCIS requirements where the ISO-NE tariff does not impose such obligations. The Department agrees with the reasoning from the Companies and DOER and is not persuaded by JERA Americas' request for additional clarification.

Regarding BlueWave and New Leaf's recommendation for clarification that projects participating in the National Grid pilot or a similar utility offering may satisfy the intent of the OPESS tariff requirement, the Department finds this request for clarification reasonable. Accordingly, the Department directs DOER and the Companies to clarify in the final RFP that a distribution project will not be deemed ineligible solely because it participates in an applicable alternative utility tariff, pilot, or offering, such as Active Resource Integration, provided that the project otherwise satisfies the operational requirements applicable to distribution projects, as determined by the Evaluation Team.

As for Emergent's and Great River Hydro's requests for changes to and clarification of other interconnection requirements, the Department declines to require these changes. The

Department notes that following issuance of the instant Order, the Evaluation Team will hold a bidders' conference for prospective bidders and interested persons, the purpose of which is to clarify aspects of the RFP (RFP § 3.2). The Department encourages interested stakeholders to participate in this bidders' conference.

D. Form LTCs

1. Introduction

When issued, the RFP will include two Form LTCs for transmission-connected projects (one for National Grid and another for NSTAR Electric and Unitil) (RFP §§ 1.1, 1.3, 2.2.1.9). Bidders must submit with their proposals marked versions of the Form LTCs for transmission-connected projects showing their specific proposed changes (RFP § 2.2.1.9). For distribution-connected projects, the Companies will provide bidders with a standard, non-negotiable Form LTC offered on a take-it-or-leave-it-basis ("non-negotiable Form LTC") (Independent Evaluator Report at 20-22; RFP §§ 1.1, 2.2.1.9). The RFP filed in this docket did not include the non-negotiable Form LTCs.

2. Independent Evaluator Report

The Independent Evaluator states that the Companies did not provide a draft of the Form LTC for transmission-connected projects for its review (Independent Evaluator Report at 27). The Companies informed the Independent Evaluator that there were no substantive changes to last year's Form LTC for this solicitation, but the Independent Evaluator could not verify their claim (Independent Evaluator Report at 27). The Independent Evaluator states that if the Department sees continued value in the Independent Evaluator's review of the Form LTCs, the Department may need to direct the Companies to share a draft with the Independent Evaluator two weeks prior to submittal of the next draft RFP to the Department (Independent Evaluator Report at 27).

The Independent Evaluator states that NSTAR Electric and Unitil provided a copy of the draft non-negotiable Form LTC for distribution-connected projects four days after the draft RFP was filed with the Department (Independent Evaluator Report at 27). The Independent Evaluator found that it appeared to be essentially the same as the transmission-connected Form LTC, except for a Form of Confirmation that contains essential details of each project (Independent Evaluator Report at 27). The Independent Evaluator opines that the Form of Confirmation will make it easier to finalize the distribution-connected project contracts (Independent Evaluator Report at 27-28). Nevertheless, the Independent Evaluator had assumed that the Companies would have sought to simplify and streamline the distribution-connected Form LTC to minimize the administrative burden for these smaller projects (Independent Evaluator Report at 28). The Independent Evaluator concludes that the Form LTC for distribution projects is tailored to larger, transmission projects, with all the incumbent obligations, and that distribution-connected projects may face barriers to participation as a result (Independent Evaluator Report at 28).

3. Comments

Several commenters request an opportunity to review and comment on the transmission-connected and distribution-connected Form LTCs as part of the RFP process (BlueWave/New Leaf Comments at 2; CLF Comments at 2-3; Emergent Comments at 4; FirstLight Reply Comments at 3; RENEW/SEIA/ACT Comments at 6-8). RENEW, SEIA, and ACT argue that providing the Form LTCs at this earlier stage will expedite the negotiation process later by allowing issues to be addressed ahead of contract negotiation

(RENEW/SEIA/ACT Comments at 6-7). For distribution-connected projects, RENEW, SEIA, and ACT, and BlueWave and New Leaf do not oppose non-negotiable Form LTCs, provided there is an opportunity to comment on the draft Form LTC (RENEW/SEIA/ACT Comments at 7-8; BlueWave/New Leaf Comments at 2).

The Companies state that the Form LTCs for transmission-projects are outside the scope of this proceeding, as the Department has generally avoided "predetermining or limiting the consideration of proposed contracts or evaluation models" (Companies Reply Comments at 9, citing D.P.U. 17-103, at 15-16). The Companies further note that the Department addressed this issue in the first Section 83E RFP Order, noting that "bidders will have sufficient opportunities to propose changes to and raise substantive issues with the Form LTCs during the contract negotiation and contract adjudication process" (Companies Reply Comments at 9, citing D.P.U. 25-59, at 53-54). Therefore, the Companies argue that the Department should defer addressing the merits of the Form LTCs for transmission-connected projects until after contract negotiations have concluded (Companies Reply Comments at 9).

Regarding the non-negotiable Form LTCs for distribution-connected projects, the Companies state that they plan to provide an opportunity for stakeholder comment outside of this proceeding, prior to the issuance of the RFP (Companies Reply Comments at 9).[33] The Companies agree with commenters regarding the importance of developer feedback given the non-negotiable nature of the distribution-connected Form LTCs (Companies Reply Comments at 9-10).

[33] The Companies direct interested parties to follow macleanenergy.com for more information on the RFP process (Companies Reply Comments at 9-10).

4. Analysis and Findings

As noted above, several commenters request an opportunity to review and comment on the transmission-connected and distribution-connected Form LTCs during the RFP phase. The Department has not previously required the opportunity for public review and comment on Form LTCs during the RFP process. D.P.U. 25-59, at 53-54.

The Department concurs with the Companies' argument and finds that bidders will have sufficient opportunities to propose changes to, raise substantive issues with, and otherwise bargain regarding the Form LTCs for transmission-connected projects during the contract negotiation and contract adjudication processes. Accordingly, we decline to require the Companies to provide an opportunity for public review and comment on Form LTCs for transmission-connected projects during the RFP process.

The Department, however, recognizes that the addition of a non-negotiable contract for distribution-connected projects requires separate treatment from the transmission-connected Form LTCs. In its analysis of the distribution-connected Form LTC provided by NSTAR Electric and Unitil, the Independent Evaluator found that inclusion of the Form of Confirmation will make it easier to finalize the contracts for distribution-connected projects but that there may nevertheless be barriers to participation for smaller distribution projects (Independent Evaluator Report at 27-28). The Companies state that they will provide an opportunity for stakeholder comment outside of this proceeding, prior to the issuance of the RFP, and have since done so

(Companies Reply Comments at 9).[34] The Department finds this process sufficient for this solicitation. For subsequent Section 83E solicitations, the Department directs the Companies to provide the non-negotiable Form LTC for distribution-connected projects with the draft RFP to allow more time for stakeholder review and comment. The Department recognizes that this change, moving forward, should improve stakeholder feedback and transparency, ultimately strengthening future solicitations.

Finally, the Independent Evaluator states that the Department may need to direct the Companies to share a draft of the transmission Form LTC with the Independent Evaluator two weeks prior to the submittal of the draft RFP if the Department sees continued value in the Independent Evaluator's review of the documents (Independent Evaluator Report at 27). The Independent Evaluator notes that in the Department's Order approving the second solicitation for offshore wind energy generation, pursuant to Section 83C of the Green Communities Act, the Department directed the Companies to make their form power purchase agreements available to the Independent Evaluator for review in an effort to bring issues that had the potential to adversely affect the solicitation process to the Department's attention (Independent Evaluator Report at 26 citing Timetable and Method of Solicitation and Solicitation Process under Section 83C, D.P.U. 19-45, at 27-38 (2019). The Department finds that such a requirement would aid in our review of Section 83E procurements and, therefore, directs the Companies to make their

34 On July 16, 2026, the Companies posted the distribution-level proposal terms and conditions and provided an opportunity for stakeholder review. https://macleanenergy.com/83e-ii-opportunity-for-stakeholder-review-distribution-level-proposal-terms-and-conditions/ (last visited July 27, 2026).

transmission-connected Form LTCs available to the Independent Evaluator for review two weeks prior to filing the draft RFP in future Section 83E solicitations.

E. Existing Energy Storage Systems

1. Introduction

RFP § 2.2.2.1 addresses facilitating the financing of energy storage systems. In D.P.U. 25-59, the Department addressed the eligibility of existing energy storage systems under Section 83E(a). The Department found that an existing energy storage system may participate in a Section 83E procurement regardless of financing status or need. D.P.U. 25-59, at 23-25. The Department directed the parties to consider what changes may be necessary to implement the language of Section 83E regarding the eligibility of existing energy storage systems to participate in any procurement regardless of financing. D.P.U. 25-59, at 24.

2. Comments

FirstLight contends that the currently proposed RFP language would likely preclude existing energy storage systems projects that are already built and have financing in place from meeting the requirements of the RFP (FirstLight Comments at 5). FirstLight recommends that DOER modify RFP § 2.2.2.1 and Appendix A-5 to exclude existing resources from the requirements in Section 2.2.2.1 and ensure that existing energy storage systems already built and financed can participate in the solicitation (FirstLight Comments at 5). FirstLight further recommends that RFP §§ 2.2.2.3 through 2.2.2.11 regarding various threshold requirements specify how existing-resource bids can qualify as eligible projects (FirstLight Comments at 5).

3. Analysis and Findings

As we determined in D.P.U. 25-59, at 24-25, an existing energy storage system may not be disqualified from participating in a Section 83E procurement solely because it has already been financed, does not require financing, or cannot demonstrate that a Section 83E contract is necessary to facilitate financing as it relates to that existing energy storage system. We maintain that determination here. The RFP does not fully implement the clarification required by D.P.U. 25-59. Although RFP § 2.2 states that an existing facility will not need to demonstrate compliance with certain eligibility and threshold requirements, such as site control, RFP § 2.2.2.1 and Appendix A-5 do not include the financing-specific clarification that the Department directed in D.P.U. 25-59. Appendix A-5 also retains the more general formulation that the Evaluation Team will take into account whether a bid is associated with an existing energy storage system, rather than the explicit exemption required in D.P.U. 25-59. This omission could discourage participation by existing energy storage systems or cause such systems to be evaluated under a financing requirement from which they are exempt pursuant to Section 83E(a). The Department, therefore, directs DOER to revise RFP § 2.2.2.1 and Appendix A-5 to state explicitly that a bid associated with an existing energy storage system is not required to demonstrate that a contract under Section 83E is necessary to facilitate financing as it relates to that existing energy storage system. We decline to direct any further modifications regarding how existing-resource bids can qualify as eligible projects.

F. Distribution-Connected Projects

1. Introduction

The Round 2 RFP permits distribution-connected energy storage projects ("distribution projects") to participate in a Section 83E solicitation for the first time (RFP § 2.2.1.1). Distribution projects must be greater than one MW, may not be submitted as an aggregation of multiple projects, and are subject to a procurement target of 250 to 300 MW within the approximately 1,000 MW overall procurement (RFP §§ 1.1, 2.2.1.1). The target does not obligate the Selection Team to select any particular amount of distribution projects (RFP § 1.1). Distribution projects may bid only for environmental attributes, must use a non-negotiable Form LTC, must demonstrate site control or an irrevocable option for each project, and are not evaluated on contract exceptions (RFP §§ 2.2.1.3, 2.2.2.2, 2.2.5, 2.6.1.7).

2. Independent Evaluator Report

The Independent Evaluator supports the proposed distribution projects provisions, including the decision to disallow aggregation of multiple projects, the use of a procurement target rather than a carve-out, the proposed 250 to 300 MW target, and the site-control requirement (Independent Evaluator Report at 20, 22-23).

3. Comments

RENEW, SEIA, and ACT support the 250 to 300 MW target for distribution projects (RENEW/SEIA/ACT Comments at 2). Emergent supports the draft RFP but requests additional clarity and flexibility regarding requirements applicable to distribution projects, including ISO-NE market participation, the Form LTC, delivery obligations, and distribution circuit multiplier treatment (Emergent Comments at 1-4). The Companies respond that requests to modify evaluation details or to review specific contract terms are outside the scope of this proceeding and should be left to the Evaluation Team or subsequent contract-approval proceedings (Companies Reply Comments at 2-3, 10-11).

4. Analysis and Findings

Through this solicitation, DOER and the Companies propose to permit distribution projects greater than one MW to participate, while establishing a 250 to 300 MW target that does not require selection of any particular amount of distribution projects. In the prior Section 83E solicitation, the Department supported the Joint Petitioners' approach to allow distribution-connected resources to participate in subsequent Section 83E solicitations. D.P.U. 25-59, at 31-32. The Department finds that the inclusion and proposed treatment of distribution projects, including the minimum bid size, prohibition on aggregation, site-control requirement, and 250 to 300 MW target are reasonable and appropriate.

G. Commercial Operation Date

1. Introduction

The RFP requires that all proposals must specify a commercial operation date ("COD") that is achievable within the proposed project schedule and must be on or before December 31, 2032 (RFP § 2.2.1.2).[35] The RFP requires bidders to describe and demonstrate that proposals can be developed, permitted, financed, and constructed within a commercially reasonable timeframe and that the project is more likely than not to come online by the COD, as evidenced by required documents showing the achievement of various project milestones (RFP §§ 2.2.2.8,

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[35] Section 83E(a) does not specify a COD but requires the Companies to contract for energy storage systems equal to approximately 5,000 MW no later than July 31, 2030.

2.6.1.4 & App. A § A-10).[36] DOER states that the December 31, 2032 COD requirement provides bidders with nearly three years of additional time to achieve the COD, as compared to the Round 1 RFP's COD of January 1, 3030, taking into account interconnection timelines, permitting processes, and supply-chain conditions and coincides with the deadline for projects to claim the full value of the federal Investment Tax Credit (Exh. DPU--DOER 3-3(a)).

2. Comments

CLF states that a COD is an important part of the RFP as it ensures that energy storage systems are deployed and operational in time to meet the Commonwealth's clean energy goals (CLF Comments at 4). CLF states that while issues can arise during the development process, the RFP should consider a loss of incentives if battery storage facilities fail to meet the COD (CLF Comments at 4). CLF recommends that extensions should be allowed if there are legitimate challenges to achieving the COD, provided that approval for such extensions is based on a good faith demonstration of valid reasons for failing to meet the original timeline (CLF Comments at 4). CLF further states that Massachusetts must take a pragmatic approach regarding COD requirements to ensure that such deadlines do not limit competition, constrain developers' ability to respond to supply-chain signals, or compromise project viability (CLF Comments at 4).

[36] DOER states that the addition of the phrase "achievable within the proposed project schedule" does not reflect a change in how the Evaluation Team will assess COD credibility but clarifies that the Evaluation Team takes the credibility of proposed project schedules seriously in its evaluation (Exh. DPU-DOER 3-3(b)).

3. Analysis and Findings

The RFP requires bidders to demonstrate that the project is achievable within the proposed project schedule and must be operational on or before December 31, 2032 (RFP §§ 2.2.1.2, 2.6.1.4, 2.2.2.8). This date represents a fair balance between development challenges and the need for the Commonwealth to realize the benefits of energy storage systems projects in the shortest reasonable timeframe. It is not only appropriate to require that energy storage systems supported by long-term contracts funded by ratepayers be commercially operational and capable of meeting customer demand by a specific date but also essential to achieve the Commonwealth's clean energy policies.

The Department is not persuaded that CLF's recommendation requires revisions to the RFP. The RFP maintains a firm COD while requiring the Evaluation Team to consider the credibility of the proposed COD, the project schedule and construction plan, the interconnection schedule, and whether the bidder has demonstrated that the project is more likely than not to come online by the proposed date (RFP § 2.6.1.4). Furthermore, the outside date of December 31, 2032, provides bidders with nearly three additional years to achieve the COD, compared to the January 1, 2030 COD in the Round 1 RFP, taking into account interconnection timelines, permitting processes, and supply-chain conditions (Exh. DPU--DOER 3-3(a)). While we have not yet seen the transmission-connected Form LTCs for this solicitation, the Department expects them to be substantially similar to those from the prior solicitation, which included a provision to extend the COD for force majeure events or other specified reasons (Independent Evaluator Report at 27). D.P.U. 25-59, at 52. We further note that the terms and conditions for distribution-connected resources contain a force majeure provision.[37] Thus, the Department finds that the existing framework addresses CLF's valid concern that COD requirements should support timely deployment while accounting for project viability and we, therefore, decline to direct further changes to the COD requirements.

H. Bid Fees and Development Period Security

1. Introduction

The RFP contains a minimum non-refundable bid fee that will be used to offset the Companies' and DOER's costs for the evaluation of proposals and oversight of the Independent Evaluator process (RFP § 1.10). The minimum bid fee will be $500 per MW based on the full-rated capacity of the proposal (RFP § 1.10).[38] The minimum bid fee covers one bid; bidders must pay an additional non-refundable fee for each additional bid, even if the bid is a variant of another bid (RFP § 1.10).

The RFP also requires bidders to provide development period security ("contract security") of $40,000 per MW of the selected proposed facility size multiplied by the buyer's percentage entitlement (RFP § 2.2.3). The entire amount of security must be provided at the time of contract execution; security will be returned if the Department does not approve the long-term contract, provided that the bidder supports regulatory approval of the long-term contract (RFP § 2.2.3). For a project developed in phases and under separate contracts, the RFP

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37 https://macleanenergy.com/2026/07/16/83e-ii-opportunity-for-stakeholder-review-distribution-level-proposal-terms-and-conditions/ (last visited July 27, 2026).

38 For example, if a bid has a full rated capacity of 300 MW, the bidder will pay a bid fee of $150,000 (RFP § 1.10).

requires additional contract security of $35,000 per MW per contract to secure completion of all phases (RFP § 2.2.3).

2. Independent Evaluator Report

Regarding the structure of the minimum bid fee, the Independent Evaluator opines that it is not unreasonable to use a per-MW bid fee (Independent Evaluator Report at 24). The Independent Evaluator recognizes that a per-MW bid fee promotes participation by smaller projects (Independent Evaluator Report at 24). Regarding the magnitude of the minimum bid fee, the Independent Evaluator opines that the bid fees are reasonable and adequate to cover evaluation costs, which is an important consideration if the Companies seek recovery of any shortfall through retail rates (Independent Evaluator Report at 24). In addition, the Independent Evaluator opines that the contract security requirements, including the additional security requirement for phased projects, are appropriate (Independent Evaluator Report at 26).

3. Comments

Several commenters object to the minimum bid fee and contract security requirements included in the RFP (Hydrostor Comments at 3-4; FirstLight Comments at 5; RENEW/SEIA/ACT Comments at 8-9). Hydrostor recommends a capped bid fee schedule or, alternatively, a smaller non-refundable fee paired with a larger refundable deposit (Hydrostor Comments at 3-4). RENEW, SEIA, and ACT recommend that bid variants be permitted without an additional bid fee or, if required, with a reduced fee (RENEW/SEIA/ACT Comments at 9). Similarly, FirstLight recommends that bid variants be permitted without a full additional bid fee and that bid fees be refunded for proposals deemed ineligible during Stage One of the evaluation process (FirstLight Comments at 5). RENEW, SEIA, and ACT report that NYSERDA included a lower contract security requirement of $20,000 per MW in its recent bulk energy storage solicitation and recommend that the RFP allow additional forms of security such as a letter of credit (RENEW/SEIA/ACT Comments at 8). Additionally, RENEW, SEIA, and ACT seek clarification on whether the non-refundable bid fees should be applied to the full-rated capacity of the energy storage system or to the capacity offered in the bid if the developer is bidding in a portion of the total system size (RENEW/SEIA/ACT Comments at 9).

In response to several commenters, the Companies note that the non-refundable bid fees will be used to offset the costs of the Companies' and DOER's evaluation of proposals and oversight of the Independent Evaluator process (Companies Reply Comments at 7). The Companies claim that their approach is consistent with the Department's cost-causation principles, rather than relying on a subsidy from all distribution customers (Companies Reply Comments at 7, citing Investigation into NSTAR Electric Company's Provision of Retail Access for Competitive Suppliers of Renewable Energy Generation Attributes, D.P.U. 08-52, at 18 (2014)). The Companies further argue that each unique bid variant must be evaluated independently of other bids from the same developer, increasing the costs associated with evaluation (Companies Reply Comments at 8).

Regarding contract security requirements, the Companies contend that the requirements set forth in the RFP are reasonable, including the additional security for any project developed in phases (Companies Reply Comments at 7-8). The Companies claim that the security requirement is meant to provide developers with adequate incentive to develop their projects within the four corners of the contract and helps to protect customers if a successful bidder breaches its contract by deciding not to build the facility proposed in its bid (Companies Reply

Comments at 7-8). The Companies argue that the contract security requirements must be high enough to deter bidders from breaching their contracts and to compensate customers in some measure for duplicative solicitation costs and "the loss of their bargain" (Companies Reply Comments at 8). Finally, the Companies claim that the overall level of contract security is reasonable and modest relative to the potential value of a prospective long-term contract, such that the requirement will not deter qualified and serious bidders (Companies Reply Comments at 8).

4. Analysis and Findings

Non-refundable bid fees are used to offset the costs related to evaluating proposals and Independent Evaluator oversight. Refundable contract security is posted by a winning bidder to ensure that sufficient funds are available to cover any contract penalties. As described above, the Independent Evaluator has reviewed the bid fees and contract security, including the additional security requirement for phased projects (Independent Evaluator Report at 24, 26). The Independent Evaluator concluded that the bid fees and contract security requirements were reasonable and appropriate (Independent Evaluator Report at 24, 26). Consistent with the first solicitation, the bid fees should be applied to the capacity being bid into this procurement, not the capacity of the full system if the bid is a portion of a larger project. D.P.U. 25-59, at 43. The Department has reviewed the bid fees and contract security requirements in the instant solicitation and finds that these elements as proposed are reasonable and appropriate. The Department further finds reasonable the additional contract security requirement for projects developed in phases and under separate contracts. For these reasons, the Department declines to direct any of the other recommended changes.

VIII. INDEPENDENT EVALUATOR RECOMMENDATIONS FOR FUTURE SOLICITATIONS

The Department relies on the Independent Evaluator, in its statutory role, to bring to our attention issues that may significantly impact the solicitation process and to recommend changes for future solicitations. The Independent Evaluator identified three recommendations for future procurements. We addressed one of these recommendations in Section VII.D.4, above, by directing the Companies to share the transmission-connected Form LTCs with the Independent Evaluator at least two weeks before filing the RFP with the Department and to file the non-negotiable Form LTCs with the draft RFP. The Department addresses the other two recommendations below.

First, the Independent Evaluator reiterates its recommendation from the first round of Section 83E procurements. The Independent Evaluator recommends that DOER attempt to secure legislative changes that would provide additional time for the Section 83E procurements so that experience gained from prior procurements can be incorporated into the procurement process (Independent Evaluator Report at 29). Additional time would also provide a regular cadence for these procurements that, to the degree possible, aligns with ISO-NE's revised interconnection process (Independent Evaluator Report at 29). The Independent Evaluator further opines that because of the annual cycle of Section 83E procurements, proposals such as the ISC framework could not be sufficiently reviewed by stakeholders before the RFP was filed with the Department (Independent Evaluator at 29). The Department appreciates the Drafting Parties' implementing incremental improvements to the evaluation process before each subsequent solicitation and anticipates that they will continue to seek out further enhancements, including legislative changes if appropriate, to support future Section 83E procurements. D.P.U. 25-29, at 56.

Second, the Independent Evaluator recommends that the RFP Drafting Parties seek stakeholder input on the procurement process following the conclusion of each Section 83E procurement (Independent Evaluator Report at 29-30). While much emphasis is presently placed on receiving stakeholder input at the beginning of the procurement process, the Independent Evaluator recommends that the RFP Drafting Parties seek stakeholder input on how to improve the process from the perspective of delivering greater value to customers (Independent Evaluator Report at 29-30). The Independent Evaluator emphasizes that this will be especially important given that this is the first solicitation to allow distribution-connected projects to participate (Independent Evaluator Report at 29-30). The Department agrees with the Independent Evaluator's recommendation. Recognizing the potential timing challenges associated with the annual Section 83E procurements, however, we defer to the RFP Drafting Parties as to how to seek stakeholder input regarding later stages of the procurement process so as to improve the next procurement.

IX. CONCLUSION

After review, the Department finds that the proposed timetable and method for the second solicitation and execution of long-term contracts for energy storage systems as it relates to an environmental attributes-only solicitation are consistent with the requirements of Section 83E. As discussed above, soliciting energy services using an ISC requires a comprehensive investigation by the RFP Drafting Parties, stakeholder feedback, and consideration of possible legislative and regulatory changes before being included in a Section 83E solicitation. Thus, those parts of the RFP related to soliciting energy services using an ISC shall be removed. Accordingly, subject to the directives contained in this Order, the Department approves in part and denies in part DOER's proposed timetable and method for the solicitation and execution of long-term contracts for energy storage systems.

X. ORDER

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

ORDERED: That the petition of the Department of Energy Resources, having consulted with Fitchburg Gas and Electric Light Company d/b/a Unitil, Massachusetts Electric Company and Nantucket Electric Company each d/b/a National Grid, and NSTAR Electric Company d/b/a Eversource Energy, for approval of a proposed timetable and method for the solicitation and execution of long-term contracts for energy storage systems pursuant to Section 83E of An Act Relative to Green Communities, St. 2008, c. 169, as amended by St. 2024, c. 239, § 98, is APPROVED in part and DENIED in part, subject to the directives contained herein; and it is

FURTHER ORDERED: That the Department of Energy Resources, Fitchburg Gas and Electric Light Company d/b/a Unitil, Massachusetts Electric Company and Nantucket Electric

Company each d/b/a National Grid, and NSTAR Electric Company d/b/a Eversource Energy shall comply with all other directives contained in this Order.

By Order of the Department,

Jeremy C. McDiarmid, Chair

Staci Rubin, Commissioner

Elizabeth A. Anderson, 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.